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NUCLEAR REGULATORY COMMISSION

10 CFR Part 75

[NRC–2015–0263]

RIN 3150–AJ70

Modified Small Quantities Protocol

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to collect information on nuclear material possessed by entities in the U.S. Caribbean Territories, as well as to allow for International Atomic Energy Agency (IAEA) inspection access, if requested by the IAEA. This final rule implements the requirements of ''The Agreement between the United States of America and the IAEA for the application of safeguards in connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America'' (INFCIRC/366 or U.S.–IAEA Caribbean Territories Safeguards Agreement), that apply to the United States (U.S.) based on modifications to this Agreement's small quantities protocol.

DATES: *Effective date:* This final rule is effective June 4, 2018. *Compliance date:* Compliance with this final rule is required by July 3, 2018.

ADDRESSES: Please refer to Docket ID NRC–2015–0263 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0263. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- *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: Gregory R. Trussell, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6445; email: *Gregory.Trussell@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Agreement between the U.S. and the IAEA for the application of safeguards in connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America (U.S.–IAEA Caribbean Territories Safeguards Agreement (ADAMS Accession No. ML17065A218)) entered into force on April 6, 1989. When the U.S.–IAEA Caribbean Territories Safeguards Agreement was signed, the U.S. and the IAEA also concluded a ''Small Quantities Protocol'' (SQP) to the agreement that held in abeyance almost all reporting and access requirements. The SQPs are designed for countries with minimal or no nuclear material and activities to minimize the burden of international safeguards implementation. The IAEA, as a part of its efforts to strengthen international safeguards in 2005, identified proliferation concerns associated with holding certain provisions of the U.S.–IAEA Caribbean Territories Safeguards Agreement in abeyance through an SQP, and has since urged countries with an original SQP, including the U.S., to adopt a ''modified SQP'' that would have the effect of taking out of abeyance certain reporting and inspection requirements of the U.S.–IAEA Caribbean Territories Safeguards Agreement. The U.S. and the IAEA have agreed on the text for a modified SQP, which will be brought into force upon an exchange of diplomatic letters between the U.S. and the IAEA.

When the U.S.–IAEA Caribbean Territories Safeguards Agreement and its SQP was brought into force in 1989, no revisions were made to part 75 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Safeguards on Nuclear Material—Implementation of U.S.–IAEA Agreement,'' as most of the provisions were held in abeyance by the original SQP. In light of the modified SQP, which takes certain reporting and inspection provisions of the U.S.–IAEA Caribbean Territories Safeguards Agreement out of abeyance, the scope and requirements of 10 CFR part 75 need to be revised to include these reporting and inspection requirements. The applicable requirements of the U.S.–IAEA Caribbean Territories Safeguards Agreement, as captured in the amendments to 10 CFR part 75, impact all entities that possess source material and special nuclear material within the U.S. Caribbean Territories.

II. Discussion

A. General Overview

The scope and requirements of 10 CFR part 75 need to be expanded to include the provisions of the U.S.–IAEA Caribbean Territories Safeguards Agreement under the modified SQP. The applicable requirements of the U.S.–IAEA Caribbean Territories Safeguards Agreement, as captured in the amendments to 10 CFR part 75, impact all entities that possess source material and special nuclear material within the U.S. Caribbean Territories, which are defined in the amended 10 CFR part 75 as: Puerto Rico, the U.S. Virgin Islands, Navassa Island, Serranilla Bank, Baja Nuevo (Petrel Island), and the Guantanamo Bay Naval Base.

This final rule requires affected entities to:

- Provide basic information about the user (*e.g.,* user's name and address), including organizational structure,

geographic location, use of the nuclear material, and other relevant information requested pursuant to the safeguards agreement.

• Provide an initial inventory report of all source and special nuclear material possessed, and an annual inventory report thereafter. This reporting requirement will also include source material that is contained in non-nuclear end use applications (*e.g.,* depleted uranium shielding).

• Provide annual Material Status Reports for nuclear materials covered by the applicable provisions of the U.S.–IAEA Caribbean Territories Safeguards Agreement.Provide an inventory change report when possessors import or export nuclear material (including shipments between U.S. Territories as well as to and from the 50 States) and provide advance notification, as specified in §§ 75.43, 75.44, and 75.45, of such an import or export exceeding one effective kilogram, as defined in § 75.4.

• Provide access for IAEA inspections. These inspections are expected to occur on an infrequent basis. The scope of IAEA inspections may include several activities, such as examination of records; verifying the functioning and calibration of instruments; and utilizing IAEA equipment for independent measurement, containment (such as a seal), and/or surveillance.

The regulations in 10 CFR part 75 already contain requirements for the existing IAEA safeguards agreements to which the U.S. is a party, *i.e.,* the U.S.–IAEA Safeguards Agreement (INFCIRC/288) (ADAMS Accession No. ML17065A211) and its associated Additional Protocol. The revised regulations will clearly delineate which entities are subject to the requirements under each particular safeguards agreement. It should be noted that those entities subject to the provisions of the U.S.–IAEA Caribbean Territories Safeguards Agreement are not subject to the provisions of the U.S.–IAEA Safeguards Agreement and its associated Additional Protocol as defined in § 75.4.

B. IAEA Inspections

Possessors of source and special nuclear material in the U.S. Caribbean Territories will be subject to special and ad hoc inspections by the IAEA pursuant to the modified SQP. Articles 69, 71, 72, 73, 74, and 87 of U.S.–IAEA Caribbean Territories Safeguards Agreement that pertain to IAEA inspections were previously held in abeyance. Through the modification of the SQP, these Articles will be newly applicable to possessors of ''nuclear material outside facilities,'' as that term is defined in revised § 75.4, which means ''nuclear material in the U.S. Caribbean Territories that is not in a facility, and is customarily used in amounts of one effective kilogram or less.'' In order to accommodate these new requirements, the NRC is revising existing sections of 10 CFR part 75 that pertain to IAEA inspections. Under existing regulations, IAEA inspections were only applicable to ''facilities,'' under the U.S.–IAEA Safeguards Agreement. However, through the inclusion of the U.S.–IAEA Caribbean Territories Safeguards Agreement in the scope of 10 CFR part 75, the NRC is expanding the applicability of inspection-related sections to include possessors of nuclear material outside facilities.

C. Records and Reports

Possessors of nuclear material outside facilities in the U.S. Caribbean Territories will be subject to new recordkeeping and reporting requirements pursuant to the modified SQP. Articles 7, 12, 32, 47, 60, 66, 67, and 93 of the U.S.–IAEA Caribbean Territories Safeguards Agreement were either held in abeyance or not applicable; however, through the modification of the SQP, these Articles will now be applicable to possessors of nuclear material outside facilities. In order to accommodate these new requirements, the NRC revised existing sections of 10 CFR part 75 that pertain to records and reports. Under existing regulations, recordkeeping and reporting requirements were only applicable to ''facilities'' and ''locations'' (as defined in § 75.4). However, through the inclusion of the U.S.–IAEA Caribbean Territories Safeguards Agreement in the scope of 10 CFR part 75, the NRC is expanding the applicability of recordkeeping and reporting-related sections to include possessors of nuclear material outside facilities.

D. Terminations and Exemptions

The U.S. Government may request termination and exemption from IAEA safeguards for declared source or special nuclear material under Articles 11, 13, 33, 34, 35, and 36 of the U.S.–IAEA Caribbean Territories Safeguards Agreement. Previously, the U.S. Government had not utilized the termination and exemption provisions under the U.S.–IAEA Safeguards Agreement, therefore these provisions were not in the existing regulations in 10 CFR part 75. Due to the anticipated material types, quantities, and uses of nuclear material in the U.S. Caribbean Territories, as well as the fact that this safeguards agreement mimics a comprehensive safeguards agreement for a non-nuclear weapon state, the U.S. Government anticipates utilizing the exemption and termination provisions under the U.S.–IAEA Caribbean Territories Safeguards Agreement. As such, this final rule incorporates termination and exemption provisions into 10 CFR part 75.

E. New Definitions

Given the addition of the U.S.–IAEA Caribbean Territories Safeguards Agreement to the scope of 10 CFR part 75, it is necessary to specifically define and reference each individual safeguards agreement (*i.e.,* ''U.S.–IAEA Safeguards Agreement'' and ''U.S.–IAEA Caribbean Territories Safeguards Agreement''). This change is implemented throughout 10 CFR part 75 to ensure consistency in the use of terminology, and to distinguish between the requirements of each safeguards agreement. Furthermore, the new term ''physical location'' is added to 10 CFR part 75 to clarify the difference between geographic coordinates and the Additional Protocol term of art ''location.'' The term ''nuclear material outside of facilities'' was added as a new and distinct term that refers specifically to special nuclear and source material in the U.S. Caribbean Territories. This new term was necessary in order to distinguish the requirements of the U.S.–IAEA Caribbean Territories Safeguards Agreement from the requirements in the other safeguards agreements that utilize the terms of art ''facilities'' and ''locations.'' The term ''U.S. Caribbean Territories'' was added to refer to the territories covered by the U.S.–IAEA Caribbean Territories Safeguards Agreement.

F. General Administrative Matters

To enhance the clarity and consistency of the regulations, several new definitions are added, and other definitions are revised or removed. Additionally, this final rule incorporates conforming changes, punctuation, and grammatical edits. In several sections, a website link is added to reference existing NRC guidance documents to replace the requirement for the public to submit a written request for a copy of the guidance documents.

III. Rulemaking Procedure

Under the Administrative Procedure Act (5 U.S.C. 553(a)(1)), the normal notice and comment requirements do not apply if the rulemaking involves a military or foreign affairs function of the U.S. Since this final rule involves a

foreign affairs function of the U.S., the notice and comment provisions of the Administrative Procedure Act do not apply (5 U.S.C. 553(a)(1)). This final rule will become effective 30 days after its publication in the **Federal Register**. The amendments are effective June 4, 2018.

IV. Section-by-Section Analysis

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF US/IAEA AGREEMENT

This final rule revises the 10 CFR part 75 title to read: SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF SAFEGUARDS AGREEMENTS BETWEEN THE UNITED STATES AND THE INTERNATIONAL ATOMIC ENERGY AGENCY.

§ 75.1 Purpose.

This final rule revises § 75.1 to include all requirements under any safeguards agreement between the U.S. and the IAEA.

The purpose section is revised to make it generally applicable to all U.S.–IAEA safeguards agreements utilizing a new term ''safeguards agreements.'' ''Safeguards agreements'' includes the U.S.–IAEA Caribbean Territories Safeguards Agreement as well as other existing U.S.–IAEA safeguards agreements. The word ''physical'' is added in front of the word ''location'' (to read ''physical location'').

§ 75.2 Scope.

This final rule revises § 75.2 to ensure that possessors of nuclear material outside facilities who are physically located in the U.S. Caribbean Territories are now included within the scope of the regulations in 10 CFR part 75. The previous text in § 75.2 is simplified to remove unnecessary and repetitive references to existing requirements already enumerated elsewhere in 10 CFR part 75. The national security exclusion, which previously only referenced the term ''locations,'' a term of art specifically relating to the Additional Protocol, is changed to reference ''facilities or locations.''

§ 75.3 Exemptions.

This final rule revises § 75.3 to reference all safeguards agreements between the U.S. and the IAEA, using the defined term ''safeguards agreements,'' rather than list each agreement individually. ''Safeguards agreements'' includes the U.S.–IAEA Caribbean Territories Safeguards Agreement, as exemptions may apply to this agreement. Paragraph (b) is moved to new § 75.26, ''Exemptions from IAEA safeguards.''

§ 75.4 Definitions.

This final rule revises § 75.4 by adding definitions to accommodate the inclusion of the SQP to the U.S.–IAEA Caribbean Territories Safeguards Agreement in a manner that avoids confusion with the existing safeguards agreements, removing a definition that was specific to only one safeguards agreement, and revising certain definitions to make them generally applicable to all safeguards agreements. The definition for *Agreement* is being removed; the definitions for *Inventory change, Key measurement point, Location,* and *Safeguards Agreement* are being revised; and the definitions for *Nuclear Material Outside Facilities, Person, Physical location, Small Quantities Protocol, U.S. Caribbean Territories, U.S.–IAEA Caribbean Territories Safeguards Agreement,* and *U.S.–IAEA Safeguards Agreement* are being added.

Agreement is being removed because it referred to one specific safeguards agreement; § 75.4 now includes and defines each specific safeguards agreement.

Inventory change is being revised to remove the words ''source or special'' from the definition because the term ''nuclear material'' is defined under this part to include only source or special nuclear material.

Key measurement point is being revised to include the word ''physical'' before the word ''location'' so as to remove any potential confusion between this usage and the term of art ''location'' as it is used specifically in the Additional Protocol.

Location is revised to read any geographical point or area subject to IAEA safeguards under the Additional Protocol because it was identified either by the U.S. in its declarations, or by the IAEA resulting from a question.

Safeguards Agreement is being revised to read ''Safeguards Agreements'' such that it includes all current safeguards agreements, protocols, and subsidiary arrangements, between the U.S. and the IAEA.

Nuclear material outside facilities is being added and means nuclear material in the U.S. Caribbean Territories that is not in a facility, and is customarily used in amounts of one effective kilogram or less.

Person is being added and means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the U.S. Department of Energy (except that the Department shall be considered a person within the meaning of the regulations in this part to the extent that its facilities and activites are subject to the licensing and related regulatory authority of the Commission pursuant to law), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

Physical location is being added to provide a definition that is specific to a geographic point or area where nuclear material or activity resides and to remove any potential confusion with the term of art ''location'' as it is used specifically in the Additional Protocol.

Small Quantities Protocol is being added and means the Small Quantities Protocol to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America (INFCIRC/366).

U.S. Caribbean Territories is being added and means those territories for which, de jure or de facto, the U.S. is internationally responsible and which lie within the limits of the geographical zone established in Article 4 of the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Tlatelolco Treaty), which includes: Puerto Rico, the U.S. Virgin Islands, Navassa Island, Serranilla Bank, Baja Nuevo (Petrel Island), and the Guantanamo Bay Naval Base.

U.S.–IAEA Caribbean Territories Safeguards Agreement is being added and means the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America (INFCIRC/366), and all protocols and subsidiary arrangements thereto.

U.S.–IAEA Safeguards Agreement is being added and means the Agreement between the United States of America and the IAEA for the Application of Safeguards in the United States (INFCIRC/288), and all protocols and subsidiary arrangements thereto.

§ 75.6 Facility and location reporting.

This final rule revises the heading for § 75.6 to read ''Reporting requirements for facilities, locations, and nuclear material outside facilities.'' The requirement to provide advance

notification of imports, exports, or domestic transfers has been added to the table in paragraph (c) to correct an oversight from a previous rulemaking action. The letter ''C'' is being added after ''DOE/NRC Form 742'' under the first item in the table under paragraph (c), to correct an oversight from a previous rulemaking action. The websites, *https://www.nrc.gov/reading-rm/doc-collections/forms and www.AP.gov,* where the forms listed in paragraphs (c) through (d) of § 75.6 can be accessed, are being added to correct an oversight from a previous rulemaking action. The phone number for the NRC Headquarters Operations Center (HOC) is being added to the table in paragraph (c) to clarify the means of contacting the HOC. Adding the terms ''nuclear material outside facilities'' and ''safeguards agreements'' to paragraph (b) of this section makes the U.S.–IAEA Caribbean Territories Safeguards Agreement generally applicable in this section. The section is being further revised to include accounting, recordkeeping, and reporting requirements for those entities subject to the U.S.–IAEA Caribbean Territories Safeguards Agreement that are physically located in the U.S. Caribbean Territories. These requirements are listed in the table under new paragraph (e) and pertain to the requirements as outlined in Parts I and II of the U.S.–IAEA Caribbean Territories Safeguards Agreement. Other conforming changes to account for the new information in paragraph (e) are being made throughout 10 CFR part 75 for consistency.

§ 75.7 Notification of IAEA safeguards.

This final rule reorders and revises § 75.7 for clarity and changes the reference to ''Safeguards Agreement'' to read ''US–IAEA Safeguards Agreement,'' and the reference to ''facility or location'' to read ''facility.'' Both changes in reference clarify that a selection for IAEA safeguards can only be made under the U.S.–IAEA Safeguards Agreement, and do not pertain to other referenced agreements in this part, such as the Additional Protocol or the U.S.–IAEA Caribbean Territories Safeguards Agreement. Minor editorial changes, such as changing ''Commission'' to read ''NRC,'' are also being made.

§ 75.8 IAEA inspections.

This final rule revises § 75.8 to include the term of art ''nuclear material outside facilities,'' which is specific to the U.S.–IAEA Caribbean Territories Safeguards Agreement, and is included in paragraphs (a)–(d), which state that the NRC will provide notice in writing if an IAEA inspection is to occur, and describe the procedures that must be followed to allow the IAEA access. Paragraph (a) is revised to include the SQP agreement as allowing for IAEA inspections. Paragraph (a)(1) is revised to add the types of inspections applicable to possessors of nuclear material outside facilities located in the U.S. Caribbean Territories, which are ad hoc and special inspections only. Paragraph (a)(4) is revised to replace the word ''place'' with the term physical location to be more specific in where IAEA inspections may take place. The requirements specific to inspections for nuclear material outside facilities are located in new paragraphs (h) and (i), which are parallel in structure to the requirements for ''facilities.'' The text in the original paragraph (h) is revised and redesignated as new paragraph (j). Minor editorial changes, such as changing ''Commission'' to read ''NRC,'' are also being made.

§ 75.9 Information collection requirements: OMB approval.

This final rule revises § 75.9 to add a reference to new § 75.12 to the list of approved information collection requirements in 10 CFR part 75.

Facility and Location Information

This final rule revises the undesignated center heading, ''Facility and Location Information'' to read ''Information for Facilities, Locations, and Nuclear Material Outside Facilities.''

§ 75.10 Facility information.

This final rule revises the § 75.10 section heading to read ''Facilities.'' Other minor conforming changes are being made to this section including changing ''Safeguards Agreement'' to read ''US–IAEA Safeguards Agreement'' and to include the word ''physical'' before the word ''location'' to denote when an actual physical location is being specified and to distinguish it from the ''location'' term of art used specifically under the Additional Protocol. Minor editorial changes, such as changing ''Commission'' to read ''NRC,'' are also being made.

§ 75.11 Location information.

This final rule revises § 75.11 section heading to read ''Locations.'' Other conforming changes are being made to this section including adding the word ''physical'' before the word ''location'' to denote when an actual physical location is being specified and to distinguish it from the ''location'' term of art used specifically under the Additional Protocol. Minor editorial changes, such as changing ''Commission'' to read ''NRC,'' are also being made.

§ 75.12 Communication of information to IAEA is revised and redesignated as § 75.13 Communication of information to IAEA.

This final rule redesignates § 75.12 as new § 75.13 and adds new § 75.12, ''Nuclear material outside facilities.'' The records retention requirements in paragraphs (b)(1) and (b)(4) of this section have been moved to § 75.24, ''Retention of records.'' Minor conforming changes are being made including changing the references to individual safeguards agreements to refer collectively to all safeguards agreements between the U.S. and the IAEA, and adding new § 75.12 for requirements applicable only to the U.S. Caribbean Territories. Minor editorial changes, such as changing ''Commission'' to read ''NRC,'' are also being made.

§ 75.12 Nuclear material outside facilities.

This final rule adds new § 75.12, which provides details on the types of information possessors of nuclear material outside facilities physically located in the U.S. Caribbean Territories are required to report to the NRC on an annual basis, such as name, mailing address, use of nuclear material, etc.

Material Accounting and Control For Facilities

This final rule revises the undesignated center heading, ''Material Accounting and Control For Facilities'' to read ''Material Accounting and Control'' so that the subpart applies to all entities subject to material accounting and control requirements, not only to facilities.

§ 75.15 Facility attachments.

This final rule revises § 75.15 by making minor conforming changes, such as changing ''Commission'' to read ''NRC'' and changing ''Safeguards Agreement'' to read ''U.S.–IAEA Safeguards Agreement.''

§ 75.21 General requirements.

This final rule revises § 75.21 by adding new paragraph (b) to include possessors of nuclear material outside facilities, and the requirement to establish, maintain, and follow written material accounting and control procedures, pursuant to the U.S.–IAEA Caribbean Territories Safeguards Agreement. The records retention requirements in paragraph (a) are moved to § 75.24, ''Retention of records.''

Minor conforming changes are being made to change the reference from ''Safeguards Agreement'' to read ''U.S.–IAEA Safeguards Agreement'' and by changing ''Commission'' to read ''NRC.''

§ 75.24 Retention of records.

This final rule restructures and revises § 75.24 to include new paragraphs (a) and (b) to include the records retention requirements from § 75.21(a) and to specifically list who is required to retain records and to include the term of art ''nuclear material outside facilities,'' which is specific to the U.S.–IAEA Caribbean Territories Safeguards Agreement. Minor editorial changes, such as changing ''Commission'' to read ''NRC,'' are also being made.

IAEA Nuclear Material Exemptions and Terminations

This final rule adds a new undesignated center heading, ''IAEA Nuclear Material Exemptions and Terminations.''

§ 75.26 Exemption from IAEA safeguards and § 75.27 Requirements for facilities, locations, and nuclear material outside facilities after issuance of IAEA exemptions.

This final rule adds new §§ 75.26 and 75.27 to describe the types of nuclear material upon which the U.S. Government may request an exemption from IAEA safeguards and to address the different requirements after such exemptions have been granted by the IAEA for facilities, locations, and nuclear material outside facilities.

§ 75.28 Termination from IAEA safeguards and § 75.29 Requirements for facilities, locations, and nuclear material outside facilities after termination from IAEA safeguards.

This final rule adds new §§ 75.28 and 75.29 to describe the conditions under which the U.S. Government may request the termination of IAEA safeguards and to address the different requirements after such terminations have been granted by the IAEA for facilities, locations, and nuclear material outside facilities.

§ 75.31 General requirements.

This final rule restructures § 75.31 to include new paragraphs (a) and (b) to address general accounting, recordkeeping, and reporting requirements for possessors of nuclear material outside facilities. Minor editorial changes, such as changing ''Commission'' to read ''NRC,'' are also being made.

§ 75.32 Initial inventory report.

This final rule revises § 75.32 to address the specific initial inventory reporting requirements for both licensees of facilities and possessors of nuclear material outside facilities and to make minor editorial changes. Paragraph (a) is revised and split into two paragraphs: (a) Licensees of facilities and (b) Possessors of nuclear material outside facilities. Paragraph (b) is revised and redesignated as new paragraph (c). Paragraph (c) is revised and redesignated as new paragraph (e). A new paragraph (d) is added. Minor editorial changes, such as changing ''Commission'' to read ''NRC,'' are also being made.

§ 75.33 Accounting reports.

This final rule revises § 75.33 by changing the name of the ''Nuclear Material Transaction Report'' to read ''Inventory Change Report (Nuclear Material Transaction Report).''

§ 75.34 Inventory change reports.

This final rule revises § 75.34 to include possessors of nuclear material outside facilities in the requirement to submit inventory change reports and to include time submittal requirements. New paragraph (b)(4) is added to address the specific import requirements for possessors of nuclear material outside facilities. The previously undesignated sentence after paragraph (a)(2) but before paragraph (b) is revised and designated as paragraph (b)(3). The paragraphs previously designated (b)(1) and (2) are redesignated as paragraphs (c)(1) and (2) to explain when a U.S. Department of Energy (DOE)/NRC Form 740M must be completed. Websites that contain the Office of Management and Budget (OMB)-approved NUREG guidance documents are included in new paragraph (d). Minor editorial changes are being made, such as changing the name ''Nuclear Material Transaction Reports'' to read ''Inventory Change Report (Nuclear Material Transaction Report).''

§ 75.35 Material status reports.

This final rule revises § 75.35 to include possessors of nuclear material outside facilities in the requirement to submit material status reports. New paragraphs (c)–(e) are being added. Paragraph (c) is added to include possessors of nuclear material outside facilities to the requirement to submit material status reports. Paragraph (d) is added to clarify when a material status report must be accompanied by DOE/NRC Form 740M. Paragraph (e) is added to clarify where the forms and their instructions may be accessed. Furthermore, a specific 12-month reporting period is being added. Minor editorial changes, such as changing ''Commission'' to read ''NRC,'' are also being made.

§ 75.36 Special reports.

This final rule revises § 75.36 to include possessors of nuclear material outside facilities in the requirements for submitting special reports. Paragraph (c) is removed and the text is revised and redesignated as paragraphs (b)(1) and (2). Minor editorial changes, such as changing ''Commission'' to read ''NRC,'' are also being made.

§ 75.43 Circumstances requiring advance notification.

This final rule revises § 75.43 by modifying paragraph (a) to make the section generally applicable to any person subject to any U.S.–IAEA safeguards agreement. Minor editorial changes, such as changing ''Commission'' to read ''NRC,'' are also being made.

§ 75.46 Expenses.

This final rule revises § 75.46 to make it generally applicable to any person subject to any U.S.–IAEA safeguards agreement. Minor editorial changes, such as changing ''Commission'' to read ''NRC,'' are also being made.

§ 75.53 Criminal penalties.

This final rule revises paragraph (b) by changing the reference § 75.12 to its new designation as § 75.13 and by adding new §§ 75.26 through 75.29.

V. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the NRC certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule affects two ''small entities'' as defined by the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

VI. Regulatory Analysis

A regulatory analysis has not been prepared for this final rule. The information reported is necessary to satisfy U.S. Government obligations with the IAEA under the Agreement between the U.S. and the IAEA for the application of safeguards in connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America, (INFCIRC/366 or ''U.S.–IAEA Caribbean Territories Safeguards Agreement'').

VII. Backfitting and Issue Finality

The NRC has determined that the backfit rule (§§ 50.109, 70.76, 72.62, or

76.76) does not apply to this final rule because this amendment does not involve any provisions that would impose backfits as defined in the backfit rule. Implementation of the U.S.–IAEA Caribbean Territories Safeguards Agreement and its modified SQP will not involve backfitting or issue finality considerations. The entities subject to the revised requirements needed to implement the modified SQP are not accorded backfitting or issue finality protection. Therefore, a backfit analysis is not required.

VIII. Cumulative Effects of Regulation

This final rule will take maximum advantage of the existing requirements in 10 CFR part 75 for those persons possessing nuclear material to maintain records of their receipt, shipment, and disposal of nuclear material and to submit reports on their holdings of nuclear material. Furthermore, the NRC will use existing OMB approved forms for reporting information on nuclear material.

IX. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883).

X. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in 10 CFR 51.22(c)(1), which categorically excludes from environmental review rules that are corrective or of a minor, nonpolicy nature and do not substantially modify existing regulations. Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

XI. Paperwork Reduction Act

This final rule contains a revision to existing collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collections of information were approved by the OMB, approval numbers 3150–0003, 3150–0004, 3150–0055, 3150–0057, and 3150–0058.

The burden to the public for the information collection(s) is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection.

Persons licensed to possess specified quantities of nuclear material currently report inventory and transaction of material to the Nuclear Materials Management and Safeguards System via the DOE/NRC Forms: DOE/NRC Form 740M, Concise Note; DOE/NRC Form 741, Nuclear Material Transaction Report; DOE/NRC Form 742, Material Balance Report; and DOE/NRC Form 742C, Physical Inventory Listing. This collection is being renewed to include approximately 25 entities (9 have been identified) subject to the U.S.–IAEA Caribbean Territories Safeguards Agreement (INFCIRC/366). Part 75 of 10 CFR requires licensees to provide reports of nuclear material inventory and flow for entities under the U.S.–IAEA Caribbean Territories Safeguards Agreement (INFCIRC/366), permit inspections by IAEA inspectors, give immediate notice to the NRC in specified situations involving the possibility of loss of nuclear material, and give notice for imports and exports of specified amounts of nuclear material. These licensees will also follow written material accounting and control procedures, although actual reporting of transfer and material balance records to the IAEA will be done through the U.S. State System of Accounting and Control (Nuclear Materials Management and Safeguards System, collected under OMB clearance numbers 3150–0003, 3150–0004, 3150–0055, 3150–0057, and 3150–0058).

The NRC needs this information to implement its international safeguards obligations under the U.S.–IAEA Caribbean Territories Safeguards Agreement (INFCIRC/366).

You may submit comments on any aspect of the information collection(s), including suggestions for reducing the burden, by the following methods:

Federal rulemaking website: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0263.

• *Mail comments to:* Information Services Branch, Office of the Chief Information Officer, Mail Stop: T–2 F43, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 or to Aaron Szabo, Desk Officer, Office of Information and Regulatory Affairs (3150–0004, –0005, –0055, –0056, and –0057), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–3621, email: *oira_submission@omb.eop.gov.*

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

XII. Congressional Review Act

This final rule is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, OMB has not found it to be a major rule as defined in the Congressional Review Act.

XIII. Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as Compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or the provisions of title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws but does not confer regulatory authority on the State.

XIV. Availability of Guidance

The NRC has revised NUREG/BR–0006, ''Instructions for Completing Nuclear Material Transaction Reports'' (ADAMS Accession Nos. ML17026A069), and NUREG/BR–0007, ''Instructions for the Preparation and Distribution of Material Status Reports'' (Accession Nos. ML17026A076), to add an SQP-specific appendix. Public comment will be sought by the NRC for the next revisions of NUREG/BR–0006 and NUREG/BR–0007 (separate from this final rule), anticipated in calendar year 2018.

List of Subjects in 10 CFR Part 75

Criminal penalties, Intergovernmental relations, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Security measures, Treaties.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 75:

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF SAFEGUARDS AGREEMENTS BETWEEN THE UNITED STATES AND THE INTERNATIONAL ATOMIC ENERGY AGENCY

■ 1. The authority citation for part 75 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 53, 63, 103, 104, 122, 161, 223, 234, 1701 (42 U.S.C. 2073, 2093, 2133, 2134, 2152, 2201, 2273, 2282, 2297f); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

■ 2. Revise the heading of part 75 to read as set forth above.

■ 3. Revise § 75.1 to read as follows:

§ 75.1 Purpose.

The purpose of this part is to implement the requirements established by the safeguards agreements between the United States (U.S.) and the International Atomic Energy Agency (IAEA). This part contains requirements to ensure that the U.S. meets its nuclear non-proliferation obligations under the safeguards agreements. These obligations include providing information to the IAEA on the physical location of applicant, licensee, or certificate holder activities; information on source and special nuclear materials; and access to the physical location of applicant, licensee, or certificate holder activities. These obligations are similar to the obligations accepted by other countries.

■ 4. Revise § 75.2 to read as follows:

§ 75.2 Scope.

(a) The regulations in this part apply to all persons licensed by the Nuclear Regulatory Commission (NRC) or an Agreement State; who hold a certificate of compliance, construction permit or authorization issued by the NRC; who have filed an application with the NRC to construct a facility or to receive source or special nuclear material; or who possess source or special nuclear material subject to NRC regulation under 10 CFR Chapter I.

(b) The regulations in this part do not apply to facilities or locations determined by the U.S. Government to be associated with activities or information of direct national security significance.

■ 5. Revise § 75.3 to read as follows:

§ 75.3 Exemptions.

The NRC may, upon application of any interested person or upon its own initiative, grant exemptions from the requirements of this part that it determines are authorized by law and consistent with the safeguards agreements, are not inimical to the common defense and security, and are otherwise in the public interest.

■ 6. Amend § 75.4 by:

■ a. Removing the definition of *Agreement;*

■ b. Revising the definitions of *Inventory change, Key measurement point,* and *Location;*

■ c. Adding definitions in alphabetical order for *Nuclear Material Outside Facilities, Person,* and *Physical location;*

■ d. Remove the definition for *Safeguards Agreement;*

■ e. Adding definitions in alphabetical order for *Safeguards Agreements, Small Quantities Protocol, U.S. Caribbean Territories, U.S.–IAEA Caribbean Territories Safeguards Agreement,* and *U.S.–IAEA Safeguards Agreement.*

The revisions and additions read as follows:

§ 75.4 Definitions.

* * * * *

Inventory change means an increase or decrease in the quantity of nuclear material in an IAEA material balance area.

Key measurement point means a physical location where nuclear material appears in such a form that it may be measured to determine material flow or inventory. Key measurement points include, but are not limited to, inputs and outputs (including measured discards) and storages in IAEA material balance areas.

Location means any geographical point or area subject to IAEA safeguards under the Additional Protocol because it was identified either by the U.S. in its declarations, or by the IAEA resulting from a question.

* * * * *

Nuclear material outside facilities means nuclear material in the U.S. Caribbean Territories that is not in a facility, and is customarily used in amounts of one effective kilogram or less.

Person means:

(1) Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the U.S. Department of Energy (except that the Department shall be considered a person within the meaning of the regulations in this part to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission pursuant to law) any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and

(2) Any legal successor, representative, agent, or agency of the foregoing.

Physical location means a specific geographical point or area, where either nuclear material subject to Safeguards Agreements resides or an activity subject to the Safeguards Agreements occurs.

Safeguards Agreements means the Agreement between the United States of America and the IAEA for the Application of Safeguards in the United States (INFCIRC/288) and all protocols and subsidiary arrangements thereto, and the Agreement between the United States and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America (INFCIRC/366) and all protocols and subsidiary arrangements thereto.

Small Quantities Protocol means the Small Quantities Protocol to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America (INFCIRC/366).

* * * * *

U.S. Caribbean Territories means those territories for which, de jure or de facto, the U.S. is internationally responsible and which lie within the limits of the geographical zone established in Article 4 of the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Tlatelolco Treaty), which includes: Puerto Rico, the U.S. Virgin Islands, Navassa Island, Serranilla Bank, Baja Nuevo (Petrel Island), and the Guantanamo Bay Naval Base.

U.S.–IAEA Caribbean Territories Safeguards Agreement means the Agreement between the United States of America and the IAEA for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America (INFCIRC/366), and all protocols and subsidiary arrangements thereto.

U.S.–IAEA Safeguards Agreement means the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States (INFCIRC/288), and all protocols and subsidiary arrangements thereto.

■ 7. Amend § 75.6 by revising section heading and paragraphs (b) and (c) and adding paragraph (e) to read as follows:

§ 75.6 Reporting requirements for facilities, locations, and nuclear material outside facilities.

* * * * *

(b) Each applicant, licensee, certificate holder, or possessor of nuclear material outside facilities, who has been given notice by the NRC in writing that it is required to report under Safeguards Agreements for its facility, nuclear material outside facilities, or location, shall make its initial and subsequent reports, including attachments, in an appropriate format defined in the instructions. The DOE/NRC forms and their instructions may be accessed at *https://www.nrc.gov/reading-rm/doc-collections/forms.* The AP–A and associated forms may be accessed at *www.AP.gov.*

(c) Facilities—Specific information regarding facilities is to be reported as follows:

Item	Section	Manner of delivery
Initial Inventory Report	75.32	As specified by printed instructions for preparation of DOE/NRC Form–742C.
Inventory Change Reports	75.34	As specified by printed instructions for preparation of DOE/NRC Form–741 and Form–740M.
Material Status Reports	75.35	As specified by printed instructions for preparation of DOE/NRC Form–742, Form–742C, and Form–740M.
Special Reports	75.36	To the NRC Headquarters Operations Center (commercial telephone number 301–816–5100).
Advance Notification of Import and Exports or of Domestic Transfers.	75.43	In writing to the NRC, as specified in 75.6(a), 75.44, and 75.45.
Facility information	75.10(d)	As specified by printed instructions for Form N–71 and associated forms.
Site information	75.10(e)	As specified by printed instructions for preparation of DOC/NRC Form AP–A and associated forms.

* * * * *

(e) Nuclear material outside facilities—Specific information regarding nuclear material outside facilities in the U.S. Caribbean Territories is to be reported as follows:

Item	Section	Manner of delivery
Initial Inventory Report	75.32	As specified by printed instructions for preparation of DOE/NRC Form–742C and DOE/NRC Form 740M.
Inventory Change Reports	75.34	As specified by printed instructions for preparation of DOE/NRC Form–741 and DOE/NRC Form–740M.
Material Status Reports	75.35	As specified by printed instructions for preparation of DOE/NRC Form–742, DOE/NRC Form–742C, and DOE/NRC Form–740M.
Special Reports	75.36	To the NRC Headquarters Operations Center (commercial telephone number 301–816–5100).
Advance Notification of Import and Exports or of Domestic Transfers.	75.43	In writing to the NRC, as specified in 75.6(a), 75.43, 75.44, and 75.45.
Nuclear Material Outside Facilities Information	75.12	As specified by printed instructions for preparation of DOE/NRC Form 740M.

■ 8. Revise § 75.7 to read as follows:

§ 75.7 Notification of IAEA safeguards.

(a) The NRC, by written notice, will inform the applicant, licensee, or certificate holder of those facilities subject to the application of IAEA safeguards under the U.S.–IAEA Safeguards Agreement.

(b) The licensee must inform the NRC in accordance with § 75.6(c):

(1) Before the licensee begins an activity that may be subject to the U.S–IAEA Safeguards Agreement; or

(2) Within 30 days of beginning an activity subject to the Additional Protocol.

(c) The notice provided under paragraph (a) of this section is effective until the NRC informs the licensee or certificate holder, in writing, that its facility is no longer so designated. Whenever a previously designated facility is no longer subject to the application of IAEA safeguards under the U.S.–IAEA Safeguards Agreement, the NRC will give the licensee or certificate holder prompt notice to that effect.

■ 9. In § 75.8, revise paragraphs (a) introductory text, (a)(1) and (4), and (b) through (d); redesignate paragraph (h) as paragraph (j) and revise it, and add new paragraph (h) and paragraph (i) to read as follows:

§ 75.8 IAEA inspections.

(a) As provided in the U.S.–IAEA Safeguards Agreement and Additional Protocol, inspections may be ad hoc, routine, special, or a complementary access (or a combination of the foregoing). As provided in the Small Quantities Protocol of the U.S.–IAEA Caribbean Territories Safeguards Agreement, inspections may be ad hoc or special. The objectives of the IAEA inspectors in the performance of inspections are as follows:

(1) Ad hoc inspections to verify information contained in the licensee's, applicant's, certificate holder's, or possessor's of nuclear material outside facilities facility information or initial inventory report, or to identify and verify changes in the situation that have occurred after the inventory date under § 75.32(a) or (b) at any physical location where the initial inventory report or any inspections carried out indicate that nuclear material subject to safeguards pursuant to the Safeguards Agreements may be present;

* * * * *

(4) Special inspections may be conducted at any of the physical locations specified above and any

additional places where the NRC (in coordination with other Federal agencies), in response to an IAEA request, finds access to be necessary;

* * * * *

(b) The NRC will notify the applicant, licensee, certificate holder, or possessor of nuclear material outside facilities of each such inspection or complementary access in writing as soon as possible after receiving the IAEA's notice from the U.S. Department of State. The applicant, licensee, certificate holder, or possessor of nuclear material outside facilities should consult with the NRC immediately if the inspection or complementary access would unduly interfere with its activities or if its key personnel cannot be available.

(c) Each applicant, licensee, certificate holder, or possessor of nuclear material outside facilities subject to the provisions of this part shall recognize as a duly authorized representative of the IAEA any person bearing IAEA credentials for whom the NRC has provided written or electronic authorization that the IAEA representative is permitted to conduct inspection activities on specified dates. If the IAEA representative's credentials have not been confirmed by the NRC, the applicant, licensee, certificate holder, or possessor of nuclear material outside facilities shall not admit the person until the NRC has confirmed the person's credentials. The applicant, licensee, certificate holder, or possessor of nuclear material outside facilities shall notify the NRC promptly, by telephone, whenever an IAEA representative arrives at a facility, nuclear material outside facilities, or location without advance notification. The applicant, licensee, certificate holder, or possessor of nuclear material outside facilities shall also contact the NRC, by telephone, within 1 hour with respect to the credentials of any person who claims to be an IAEA representative and shall accept written or electronic confirmation of the credentials from the NRC. Confirmation may be requested through the NRC Operations Center (commercial telephone number 301–816–5100).

(d) Each applicant, licensee, certificate holder, or possessor of nuclear material outside facilities subject to the provisions of this part shall allow the IAEA opportunity to conduct an NRC-approved inspection or complementary access of the facility, nuclear material outside facilities, or location to verify the information submitted under §§ 75.10 through 75.12 and 75.31 through 75.43. The NRC will assign an employee to accompany IAEA representative(s) at all times during the inspection or complementary access. The applicant, licensee, certificate holder, or possessor of nuclear material outside facilities may accompany IAEA representatives who inspect or access the facility, nuclear material outside facilities, or location. The IAEA representatives should not be delayed or otherwise impeded in the exercise of their duties.

* * * * *

(h) Each possessor of nuclear material outside facilities shall permit the IAEA, in conducting an ad hoc or special inspection for nuclear material outside facilities, to:

(1) Observe that the measurements of nuclear material at key measurement points for material balance accounting are representative;

(2) Verify the function and calibration of instruments and other measurement control equipment;

(3) Observe that samples at key measurement points for material balance accounting are taken in accordance with procedures that produce representative samples, observe the treatment and analysis of the samples, and obtain duplicates of these samples;

(4) Arrange to use the IAEA's own equipment for independent measurement and surveillance; and

(5) Perform other measures requested by the IAEA and approved by the NRC.

(i) Each possessor of nuclear material outside facilities shall, at the request of an IAEA inspector during an ad hoc or special inspection for nuclear material outside facilities:

(1) Ship material accountancy samples taken for the IAEA's use, in accordance with applicable packaging and export licensing regulations, by the method of carriage and to the address specified by the inspector; and

(2) Take other actions contemplated by the U.S.–IAEA Caribbean Territories Safeguards Agreement and included in the safeguards approach approved by the United States and the IAEA, including but not limited to the following examples:

(i) Enabling the IAEA to arrange to install its equipment for measurement and surveillance;

(ii) Enabling the IAEA to apply its seals and other identifying and tamper-indicating devices to containers;

(iii) Making additional measurements and taking additional samples for the IAEA's use;

(iv) Analyzing the IAEA's standard analytical samples;

(v) Using appropriate standards in calibrating instruments and other equipment; and

(vi) Carrying out other calibrations.

(j) Nothing in this section requires or authorizes an applicant, licensee, certificate holder, or possessor of nuclear material outside facilities to carry out any operation that would otherwise constitute a violation of the terms of any applicable license, regulation, or order of the NRC.

§ 75.9 [Amended]

■ 10. In § 75.9, in paragraph (b), add the number ''75.12'' in numerical order.

■ 11. Revise the undesignated center heading ''FACILITY AND LOCATION INFORMATION'' to read ''INFORMATION FOR FACILITIES, LOCATIONS, AND NUCLEAR MATERIAL OUTSIDE FACILITIES''.

■ 12. In § 75.10:

■ a. Revise the section heading;

■ b. In paragraphs (a) and (c)(2) remove the phrase ''Safeguards Agreement'' wherever it may appear and add in its place the phrase ''U.S.–IAEA Safeguards Agreement'';

■ c. In paragraphs (b)(1) and (2) and (d)(5), remove the word ''location'' and add in its place the phrase ''physical location''; and

■ d. Wherever it may appear, remove the word ''Commission'' and add in its place the word ''NRC''.

The revision reads as follows:

§ 75.10 Facilities.

* * * * *

■ 13. In § 75.11:

■ a. Revise the section heading;

■ b. Remove the word ''Commission'' and add in its place the word ''NRC'' in the introductory text; and

■ c. In paragraphs (b)(1) and (3) and (5) through (7), wherever it may appear, remove the word ''location'' and add in its place the phrase ''physical location''.

The revision reads as follows:

§ 75.11 Locations.

* * * * *

§ 75.12 [Redesignated as § 75.13]

■ 14. Redesignate § 75.12 as § 75.13 and revise it add new § 75.12 to read as follows:

§ 75.12 Nuclear material outside facilities.

A possessor of nuclear material outside facilities shall provide to the NRC the possessor's name and mailing address, physical location of the nuclear material, use of nuclear material, and nuclear material accounting and control procedures, including organizational responsibilities for accountancy and control. This information must be provided annually with the material status report in accordance with §§ 75.6(e) and 75.35(c).

§ 75.13 Communication of information to the International Atomic Energy Agency (IAEA).

(a) Except as otherwise provided in this section, the NRC will furnish to the IAEA all information submitted under §§ 75.10, 75.11, 75.12, and 75.31 through 75.43.

(b)(1) An applicant, licensee, certificate holder, or possessor of nuclear material outside facilities may request that information of particular sensitivity, that it customarily holds in confidence, not be transmitted physically to the IAEA. An applicant, licensee, certificate holder, or possessor of nuclear material outside facilities who makes this request shall, at the time the information is submitted, identify the pertinent document or part thereof and make a full statement of the reasons supporting the request.

(2) In considering such a request, it is the policy of the NRC to achieve an effective balance between legitimate concerns of licensees, applicants, certificate holders, or possessors of nuclear material outside facilities, including protection of the competitive position of the owner of the information, and the undertaking of the United States to cooperate with the IAEA to facilitate the implementation of the safeguards provided for in the Safeguards Agreements. The NRC will take into account the obligation of the IAEA to take every precaution to protect commercial and industrial secrets and other confidential information coming to its knowledge in the implementation of the safeguards agreements.

(3) A request made under § 2.390 of this chapter will not be treated as a request under this section unless the application makes specific reference to this section, nor shall a determination to withhold information from public disclosure necessarily require a determination that such information not be transmitted physically to the IAEA.

(4) If a request is granted, the NRC will determine a physical location where the information will remain readily available for examination by the IAEA and will so inform the applicant, licensee, certificate holder, or possessor of nuclear material outside facilities.

(c) A request made under § 2.390(b) of this chapter will not be treated as a request under this section unless the application makes specific reference to this section, nor shall a determination to withhold information from public disclosure necessarily require a determination that this information not be transmitted physically to the IAEA.

(d) Where consistent with the Safeguards Agreements, the NRC may at its own initiative, or at the request of a licensee, determine that any information submitted under §§ 75.10, 75.11, and 75.12 shall not be physically transmitted to, or made available for examination by, the IAEA.

■ 15. Revise the undesignated center heading ''MATERIAL ACCOUNTING AND CONTROL FOR FACILITIES'' to read ''MATERIAL ACCOUNTING AND CONTROL''.

§ 75.15 [Amended]

■ 16. In § 75.15:

■ a. Wherever it may appear, remove the phrase ''Safeguards Agreement'' and add in its place the phrase ''U.S.–IAEA Safeguards Agreement''; and

■ b. Wherever it may appear, remove the word ''Commission'' and add in its place the word ''NRC''.

■ 17. In § 75.21, revise paragraph (a), redesignate paragraphs (b) through (d) as paragraphs (c) through (e), and add new paragraph (b) to read as follows:

§ 75.21 General requirements.

(a) Each licensee or certificate holder who has been given notice by the NRC in writing that its facility has been identified under the U.S.–IAEA Safeguards Agreement shall establish, maintain, and follow written material accounting and control procedures.

(b) Each possessor of nuclear material outside facilities in the U.S. Caribbean Territories shall establish, maintain, and follow written material accounting and control procedures.

* * * * *

■ 18. Revise § 75.24 to read as follows:

§ 75.24 Retention of records.

(a) The applicant, licensee, certificate holder, or possessor of nuclear material outside facilities shall retain as a record any request made pursuant to §§ 75.13(b)(1), 75.13(b)(4), and 75.21 and documents related to that request, which are either prepared or received by that entity, until the NRC terminates the license or certificate, or until the entity no longer possesses nuclear material, whichever occurs later. When records required by these sections are superseded, these records must be retained for 3 years after each change is made.

(b) The applicant, licensee, certificate holder, or possessor of nuclear material outside facilities shall retain the records referred to in §§ 75.22 and 75.23 for at least 5 years.

■ 19. Under § 75.24, add a new undesignated center heading and new §§ 75.26 through 75.29 to read as follows:

IAEA Nuclear Material Exemptions and Terminations

Sec.

75.26 Exemption from IAEA safeguards.
75.27 Requirements for facilities, locations, and nuclear material outside facilities after issuance of IAEA exemptions.
75.28 Termination from IAEA safeguards.
75.29 Requirements for facilities, locations, and nuclear material outside facilities after termination from IAEA safeguards.

§ 75.26 Exemption from IAEA safeguards.

(a) The U.S. Government may request from the IAEA an exemption from IAEA safeguards with respect to nuclear material of the following types:

(1) Source and special nuclear material in gram quantities or less as a sensing component in instruments;

(2) Nuclear material used in nonnuclear activities; and

(3) Plutonium with an isotopic concentration of plutonium-238 exceeding 80 percent.

(b) Nuclear material exempted under paragraph (a) of this section must not exceed the quantity limits specified in the Safeguards Agreements.

(c) The NRC shall provide a prompt notification of an exemption issued by the IAEA to the applicable licensee, certificate holder, or nuclear material outside facilities.

§ 75.27 Requirements for facilities, locations, and nuclear material outside facilities after issuance of IAEA exemptions.

(a) *Licensees of facilities.* After the NRC has notified a licensee of a facility under § 75.26(c) that the IAEA has approved the exemption requested under § 75.26(a) of this part, the licensee:

(1) Shall submit reports to the NRC pursuant to §§ 75.6(c) and 75.31(a); and

(2) Shall not export any nuclear material identified under § 75.26 until the NRC notifies the licensee that IAEA safeguards under the U.S.–IAEA Safeguards Agreement have been re-applied.

(b) *Licensees of locations.* A licensee of a location shall provide annual updates pursuant to § 75.11(c) following notification from the NRC that the IAEA has approved the exemption requested under § 75.26.

(c) *Possessors of nuclear material outside facilities.* After the NRC has notified a possessor of nuclear material outside facilities under § 75.6(c) that the IAEA has approved the exemption requested under § 75.26(a), a possessor of nuclear material outside facilities:

(1) Shall submit reports to the NRC pursuant to §§ 75.6(e) and 75.31(b); and

(2) Shall not export out of the U.S. Caribbean Territories any nuclear material identified under § 75.26 until

the NRC notifies the possessor that IAEA safeguards under the U.S.–IAEA Caribbean Territories Safeguards Agreement have been re-applied.

(d) *Prohibition against commingling of nuclear material in storage.* Licensees of facilities, licensees of locations, and possessors of nuclear material outside facilities shall not store nuclear material exempted under § 75.26 together with nuclear material subject to Safeguards Agreements.

(e) Nuclear material exempted from IAEA safeguards under § 75.26 is not subject to inspections by the IAEA.

§ 75.28 Termination from IAEA safeguards.

(a) Upon request of the U.S. Government, the IAEA may terminate IAEA safeguards on nuclear material that has been consumed, or has been diluted in such a way that it is no longer usable for any nuclear activity relevant from the point of view of safeguards, or has become practicably irrecoverable.

(b) The NRC will notify the affected licensees, certificate holders, and nuclear material outside facilities of the IAEA's termination of IAEA safeguards.

§ 75.29 Requirements for facilities, locations, and nuclear material outside facilities after termination from IAEA safeguards.

(a) *Licensees of facilities.* A licensee of a facility shall submit an Inventory Change Report pursuant to §§ 75.6(c) and 75.31(a) following notification from the NRC that IAEA safeguards have been terminated as described in § 75.28.

(b) *Licensees of locations.* A licensee of a location shall provide annual updates pursuant to § 75.11(c) following notification from the NRC that IAEA safeguards have been terminated as described in § 75.28.

(c) *Possessors of nuclear material outside facilities.* A possessor of nuclear material outside facilities shall submit an Inventory Change Report pursuant to §§ 75.6(e) and 75.31(b) following notification from the NRC that IAEA safeguards have been terminated as described in § 75.28.

(d) Nuclear material that has had IAEA safeguards terminated as described in § 75.28 is not subject to inspections by the IAEA.

■ 20. Revise § 75.31 to read as follows:

§ 75.31 General requirements.

(a) Each licensee or certificate holder who has been given notice by the NRC under § 75.7 that its facility has been identified under the U.S.–IAEA Safeguards Agreement shall make, in an appropriate computer-readable format, an initial inventory report, and thereafter shall make accounting reports, with respect to the facility and, in addition, licensees or certificate holders who have been given notice, under § 75.7 that their facilities are subject to the application of IAEA safeguards, shall make the special reports described in § 75.36. These reports must be based on the records kept under § 75.21. At the request of the NRC, the licensee or certificate holder shall amplify or clarify any report with respect to any matter relevant to implementation of the U.S.–IAEA Safeguards Agreement. Any amplification or clarification must be in writing and must be submitted, to the address specified in the request, within 20 days of the date of the request or other time as may be specified by the NRC.

(b) Each possessor of nuclear material outside facilities (possessor) subject to the U.S.–IAEA Caribbean Territories Safeguards Agreement shall make, in an appropriate computer-readable format, an initial inventory report in accordance with § 75.32 of this report. Thereafter, that possessor shall make accounting reports as described in §§ 75.33 through 75.35 and special reports as described in § 75.36. These reports must be based on the records kept under § 75.21(b). At the request of the NRC, the possessor shall amplify or clarify any report with respect to any matter relevant to implementation of the U.S.–IAEA Caribbean Territories Safeguards Agreement. Any amplification or clarification must be in writing and must be submitted, to the address specified in the request, within 20 days of the date of the request or other time as may be specified by the NRC.

■ 21. Revise § 75.32 to read as follows:

§ 75.32 Initial inventory report.

(a) *Licensees of facilities.* The initial inventory report must show the quantities of nuclear material at a facility. The quantities reported in the initial inventory report must be accurate as of the last day of the calendar month in which the NRC gives notice to the licensee or certificate holder that an initial inventory report is required (the ''inventory date'' on DOE/NRC Form 742C).

(b) *Possessors of nuclear material outside facilities.* The initial inventory report must show the quantities of nuclear material outside facilities. The quantities reported in the initial inventory report must be accurate as of the last day of the calendar month in which the possessor of nuclear material outside facilities becomes subject to the requirements of this part (the ''inventory date'' on DOE/NRC Form 742C).

(c) *Initial inventory report.* The information in the initial inventory report may be based upon the accounting records. The initial inventory report must be submitted to the NRC on DOE/NRC Form 742C in accordance with the instructions in NUREG/BR–0007 and NMMSS Report D–24 ''Personal Computer Data Input for NRC Licensees.'' Copies of the instructions for completing DOE/NRC Form 742C and DOE/NRC Form 740M may be obtained from the following websites: *http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures* and *https://nnsa.energy.gov/aboutus/ourprograms/nuclearsecurity/nmmss home/nmmssinfo/nmmssreports.*

(d) *Report forms.* DOE/NRC Form 742C must be accompanied by DOE/NRC Form 740M if any batch of source material reported in DOE/NRC Form 742C is equal to or less than 0.4 kg.

(e) *Report submission.* The initial inventory report must be submitted to the NRC no later than 20 days after the inventory date.

■ 22. In § 75.33, revise (a)(1)(i) to read as follows:

§ 75.33 Accounting reports.

(a)(1) * * *

(i) Inventory Change Reports (Nuclear Material Transaction Report); and

* * * * *

■ 23. Revise § 75.34 to read as follows:

§ 75.34 Inventory change reports.

(a) Each licensee of a facility, certificate holder, or possessor of nuclear material outside facilities who transfers nuclear material subject to IAEA safeguards shall submit an Inventory Change Report (Nuclear Material Transaction Report) to the NRC no later than the close of business the next working day after each transfer, in accordance with the instructions in NUREG/BR–0006 and NMMSS Report D–24 ''Personal Computer Data Input for NRC Licensees.'' Each licensee of a facility, certificate holder, or possessor of nuclear material outside facilities who receives nuclear material subject to IAEA safeguards shall submit an Inventory Change Report to the NRC. Inventory Change Reports for receipts must be submitted within 10 days after the material is received, in accordance with the instructions in NUREG/BR–0006 and NMMSS Report D–24 ''Personal Computer Data Input for NRC Licensees.'' Copies of the instructions for completing DOE/NRC Form 741 and DOE/NRC Form 740M may be obtained from the following websites: *http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures* and

https://nnsa.energy.gov/aboutus/ourprograms/nuclearsecurity/nmmsshome/nmmssinfo/nmmssreports.

(b) An Inventory Change Report (Nuclear Material Transaction Report) must specify identification and batch data for each batch of nuclear material, the date of the inventory change, and, as appropriate:

(1) The originating IAEA material balance area or the shipper; and

(2) The receiving IAEA material balance area or the recipient.

(3) Each person who receives any nuclear material from a foreign source shall complete both the supplier's and receiver's portion of DOE/NRC Form 741.

(4) Each person in the U.S. Caribbean Territories who receives nuclear material from the U.S. outside the U.S. Caribbean Territories shall complete both the supplier's and receiver's portion of DOE/NRC Form 741.

(c) An Inventory Change Report must be accompanied by DOE/NRC Form 740M whenever it is necessary to:

(1) Explain the inventory changes set forth in the operating records required by § 75.23; or

(2) Describe, to the extent specified in the license conditions, the anticipated operational program for the facility, including, but not limited to, the schedule for taking physical inventory.

(d) Copies of the instructions for completing DOE/NRC Form 741 and DOE/NRC Form 740M may be obtained from the following websites: *http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures* and *https://nnsa.energy.gov/aboutus/ourprograms/nuclearsecurity/nmmsshome/nmmssinfo/nmmssreports.*

■ 24. Revise § 75.35 to read as follows:

§ 75.35 Material status reports.

(a) Each licensee of a facility, certificate holder, or possessor of nuclear material outside facilities with nuclear materials subject to IAEA safeguards shall submit a material status report for each physical inventory taken in accordance with the material accounting and control procedures required by § 75.21. The material status report must include a DOE/NRC Form 742 and a DOE/NRC Form 742C, which lists all batches separately and specifies material identification and batch data for each batch. The reports described in this section must be prepared and submitted in accordance with instructions in NUREG/BR–0006, NUREG/BR–0007, and NMMSS Report D–24.

(b) Unless otherwise specified in the license conditions, material status reports shall be submitted to the NRC as soon as possible, but in any event no later than 30 days after the start of the physical inventory.

(c) Possessors of nuclear material outside facilities must submit a material status report to the NRC every 12 calendar months, for a reporting period that commences on May 1st and concludes on April 30th of the next calendar year. The annual inventory report must be dated April 30th.

(d) A material status report must be accompanied by DOE/NRC Form 740M whenever it is necessary to:

(1) Describe the anticipated operational program;

(2) Provide additional explanation and clarification at the country, facility material balance area, report, or entry level;

(3) Provide additional explanation not accommodated in any of the data elements of DOE/NRC Form 742 or DOE/NRC Form 742C; or

(4) Report actual inventory values equal to or less than 0.4 kg of source material.

(e) Copies of the instructions for completing DOE/NRC Form 742, DOE/NRC Form 742C, and DOE/NRC Form 740M may be obtained from the following websites: *http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures* and *https://nnsa.energy.gov/aboutus/ourprograms/nuclearsecurity/nmmsshome/nmmssinfo/nmmssreports.*

■ 25. Revise § 75.36 to read as follows:

§ 75.36 Special reports.

(a) This section applies to licensees, certificate holders, and possessors of nuclear material outside facilities who:

(1) Have been given notice under § 75.7(a) that their facilities are subject to the application of IAEA safeguards, or

(2) Are subject to the U.S.–IAEA Caribbean Territories Safeguards Agreement.

(b) Each entity subject to this section shall immediately make a special report to the NRC, by telephone, if:

(1) There is a loss of nuclear material:

(i) In excess of specified limits, as stated in license conditions, for those entities described in paragraph (a)(1) of this section, or

(ii) In any amount, for those entities described in paragraph (a)(2) of this section,

(2) There are unexpected changes in containment to the extent that unauthorized removal of nuclear material has become possible, or

(3) Reporting is required under a license condition.

■ 26. In § 75.43, revise paragraph (a) to read as follows:

§ 75.43 Circumstances requiring advance notification.

(a) Each person subject to the Safeguards Agreements shall give advance written notification to the NRC regarding the international and domestic transfers specified in this section.

* * * * *

■ 27. Revise § 75.46, revise paragraphs (a), (b), (c) introductory text, and (d) to read as follows:

§ 75.46 Expenses.

(a) Under the Safeguards Agreements, the IAEA undertakes to reimburse any person subject to this part for extraordinary expenses incurred as a result of its specific request provided that the IAEA has agreed in advance to do so. The Safeguards Agreements also provide that the IAEA will reimburse that person for the cost of making additional measurements or taking samples at the specific request of an IAEA inspector.

(b) The NRC will inform persons subject to this part, by license condition or by other means (*e.g.,* written communication), of those items of extraordinary expense that the IAEA has agreed in advance to reimburse.

(c) The NRC will inform persons subject to this part, by license condition or by other means (*e.g.,* written communication), of the procedures to be used to document:

* * * * *

(d) The NRC will take appropriate action to assist persons subject to this part regarding the reimbursement of any expense that, under the Safeguards Agreements, is to be borne by the IAEA.

§ 75.53 [Amended]

■ 28. In § 75.53, in paragraph (b), add the numbers ''75.13'', ''75.26'', ''75.27'', ''75.28'', and ''75.29'' in numerical order.

Dated at Rockville, Maryland, this 30th day of April, 2018.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2018–09462 Filed 5–3–18; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0776; Product Identifier 2017–NM–062–AD; Amendment 39–19264; AD 2018–09–08]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–200, –300, –400, and –500 series airplanes. This AD was prompted by reports of cracks in the frame web common to the stringer ties adjacent to the air-conditioning support brackets. This AD requires an inspection of the frame for any air-conditioning bracket assembly or intercostal, and, depending on the results, repetitive inspections of the frame web for cracking of certain locations, and applicable on-condition actions. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 8, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 8, 2018.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone: 562–797–1717; internet: *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0776.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0776; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is Docket Operations, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: George Garrido, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5232; fax: 562–627–5210; email: *george.garrido@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–200, –300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on August 15, 2017 (82 FR 38623). The NPRM was prompted by reports of cracks in the frame web common to the stringer ties adjacent to the air-conditioning support brackets. The NPRM proposed to require an inspection for any air-conditioning bracket assembly or intercostal, and, depending on the results, repetitive inspections for cracking of certain locations, and applicable on-condition actions.

We are issuing this AD to detect and correct cracks in the frame web common to the stringer ties adjacent to the air-conditioning support brackets, which could result in a severed frame, and, in combination with potential multiple site damage (MSD) at the stringer S–10 lap splice or chem-milled skin cracks, could result in possible rapid decompression and loss of structural integrity of the airplane.

Comments

We gave the public the opportunity to participate in developing this final rule. The following presents the comments received on the NPRM and the FAA's response to each comment.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing the supplemental type certificate (STC) ST01219SE does not affect the actions specified in the NPRM.

We concur with the commenter. We have redesignated paragraph (c) of the proposed AD as paragraph (c)(1) of this AD and added paragraph (c)(2) to this AD to state that installation of STC ST01219SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

Request for Clarification of the Unsafe Condition and Inspection Area

Boeing requested that we revise the preamble of the NPRM and paragraph (e) of the proposed AD to clarify the unsafe condition. Boeing also requested that we revise paragraph (i) of the proposed AD to clarify the type of cracking (frame web cracking) and the inspection area (frame web common to the stringer ties). The commenter mentioned that without these clarifications the specific wording could be misleading.

We agree that clarification is necessary for the reasons provided by the commenter and have revised this AD accordingly.

Request To Update Responsible ACO Branch

Boeing requested that we change all references to the Seattle ACO Branch to refer to the Los Angeles ACO Branch. Boeing pointed out that responsibility for The Boeing Company Model 737–200, –300, –400, and –500 series airplanes has changed to the Los Angeles ACO Branch.

We agree for the reasons provided by the commenter and have revised this AD accordingly.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule with the changes described previously and minor editorial changes. We have determined that these minor changes:

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

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–53A1363, dated April 7, 2017. This service information describes procedures for an inspection of the frame for any air-conditioning bracket assembly or intercostal, repetitive inspections of the frame web for

cracking of certain locations, and applicable on-condition actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 302 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	27 work-hours × $85 per hour = $2,295 per inspection cycle.	$0	$2,295 per inspection cycle	$693,090 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–09–08 The Boeing Company: Amendment 39–19264; Docket No. FAA–2017–0776; Product Identifier 2017–NM–062–AD.

(a) Effective Date

This AD is effective June 8, 2018.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to The Boeing Company Model 737–200, –300, –400, and –500 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–53A1363, dated April 7, 2017.

(2) Installation of Supplemental Type Certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/EBD1CEC7B301293E86257CB30045557A?OpenDocument&Highlight=st01219se*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by reports of cracks in the frame web common to the stringer ties adjacent to the air-conditioning support brackets. We are issuing this AD to detect and correct cracks in the frame web common to the stringer ties adjacent to the air-conditioning support brackets, which could result in a severed frame, and, in combination with potential multiple site damage (MSD) at the stringer S–10 lap splice or chem-milled skin cracks, could result in possible rapid decompression and loss of structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions

Except as required by paragraph (h) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1363, dated April 7, 2017, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1363, dated April 7, 2017.

(h) Exceptions to Service Information Specifications

(1) Where Boeing Alert Service Bulletin 737–53A1363, dated April 7, 2017, uses the phrase ''after the original issue date of this service bulletin,'' for purposes of determining compliance with the requirements of this AD, the phrase ''after the effective date of this AD'' applies.

(2) Where Boeing Alert Service Bulletin 737–53A1363, dated April 7, 2017, specifies contacting Boeing, and specifies that action as RC: This AD requires using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) Terminating Action for Repetitive Inspections

Accomplishment of a reinforcement repair for a frame web crack at the stringer tie location using a method approved in accordance with the procedures specified in paragraph (j) of this AD terminates the repetitive inspections required by paragraph (g) of this AD for the repaired stringer tie location only, provided the crack is removed or trimmed out from the stringer tie holes.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO Branch, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) Except as required by paragraph (h)(2) of this AD: For service information that contains steps that are labeled as RC, the provisions of paragraphs (j)(4)(i) and (j)(4)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(k) Related Information

For more information about this AD, contact George Garrido, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5232; fax: 562–627–5210; email: *george.garrido@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 737–53A1363, dated April 7, 2017.

(ii) Reserved.

(3) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone: 562–797–1717; internet: *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued in Des Moines, Washington, on April 20, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–09218 Filed 5–3–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0855; Airspace Docket No. 17–ANM–17]

RIN 2120–AA66

Amendment of Class D and E Airspace and Revocation of Class E Airspace; Pocatello, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends controlled airspace at Pocatello Regional Airport, Pocatello, ID, by amending Class D airspace and Class E airspace designated as a surface area; removing Class E airspace designated as an extension to a Class D or E surface area; and amending Class E airspace extending upward from 700 feet above the surface. Also, this action updates the airport's geographic coordinates for the associated Class D and E airspace areas to reflect the FAA's current aeronautical database. Additionally, reference to the Pocatello VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) is removed from the Class E airspace extending upward from 700 feet above the surface description. This action enhances the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Effective 0901 UTC, July 19, 2018. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S. 216th Street, Des Moines, WA 98198; telephone (206) 231–2253.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the

scope of that authority as it modifies Class D and E airspace at Pocatello Regional Airport, Pocatello, ID, in support of instrument flight rules operations at the airport.

History

On December 19, 2017, the FAA published in the **Federal Register** (82 FR 60130) Docket FAA–2017–0855, a notice of proposed rulemaking to modify Class D airspace, Class E surface area airspace, Class E airspace designated as an extension, and Class E airspace extending upward from 700 feet above the surface at Pocatello Regional Airport, Pocatello, ID. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and E airspace designations are published in paragraph 5000, 6002, 6004, and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the ADDRESSES section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by:

Amending Class D airspace at Pocatello Regional Airport, Pocatello, ID, by raising the vertical limit to 7,000 feet (from 6,900 feet) and increasing the airspace south of the airport to a 5.6-mile radius (from a 4.5-mile radius) to laterally protect IFR departures as they climb to 700 feet above the surface, due to rising terrain;

Amending Class E surface area airspace to be coincident with the Class D airspace area;

Removing Class E airspace designated as an extension to a Class D or Class E surface area as it contains no arrival aircraft within 1,000 feet of the surface, and is not necessary;

Amending Class E airspace extending upward from 700 feet above the surface to reduce the area southwest of the airport and slightly increase the area south of the airport. This redesign is necessary to ensure sufficient controlled airspace to contain IFR arrival aircraft within 1,500 feet above the surface and IFR departure aircraft until reaching 1,200 feet above the surface. The VORTAC navigation aid noted in the description is removed, as it no longer defines the boundary of the airspace. In addition, this action establishes airspace extending upward from 1,200 feet above the surface at the airport within 15 miles northwest and 5 miles southeast of a line extending from 15 miles southwest of the airport to 43 miles northeast of the airport. This provides controlled airspace to support aircraft operations under IFR as aircraft transition between the en route and airport environments.

Lastly, this action updates the airport's geographic coordinates for the associated Class D and E airspace areas to reflect the FAA's current aeronautical database, and replaces the outdated term ''Airport/Facility Directory'' with the term ''Chart Supplement'' in the Class D and Class E surface airspace legal descriptions. These modifications are necessary for the safety and management of IFR operations at the airport.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

ANM ID D Pocatello, ID [Amended]

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

That airspace extending upward from the surface to and including 7,000 feet MSL within a 4.5-mile radius of Pocatello Regional Airport from the airport 195° bearing clockwise to the airport 168° bearing, and within a 5.6-mile radius of the airport from the airport 168° bearing clockwise to the airport 195° bearing. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Airspace Areas Designated as Surface Areas

* * * * *

ANM ID E2 Pocatello, ID [Amended]

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

That airspace within a 4.5-mile radius of Pocatello Regional Airport from the airport 195° bearing clockwise to the airport 168° bearing, and within a 5.6-mile radius of the airport from the airport 168° bearing clockwise to the airport 195° bearing. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ANM ID E4 Pocatello, ID [Removed]

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

* * * * *

ANM ID E5 Pocatello, ID [Amended]

Pocatello Regional Airport, ID

(Lat. 42°54′35″ N, long. 112°35′45″ W)

That airspace extending upward from 700 feet above the surface within 7.8 miles northwest and 5 miles southeast of the 045° bearing from Pocatello Regional Airport extending to 21 miles northeast of the airport, and within 7.8 miles northwest and 5 miles southeast of the 225° bearing from the airport extending to 10.8 miles southwest of the airport. That airspace extending upward from 1,200 feet above the surface within 15 miles northwest and 5 miles southeast of the 045° bearing from Pocatello Regional Airport extending to 43 miles northeast of the airport, and within 15 miles northwest and 5 miles southeast of the 225° bearing from the airport extending to 15 miles southwest of the airport.

Issued in Seattle, Washington, on April 23, 2018.

B. G. Chew,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2018–09107 Filed 5–3–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket Nos. FDA–2012–N–1210 and FDA–2004–N–0258]

RIN 0910–AH92

Food Labeling: Revision of the Nutrition and Supplement Facts Labels and Serving Sizes of Foods That Can Reasonably Be Consumed at One Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments; Extension of Compliance Dates

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA or we) is extending the compliance dates by approximately 1.5 years for the final rules providing updated nutrition information on the label of food, including dietary supplements; defining a single-serving container; requiring dual-column labeling for certain containers; updating, modifying, and establishing certain reference amounts customarily consumed (RACCs); and amending the label serving size for breath mints. The final rules appeared in the **Federal Register** of May 27, 2016. We are taking this action because, after careful consideration, we have determined that additional time would help ensure that all manufacturers covered by the final rules have guidance from FDA to address, for example, certain technical questions we received after publication of the final rules, and that they have sufficient time to complete and print updated Nutrition Facts labels for their products before they are expected to be in compliance with the final rules.

DATES: This rule is effective July 3, 2018. For the applicable compliance date(s), please see ''Effective/Compliance Date(s)'' in **SUPPLEMENTARY INFORMATION.**

ADDRESSES: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and insert the docket number found in brackets in the heading of this final rule 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: Paula Trumbo, Center for Food Safety and Applied Nutrition (HFS–830), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2579.

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

A. Purpose of the Final Rule

The final rule extends the compliance dates for two rules. In the **Federal Register** of May 27, 2016 (81 FR 33742 and 81 FR 34000), we published two final rules entitled ''Food Labeling: Revision of the Nutrition and Supplement Facts Labels'' (the Nutrition Facts Label Final Rule) and ''Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed At One Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments'' (the Serving Size Final Rule). In those final rules the compliance date for manufacturers with $10 million or more in annual food sales was established as July 26, 2018; for manufacturers with less than $10 million in annual food sales, the compliance date was set as July 26, 2019.

This final rule extends the compliance date for manufacturers with $10 million or more in annual food sales from July 26, 2018, to January 1, 2020; for manufacturers with less than $10 million in annual food sales, the final rule extends the compliance date from July 26, 2019, to January 1, 2021.

B. Summary of the Final Rule

The final rule extends the compliance date for manufacturers with $10 million or more in annual food sales from July 26, 2018, to January 1, 2020; for manufacturers with less than $10 million in annual food sales, the final rule extends the compliance date from July 26, 2019, to January 1, 2021. We are extending the compliance dates for the Nutrition Facts Label Final Rule and the Serving Size Final Rule, which were issued consistent with our authority in sections 403(q), 403(a)(1), 201(n), and 701(a) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 343(q), 343(a)(1), 321(n), and 371(a), respectively) and section 2(b)(1) of the Nutrition Labeling and Education Act (NLEA) (Pub. L. 101–535).

C. Costs and Benefits

The impact of this final rule is summarized in the following table.

TABLE 1—SUMMARY OF THE COST SAVINGS TO INDUSTRY AND FOREGONE BENEFITS TO CONSUMERS OF THIS FINAL RULE TO EXTEND THE COMPLIANCE DATES

[In billions of 2016$]

	Discount rate	Cost savings	Foregone benefits	Net benefits (cost savings—foregone benefits)
Present Value	3	$1.0	$0.9	$0.1
	7	1.0	0.9	0.1
Annualized Amount	3	0.07	0.06	0.01
	7	0.09	0.08	0.01

Notes: Cost savings to industry, foregone benefits to consumers, and net benefits reflect mean estimates. This final rule extends the compliance dates of the Nutrition Facts Label and Serving Size Final Rules by approximately 1.5 years. Annualized Amount = Amount/Annualizing Factor. 3 percent annualizing factor = 14.88. 7 percent annualizing factor = 10.59. The annualizing factors are calculated by summing the inverse of 1 plus the discount rate to the power of the year (t = 1 through t = 20).

II. Background

A. Need for the Regulation/History of This Rulemaking

In the **Federal Register** of May 27, 2016 (81 FR 33742 and 81 FR 34000), we published the Nutrition Facts Label Final Rule and the Serving Size Final Rule. The Nutrition Facts Label Final Rule revises the Nutrition Facts label by:

• Removing the declaration of ''Calories from fat'' because current science supports a view that the type of fat is more relevant than overall total fat intake in increased risk of chronic diseases;

• Requiring the declaration of the gram amount of ''Added Sugars'' in a serving of a product, establishing a Daily Reference Value (DRV), and requiring the percent Daily Value (DV) declaration for added sugars;

• Changing ''Sugars'' to ''Total Sugars'' and requiring that ''Includes 'X' g Added Sugars'' be indented and declared directly below ''Total Sugars'' on the label;

• Updating the list of vitamins and minerals of public health significance. For example, the Nutrition Facts Label Final Rule requires the declaration of vitamin D and potassium and permits, rather than requires, the declaration of vitamins A and C;

• Updating certain reference values used in the declaration of percent DVs of nutrients on the Nutrition Facts and Supplement Facts labels;

• Revising the format of the Nutrition Facts label to increase the prominence of both the term ''Calories'' and the calories information;

• Removing the requirement for the footnote table listing the reference values for certain nutrients for 2,000 and 2,500 calorie diets; and

• Requiring the maintenance of records to support the declarations of certain nutrients under specified circumstances.

The Serving Size Final Rule requires all containers, including containers of products with ''large'' RACCs (*i.e.,* products with RACCs of at least 100 grams (g) or 100 milliliters (mL)), containing less than 200 percent of the RACC to be labeled as a single-serving container. Except for when certain exceptions apply, the Serving Size Final Rule further requires that containers and units that contain at least 200 percent and up to and including 300 percent of the RACC be labeled with a column of nutrition information within the Nutrition Facts label that lists the quantitative amounts and percent DVs for the entire container or unit, as applicable, in addition to the required column listing the quantitative amounts and percent DVs for a serving that is less than the entire container or unit, as applicable (*i.e.,* the serving size derived from the RACC). The Serving Size Final Rule also updates, modifies, and establishes RACCs for certain foods and product categories.

The Final Rules established compliance dates for manufacturers with $10 million or more in annual food sales of July 26, 2018, and for manufacturers with less than $10 million in annual food sales, of July 26, 2019.

After we published the Nutrition Facts Label and the Serving Size Final Rules, companies and trade associations with members covered by the rules informed us that they had significant concerns about their ability to update all their labels by the compliance dates due to issues regarding (among other things) the need for upgrades to labeling software, the need to obtain nutrition information from suppliers, the number of products that would need new labels, and a limited time for reformulation of products. Consequently, in the **Federal Register** of October 2, 2017 (82 FR 45753), we proposed to extend the compliance dates to provide more time to comply with the Nutrition Facts Label and the Serving Size Final Rules. We proposed extending the compliance dates by approximately 1.5 years for both categories of manufacturers as a means to balance the importance of ensuring that industry has sufficient time to comply with the new requirements, and the importance of decreasing costs, against the importance of minimizing the transition period during which consumers will see both the old and the new versions of the label in the marketplace.

B. Summary of Comments to the Proposed Rule

The proposed rule provided a 30-day comment period. We received approximately 50,000 comments. The comments came from individual consumers, consumer groups, industry, trade associations, academia, health professionals, and state/local government Agencies. Some comments sought an even longer extension of the compliance dates or said a compliance date should be aligned with the United States Department of Agriculture's (USDA) work to implement the National Bioengineered Food Disclosure Law. Comments opposing an extension (including those from state or local government Agencies) focused, in large part, on the Nutrition Facts label's role in helping consumers maintain a healthy lifestyle, possible consumer confusion if two versions of the Nutrition Facts label exist in the market, and a belief that firms had adequate time to comply. Comments supporting an extension of the compliance dates stressed that companies need additional time to update their labels. For example, some comments stressed that the process for relabeling may involve coordination between a variety of parties to test and analyze products, enter ingredient information into databases, develop new labels, and print

new labels. According to these comments, having more time to comply with the Nutrition Facts Label and the Serving Size Final Rules will help ensure the accuracy of the labels and will allow for consistent application and fuller compliance across industry.

C. Overview of the Final Rule

The final rule extends the compliance date for the Nutrition Facts Label Final Rule and the Serving Size Final Rule for manufacturers with $10 million or more in annual food sales from July 26, 2018, to January 1, 2020; for manufacturers with less than $10 million in annual food sales, the final rule extends the compliance date from July 26, 2019, to January 1, 2021. The Nutrition Facts Label Final Rule and Serving Size Final Rule were issued consistent with our authority in sections 403(q), 403(a)(1), 201(n), and 701(a) of the FD&C Act and section 2(b)(1) of the NLEA.

III. Comments on the Proposed Rule and FDA Response

We have numbered each comment to help distinguish among different comments. We have grouped similar comments together under the same number, and in some cases, we have separated different issues discussed in the same comment and designated them as distinct comments for purposes of our responses. The number assigned to each comment or comment topic is purely for organizational purposes and does not signify the comment's value or importance or the order in which comments were received.

A. Comments Supporting or Opposing the Extension of Compliance Dates

(Comment 1) Many comments expressed concern that extending the compliance dates will delay the health and dietary benefits of the final rules because, for the period of the extension, the public would be precluded from making informed food choices based on the updated scientific information. Some comments expressed concern about the impact of the delay on people with certain medical conditions (such as cancer, diabetes, heart disease, high blood pressure, and obesity), stating that such people might be better able to follow medical advice using the new labels. The comments further stated that the extension means that until the new compliance dates consumers will not be able to follow advice in the 2015–2020 Dietary Guidelines for Americans and advice from other public health authorities on issues not reflected in the current Nutrition Facts label, such as limiting added sugar. Some comments asserted that consumers have a ''right to know'' what is in the product. Some comments also noted that the new labels are easier to understand and use for comparing products and making healthier choices.

(Response) Both the old and new versions of the Nutrition Facts label provide information that must be truthful and accurate. While we agree that extending the compliance dates will mean that certain information required on the new Nutrition Facts label under the Nutrition Facts and Serving Size Final Rules will not be available to consumers on all foods as soon as originally anticipated, consumers can still use the old Nutrition Facts label to help guide them in their food choices in the interim. Consumers with medical conditions should continue to follow the advice they receive from a health care professional concerning their conditions.

Although we are extending the compliance dates, this extension does not prevent companies from revising their labels before the new compliance dates. In fact, according to food labeling data from Label Insight, over 29,000 products have adopted the new Nutrition Facts label (Ref. 2).

(Comment 2) Some comments stated that having both the old and new versions of the Nutrition Facts labels in the marketplace will confuse consumers and hinder their ability to compare products. The comments stated that extending the compliance dates will increase the transition period from old to new versions of the Nutrition Facts label.

Some comments asserted that providing nutrition education is difficult when two versions of the Nutrition Facts label are in the marketplace. The comments also noted that the existence of old versions of the Nutrition Facts label on food packages delays the ability to teach people to make informed choices about their health.

A comment supporting an extension of the compliance dates asserted that, from a foreign food manufacturer's perspective, the extension of the compliance dates is greatly appreciated because foreign manufacturers tend to have longer revision cycles for food packaging destined for the United States; the comment said that a longer transitional period will allow foreign firms to take more time in ''picking the right look'' for their U.S. products.

A comment supporting the extension of the compliance dates stated that, during the transition, FDA should work to ensure that consumers are aware of and educated about the importance of the changes. Some comments noted that the extension will allow FDA and stakeholders more time to prepare consumer education efforts and to raise awareness.

(Response) We recognize that there will be a longer transition period when the two Nutrition Facts labels are in the marketplace. We also note that both labels must provide information that is truthful and accurate. To help consumers during the transition, we will be providing educational materials to help consumers understand information on the labels. Many nutrition education messages will remain similar for both labels (*e.g.,* awareness of calories, serving size information, and using the daily values); for the new information for consumers (*e.g.,* added sugars, potassium, vitamin D, and dual-column labeling) we will be updating education material, especially as the new label is becoming more common in the marketplace. We are working with other Federal government Agencies (including other Agencies within the Department of Health and Human Services), health professional organizations, food manufacturers, retailers, and non-profit organizations with an interest and focus on nutrition education and health promotion to develop and disseminate our educational materials on the new Nutrition Facts label.

Furthermore, we are continuing a variety of activities, such as conducting and reporting on food labeling research. We plan to continue to build partnerships to develop, disseminate, and evaluate labeling education efforts that target specific groups, including low literacy consumers and sub-populations at high risk of nutrition-related chronic disease, in addition to the general public.

(Comment 3) Several comments stated that companies have had sufficient time and resources to comply with the original compliance dates and that compliance by some companies shows that the original compliance dates can be met. The comments also pointed out that companies regularly change their packaging. The comments urged us not to be persuaded by industry to delay the compliance dates, stated that we provided no evidence to support industry's claims for the need for additional time, and expressed concerns that companies will use the delay to challenge the final rules. Another comment claimed that large companies are capable of developing new labels, but seek to extend the compliance date so that they can reformulate their products to remove or change ingredients or information before they

have to declare those ingredients or information in a new Nutrition Facts label. Some comments also questioned whether extending the compliance dates would be fair to firms that have revised their Nutrition Facts labels already. One comment said that businesses that take advantage of an extended compliance date may have an unfair market advantage because of consumer familiarity with the old label, while another comment asserted that businesses that delay compliance with the new requirements might gain an advantage from consumers that may select a food based on the old label that they might not select based on the new label. Another comment stated that we should not extend the compliance dates and instead suggested rewarding companies that revised their Nutrition Facts labels in the original timeframe and penalizing companies that failed to revise their labels within a specific time period.

Many other comments supported the extension of the compliance dates. Some comments supporting an extension of the compliance dates stated that companies need additional time to update their labels. For example, some comments stated that some products may need to be reformulated and the process for relabeling may involve coordination between a variety of parties to test and analyze products, enter ingredient information into databases, develop new labels, and print new labels. Additionally, some comments stated that printing companies complete the orders of larger companies or packing orders before completing the orders of small and mid-size companies, that the range of label changes necessitates additional time, and that products with more ingredients take longer to relabel. According to the comments, having more time will help ensure the accuracy of the labels and will allow for consistent application and fuller compliance across industry. Furthermore, some comments noted that additional time for compliance once FDA makes decisions regarding the citizen petitions for dietary fiber would help ensure that consumers have access to products that help to meet their dietary fiber needs.

One comment suggested that we pause the compliance dates pending publication of the guidance documents or consider granting an additional extension in the future based on finalization of the guidance documents and future stakeholder concerns. Other comments suggested that we exercise enforcement discretion in cases where awaiting the guidance prevents companies from timely compliance with the original compliance dates. Some comments suggested that we base the dates on publication of the guidance documents, allowing firms additional time to implement the changes.

(Response) We have carefully considered the comments supporting and opposing an extension of the compliance dates, and we are extending the compliance dates to allow manufacturers additional time to comply with the final rules. We are aware that a number of manufacturers are already using labels consistent with the new requirements; however, we also are aware that other manufacturers have explained why the original compliance dates would not be feasible. We note that manufacturers will need to change different parts of their labels depending on the products they make.

The comments stating that an extension of the compliance dates is not warranted because some members of industry have already adopted the new labels did not explain why the fact that some manufacturers have had sufficient time to adopt the new labels means that all members of industry have had sufficient time to adopt the new labels. Based on the information available to FDA and the information provided by industry commenters, we understand that manufacturers' ability to meet the original compliance date is affected by many factors and that not all manufacturers are able to meet the original date.

Extending the compliance dates by approximately 1.5 years is guided by the desire to give industry more time, balanced against minimizing the transition period during which consumers will see both the old and the new versions of the label in the marketplace. The compliance date is the date by which we expect firms to be in compliance with a specific regulatory requirement. It would be prudent for companies to take actions (such as working with suppliers to make sure they have the information they need to update their labels, redesigning labels, and printing new labels, if necessary) to meet their regulatory obligations when the compliance date is reached.

With respect to comments that suggested factoring in when FDA issues guidance documents, we note that, in the **Federal Register** of March 2, 2018, we announced the availability of final guidance documents for industry entitled ''Reference Amounts Customarily Consumed: List of Products for Each Product Category'' and ''Scientific Evaluation of the Evidence on the Beneficial Physiological Effects of Isolated or Synthetic Non-Digestible Carbohydrates Submitted as a Citizen Petition (21 CFR 10.30).'' We issued these guidance documents to address questions we received after we issued the final rules in order to address such questions and help firms with their decisions about how to comply with a particular requirement or what information to submit to FDA in a citizen petition to request a non-digestible carbohydrate be included in the definition of ''dietary fiber.''

With regard to the unfair market advantage issue raised in the comments, we have no data or information to show whether companies that have revised their Nutrition Facts labels already have an unfair market advantage or, conversely, are disadvantaged compared to companies that have not revised their Nutrition Facts labels yet. Therefore, we decline to speculate on whether an unfair market advantage exists and for the reason the comment asserted.

Finally, with regard to rewarding companies that revised their Nutrition Facts labels in the original timeframe and penalizing companies that failed to revise their labels within a specific time period, the comment provided no recommendation for how such a reward or penalty system could work or how such system would be implemented consistent with our existing authorities.

(Comment 4) Several comments would have us align the compliance dates with the National Bioengineered Food Disclosure Standard (which is administered by USDA). Other comments supported a coordinated, uniform label compliance dates across agencies because, according to the comments, USDA's Food Safety and Inspection Service also has Nutrition Facts label requirements for meat and poultry. In addition, other comments urged us to finalize other pending labeling changes (such as vending machine labeling, ''natural'' labeling, revising the definition of ''healthy,'' and ''gluten-free'' for fermented or hydrolyzed food products) before the extended compliance dates.

(Response) FDA and USDA collaborate to align compliance dates of regulations that require changes in food labeling. FDA is working to address, as appropriate and as time and resources permit, other regulatory issues that are outside the scope of this rulemaking in separate rulemaking actions. However, we do not agree that we need to ensure the alignment of compliance dates for other regulatory initiatives with those for the Nutrition Facts Label and Serving Size Final Rules.

(Comment 5) Several comments suggested alternatives to basing the compliance dates on the amount of annual sales. One comment suggested

having just one extended compliance date to show impartiality and hold all businesses to the same standards, and some comments suggested other timeframes for the compliance dates. One comment would allow extensions on a case-by-case basis rather than a blanket extension. One comment suggested basing the date on the number of products sold as companies with more products may need more time to relabel, regardless of their total sales, than companies with fewer products. One comment would support extending the compliance date for small manufacturers only; the comment said that larger manufacturers (with over $10 million in annual food sales) do not need an extension because they have greater access to scientific information about their products as well as nutritional information compared to smaller companies. One comment suggested limiting the extension to honey products and products that contain fiber and not extending the compliance dates for all other products because, the comment stated, issues pertaining to added sugars in honey and the definition of fiber must be resolved before we establish compliance dates for honey products and products that contain fiber.

Other comments suggested that we stagger the compliance dates based on the type of business. According to the comments, ingredient manufacturers would comply first with finished goods manufacturers complying at least 1 year later. The comments indicated that providers of nutrition analysis and manufacturers of finished products need the information from ingredient manufacturers to relabel their products. One comment said extending the compliance dates may cause suppliers to delay revising their Nutrition Facts label, which would prohibit a company from keeping its existing timeline for label updates and could require the company to invest in off-cycle printing fees of old nutrition labels, leading to higher costs and compromising the ability to provide complete nutrition information on customer facing labels.

(Response) In the Nutrition Facts Label and Serving Size proposed rules (79 FR 11879 and 79 FR 11989; March 3, 2014), we originally proposed one compliance date of 2 years after the effective date, regardless of annual amount of sales. However, comments to the proposed rule for the Nutrition Facts Label suggested that small businesses may need more time or may face different challenges, compared to large businesses, in complying with the final rules. Because the comments emphasized the rules' potential impact on small businesses, we agreed that the impacts to smaller businesses may be more substantial than those on larger businesses, and so we provided a 3-year compliance date for manufacturers with less than $10 million in annual food sales. Thus, in the final Nutrition Facts label and Serving Size rules, the compliance date for manufacturers with $10 million or more in annual food sales was set at July 26, 2018; the compliance date for manufacturers with less than $10 million in annual food sales was set at July 26, 2019.

Regarding the comments suggesting alternative timeframes for compliance and comments suggesting alternative approaches to extended compliance dates (such as basing the dates on the number of products sold or having ingredient suppliers comply before other entities), the comments did not provide information that would enable us, as part of this rulemaking, to revise or alter our approach. For example, the comments did not explain what total number of products sold would be used as a basis for setting compliance dates.

With respect to ingredient suppliers, we note that bulk ingredient suppliers are not required to comply with the Nutrition Facts label requirements unless, among other requirements, the bulk ingredients are going directly to the consumer (see 21 CFR 101.9(j)(9)). Furthermore, as stated in our responses to comments 1 and 3, an extension of the compliance dates does not prevent manufacturers from revising their Nutrition Facts labels before the extended compliance dates.

Based on the comments received regarding the processes involved in obtaining nutrient information from suppliers and timing involved for various size businesses to gain access to equipment for developing and printing new labels, we consider the extended compliance dates in this final rule to provide adequate time for the coordination between suppliers, manufacturers, and labelers to ensure that new labels are ready and in use by the compliance dates.

(Comment 6) Some comments opposing the extension of the compliance dates asserted that the need for guidance is not a reason to delay the compliance dates because guidance documents are only recommendations and not enforceable. In contrast, comments supporting an extension of the compliance dates said that companies need guidance from FDA to address technical questions on issues such as dietary fiber, added sugars, serving sizes, small package labeling, and allulose before they can relabel and reformulate certain products. Some comments asserted that if food companies and manufacturers are given time to comply with the rules after they receive guidance from FDA, they would not need to make additional label changes. Other comments urged us to issue guidance documents as soon as possible, and some comments asserted that we need to publish the final guidance documents on dietary fiber and added sugars before we finalize a rule regarding the compliance dates.

(Response) After careful consideration, we have determined that extending the compliance dates by approximately 1.5 years, until January 1, 2020, or January 1, 2021 (depending on annual sales), would help ensure that all manufacturers covered by the final rules have time to use guidance from FDA to address, for example, certain technical questions we received after publication of the final rules. To the extent we issue a guidance document on a specific topic in advance of the applicable compliance date, we intend to issue such guidance document in draft form with an opportunity for public comment and, where appropriate, to finalize the guidance before those parties are expected to comply with the final rules. Additional time will also help to ensure that manufacturers have time to coordinate with various parties to complete and print updated Nutrition Facts labels for their products before they are expected to be in compliance with the final rules.

With regard to the comments about the enforceability of guidance, we agree that our guidance documents do not establish legally enforceable responsibilities. Instead, guidance documents describe our current thinking on a topic and should be viewed only as recommendations, unless specific regulatory or statutory requirements are cited. Furthermore, as we stated in our response to comment 3, in the **Federal Register** of March 2, 2018, we announced the availability of final guidance documents for industry entitled ''Reference Amounts Customarily Consumed: List of Products for Each Product Category'' (83 FR 9000) (Ref. 3) and ''Scientific Evaluation of the Evidence on the Beneficial Physiological Effects of Isolated or Synthetic Non-Digestible Carbohydrates Submitted as a Citizen Petition (21 CFR 10.30)'' (83 FR 8997) (Ref. 4). In addition to the final guidance documents, in the **Federal Register** of January 5, 2017, we announced the availability of draft guidance to address issues related to added sugars entitled, ''Questions and Answers on the Nutrition and Supplement Facts Labels Related to the Compliance Date, Added

Sugars, and Declaration of Quantitative Amounts of Vitamins and Minerals. '' Further, in the **Federal Register** of March 2, 2018, we announced the availability of draft guidance entitled ''The Declaration of Added Sugars on Honey, Maple Syrup, and Certain Cranberry Products '' (83 FR 8953) (Ref. 5). We issued these guidance documents to address questions we received after we issued the final rules, and these guidance documents should address the questions and help firms with their decisions about how to comply with particular requirements such as serving sizes or the declaration of added sugars or what information to submit to FDA in a citizen petition to request a non-digestible carbohydrate be included in the definition of ''dietary fiber.''

(Comment 7) One comment stated that giving large food manufacturers an additional 18 months to conform seems excessive. The comment noted that, to satisfy the requirement under 5 U.S.C. 553 (the section of the Administrative Procedure Act (APA) pertaining to rulemaking), the notice of proposed rulemaking should include all relevant studies and data used to make the rule. The comment requested additional information regarding the complexity of the burdens being placed on food manufacturers to support an extension of the compliance dates. The comment said that such information is necessary to satisfy the requirement under 5 U.S.C. 553 that the notice of proposed rulemaking include all relevant studies and data used to make the rule. The comment cited *American Radio Relay League, Inc.* v. *Fed. Communications Comm.* 524 F.3d 227 (D.C. Cir. 2007).

Another comment expressed concern that the extension of the compliance dates may violate the APA. The comment said that the proposed rule did not ask for comments relating to breath mints and did not refer to what a reformulation of products would look like or why a reformulation is necessary.

(Response) We believe that we have provided an adequate basis for the extension of the compliance dates. Thus, we disagree that the APA requires us to provide information, in addition to what we have already made available in the public docket for notice and comment, to support the extension of the compliance dates. In addition, the case the comment relies on concerns a situation where an agency engaged in rulemaking failed to make information on which it relied publicly available for notice and comment (*American Radio Relay League,* 524 F.3d at 237 through 239). The information on which we rely in this final rule to extend the compliance dates for the Nutrition Facts Label Final Rule and the Serving Size Final Rule, in contrast, was made publicly available for comment in the public docket for the proposed rule, which is the same docket as this final rule. We are not withholding information from the public docket on which we rely for our decision to extend the compliance dates.

As discussed in the preamble to the proposed rule to extend the compliance dates for the Nutrition Facts Label and Serving Size Final Rules (82 FR 45753 at 45754), we are taking this action because, after careful consideration, we have determined that additional time would help ensure that all manufacturers covered by the rules have guidance from FDA to address, for example, certain technical questions we received after publication of the final rules. We also are taking this action so that manufacturers may complete all the necessary steps and print updated Nutrition Facts labels for their products before they are expected to be in compliance with the rules. Companies and trade associations have informed us that they have significant concerns about their ability to update all their labels by the original compliance dates due to issues regarding (among other things) the need for upgrades to labeling software, the need to obtain nutrition information from suppliers, the number of products that would need new labels, and a limited time for reformulation of products (82 FR 45753 at 45754). Comments in response to the proposed rules reiterated the basis for the requests for additional time. Based on the information in the public docket, we have a sufficient basis on which to extend the compliance dates for the final rules.

In addition, as discussed in the Preliminary Regulatory Impact Analysis referenced in the proposed rule to extend the compliance dates for the Nutrition Facts Label and Serving Size Final Rules (82 FR 45753), we analyzed regulatory alternatives and considered two options for the time period of the extension of the compliance dates and presented the estimates for what the cost savings to industry would be. We concluded that extending the compliance date by approximately 1.5 years for both categories of manufacturers is a means to balance the importance of ensuring that industry has sufficient time to comply with complex new requirements against the importance of minimizing the transition period during which consumers will see both the old and the new versions of the label in the marketplace.

With regard to the comment about breath mints and product reformulation, this comment is outside the scope of this rulemaking. The Serving Size Final Rule changed the label serving size for breath mints to ''1 unit.'' The amendments to the Nutrition Facts label regulations became effective on July 26, 2016. This rulemaking, as explained in the preamble to the proposed rule of October 2, 2017, pertains solely to the compliance dates for the Nutrition Facts Label and Serving Size Final Rules (82 FR 45753 at 45754).

B. Comments Outside of Scope of the Proposed Rule

Some comments raised issues that were outside the scope of the proposed rule. In brief, we received comments asking about:

- Changing the label;
- Requiring schools to have education programs relating to the label;
- Requesting FDA to reopen the comment period on the Nutrition Facts Label and Serving Size Final Rules asserting a 3-year stay is needed to obtain additional empirical research data for substantiation of changes to the label made in the final rules; and
- Extending the compliance date for the front-of-package calorie labeling of items sold in vending machines to align with the proposed extension of the Nutrition Facts Label Final Rule.

The final rule pertains solely to the compliance dates for the Nutrition Facts Label and Serving Size Final Rules. Therefore, the comments are outside the scope of this rulemaking.

IV. Effective/Compliance Date(s)

A. Effective Date

The final rule is effective on July 3, 2018.

B. Compliance Date

The compliance date for manufacturers with $10 million or more in annual food sales is January 1, 2020. The compliance date for manufacturers with less than $10 million in annual food sales is January 1, 2021.

V. Economic Analysis of Impacts

We have examined the impacts of the final rule under Executive Order 12866, Executive Order 13563, Executive Order 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive

impacts; and equity). Executive Order 13771 requires that the costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' This final rule is an economically significant regulatory action as defined by Executive Order 12866.

Executive Order 13771, entitled ''Reducing Regulation and Controlling Regulatory Costs,'' was issued on January 30, 2017. Section 2(a) of Executive Order 13771 requires an Agency, unless prohibited by law, to identify at least two existing regulations to be repealed when the Agency publicly proposes for notice and comment or otherwise issues a new regulation. In furtherance of this requirement, section 2(c) of Executive Order 13771 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations. This final rule is an Executive Order 13771 deregulatory action. We estimate that this rule generates approximately $61 million in annualized cost savings, discounted relative to year 2016 and using a 7 percent discount rate, over a perpetual time horizon. Details on the estimated cost savings of this final rule can be found in the rule's economic analysis.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. We have analyzed this final rule under the Regulatory Flexibility Act and certify that, because this final rule only extends the compliance dates for the Nutrition Facts Label and Serving Size Final Rules, this final rule would not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before issuing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $148 million, using the most current (2016) Implicit Price Deflator for the Gross Domestic Product. This final rule would not result in an expenditure in any year that meets or exceeds this amount.

The principal benefit of this final rule to extend the compliance dates is the reduction in the costs to industry of meeting the compliance dates of the Nutrition Facts Label Final Rule and the Serving Size Final Rule. This reduction in costs can be attributed to a reduction in the relabeling and reformulation costs of the Nutrition Facts Label and Serving Size Final Rules. We estimate that, at the mean, the present value of the benefits (*i.e.,* cost savings) of this final rule to extend the compliance dates over the next 20 years is $1 billion using either a 3 percent or 7 percent discount rate (2016$). This is illustrated in table 2. Extending the compliance dates by approximately 1.5 years would reduce the estimated benefits of the Nutrition Facts Label and Serving Size Final Rules because it would delay the realization by consumers of the full annual welfare gains of the Nutrition Facts Label and Serving Size Final Rules. More specifically, an extension of the compliance dates would delay the incorporation of the provisions of the Nutrition Facts Label and Serving Size Final Rules by food manufacturers into their products. We estimate that, at the mean, the present value of the foregone benefits of this final rule to extend the compliance dates over the next 20 years is $0.9 billion using either a 3 percent or 7 percent discount rate (2016$). This is also presented in table 2. We estimate that, at the mean, the present value of the net benefits (that is, cost savings minus foregone benefits) of this final rule to extend the compliance dates over the next 20 years is $0.1 billion using either a 3 percent or 7 percent discount rate (2016$). This is shown in table 2.

TABLE 2—SUMMARY OF THE COST SAVINGS TO INDUSTRY AND FOREGONE BENEFITS TO CONSUMERS OF THIS FINAL RULE TO EXTEND THE COMPLIANCE DATES

[In billions of 2016$]

	Discount rate	Cost savings	Foregone benefits	Net benefits (cost savings—foregone benefits)
Present Value	3%	$1.0	$0.9	$0.1
	7	1.0	0.9	0.1
Annualized Amount	3	0.07	0.06	0.01
	7	0.09	0.08	0.01

Notes: Cost savings to industry, foregone benefits to consumers, and net benefits reflect mean estimates. This final rule extends the compliance dates of the Nutrition Facts Label and Serving Size Final Rules by approximately 1.5 years. Annualized Amount = Amount/Annualizing Factor. 3 percent annualizing factor = 14.88. 7 percent annualizing factor = 10.59. The annualizing factors are calculated by summing the inverse of 1 plus the discount rate to the power of the year (t = 1 through t = 20).

The full analysis of economic impacts is available in the docket for this final rule (Ref. 1) and at *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*

VI. Analysis of Environmental Impact

We have determined under 21 CFR 25.30(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VIII. Federalism

We have analyzed this final rule in accordance with the principles set forth in Executive Order 13132. Section 4(a) of the Executive Order requires Agencies to ''construe . . . a Federal statute to preempt State law only where the statute contains an express preemption provision or there is some other clear evidence that the Congress intended preemption of State law, or where the exercise of State authority

conflicts with the exercise of Federal authority under the Federal statute.'' Section 403A of the FD&C Act (21 U.S.C. 343–1) is an express preemption provision. Section 403A(a) of the FD&C Act provides that: ''. . . no State or political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food in interstate commerce—(4) any requirement for nutrition labeling of food that is not identical to the requirement of section 403(q) . . . .'' The express preemption provision of section 403A(a) of the FD&C Act does not preempt any State or local requirement respecting a statement in the labeling of food that provides for a warning concerning the safety of the food or component of the food (section 6(c)(2) of the Nutrition Labeling and Education Act of 1990, Pub. L. 101–535, 104 Stat. 2353, 2364 (1990)). The final rule creates requirements that fall within the scope of section 403A(a) of the FD&C Act.

IX. References

The following references are on display in the Dockets Management Staff (see **ADDRESSES**) 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. FDA. Final Regulatory Impact Analysis, Regulatory Flexibility Analysis for Final Rule on ''Food Labeling: Revision of the Nutrition and Supplement Facts Labels and Serving Sizes of Foods That Can Reasonably Be Consumed At One Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments; Extension of Compliance Dates.'' April 2018. Available from *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses.*
2. Sheahan, M. ''FDA Blog Post.'' *Label Insight.* April 5, 2018. Available at *https://blog.labelinsight.com/growing-new-label-adoption-provides-transparency-for-consumers.*
3. Food and Drug Administration, ''Reference Amounts Customarily Consumed: List of Products for Each Product Category; Guidance for Industry; Availability.'' 83 FR 9000 (March 2, 2018). Guidance available at *https://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/ucm535368.htm.*
4. Food and Drug Administration, ''Scientific Evaluation of the Evidence on the Beneficial Physiological Effects of Isolated or Synthetic Non-Digestible Carbohydrates Submitted as a Citizen Petition; Guidance for Industry; Availability. '' 83 FR 8997 (March 2, 2018). Guidance available at *https://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/ucm528532.htm.*
5. Food and Drug Administration, ''The Declaration of Added Sugars on Honey, Maple Syrup, and Certain Cranberry Products; Draft Guidance for Industry; Availability.'' 83 FR 8953 (March 2, 2018). Guidance available at *https://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/ucm595578.htm.*

Dated: April 30, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–09476 Filed 5–3–18; 8:45 am]

BILLING CODE 4164–01–P2

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 880

[Docket No. FDA–2017–N–6216]

General Hospital and Personal Use Devices; Reclassification of Sharps Needle Destruction Device

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is issuing a final order to reclassify the needle destruction device, renaming the device to ''sharps needle destruction device,'' a postamendments class III device (regulated under product code MTV), into class II (special controls), subject to premarket notification. FDA is also identifying the special controls that the Agency believes are necessary to provide a reasonable assurance of safety and effectiveness of the device. FDA is finalizing this reclassification on its own initiative based on new information. The Agency is classifying the device into class II (special controls) to provide a reasonable assurance of safety and effectiveness of the device. This order reclassifies these types of devices from class III to class II and will reduce regulatory burdens on industry because these types of devices will no longer be required to submit a premarket approval application (PMA), but can instead submit a less burdensome premarket notification (510(k)) before marketing their device.

DATES: This order is effective June 4, 2018.

FOR FURTHER INFORMATION CONTACT: Christopher K. Dugard, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2561, Silver Spring, MD 20993, 240–402–6031, *christopher.dugard@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended, establishes a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Devices that were not in commercial distribution prior to May 28, 1976 (generally referred to as postamendments devices) are automatically classified by section 513(f)(1) of the FD&C Act into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval unless, and until, the device is reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

A postamendments device that has been initially classified in class III under section 513(f)(1) of the FD&C Act may be reclassified into class I or class II under section 513(f)(3). Section 513(f)(3) of the FD&C Act provides that FDA acting by order can reclassify the device into class I or class II on its own initiative, or in response to a petition from the manufacturer or importer of the device. To change the classification of the device, the proposed new class must have sufficient regulatory controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use.

Reevaluation of the data previously before the Agency is an appropriate basis for subsequent action where the reevaluation is made in light of newly available regulatory authority (see *Bell*

v. *Goddard,* 366 F.2d 177, 181 (7th Cir. 1966); *Ethicon, Inc.* v. *FDA,* 762 F. Supp. 382, 388–391 (D.D.C. 1991)) or in light of changes in ''medical science'' (*Upjohn* v. *Finch,* 422 F.2d 944, 951 (6th Cir. 1970)). Whether data before the Agency are old or new, the ''new information'' to support reclassification under 513(f)(3) must be ''valid scientific evidence,'' as defined in section 513(a)(3) of the FD&C Act and 21 CFR 860.7(c)(2). (See, *e.g., General Medical Co.* v. *FDA,* 770 F.2d 214 (D.C. Cir. 1985); *Contact Lens Assoc.* v. *FDA,* 766 F.2d 592 (D.C. Cir.1985), cert. denied, 474 U.S. 1062 (1986).)

FDA relies upon ''valid scientific evidence'' in the classification process to determine the level of regulation for devices. To be considered in the reclassification process, the ''valid scientific evidence'' upon which the Agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, *e.g.,* the contents of a pending PMA (see section 520(c) of the FD&C Act (21 U.S.C. 360j(c)). Section 520(h)(4) of the FD&C Act provides that FDA may use, for reclassification of a device, certain information in a PMA 6 years after the application has been approved. This includes information from clinical and preclinical tests or studies that demonstrate the safety or effectiveness of the device, but does not include descriptions of methods of manufacture or product composition and other trade secrets.

Section 510(m) of the FD&C Act provides that a class II device may be exempted from the 510(k) premarket notification requirements, if the Agency determines that premarket notification is not necessary to reasonably assure the safety and effectiveness of the device.

On November 7, 2017, FDA published an order in the **Federal Register** to reclassify the device (82 FR 51585) (the ''proposed order''). The period for public comment on the proposed order closed on January 8, 2018. FDA received and has considered two comments on the proposed order, as discussed in section II.

II. Comments on the Proposed Order and FDA Response

A. Introduction

We received two comments on the proposed order and both comments supported the proposed reclassification. The comments were received from a consumer and a healthcare professional in the drug industry.

We describe and respond to the comments in section B of this section. The order of response to the commenters is purely for organizational purposes and does not signify the comment's value or importance nor the order in which comments were received.

B. Description of Comments and FDA Response

(Comment 1) One commenter discussed the experience of witnessing sharps disposal and was supportive of safe and cost-effective options for sharps disposal due to the potential injury to sanitation works or patients/users with improper disposal of sharps. The commenter was generally supportive of FDA's proposed reclassification. Additionally, the commenter stated that PMA requirements increase the price of these devices and that reclassification increases affordability of the sharps needle destruction devices, while ensuring safety.

(Response 1) FDA agrees with this comment. The Agency believes that reclassification of the sharps needle destruction device will reduce the regulatory burden on manufacturers, which could increase patient access to these devices and potentially reduce accidental needle sticks, while still providing reasonable assurance of safety and effectiveness. Additionally, FDA believes the special controls mitigate workplace hazards associated with sharps needle destruction and ensures proper use of the device.

(Comment 2) One commenter noted that while a PMA for these devices will no longer be required, FDA will still require premarket notification under section 510(k) of the FD&C Act. The commenter stated that in addition to 510(k) requirements, a prescription use restriction, and labeling, the identified special controls will provide reasonable assurance of device safety and effectiveness. The commenter noted that PMAs delay the access of these devices to patients. The commenter concluded that this reclassification may factor in positive outcomes for patient access and safety.

(Response 2) FDA agrees with this comment. The Agency believes that the special controls required in this final order provide a reasonable assurance of safety and effectiveness for these devices. FDA believes it has identified the risks to health (see section V of the proposed order) and that the measures described in this final order will be effective in mitigating the identified probable risks to health. Additionally, by reclassifying these types of devices from class III to class II, this will reduce regulatory burdens on industry because these types of devices will no longer be required to submit a PMA, but can instead submit a less burdensome premarket notification (510(k)) before marketing their device.

III. The Final Order

FDA is adopting its findings under section 513(f)(3) of the FD&C Act, as published in the preamble to the proposed order. FDA is issuing this final order to reclassify needle destruction devices from class III to class II, rename them sharps needle destruction devices, and establish special controls by revising 21 CFR part 880. In this final order, the Agency has identified the special controls under section 513(a)(1)(B) of the FD&C Act that, together with general controls, provide a reasonable assurance of the safety and effectiveness for sharps needle destruction devices.

FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the FD&C Act under section 510(m) of the FD&C Act, if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the devices. FDA has determined that premarket notification is necessary to provide reasonable assurance of safety and effectiveness of sharps needle destruction devices, and therefore, this device type is not exempt from premarket notification requirements.

The device is assigned the generic name sharps needle destruction device, and it is identified as a prescription device that is intended to destroy needles or sharps used for medical purposes by incineration or mechanical means.

Under this final order, the sharps needle destruction device is a prescription use device under § 801.109 (21 CFR 801.109). Prescription devices are exempt from the requirement for adequate directions for use for the layperson under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) and 21 CFR 801.5, as long as the conditions of § 801.109 are met (referring to 21 U.S.C. 352(f)(1)). Under 21 CFR 807.81, the device would continue to be subject to 510(k) requirements.

IV. Analysis of Environmental Impact

We have determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Paperwork Reduction Act of 1995

This final administrative order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807, subpart E have been approved under OMB control number 0910–0120 and the collections of information under 21 CFR part 801 have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 880

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 *et seq.,* as amended) and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 880 is amended as follows:

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

■ 1. The authority citation for part 880 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360*l,* 371.

■ 2. Add § 880.6210 to subpart G to read as follows:

§ 880.6210 Sharps needle destruction device.

(a) *Identification.* A sharps needle destruction device is a prescription device that is intended to destroy needles or sharps used for medical purposes by incineration or mechanical means.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) Performance testing must demonstrate the following during operation of the device:

(i) The device safely contains or ventilates aerosols or fumes from device operation.

(ii) Excessive heat or sparks are not generated that may injure users or patients.

(iii) Simulated use testing must demonstrate sharps and/or needles are completely destroyed using a range of types and sizes of sharps sufficient to represent actual use.

(iv) Simulated use testing must demonstrate that the device is physically stable on the surface for which it is intended to be mounted to ensure the risk of harm to the patient/user as a result of the device falling is minimized.

(2) Validation of cleaning and disinfection instructions must demonstrate that the device can be safely and effectively reprocessed after use per the recommended cleaning and disinfection protocol in the instructions for use.

(3) Analysis and/or testing must validate electromagnetic compatibility and electrical safety, including the safety of any battery used in the device, under conditions which are consistent with the intended environment of device use.

(4) Software verification, validation, and hazard analysis must be performed.

(5) Labeling must include:

(i) A clear description of the device and its technological features;

(ii) How the device is to be used, including validated cleaning and disinfection instructions;

(iii) Relevant precautions and warnings based on performance and in-use testing to ensure proper use of the device; and

(iv) Instructions to install device in adequately ventilated area and stable area.

Dated: April 30, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–09434 Filed 5–3–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2017–0993]

RIN 1625–AA08

Special Local Regulation: Fort Lauderdale Air Show; Atlantic Ocean, Fort Lauderdale, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a recurring special local regulation for certain navigable waters of the Atlantic Ocean east of Fort Lauderdale, Florida beginning at the Port Everglades Inlet and extending north approximately six miles. The special local regulation is necessary to ensure the safety of the public, spectators, vessels, and the marine environment during aerobatic maneuvers conducted by high-speed, low-flying airplanes and high speed vessels performing inside of the regulated area during the Fort Lauderdale Air Show. This special local regulation prohibits persons and non-participant vessels from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

DATES: This rule is effective May 4, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0993 in the ‘‘SEARCH’’ box and click ‘‘SEARCH.’’ Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Mara J. Brown, Sector Miami Waterways Management Division, U.S. Coast Guard; telephone 305–535–4317, email *Mara.J.Brown@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The City of Fort Lauderdale notified the Coast Guard that it would be hosting the Fort Lauderdale Air Show annually over a Saturday and Sunday during the month of May. The regulated area would cover certain navigable waters of the Atlantic Ocean east of Fort Lauderdale, Florida beginning at Port Everglades Inlet and continuing north for approximately six miles.

In response, on January 25, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ‘‘Special Local Regulation: Fort Lauderdale Air Show; Atlantic Ocean, Fort Lauderdale, FL’’ (83 FR 3450). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this event. During the comment period that ended February 26, 2018, we received 2 unrelated comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety dangers with aerial maneuvers conducted by

high speed, low-flying aircraft during air shows. The special local regulation is necessary to provide for the safety of event participants, spectators and vessels transiting in proximity to the event area.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Miami (COTP) has determined that potential hazards associated with the aerobatic and high speed aerial flight demonstrations demonstrated during the Ft. Lauderdale Air Show will be a safety concern for spectators and non-participant vessels in the regulated area. The purpose of this rule is to ensure the safety of vessels, persons, marine environment, and navigable waters in the regulated area before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received two comments on our NPRM published February 26, 2018. Both comments were unrelated to the regulation. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a special local regulation on certain waters of the Atlantic Ocean east of Fort Lauderdale, Florida beginning at the Port Everglades Inlet and continuing north for approximately six miles. The duration of the regulated area is intended to ensure the safety of the public during the aerial flight demonstrations and high speed boat races. Non-participant vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area without obtaining permission from the Captain of the Port (COTP) Miami or a designated representative. The Coast Guard will provide notice of the regulated area by Broadcast Notice to Mariners and on-scene designated representatives.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the special local regulation. Vessel traffic will be able to safely transit around this regulated area, which will affect a small designated area of the Atlantic Ocean over a period of two days during the month of May. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners notifying the public of the regulated area via VHF–FM marine channel 16 and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, and Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a regulation that would prohibit persons and vessels from transiting the regulated area during the air show. This action is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A supplemental Environmental Assessment supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233; 33 CFR 1.05–1.

■ 2. Add § 100.726 to read as follows:

§ 100.726 Special Local Regulation; Fort Lauderdale Air Show; Atlantic Ocean, Fort Lauderdale, FL.

(a) *Location.* The following area is a regulated area located on the Atlantic Ocean in Fort Lauderdale, FL. All waters of the Atlantic Ocean encompassed within an imaginary line connecting the following points: Starting at Point 1 in position 26°11′01″ N 080°05′42″ W; thence due east to Point 2 in position 26°11′01″ N 080°05′00″ W; thence south west to Point 3 in position 26°05′42″ N 080°05′35″ W; thence west to Point 4 in position 26°05′42″ N 080°06′17″ W; thence following the shoreline north back to the point of origin. These coordinates are based on North American Datum 1983.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated area.

(c) *Regulations.* (1) All non-participant vessels or persons are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Miami by telephone at (305) 535–4472, or a designated representative via VHF–FM radio on channel 16 to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(d) *Enforcement period.* This rule will be enforced annually on one weekend (Saturday and Sunday) during the month of May. The exact dates will be published annually in the **Federal Register** through a Notice of Enforcement. The Coast Guard may use Broadcast Notice to Mariners via VHF–FM channel 16 or on-scene designated representatives to notify the public of the exact dates and time of enforcement.

Dated: May 1, 2018.

M.M. Dean,

Captain, U.S. Coast Guard, Captain of the Port Miami.

[FR Doc. 2018–09497 Filed 5–3–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2017–0993]

Special Local Regulation: Fort Lauderdale Air Show; Atlantic Ocean, Fort Lauderdale, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the special local regulation for the Fort Lauderdale Air Show from May 5 through 6, 2018 from 9:00 a.m. to 6:00 p.m., to provide for the safety of life on navigable waterways during this event. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

DATES: The special local regulation in 33 CFR 100.726 will be enforced from 9 a.m. until 6 p.m., each day from May 5, 2018, through May 6, 2018.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call Petty Officer Mara J. Brown, Sector Miami Waterways Management Division, U.S. Coast Guard; telephone 305–535–4317, email *Mara.J.Brown@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulation in 33 CFR 100.726 for the Fort Lauderdale Air Show regulated area from 9:00 a.m. to 6:00 p.m. on May 5 and 6, 2018. This action is being taken to provide for the safety of life on navigable waterways during this 2-day event. Our regulation for the Fort Lauderdale Air Show, § 100.726, specifies the location of the regulated area for the Fort Lauderdale Air Show which is located on the Atlantic Ocean, east of Ft. Lauderdale, FL. During the enforcement periods, if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners and marine information broadcasts.

Dated: May 1, 2018.

M.M. Dean,

Captain, U.S. Coast Guard, Captain of the Port Miami.

[FR Doc. 2018–09496 Filed 5–3–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–1074]

Drawbridge Operation Regulation; San Leandro Bay, Between Alameda and Bay Farm Island, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has modified a temporary deviation from the operating schedule that governs the California Department of Transportation Highway and Bicycle drawbridges across San Leandro Bay, mile 0.0 and mile 0.1, between Alameda and Bay Farm Island, CA. The modified deviation extends the period the bridges may remain in the closed-to-navigation position and is necessary to allow the bridge owner to complete major rehabilitation and maintenance.

DATES: This modified deviation is effective from 6 p.m. on May 27, 2018 through 9 p.m. on June 7, 2018.

ADDRESSES: The docket for this deviation, USCG–2017–1074, is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Carl T. Hausner, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516; email *Carl.T.Hausner@uscg.mil.*

SUPPLEMENTARY INFORMATION: On December 20, 2017, the Coast Guard published a temporary deviation entitled ''Drawbridge Operation Regulation; San Leandro Bay, between Alameda and Bay Farm Island, California'' in the **Federal Register** (82 FR 60315). That temporary deviation, from 6 a.m. on January 2, 2018 to 6 p.m. on May 27, 2018, allows the drawspans to be secured in the closed-to-navigation position. The bridge owner, the California Department of Transportation, has requested a modification to the currently published deviation, extending it from 6 p.m. on May 27, 2018 to 9 p.m. on June 7, 2018 in order to complete major rehabilitation and maintenance of the drawbridges.

The highway drawbridge navigation span provides a vertical clearance of 20 feet above Mean High Water in the closed-to-navigation position. The bicycle drawbridge navigation span provides a vertical clearance of 26 feet above Mean High Water in the closed-to-navigation position. The draws operate as required by 33 CFR 117.193. Navigation on the waterway is commercial and recreational.

The drawspans will be secured in the closed-to-navigation position from 6 p.m. on May 27, 2018 through 9 p.m. on June 7, 2018, to allow the bridge to complete major rehabilitation and maintenance work. A temporary platform is installed beneath the drawspan of the highway drawbridge reducing he vertical clearance by 3 feet. This temporary deviation modification has been coordinated with waterway users. No objections to the proposed temporary deviation modification were raised.

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will not be able to open for emergencies and Oakland Inner Harbor Tidal Canal can be used as an alternate route for vessels unable to pass through the bridges in the closed position. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridges so vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: April 30, 2018.

Carl T. Hausner,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2018–09432 Filed 5–3–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2017–0255; FRL–9977–23—Region 9]

Air Plan Approval; Arizona; Stationary Sources; New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Arizona Department of Environmental Quality (ADEQ) portion of the applicable Clean Air Act (CAA or Act) state implementation plan (SIP) for the State of Arizona (State). We are approving revisions that are primarily intended to correct deficiencies in ADEQ's SIP-approved rules for the issuance of New Source Review (NSR) permits for stationary sources, with a focus on the Act's preconstruction permit requirements for major sources and major modifications. This action also finalizes a conditional approval of ADEQ's NSR program with respect to the CAA requirements related to ammonia as a precursor to fine particulate matter ($PM_{2.5}$) under the nonattainment NSR (NA–NSR) program requirements in CAA section 189(e). In addition, this action permanently terminates the sanctions clock associated with deficiencies being corrected by the rules being approved today, except that this action continues the deferral of sanctions under the Act related to $PM_{2.5}$ precursors under section 189(e) of the Act for the NA–NSR program.

DATES: This rule is effective June 4, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2017–0255. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Lisa Beckham, EPA Region IX, (415) 972–381, *beckham.lisa@epa.gov.*

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

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I. Proposed Actions
II. Public Comments and the EPA's Responses
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I. Proposed Actions

On June 1, 2017 (82 FR 25213), the EPA proposed to approve the rules listed in Table 1, below, which were submitted by ADEQ on April 28, 2017 for approval into the ADEQ portion of the Arizona SIP (hereinafter referred to as the April 2017 NSR submittal). The submitted rules are from the Arizona Administrative Code, Title 18—Environmental Quality, Chapter 2—Department of Environmental Quality—Air Pollution Control, Articles 1 through 4.

TABLE 1—SUBMITTED RULES BEING APPROVED INTO THE ARIZONA SIP IN THIS ACTION

Rule	Title	State effective date
R18–2–101 (except 20)	Definitions	March 21, 2017.
R18–2–201	Particulate Matter: PM_{10} and $PM_{2.5}$	March 21, 2017.
R18–2–203	Ozone	March 21, 2017.
R18–2–217	Designation and Classification of Attainment Areas	March 21, 2017.
R18–2–218	Limitation of Pollutants in Classified Attainment Areas	March 21, 2017.
R18–2–330	Public Participation	March 21, 2017.
R18–2–332	Stack Height Limitation	March 21, 2017.
R18–2–401	Definitions	March 21, 2017.
R18–2–402	General	March 21, 2017.
R18–2–403	Permits for Sources Located in Nonattainment Areas	March 21, 2017.
R18–2–404	Offset Standards	March 21, 2017.
R18–2–405	Special Rule for Major Sources of VOC or Nitrogen Oxides in Ozone Nonattainment Areas Classified as Serious or Severe.	March 21, 2017.
R18–2–406	Permit Requirements for Sources Located in Attainment and Unclassifiable Areas	March 21, 2017.
R18–2–407	Air Quality Impact Analysis and Monitoring Requirements	March 21, 2017.
R18–2–408	Innovative Control Technology	March 21, 2017.
R18–2–410	Visibility and Air Quality Related Value Protection	March 21, 2017.
R18–2–411	Permit Requirements for Sources that Locate in Attainment or Unclassifiable Areas and Cause or Contribute to a Violation of Any National Ambient Air Quality Standard.	March 21, 2017.
R18–2–412	PALs	March 21, 2017.

As discussed in our June 1, 2017 proposed action, these rule revisions are intended to correct deficiencies in ADEQ's SIP-approved NSR program related to the requirements under both part C (prevention of significant deterioration or PSD) and part D (NA–NSR) of title I of the Act, which apply to major stationary sources and major modifications of such sources. 82 FR 25213. These revisions are necessary to correct several deficiencies we identified in a 2015 EPA final rule action to update ADEQ's SIP-approved NSR program, as well as certain deficiencies with ADEQ's NSR program that were the focus of a 2016 EPA final rule action related to $PM_{2.5}$ precursors under the NA–NSR program requirements in CAA section 189(e). See 80 FR 67319 (Nov. 2, 2015) and 81 FR 40525 (June 22, 2016). We proposed to approve the April 2017 NSR submittal because we determined that the rules in the submittal complied with the relevant CAA requirements, with one exception, which ADEQ had indicated that it intended to address with a later SIP submittal, as discussed further below. Our June 1, 2017 proposed action contains more information on the rules in the April 2017 NSR submittal and our evaluation.

We also stated in our June 1, 2017 proposal that in our final action, we intended to update 40 CFR 52.144 to clarify that ADEQ has an approved PSD program, except for greenhouse gases (GHGs),[1] under sections 160 through 165 of the Act. We explained that we would also move the codification of the PSD Federal Implementation Plan (FIP) for GHGs for Arizona from 40 CFR 52.37 to 40 CFR 52.144, where the State of Arizona's PSD program approval is listed.

The rules in the April 2017 NSR submittal will apply in all areas and to all stationary sources within Arizona for which ADEQ has CAA permitting jurisdiction. Currently, ADEQ has permitting jurisdiction for the following stationary source categories in all areas of Arizona: Smelting of metal ores, coal-fired electric generating stations, petroleum refineries, Portland cement plants, and portable sources. ADEQ also has permitting jurisdiction for major and minor sources in the following counties: Apache, Cochise, Coconino, Gila, Graham, Greenlee, La Paz, Mohave, Navajo, Santa Cruz, Yavapai, and Yuma. Finally, ADEQ has permitting jurisdiction over major sources in Pinal County[2] and the Rosemont Copper Mine in Pima County.

Table 2 lists the existing rules in the Arizona SIP that would be superseded or removed from the ADEQ portion of the Arizona SIP as part of our action. These rules would generally be replaced in the SIP by the submitted set of rules listed in Table 1.

TABLE 2—SIP RULES BEING REMOVED FROM ARIZONA SIP IN THIS ACTION

Rule	Title	EPA approval date	**Federal Register** citation
R9–3–301(I) and (K).	Installation Permits: General	05/05/1982	47 FR 19326
R9–3–304(H)	Installation Permits in Attainment Areas	05/03/1983	48 FR 19878
R18–2–101	Definitions	11/23/2014	79 FR 56655
		11/2/2015	80 FR 67319
R18–2–201	Particulate Matter: PM_{10} and $PM_{2.5}$	09/23/2014	79 FR 56655
R18–2–203	Ozone: One-hour Standard and Eight-hour Averaged Standard	09/23/2014	79 FR 56655
R18–2–217	Designation and Classification of Attainment Areas	11/2/2015	80 FR 67319
R18–2–218	Limitation of Pollutants in Classified Attainment Areas	11/2/2015	80 FR 67319

[1] ADEQ is currently subject to a Federal Implementation Plan (FIP) under the PSD program for GHGs because ADEQ has not adopted a PSD program for the regulation of GHGs. ADEQ's April 2017 NSR submittal was not intended to correct this program deficiency, as regulation of GHG emissions is currently prohibited under State law. See A.R.S. section 49–191.

[2] ADEQ has delegated implementation of the major source program to the Pinal County Air Quality Control District.

TABLE 2—SIP RULES BEING REMOVED FROM ARIZONA SIP IN THIS ACTION—Continued

Rule	Title	EPA approval date	**Federal Register** citation
R18–2–330	Public Participation	11/2/2015	80 FR 67319
R18–2–332	Stack Height Limitation	11/2/2015	80 FR 67319
R18–2–401	Definitions	11/2/2015	80 FR 67319
R18–2–402	General	11/2/2015	80 FR 67319
R18–2–403	Permits for Sources Located in Nonattainment Areas	11/2/2015	80 FR 67319
R18–2–404	Offset Standards	11/2/2015	80 FR 67319
R18–2–405	Special Rule for Major Sources of VOC or Nitrogen Oxides in Ozone Nonattainment Areas Classified as Serious or Severe.	11/2/2015	80 FR 67319
R18–2–406	Permit Requirements for Sources Located in Attainment and Unclassifiable Areas	11/2/2015	80 FR 67319
R18–2–407	Air Quality Impact Analysis and Monitoring Requirements	11/2/2015	80 FR 67319
R18–2–412	PALs	11/2/2015	80 FR 67319

Simultaneously with our proposed approval action on June 1, 2017, we published a related interim final determination to defer sanctions. 82 FR 25203. This interim final determination was based on our proposed finding that with the April 2017 NSR submittal, the State had satisfied the requirements of part D of the CAA permitting program for areas under the jurisdiction of ADEQ with respect to issues that had been identified as the basis for an earlier final limited disapproval action on November 2, 2015, under title I, part D of the Act, relating to requirements for nonattainment areas. See 80 FR 67319 (Nov. 2, 2015).

Subsequently, on January 10, 2018, the EPA supplemented its June 1, 2017 proposal on ADEQ's April 2017 NSR submittal to address the outstanding requirement that had been identified in the June 1, 2017 proposal. See 83 FR 1212. Specifically, we had found in our June 1, 2017 proposal that while ADEQ's updated NA–NSR program, as reflected in the April 2017 NSR submittal, included ammonia as a precursor to $PM_{2.5}$ in $PM_{2.5}$ nonattainment areas, the rules in the April 2017 NSR submittal did not define the term ''significant'' for purposes of applying the requirements of 40 CFR 51.165(a)(13) to modifications at existing major stationary sources of ammonia located in a $PM_{2.5}$ nonattainment area, as required by 40 CFR 51.165(a)(1)(x)(F). ADEQ must address this requirement to fully resolve the deficiencies in its NA–NSR program related to $PM_{2.5}$ precursors under the NA–NSR program requirements in CAA section 189(e) that were identified in our 2016 EPA final rule action. See 81 FR 40525 (June 22, 2016). To address this remaining deficiency, in a letter dated December 6, 2017, ADEQ committed to adopt certain rule revisions and/or make other specific demonstrations by March 31, 2019. The EPA therefore proposed a conditional approval of ADEQ's NA–NSR program pursuant to CAA section 110(k)(4) solely as it pertains to section 189(e) of the Act and the associated regulatory requirements for ammonia as a $PM_{2.5}$ precursor in our supplemental action on January 10, 2018.

In addition, simultaneously with our proposed conditional approval action on January 10, 2018, we published an interim final determination to defer sanctions based on that proposed conditional approval action and our June 1, 2017 proposed approval action. 83 FR 1995. The EPA made an interim final determination that the State had satisfied the requirements of part D of the CAA permitting program for areas under the jurisdiction of ADEQ with respect to fine particular matter ($PM_{2.5}$) precursors under section 189(e). The effect of our interim final determination that the State has corrected the deficiency in the permitting program was that the imposition of sanctions that were triggered by our previous limited disapproval action on June 22, 2016 (at 81 FR 40525) was deferred.

Our June 1, 2017 proposal, our January 10, 2018 supplemental proposal, and the two accompanying interim final determinations described above contain more information on the basis for the determinations we made in these actions.

II. Public Comments and the EPA's Responses

The EPA's proposal and supplemental proposal each provided for a 30-day public comment period. We did not receive any comments during the public comment period on our June 1, 2017 proposed approval action, and we received one supportive comment from the Wyoming Department of Environmental Quality on our concurrent interim final determination to defer sanctions. We received 12 anonymous comments on our January 10, 2018 supplemental proposal and/or the related interim final determination to defer sanctions. Commenters on our January 10, 2018 proposal and interim final determination generally raised issues that are outside of the scope of this rulemaking and interim final determination, including but not limited to the National Environmental Policy Act (NEPA), climate science, the Intergovernmental Panel on Climate Change, the Navajo Generating Station (located on Tribal land), forest management, wildfire suppression, GHGs and other emissions from wildfires, and the Cross-State Air Pollution Rule. We also received one comment that was supportive of ADEQ correcting deficiencies in its program. The EPA is required to approve a state submittal if the submittal meets all applicable requirements. 42 U.S.C. 7410(k)(3). Commenters did not raise any specific issues germane to the approvability of the April 2017 NSR submittal, which relates to the permitting of stationary sources, including any issues germane to our proposal to conditionally approve ADEQ's NA–NSR program pursuant to CAA section 110(k)(4) solely as it pertains to section 189(e) of the Act and the associated regulatory requirements for ammonia as a $PM_{2.5}$ precursor. Commenters also did not raise any specific issues germane to our interim final determinations to defer sanctions.

III. The EPA's Action

No comments were submitted that change our assessment of the rules submitted in the 2017 ADEQ NSR submittal and proposed for approval into the Arizona SIP as described in our proposed actions, nor were any comments submitted that change our assessment that certain ADEQ rules should be removed from the Arizona SIP as discussed in our proposals. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is approving the rules in the 2017 ADEQ NSR submittal, as described in Table 1 above, into the ADEQ portion of the

Arizona SIP, and the EPA is removing from the Arizona SIP the rules identified above in Table 2. Also, consistent with our proposal, we are moving the codification of the PSD FIP for GHGs for Arizona from 40 CFR 52.37 to 40 CFR 52.144, where the State of Arizona's PSD program approval is listed, and amending the regulatory text in 40 CFR 51.144 to clarify that ADEQ has an approved PSD program, except for GHGs, under sections 160 through 165 of the Act.

As a result of this final approval action, the offset sanction in CAA section 179, which would have applied 18 months after the effective date of our November 2, 2015 limited disapproval action (80 FR 67319), and the highway funding sanction in CAA section 179, which would have applied six months after this offset sanction was imposed, are permanently terminated.

We also received no comments that changed the determinations that were the basis for our proposed conditional approval action, thus we are finalizing a conditional approval of ADEQ's NA–NSR program solely with respect to ammonia as a precursor to $PM_{2.5}$ under section 189(e) of the Act pursuant to CAA section 110(k)(4), as discussed in our supplemental proposal dated January 10, 2018. While we cannot grant full approval of the submittal at this time with respect to this issue, ADEQ has satisfactorily committed to address this deficiency by providing the EPA with a SIP submittal by March 31, 2019 that will include specific rule revisions and/or demonstrations that would adequately address this issue. If ADEQ submits the rule revisions and/or demonstrations that it has committed to submit by this deadline, and the EPA approves the submission, then this deficiency will be cured. However, if ADEQ fails to submit these revisions and/or demonstrations within the required timeframe, the conditional approval will become a disapproval for the specific issue of whether ADEQ's NA–NSR program meets the requirements of section 189(e) of the Act with respect to ammonia as a $PM_{2.5}$ precursor, and the EPA will issue a finding of disapproval. The EPA is not required to propose the finding of disapproval.

Further, as a result of our final approval action and our final conditional approval action with respect to $PM_{2.5}$ precursors under section 189(e) of the Act, all sanctions and any sanction clocks triggered by our 2016 $PM_{2.5}$ precursor action (81 FR 40525) continue to be deferred unless at a later date our conditional approval converts to a disapproval, or the EPA proposes to take or takes final action to disapprove in whole or in part the SIP submittal that ADEQ is required to submit to fulfill its commitment in the conditionally approved plan. Sanctions and sanctions clocks triggered by our 2016 $PM_{2.5}$ precursor action would be permanently terminated on the effective date of a final approval of the SIP submittal that ADEQ submits to fulfill the commitment in the conditionally approved plan.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the ADEQ rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the Arizona SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[3]

V. Statutory and Executive Order Reviews

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

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

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

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

[3] 62 FR 27968 (May 22, 1997).

''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 3, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: April 18, 2018.

Alexis Strauss,

Acting Regional Administrator, Region IX.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart A—General Provisions

§ 52.37 [Removed and Reserved]

■ 2. Section 52.37 is removed and reserved.

Subpart D—Arizona

■ 3. Section 52.119 is added to read as follows:

§ 52.119 Identification of plan—conditional approvals.

This section identifies plan revisions that are conditionally approved based upon commitments received from the State.

(a) A plan revision for the Arizona Department of Environmental Quality (ADEQ) submitted April 28, 2017, by the Governor's designee, updating ADEQ's Clean Air Act (CAA) new source review (NSR) program only with respect to the CAA requirements related to ammonia as a precursor to $PM_{2.5}$ under the nonattainment NSR program requirements in CAA section 189(e). This plan revision is conditionally approved as follows:

(1) The conditional approval is based upon the December 6, 2017 commitment from the State to submit a SIP revision to the EPA by March 31, 2019 consisting of rule revisions and/or demonstrations that will correct the deficiencies identified with this submittal, as specified in ADEQ's December 6, 2017 commitment letter. If the State fails to meet its commitment by March 31, 2019, the conditional approval will be treated as a disapproval only with respect to the CAA requirements related to ammonia as a precursor to $PM_{2.5}$ under the nonattainment NSR program requirements in CAA section 189(e).

(2) [Reserved]

(b) [Reserved]

■ 4. In § 52.120, paragraph (c), Table 2 is amended:

■ a. Under Title 9, Chapter 3, by removing the center heading ''Article 3'' and entries ''R9–3–301, paragraphs I and K'' and ''R9–3–304, paragraph H'';

■ b. Under Title 18, Chapter 2, Article 1, by:

■ i. Removing entries ''R18–2–101, definitions (2), (32), (87), (109), and (122)'' and ''R18–2–101 excluding definitions (2), (20), (32), (87), (109), and (122)''; and

■ ii. Adding, in numerical order, the entry ''R18–2–101 (except 20)'';

■ c. Under Title 18, Chapter 2, Article 2, by revising the entries for ''R18–2–201,'' ''R18–2–203,'' ''R18–2–217,'' and ''R18–2–218'';

■ d. Under Title 18, Chapter 2, Article 3, by revising the entries for ''R18–2–330'' and ''R18–2–332''; and

■ e. Under Title 18, Chapter 2, Article 4, by:

■ i. Revising the entries for ''R18–2–401'' through ''R18–2–406'';

■ ii. Removing the entry ''R18–2–407, excluding subsection (H)(1)(c)'';

■ iii. Adding, in numerical order, the entries ''R18–2–407,'' ''R–18–2–408,'' ''R18–2–410,'' and ''R18–2–411;'' and

■ iv. Revising the entry for ''R18–2–412''.

The addition and revisions read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

TABLE 2—EPA-APPROVED ARIZONA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
		Arizona Administrative Code		
*	*	*	*	*
		Title 18 (Environmental Quality)		
		Chapter 2 (Department of Environmental Quality Air Pollution Control)		
		Article 1 (General)		
R18–2–101 (except 20).	Definitions	March 21, 2017	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.
*	*	*	*	*
		Article 2 (Ambient Air Quality Standards; Area Designations; Classifications)		
R18–2–201	Particulate Matter: PM_{10} and $PM_{2.5}$	March 21, 2017	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.

TABLE 2—EPA-APPROVED ARIZONA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
* * * * * * *				
R18–2–203	Ozone	March 21, 2017	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.
* * * * * * *				
R18–2–217	Designation and Classification of Attainment Areas.	March 21, 2017	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.
R18–2–218	Limitation of Pollutants in Classified Attainment Areas.	March 21, 2017	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.
* * * * * * *				
Article 3 (Permits and Permit Revisions)				
* * * * * * *				
R18–2–330	Public Participation	March 21, 2017	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.
R18–2–332	Stack Height Limitation	March 21, 2017	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.
* * * * * * *				
Article 4 (Permit Requirements for New Major Sources and Major Modifications to Existing Major Sources)				
R18–2–401	Definitions	March 21, 2017	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.
R18–2–402	General	March 21, 2017	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.
R18–2–403	Permits for Sources Located in Nonattainment Areas.	R18–2–403	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.
R18–2–404	Offset Standards	March 21, 2017	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.
R18–2–405	Special Rule for Major Sources of VOC or Nitrogen Oxides in Ozone Nonattainment Areas Classified as Serious or Severe.	March 21, 2017	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.
R18–2–406	Permit Requirements for Sources Located in Attainment and Unclassifiable Areas.	March 21, 2017	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.
R18–2–407	Air Quality Impact Analysis and Monitoring Requirements.	March 21, 2017	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.
R18–2–408	Innovative Control Technology	March 21, 2017	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.
* * * * * * *				
R18–2–410	Visibility and Air Quality Related Value Protection.	March 21, 2017	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.
R18–2–411	Permit Requirements for Sources that Locate in Attainment or Unclassifiable Areas and Cause or Contribute to a Violation of Any National Ambient Air Quality Standard.	March 21, 2017	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.
R18–2–412	PALs	March 21, 2017	[INSERT **Federal Register** CITATION], May 4, 2018.	Submitted on April 28, 2017.
* * * * * * *				

* * * * *

■ 5. Section 52.144 is amended by adding paragraph (c) to read as follows:

§ 52.144 Significant deterioration of air quality.

* * * * *

(c) The requirements of sections 160 through 165 of the Clean Air Act are met as they apply to stationary sources under the jurisdiction of the Arizona Department of Environmental Quality (ADEQ), except with respect to emissions of greenhouse gases (GHGs) (as defined in § 52.21(b)(49)(i)). Therefore, the provisions of § 52.21, except paragraph (a)(1) of this section, for GHGs are hereby made a part of the plan for stationary sources under the jurisdiction of ADEQ as it applies to the stationary sources described in § 52.21(b)(49)(iv).

[FR Doc. 2018–09205 Filed 5–3–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2016–0315; FRL–9977–49–Region 4]

Air Plan Approval; Georgia; Regional Haze Plan and Prong 4 (Visibility) for the 2012 $PM_{2.5}$, 2010 NO_2, 2010 SO_2, and 2008 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the portion of Georgia's July 26, 2017, State Implementation Plan (SIP) submittal changing reliance from the Clean Air Interstate Rule (CAIR) to the Cross-State Air Pollution Rule (CSAPR) for certain regional haze requirements. EPA is also converting the previous limited approval/limited disapproval of Georgia's regional haze plan to a full approval and is removing the Federal Implementation Plan (FIP) for Georgia which replaced reliance on CAIR with reliance on CSAPR. Finally, EPA is converting the conditional approvals to full approvals for the visibility prong of Georgia's infrastructure SIP submittals for the 2012 Fine Particulate Matter ($PM_{2.5}$), 2010 Nitrogen Dioxide (NO_2), 2010 Sulfur Dioxide (SO_2), and 2008 8-hour Ozone National Ambient Air Quality Standards (NAAQS).

DATES: This rule will be effective June 4, 2018.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2016–0315. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information 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 either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Notarianni can be reached by telephone at (404) 562–9031 or via electronic mail at *notarianni.michele@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Regional Haze Plans and Their Relationship With CAIR and CSAPR

Section 169A(b)(2)(A) of the Clean Air Act (CAA or Act) requires states to submit regional haze plans that contain such measures as may be necessary to make reasonable progress towards the natural visibility goal, including a requirement that certain categories of existing major stationary sources built between 1962 and 1977 procure, install, and operate Best Available Retrofit Technology (BART) as determined by the state. Under the Regional Haze Rule (RHR), states are directed to conduct BART determinations for such ''BART-eligible'' sources that may be anticipated to cause or contribute to any visibility impairment in a Class I area. Rather than requiring source-specific BART controls, states also have the flexibility to adopt an emissions trading program or other alternative program as long as the alternative provides greater reasonable progress towards improving visibility than BART. *See* 40 CFR 51.308(e)(2). EPA provided states with this flexibility in the RHR, adopted in 1999, and further refined the criteria for assessing whether an alternative program provides for greater reasonable progress in two subsequent rulemakings. *See* 64 FR 35714 (July 1, 1999); 70 FR 39104 (July 6, 2005); 71 FR 60612 (October 13, 2006).

EPA demonstrated that CAIR would achieve greater reasonable progress than BART in revisions to the regional haze program made in 2005.[1] *See* 70 FR 39104 (July 6, 2005). In those revisions, EPA amended its regulations to provide that states participating in the CAIR cap-and-trade programs pursuant to an EPA-approved CAIR SIP or states that remain subject to a CAIR FIP need not require affected BART-eligible electric generating units (EGUs) to install, operate, and maintain BART for emissions of SO_2 and nitrogen oxides (NO_X). As a result of EPA's determination that CAIR was ''better-than-BART,'' a number of states in the CAIR region, including Georgia, relied on the CAIR cap-and-trade programs as an alternative to BART for EGU emissions of SO_2 and NO_X in designing their regional haze plans. These states also relied on CAIR as an element of a long-term strategy (LTS) for achieving their reasonable progress goals (RPGs) for their regional haze programs. However, in 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded CAIR to EPA without vacatur to preserve the environmental benefits provided by CAIR. *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated CSAPR to replace CAIR and issued FIPs to implement the rule in CSAPR-subject states.[2] Implementation of CSAPR was scheduled to begin on January 1, 2012,

[1] CAIR created regional cap-and-trade programs to reduce SO_2 and NO_X emissions in 27 eastern states (and the District of Columbia), including Georgia, that contributed to downwind nonattainment or interfered with maintenance of the 1997 8-hour ozone NAAQS or the 1997 $PM_{2.5}$ NAAQS.

[2] CSAPR requires 28 eastern states to limit their statewide emissions of SO_2 and/or NO_X in order to mitigate transported air pollution unlawfully impacting other states' ability to attain or maintain four NAAQS: the 1997 ozone NAAQS, the 1997 annual $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, and the 2008 8-hour ozone NAAQS. The CSAPR emissions limitations are defined in terms of maximum statewide ''budgets'' for emissions of annual SO_2, annual NO_X, and/or ozone-season NO_X by each covered state's large EGUs. The CSAPR state budgets are implemented in two phases of generally increasing stringency, with the Phase 1 budgets applying to emissions in 2015 and 2016 and the Phase 2 budgets applying to emissions in 2017 and later years.

when CSAPR would have superseded the CAIR program.

Due to the D.C. Circuit's 2008 ruling that CAIR was ''fatally flawed'' and its resulting status as a temporary measure following that ruling, EPA could not fully approve regional haze plans to the extent that they relied on CAIR to satisfy the BART requirement and the requirement for a LTS sufficient to achieve the state-adopted RPGs. On these grounds, EPA finalized a limited disapproval of Georgia's regional haze plan on June 7, 2012 (77 FR 33642), and in the same action, promulgated a FIP to replace reliance on CAIR with reliance on CSAPR to address the deficiencies in Georgia's regional haze plan. EPA finalized a limited approval of Georgia's regional haze plan on June 28, 2012 (77 FR 38501), as meeting the remaining applicable regional haze requirements set forth in the CAA and the RHR.

In the June 7, 2012, limited disapproval action, EPA also amended the RHR to provide that participation by a state's EGUs in a CSAPR trading program for a given pollutant—either a CSAPR federal trading program implemented through a CSAPR FIP or an integrated CSAPR state trading program implemented through an approved CSAPR SIP revision—qualifies as a BART alternative for those EGUs for that pollutant. *See* 40 CFR 51.308(e)(4). Since EPA promulgated this amendment, numerous states covered by CSAPR have come to rely on the provision through either SIPs or FIPs.[3]

Numerous parties filed petitions for review of CSAPR in the D.C. Circuit, and on August 21, 2012, the court issued its ruling, vacating and remanding CSAPR to EPA and ordering continued implementation of CAIR. *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012). The D.C. Circuit's vacatur of CSAPR was reversed by the United States Supreme Court on April 29, 2014, and the case was remanded to the D.C. Circuit to resolve remaining issues in accordance with the high court's ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the CSAPR budgets as to a number of states. *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118 (D.C. Cir. 2015). The remanded budgets include the Phase 2 SO_2 emissions budgets for Alabama, Georgia, South Carolina, and Texas and the Phase 2 ozone-season NO_X budgets for 11 states. This litigation ultimately delayed implementation of CSAPR for three years, from January 1, 2012, when CSAPR's cap-and-trade programs were originally scheduled to replace the CAIR cap-and-trade programs, to January 1, 2015. Thus, the rule's Phase 2 budgets that were originally promulgated to begin on January 1, 2014, began on January 1, 2017.

On September 29, 2017 (82 FR 45481), EPA issued a final rule affirming the continued validity of the Agency's 2012 determination that participation in CSAPR meets the RHR's criteria for an alternative to the application of source-specific BART.[4] EPA has determined that changes to CSAPR's geographic scope resulting from the actions EPA has taken or expects to take in response to the D.C. Circuit's budget remand do not affect the continued validity of participation in CSAPR as a BART alternative, because the changes in geographic scope would not have adversely affected the results of the air quality modeling analysis upon which the EPA based the 2012 determination. EPA's September 29, 2017, determination was based, in part, on EPA's final action approving a SIP revision from Alabama (81 FR 59869 (August 31, 2016)) adopting Phase 2 annual NO_X and SO_2 budgets equivalent to the federally-developed budgets and on SIP revisions submitted by Georgia and South Carolina to also adopt Phase 2 annual NO_X and SO_2 budgets equivalent to the federally-developed budgets.[5] Since that time, EPA has approved the SIP revisions from Georgia and South Carolina. *See* 82 FR 47930 (October 13, 2017) and 82 FR 47936 (October 13, 2017), respectively.

A portion of Georgia's July 26, 2017, SIP submittal seeks to correct the deficiencies identified in the June 7, 2012, limited disapproval of its regional haze plan submitted on February 11, 2010, and supplemented on November 19, 2010, by replacing reliance on CAIR with reliance on CSAPR.[6] Specifically, Georgia requests that EPA amend the State's regional haze plan by replacing its reliance on CAIR with CSAPR to satisfy SO_2 and NO_X BART requirements and first implementation period SO_2 reasonable progress requirements for EGUs formerly subject to CAIR,[7] and to support the RPGs for the Class I areas in Georgia for the first implementation period. EPA is approving the regional haze plan portion of the SIP submittal and amending the SIP accordingly.

B. Infrastructure SIPs

By statute, plans meeting the requirements of sections 110(a)(1) and (2) of the CAA are to be submitted by states within three years (or less, if the Administrator so prescribes) after promulgation of a new or revised NAAQS to provide for the implementation, maintenance, and enforcement of the new or revised NAAQS. EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Sections 110(a)(1) and (2) require states to address basic SIP elements such as for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the newly established or revised NAAQS. More specifically, section 110(a)(1) provides the procedural and timing requirements for infrastructure SIPs. Section 110(a)(2) lists specific elements that states must meet for the infrastructure SIP requirements related to a newly established or revised NAAQS. The contents of an infrastructure SIP submission may vary depending upon the data and analytical tools available to the state, as well as the provisions already contained in the state's implementation plan at the time in which the state develops and submits

[3] EPA has promulgated FIPs relying on CSAPR participation for BART purposes for Georgia, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia, 77 FR at 33654, and Nebraska, 77 FR 40150, 40151 (July 6, 2012). EPA has approved SIPs from several states relying on CSAPR participation for BART purposes. *See, e.g.,* 82 FR 47393 (October 12, 2017) for Alabama; 77 FR 34801 (June 12, 2012) for Minnesota; and 77 FR 46952 (August 7, 2012) for Wisconsin.

[4] Legal challenges to this rule are pending. *Nat'l Parks Conservation Ass'n* v. *EPA,* No. 17–1253 (D.C. Cir. filed November 28, 2017).

[5] EPA proposed to approve the Georgia and South Carolina SIP revisions adopting CSAPR budgets on August 16, 2017 (82 FR 38866), and August 10, 2017 (82 FR 37389), respectively.

[6] On October 13, 2017, (82 FR 47930), EPA approved the portions of the July 26, 2017, SIP submission incorporating into Georgia's SIP the State's regulations requiring Georgia EGUs to participate in CSAPR state trading programs for annual NO_X and SO_2 emissions integrated with the CSAPR federal trading programs and thus replacing the corresponding FIP requirements. In the October 13, 2017, action, EPA did not take any action regarding Georgia's request in this July 26, 2017, SIP submission to revise the State's regional haze plan nor regarding the prong 4 element of the 2008 8-hour ozone, 2010 1-hour NO_2, 2010 1-hour SO_2, and 2012 $PM_{2.5}$ NAAQS.

[7] In its regional haze plan, Georgia concluded and EPA found acceptable the State's determination that no additional controls beyond CAIR are reasonable for SO_2 for affected Georgia EGUs for the first implementation period, with the exception of five EGUs at three facilities owned by Georgia Power. *See* 77 FR 11464 (February 27, 2012).

the submission for a new or revised NAAQS.[8]

Section 110(a)(2)(D) has two components: 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). Section 110(a)(2)(D)(i) includes four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (prong 1) and from interfering with maintenance of the NAAQS in another state (prong 2). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (prong 3) or from interfering with measures to protect visibility in another state (prong 4). Section 110(a)(2)(D)(ii) requires SIPs to include provisions ensuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement.

A state can meet prong 4 requirements via confirmation in its infrastructure SIP submission that the state has an approved regional haze plan that fully meets the requirements of 40 CFR 51.308 or 51.309. 40 CFR 51.308 and 51.309 specifically require that a state participating in a regional planning process include all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process. A fully approved regional haze plan will ensure that emissions from sources under an air agency's jurisdiction are not interfering with measures required to be included in other air agencies' plans to protect visibility.

Georgia's May 14, 2012, 2008 8-hour Ozone submission; March 25, 2013, 2010 1-hour NO_2 submission; October 22, 2013, 2010 1-hour SO_2 submission as supplemented on July 25, 2014; and December 14, 2015, 2012 annual $PM_{2.5}$ submission rely on the State having a fully approved regional haze plan to satisfy its prong 4 requirements. EPA is approving the regional haze plan portion of the State's July 26, 2017, SIP revision and converting EPA's previous action on Georgia's regional haze plan from a limited approval/limited disapproval to a full approval because final approval of this portion of the SIP revision would correct the deficiencies that led to EPA's limited approval/limited disapproval of the State's regional haze plan. Specifically, EPA's approval of this portion of Georgia's July 26, 2017, SIP revision would satisfy the SO_2 and NO_X BART requirements and SO_2 reasonable progress requirements for EGUs formerly subject to CAIR and the requirement that a LTS include measures as necessary to achieve the State-adopted RPGs. Because a state may satisfy prong 4 requirements through a fully approved regional haze plan, EPA is also converting the Agency's September 26, 2016, conditional approvals to full approvals of the prong 4 portion of Georgia's May 14, 2012, 2008 8-hour Ozone submission; March 25, 2013, 2010 1-hour NO_2 submission; October 22, 2013, 2010 1-hour SO_2 submission as supplemented on July 25, 2014; and December 14, 2015, 2012 annual $PM_{2.5}$ submission.

In a notice of proposed rulemaking (NPRM) published on February 2, 2018 (83 FR 4886), EPA proposed to take the following actions: (1) Approve the regional haze plan portion of Georgia's July 26, 2017, SIP submission to change reliance from CAIR to CSAPR; (2) convert EPA's limited approval/limited disapproval of Georgia's February 11, 2010, regional haze plan as supplemented on November 19, 2010, to a full approval; (3) remove EPA's FIP for Georgia which replaced reliance on CAIR with reliance on CSAPR to address the deficiencies identified in the limited disapproval of Georgia's regional haze plan; and (4) convert EPA's September 26, 2016, conditional approvals to full approvals of the prong 4 portion of Georgia's May 14, 2012, 2008 8-hour Ozone submission; March 25, 2013, 2010 1-hour NO_2 submission; the State's October 22, 2013, 2010 1-hour SO_2 submission as supplemented on July 25, 2014; and the State's December 14, 2015, 2012 annual $PM_{2.5}$ submission. The details of Georgia's submission and the rationale for EPA's actions are explained in the NPRM. Comments on the proposed rulemaking were due on or before March 5, 2018. EPA received no adverse comments on the proposed action.

II. Final Actions

As described above, EPA is taking the following actions: (1) Approving the regional haze plan portion of Georgia's July 26, 2017, SIP submission to change reliance from CAIR to CSAPR; (2) converting EPA's limited approval/limited disapproval of Georgia's February 11, 2010, regional haze plan as supplemented on November 19, 2010, to a full approval; (3) removing EPA's FIP for Georgia which replaced reliance on CAIR with reliance on CSAPR to address the deficiencies identified in the limited disapproval of Georgia's regional haze plan; and (4) converting EPA's September 26, 2016, conditional approvals to full approvals of the prong 4 portion of Georgia's May 14, 2012, 2008 8-hour Ozone submission; March 25, 2013, 2010 1-hour NO_2 submission; the State's October 22, 2013, 2010 1-hour SO_2 submission as supplemented on July 25, 2014; and the State's December 14, 2015, 2012 annual $PM_{2.5}$ submission. All other applicable infrastructure requirements for the infrastructure SIP submissions have been or will be addressed in separate rulemakings.

III. Statutory and Executive Order Reviews

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

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because SIP approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or

[8] For additional information regarding EPA's approach to the review of infrastructure SIP submissions, *see, e.g.,* 81 FR 57544 (August 23, 2016) (proposal to approve portions of Georgia's infrastructure SIP for the 2012 $PM_{2.5}$ NAAQS).

safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of these actions must be filed in the United States Court of Appeals for the appropriate circuit by July 3, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of these actions for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. These actions may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate Matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 20, 2018.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart L—Georgia

§ 52.569 [Removed and Reserved]

■ 2. Section 52.569 is removed and reserved.

■ 3. Section 52.570(e) is amended by adding entries for ''110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour NO_2 NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour SO_2 NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 2012 Annual $PM_{2.5}$ NAAQS'', ''110(a)(1) and (2) Infrastructure Requirements for the 2008 8-hour Ozone NAAQS'', and ''Regional Haze Plan Revision'' at the end of the table to read as follows:

§ 52.570 Identification of plan.

*   *   *   *   *

(e) * * *

EPA-APPROVED GEORGIA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
* *	*		* *	* *
110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour NO_2 NAAQS.	Georgia	3/25/2013	5/4/2018, [Insert **Federal Register** citation]	Addressing Prong 4 only.
110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour SO_2 NAAQS.	Georgia	7/25/2014	5/4/2018, [Insert **Federal Register** citation]	Addressing Prong 4 only.
110(a)(1) and (2) Infrastructure Requirements for the 2012 Annual $PM_{2.5}$ NAAQS.	Georgia	12/14/2015	5/4/2018, [Insert **Federal Register** citation]	Addressing Prong 4 only.
110(a)(1) and (2) Infrastructure Requirements for the 2008 8-hour Ozone NAAQS.	Georgia	5/14/2012	5/4/2018, [Insert **Federal Register** citation]	Addressing Prong 4 only.
Regional Haze Plan Revision	Georgia	7/26/2017	5/4/2018, [Insert **Federal Register** citation]	

§ 52.580 [Removed and Reserved]

■ 4. Section 52.580 is removed and reserved.

[FR Doc. 2018–09412 Filed 5–3–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 201

[Docket DARS–2018–0017]

RIN 0750–AJ69

Defense Federal Acquisition Regulation Supplement: Statement of Purpose for Department of Defense Acquisition (DFARS Case 2018–D005)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2018 to revise the DFARS to include a statement of purpose.

DATES: Effective May 4, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Kelly Hughes, telephone 571–372–6090.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to implement section 801 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018 (Pub. L. 115–404). Section 801 directs the insertion of a statement of purpose for Department of Defense acquisition in the DFARS. This rule adds the statement of purpose to DFARS 201.101.

II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule does not add any new provisions or clauses or impact existing provisions or clauses. The rule merely adds a purpose statement to the regulations.

III. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is the Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it clarifies the purpose of the defense system as required by the NDAA for FY 2018. There is no cost or administrative impact on contractors or offerors. These requirements affect only the internal operating guidance of the Government.

IV. 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 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.

V. Executive Order 13771

This rule is not subject to Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, because the rule relates to agency organization, management, or personnel.

VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section III. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 201

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR part 201 is amended as follows:

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

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

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Add section 201.101 to subpart 201.1 to read as follows:

201.101 Purpose.

(1) The defense acquisition system, as defined in 10 U.S.C. 2545, exists to manage the investments of the United States in technologies, programs, and product support necessary to achieve the national security strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 3043) and to support the United States Armed Forces.

(2) The investment strategy of DoD shall be postured to support not only the current United States armed forces, but also future armed forces of the United States.

(3) The primary objective of DoD acquisition is to acquire quality supplies and services that satisfy user needs with measurable improvements to mission capability and operational support at a fair and reasonable price.

[FR Doc. 2018–09488 Filed 5–3–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 246, and 252

[Docket DARS–2016–0014]

RIN 0750–AI92

Defense Federal Acquisition Regulation Supplement: Amendments Related to Sources of Electronic Parts (DFARS Case 2016–D013)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2016 that makes contractors and subcontractors subject to approval (as well as review and audit) by appropriate DoD officials when identifying a contractor-approved supplier of electronic parts.

DATES: Effective May 4, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 81 FR 50680 on August 2, 2016, to implement section 885(b) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016 (Pub. L. 114–92), which amends section 818(c)(3)(D)(iii) of the NDAA for FY 2012 (Pub. L. 112–81). Section 885(b) provides that contractors and subcontractors are subject to approval (as well as review and audit) by appropriate DoD officials when identifying a contractor-approved supplier of electronic parts. Four respondents submitted public comments on the proposed rule.

II. Discussion and Analysis

DoD reviewed the public comments in the formulation of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Significant Changes From the Proposed Rule

The final rule clarifies at DFARS 246.870–2(a)(1)(ii)(C) and 252.246–7008(b)(2)(iii) that the review, audit, and approval of contractor-approved suppliers by the Government will generally be in conjunction with a contractor purchasing system review (CPSR) or other surveillance of purchasing practices by the contract administration office, unless the Government has credible evidence that a contractor-approved supplier has provided counterfeit parts.

B. Analysis of Public Comments

The respondents shared concerns about the details of how, what, when, and by whom the Government approval (or disapproval) of contractor-approved suppliers would be conducted. There was also concern about the impact of disapproval, how the notification would occur, and the extent of flow-down to subcontracts.

1. Mandatory or discretionary?

Comment: Several respondents commented on whether the review, audit, and approval are mandatory or discretionary. One respondent stated that the rule is silent as to whether the review, audit, and approval will take place. Another respondent noted that it appears that contractor selection of contractor-approved suppliers *can be subject to* (emphasis added) review, audit, and approval by the contracting officer, implying that such processes are optional and not mandatory actions, whether that function is conducted on individual transactions or through a CPSR or other surveillance of purchasing practices. Yet another respondent questioned the criteria for deciding when to review, audit, and approve suppliers that have been approved by the contractor.

Response: It is not mandatory that the Government review, audit, and approve contractor-approved suppliers. The final rule has been amended at DFARS 246.870–2(a)(1)(ii)(C) and 252.246–7008(b)(2)(iii) to clarify that such review, audit, and approval will generally be in conjunction with a CPSR by the contract administration office, or if the Government obtains credible evidence that a contractor-approved supplier has provided counterfeit parts.

2. What is being reviewed and audited and how?

Comment: One respondent noted that separate regulations address contractor purchasing system criteria and recommended that the audits conducted under the proposed DFARS rule providing for Government review, audit, and approval be limited to confirming that the contractor's process for selecting suppliers is based on appropriate industry standards and processes for counterfeit prevention. The respondent further recommended that DoD clarify that the Government would not impose additional requirements based on internal DoD standards for identifying trusted electronic parts suppliers. Another respondent stated that it was unclear if the proposed DFARS contracting officer approval function applied to the process used by contractors to approve electronic parts suppliers for parts out of production or if DoD intended to reserve the right to review, audit, and approve the selection of each part delivered by a contractor-approved supplier on each contract transaction. The same respondent commented that industry comments on DFARS case 2014–D005 speculated that the review and audit of the contractor selection process for contractor-approved suppliers by DoD officials might be satisfied through the CPSR process.

Response: The Government's review, audit, and approval of contractor-approved suppliers of electronic parts generally will be conducted during the CPSR or other surveillance of purchasing practices to verify that the contractor is using established counterfeit prevention industry standards and processes (including inspection, testing, and authentication), such as the DoD-adopted standards at *https://assist.dla.mil,* to select their suppliers, as required by DFARS clause 252.246–7008(b)(2)(i).

The contractor's authorization to identify and purchase electronic parts from their own contractor-approved suppliers and DoD's authority to review, audit, and approve those contractor-approved suppliers relates only to those suppliers of electronic parts that are not in production by the original manufacturer or an authorized aftermarket manufacturer and that are not currently available in stock from the original manufacturer, their authorized suppliers, or suppliers that obtain such parts exclusively from the original manufacturers of the parts or their authorized suppliers (see DFARS 246.870–2(a)(1)(ii)(C) and 252.246–7008(b)(2)(iii)). The rule grants the authority for the Government to review, audit, and approve or disapprove contractor-approved suppliers of electronic parts outside of a CPSR or other surveillance of purchasing practices by the contract administration office if there is credible evidence that a contractor-approved supplier has provided counterfeit electronic parts. As the basis of its review, audit, and approval, the Government generally intends to use established counterfeit prevention industry standards and processes.

3. Timing

Comment: All respondents had concern about the timing of the review, audit, and approval of contractor-approved suppliers. The respondents are concerned that the rule does not specify when the review, audit, and approval of contractor-approved suppliers should occur. According to the respondents, the contracting officer is able to review and approve electronic parts suppliers any time from contract award until closeout. If the contracting officer disapproves a supplier after the fact, this would likely cause significant cost increases and schedule delays. The respondents recommended that the

contracting officer should establish schedules for these reviews and, to the maximum extent practicable, review and approve a contractor's electronic parts suppliers at the time of contract award or as early as possible during contract performance.

One respondent requested that a contracting officer's disapproval of a contractor-approved source should constitute a contract change that qualifies for equitable adjustment in the contract price, the delivery schedule, or both, pursuant to the Changes clause at FAR 52.243–1.

Response: DoD's authority to review, audit, and approve contractor-approved suppliers relates only to those suppliers of electronic parts that are not in production by the original manufacturer or an authorized aftermarket manufacturer and that are not currently available in stock from the original manufacturer, their authorized suppliers, or suppliers that obtain such parts exclusively from the original manufacturers of the parts or their authorized suppliers (see DFARS 246.870–2(a)(1)(ii)(C) and 252.246–7008(b)(2)(iii)). DoD relies primarily on the contractor to use established counterfeit prevention industry standards and processes (including inspection, testing, and authentication), such as the DoD-adopted standards at *https://assist.dla.mil,* as required by DFARS clause 252.246–7008(b)(2)(i). However, DoD also has the authority to review an individual supplier. DoD generally intends to exercise its right to review, audit, and approve contractor–approved suppliers in conjunction with a periodic CPSR (see FAR subpart 44.3, DFARS subpart 244.3, and DFARS 252.246–7007(d)) or other surveillance of purchasing practices, or if there is credible evidence that a contractor-approved supplier has supplied electronic counterfeit parts. DoD shares the desire of the contractors to avoid significant schedule delays, cost increases, and resultant impairment of operational readiness.

The contracting officer's disapproval of a contractor-approved source does not constitute a contract change that qualifies for equitable adjustment in the contract price, the delivery schedule, or both, pursuant to the Changes clause at FAR 52.243–1. The contract clause already provides that the contractor selection of a contractor-approved supplier is subject to review, audit, and approval by the Government, and therefore such review, audit, and approval or disapproval by the Government does not constitute a change to the contract.

4. Is it the procurement contracting officer or the administrative contracting officer who approves contractor-approved suppliers?

Comment: One respondent was concerned whether it would be the procurement contracting officer or the administrative contracting officer who would approve contractor-approved suppliers. The respondent was concerned about potential overlap in authority. The respondent recommended that a contractor be able to cite to a prior approval, if another contracting officer seeks approval rights. The respondent also questioned how a procurement contracting officer would obtain the quality assurance expertise needed to conduct a review, audit, and approval of contractor-approved electronic parts suppliers.

Response: For a specific contract, the procurement contracting officer always has final approval authority, and may delegate certain functions to the administrative contracting officer. The contracting officer relies on the assistance of DoD quality experts, who make recommendations to the contracting officer. The FAR specifies that it is the administrative contracting officer who determines the need for a CPSR. The cognizant administrative contracting officer is responsible for granting, withholding, or withdrawing approval of a contractor's purchasing system.

5. Impact of Approval or Disapproval

a. Effect of an Approved or Disapproved Supplier on Other Contracts

Comment: Most respondents questioned whether approval or disapproval of a specific supplier would impact other contracts. The respondents were also concerned about the scenario in which contracting officers disagree on the approval of a supplier on different programs. According to one respondent, both the revised policy and the contract clause focus on the review, audit, and approval of a specific supplier by the contracting officer on a specific contract. However, the respondent notes that a prime contractor may select a specific supplier and use electronic parts sourced from that supplier across a wide variety of end items and contracts. Several respondents recommended that the approval of one procurement contracting officer should be binding across all contracts where the electronic parts supplier is used, and also recommended a mechanism to communicate such approval or disapproval of a supplier across all contracts and subcontracts where the supplier is utilized.

Response: If the contractor is covered by the cost accounting standards, the contractor's counterfeit electronic part detection and avoidance system under DFARS 252.246–7007 is part of the contractor's purchasing system. Any deficiencies in the contractor's purchasing system will impact the contractor across all Government contracts. If a contractor-approved supplier is not acceptable to the Government, the reasons for that unacceptability should be entered in the Government-Industry Data Exchange Program (GIDEP) when appropriate and may lead to suspension or debarment of that contractor-approved supplier, in accordance with FAR subpart 9.4. The list of all entities suspended, debarred, or proposed for debarment is publicly available in the System for Award Management (SAM) database. Procurement contracting officers dealing with common issues at the same contractor would generally coordinate with each other and with the cognizant administrative contracting officer. While each contracting officer retains ultimate authority for decisions with regard to a particular contract, the contracting officer would be likely to respect the decision of another prior contracting office unless new facts were available. Furthermore, regardless of Government approval or disapproval of a contractor-approved supplier, the contractor is responsible for the authenticity of parts provided by a contractor-approved supplier.

b. Approved Purchasing System

Comment: One respondent recommended that if a contractor has an approved purchasing system before DoD publishes the ensuing final rule, the prior approval should remain in effect until the next review of the contractor's purchasing system.

Response: That is generally the case. However, if due to changing CPSR thresholds or other circumstances, the requirement for a CPSR is no longer applicable to the contractor, then the approval would remain in effect for 3 years, after which time the status would be ''not applicable.''

However, whether the approval of the contractor purchasing system is relevant with regard to this case would depend on whether, at the time of prior approval, the system contained the operational system to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts, as required by DFARS clause 252.247–7007.

c. Interference With Award and Performance

Comment: One respondent stated that in no case should the review, audit, and approval process interfere with an award or subsequent performance, except in cases where a contractor-approved supplier reasonably creates heightened preaward risk of inserting a counterfeit electronic part in the supply chain or a counterfeit part is discovered prior to award.

Response: It is not in the interest of DoD to interfere with the award or performance of DoD contracts except in cases where the risk of counterfeit parts is sufficiently high to counterbalance the negative impact on timely fulfillment of DoD requirements.

d. Impact on ''Safe Harbor''

Comment: According to one respondent, it is unclear what happens to the safe harbor at DFARS 231.205–71 in the event that a contracting officer does not review, audit, or approve any contractor-approved suppliers whatsoever or until after a counterfeit or suspect counterfeit electronic part inadvertently escapes in the DoD supply chain. One condition of the safe harbor is to obtain parts per the clause at DFARS 252.246–7008; if the contractor complies with the clause in its entirety and the contracting officer does not attempt to review, audit, or approve any contractor-approved supplier selection, industry understands the new rule to indicate that if a contracting officer does not review, audit, and approve, or to give subsequent notice disapproving the use of a contractor-approved supplier, does not obviate the safe harbor, even where a counterfeit electronic part from a contractor-approved supplier may be discovered in the supply chain at a later date.

Response: Whether DoD exercises its authority to review, audit, and approve contractor-approved suppliers has no impact on the applicability of the safe harbor provisions at DFARS 231.205–71, except to the extent that the contractor must have an operational system to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts that has been reviewed and approved by DoD, which is one of the required criteria for the safe harbor.

6. Notification

Comment: One respondent requested that DoD should clarify what constitutes notice from DoD to discontinue acquisition of parts from a specific contractor-approved supplier. The respondent recommended that DoD should provide guidance on a standard notice format and provide for a centralized DoD capability to provide timely notice to contractors and subcontractors about any contract-approved suppliers who are disapproved or where specific electronic parts are disapproved or found to be counterfeit. The respondent did not believe that any of the existing disclosure models, such as GIDEP or Electronic Resellers Association International (ERAI), can be scaled to act as notice provider on parts escapes, nor that they are designed to perform such notice duties.

Response: If a problem is identified in the course of a CPSR, the contractor will be notified in the standard means of communication consistent with FAR subpart 44.3 and DFARS subpart 244.3.

The contracting officer will provide written notice to the prime contractor if a contractor-approved supplier is not acceptable to the Government. In addition, that information should be entered in GIDEP when appropriate. If the contractor-approved supplier is found to have provided counterfeit parts, that may lead to suspension or debarment of that contractor-approved supplier, in accordance with FAR subpart 9.4. The list of all entities suspended, debarred, or proposed for debarment is publicly available in the SAM database.

7. Subcontracts

Comment: One respondent commented that DoD may not have the resources to review, audit, and approve the counterfeit-prevention selection process implemented by each entity in the supply chain for a given program and recommended that DoD adopt a more limited or flexible approach to flowdown of the proposed clause.

Response: The flowdown requirement to subcontractors using contractor-approved suppliers of electronic parts is required by the statute. However, as previously stated, it is not the intent of DoD to review, audit, and approve the counterfeit prevention selection process by each entity in the supply chain, but on a selective basis, as determined necessary by DoD.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule does not add any new provisions or clauses to implement section 885(b) of the NDAA for FY 2016, which amends section 818 of the NDAA for FY 2012. It revises an existing clause at DFARS 252.246–7008, Sources of Electronic Parts, which applies to acquisitions at or below the SAT and to contracts and subcontracts for the acquisition of commercial items (including COTS items). A determination and findings was signed under DFARS Case 2014–D005 on May 26, 2016, by the Director, Defense Procurement and Acquisition Policy, to justify the application of section 818(c) of the NDAA for FY 2012, as amended, to acquisitions at or below the SAT and to contracts and subcontracts for the acquisition of commercial items (including COTS items).

IV. 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 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.

V. 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.

VI. Regulatory Flexibility Act

A final regulatory flexibility analysis (FRFA) has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This rule implements section 885(b) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016 (Pub. L. 114–92), which amended section 818 of the NDAA for FY 2012. The objective of this rule is to provide to DoD the authority to approve contractor-approved suppliers of electronic parts, in accordance with section 885(b) of the NDAA for FY 2016.

There were no significant issues raised by the public in response to the initial regulatory flexibility analysis.

The review, audit, and approval of a contractor-approved source generally occurs in conjunction with a contractor purchasing system review (CPSR) or other surveillance of purchasing practices by the contract administration

office. The Defense Contract Management Agency (DCMA) performs approximately 128 CPSRs per year. In addition, the contract administration office validates about 256 purchasing systems per year. There is also a quality management system audit of the purchasing system, which is performed on a risk-based basis at least once every three years. There are approximately 3,292 higher-level quality contractors, resulting in 1,097 possible reviews per year. Adding the purchasing system reviews and the quality management system audits totals 1,481 reviews (128 + 256 + 1097). However, DCMA estimates that it is likely that contractors using ''contractor-approved'' sources, would be limited to 10 percent or less of the contractors subject to these audits and reviews, *i.e.* not more than 148 contractors. DCMA further estimates that of those using ''contractor-approved'' sources, not more than 15 (10 percent) per year would result in issues or disapprovals by the Government.

This rule does not impose any reporting, recordkeeping, or other compliance requirements other than being subject to approval by DoD if the contractor or subcontractor identifies a contractor-approved supplier of electronic parts and the Government selects the contractor for review and audit. Since contractor selection of contractor-approved sources was already subject of review and audit, addition of ''and approval'' does not change much, because if the Government reviewed and audited a source and found a serious problem, the Government would require corrective action to prevent entry of such electronic parts into the supply chain. Furthermore, the contractor may proceed with the acquisition of electronic parts from a contractor-approved supplier unless otherwise notified by DoD.

DoD was unable to identify any significant alternatives that would reduce the economic impact on small entities and still fulfill the requirements of the statute. However, DoD does not expect this rule to have any significant economic impact on small entities, because it does not impose any new requirements on contractors or subcontractors. Contractors may proceed with the acquisition of electronic parts from a contractor-approved supplier unless otherwise notified by DoD.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 212, 246, and 252

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 212, 246, and 252 are amended as follows:

■ 1. The authority citation for parts 212, 246, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

212.301 [Amended]

■ 2. In section 212.301, amend paragraph (f)(xix)(C) by removing ''(Pub. L. 113–291)'' and adding ''(Pub. L. 113–291 and section 885 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114–92))'' in its place.

PART 246—QUALITY ASSURANCE

246.870–0 [Amended]

■ 3. Amend section 246.870–0, by removing ''(Pub. L. 113–291)'' and adding ''(Pub. L. 113–291 and section 885 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114–92))'' in its place.

■ 4. In section 246.870–2, revise paragraph (a)(1)(ii)(C) to read as follows:

246.870–2 Policy.

(a) * * *

(1) * * *

(ii) * * *

(C) The selection of such contractor-approved suppliers is subject to review, audit, and approval by the Government, generally in conjunction with a contractor purchasing system review or other surveillance of purchasing practices by the contract administration office, or if the Government obtains credible evidence that a contractor-approved supplier has provided counterfeit parts. The contractor may proceed with the acquisition of electronic parts from a contractor-approved supplier unless otherwise notified by DoD.

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PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Amend section 252.246–7008 by—

■ a. Removing the clause date ''(DEC 2017)'' and adding ''(MAY 2018)'' in its place;

■ b. In paragraph (b) introductory text, removing ''(Pub. L. 113–291)'' and adding ''(Pub. L. 113–291 and section 885 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114–92))'' in its place; and

■ c. Revising paragraph (b)(2)(iii).

The revision reads as follows:

252.246–7008 Sources of Electronic Parts.

* * * * *

(b) * * *

(2) * * *

(iii) The Contractor's selection of such contractor-approved suppliers is subject to review, audit, and approval by the Government, generally in conjunction with a contractor purchasing system review or other surveillance of purchasing practices by the contract administration office, or if the Government obtains credible evidence that a contractor-approved supplier has provided counterfeit parts. The Contractor may proceed with the acquisition of electronic parts from a contractor-approved supplier unless otherwise notified by DoD; or

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 215

[Docket DARS–2015–0051]

RIN 0750–AI75

Defense Federal Acquisition Regulation Supplement: Promoting Voluntary Post-Award Disclosure of Defective Pricing (DFARS Case 2015–D030)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to state that, in the interest of promoting voluntary contractor disclosures of defective pricing identified by the contractor after contract award, DoD contracting officers have discretion to request a limited-scope or full-scope audit, as appropriate for the circumstances.

DATES: Effective May 4, 2018.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, telephone 571–372–6099.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 80 FR 72669 on November 20, 2015, to amend the DFARS to indicate that DoD contracting officers have discretion to request a limited- or full-scope audit, as appropriate for the circumstances, when contractors voluntarily disclose defective pricing after contract award. In response to the Better Buying Power 2.0 initiative on ''Eliminating Requirements Imposed on Industry where Costs Outweigh Benefits,'' contractors recommended several changes to 41 U.S.C. chapter 35, Truthful Cost or Pricing Data (formerly the Truth in Negotiations Act) and to the related DFARS guidance. Specifically, contractors recommended that DoD clarify policy guidance to reduce repeated submissions of certified cost or pricing data. Frequent submissions of such data are used as a defense against defective pricing claims by DoD after contract award, since data that are frequently updated are less likely to be considered outdated or inaccurate and, therefore, defective. Better Buying Power 3.0 called for a revision of regulatory guidance regarding the requirement for contracting officers to request an audit even if a contractor voluntarily discloses defective pricing after contract award.

One respondent submitted a public comment in response to the proposed rule.

II. Discussion and Analysis

DoD reviewed the public comment in the development of the final rule. A discussion of the comment and changes made to the rule as a result of the comment is provided, as follows:

A. Summary of Significant Changes From the Proposed Rule

One change was made to the rule as a result of the public comment to remove the mandatory requirement to conduct an audit in all cases of a contractor's voluntary disclosure of defective pricing.

B. Analysis of Public Comment

Comment: The respondent recommended that ''shall'' be replaced by the word ''may'' concerning the requirement to request a limited-scope audit as proposed at DFARS 215.407–1(c)(i). The respondent stated that the study entitled ''Eliminating Requirements Imposed on Industry where Costs Outweigh Benefits'' recommended that DoD not impose a mandatory requirement on itself to conduct an audit in all cases of a contractor's voluntary disclosure of defective pricing, because such a mandatory requirement provides no discretion for contracting officers not to request an audit if in their judgment an audit is not required by the circumstances. However, instead of removing this mandatory requirement as recommended by the study, the proposed rule would change the DFARS from ''shall request an audit. . .'' to ''shall request a limited scope audit. . . .'' Thus, the proposed language still provides a strong disincentive to contractors to voluntarily disclose defective pricing and it still imposes a mandatory requirement on contracting officers that may not be in the best interests of the DoD in all circumstances.

Response: The final rule is revised to remove the mandatory requirement to conduct an audit in all cases of a contractor's voluntary disclosure of defective pricing. However, in order to calculate appropriate price reductions as required by 10 U.S.C. 2306a(e), it is necessary that contracting officers, at a minimum, discuss the disclosure with the Defense Contract Audit Agency (DCAA) to determine the completeness of the contractor's voluntary disclosure and the accuracy of the contractor's cost impact calculation for the affected contract, and the potential impact on existing contracts, task or delivery orders, or other proposals the contractor has submitted to the Government. This discussion will assist the contracting officer in determining the involvement of DCAA, which could be a limited-scope audit (*e.g.,* limited to the affected cost elements of the defective pricing disclosure), a full-scope audit, or technical assistance, as appropriate for the circumstances (*e.g.,* nature or dollar amount of the defective pricing disclosure).

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

The requirement for submission of certified cost or pricing data does not apply to contracts at or below the simplified acquisition threshold or to commercial items, including commercially available off-the-shelf items. Therefore, this rule is not applicable to those classes of contracts.

IV. 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 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.

V. 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.

VI. Regulatory Flexibility Act

A final regulatory flexibility analysis (FRFA) has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 691, *et seq.* The FRFA is summarized as follows:

The objective of this rule is to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to indicate that, in the interest of promoting voluntary contractor disclosures of defective pricing identified by the contractor after contract award, DoD contracting officers have discretion to request a limited-scope or full-scope audit, as appropriate for the circumstances. This rule will apply to all DoD contractors, including small entities, who are required to submit certified cost or pricing data.

There were no significant issues raised by the public in response to the initial regulatory flexibility analysis.

The number of small entities affected by this rule is unknown as this information is not available in the Federal Procurement Data System or other central repository. However, DoD anticipates that this rule could have a positive economic impact. If those small entities usually submit cost or pricing data frequently in order to avoid defective pricing claims, then this rule may encourage them to reduce the number of such submissions.

There is no change to reporting or recordkeeping as a result of this rule. The rule does not duplicate, overlap, or conflict with any other Federal rules,

and there are no known significant alternative approaches to the rule that would meet the requirements.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 215

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR part 215 is amended as follows:

PART 215—CONTRACTING BY NEGOTIATION

■ 1. The authority citation for part 215 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Add sections 215.407 and 215.407–1 to subpart 215.4 to read as follows:

215.407 Special cost or pricing areas.

215.407–1 Defective certified cost or pricing data.

(c)(i) When a contractor voluntarily discloses defective pricing after contract award, the contracting officer shall discuss the disclosure with the Defense Contract Audit Agency (DCAA). This discussion will assist in the contracting officer determining the involvement of DCAA, which could be a limited-scope audit (*e.g.,* limited to the affected cost elements of the defective pricing disclosure), a full-scope audit, or technical assistance as appropriate for the circumstances (*e.g.,* nature or dollar amount of the defective pricing disclosure). At a minimum, the contracting officer shall discuss with DCAA the following:

(A) Completeness of the contractor's voluntary disclosure on the affected contract.

(B) Accuracy of the contractor's cost impact calculation for the affected contract.

(C) Potential impact on existing contracts, task or deliver orders, or other proposals the contractor has submitted to the Government.

(ii) Voluntary disclosure of defective pricing is not a voluntary refund as defined in 242.7100 and does not waive the Government entitlement to the recovery of any overpayment plus interest on the overpayments in accordance with FAR 15.407–1(b)(7).

(iii) Voluntary disclosure of defective pricing does not waive the Government's rights to pursue defective pricing claims on the affected contract or any other Government contract.

[FR Doc. 2018–09489 Filed 5–3–18; 8:45 am]

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SURFACE TRANSPORTATION BOARD

49 CFR Part 1040

[Docket No. EP 726]

On-Time Performance Under Section 213 of The Passenger Rail Investment and Improvement Act of 2008

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (Board) is removing its final rule concerning on-time performance of intercity passenger rail service because it was invalidated upon judicial review.

DATE: This final rule is effective May 4, 2018.

FOR FURTHER INFORMATION CONTACT: Scott M. Zimmerman: (202) 245–0386. Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877–8339.

SUPPLEMENTARY INFORMATION: On May 15, 2015, the Board instituted a rulemaking proceeding in this docket to define ''on-time performance'' for intercity passenger trains for purposes of Section 213 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), 49 U.S.C. 24308(f). *See* 80 FR 28928. The Board adopted its final rule in 49 CFR part 1040 on July 28, 2016, and the rule took effect on August 27, 2016. *See* 81 FR 51343.

Petitions for judicial review of the final rule were filed in the U.S. Courts of Appeals for the Eighth Circuit and the District of Columbia Circuit, and were ultimately consolidated in the Eighth Circuit. The Court of Appeals found that the Board lacked authority to promulgate a final rule defining on-time performance under PRIIA and vacated the Board's rule. *See Union Pac. R.R.* v. *Surface Transp. Bd.,* 863 F.3d 816 (8th Cir. 2017). The National Railroad Passenger Corporation (Amtrak) and certain passenger organizations filed petitions for certiorari with the U.S. Supreme Court, which declined to review the Eighth Circuit's ruling.

The Board's rule is therefore invalid and 49 CFR part 1040 will be removed. Because this action is based on a final court determination that the rule being eliminated is invalid, the Board finds good cause to dispense with notice and comment under the Administrative Procedure Act (APA). *See* 5 U.S.C. 553(b)(B).

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601–612, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because the Board has determined that notice and comment are not required under the APA for this rulemaking, the requirements of the RFA do not apply.

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

List of Subjects in 49 CFR Part 1040

Mass transportation, Railroads.

It is ordered:

1. Part 1040 is removed and notice will be published in the **Federal Register**.

2. This decision is effective on May 4, 2018.

Decided: April 30, 2018.

By the Board, Board Members Begeman and Miller.

Jeffrey Herzig,

Clearance Clerk.

PART 1040 [REMOVED AND RESERVED]

■ For the reasons set forth in the preamble, and under the authority of 49 U.S.C. 1321(a), the Surface Transportation Board removes and reserves 49 CFR part 1040.

[FR Doc. 2018–09558 Filed 5–3–18; 8:45 am]

BILLING CODE 4915–01–P

Proposed Rules

Federal Register

Vol. 83, No. 87

Friday, May 4, 2018

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0358; Product Identifier 2017–NM–142–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A319–131, A319–132, A319–133, A320–231, A320–232, A320–233, A321–131, A321–231, and A321–232 airplanes. This proposed AD was prompted by reports of fan cowl door (FCD) losses during take-off. This proposed AD would require modification and re-identification, or replacement, of certain FCDs, and installation of a placard in the flight deck. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by June 18, 2018.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Bombardier Short Brothers, PLC, Airworthiness, P.O. Box 241, Airport Road, Belfast, BT3 9DZ Northern Ireland; telephone +44(0)2890–462469; fax +44(0)2890–468444; email *michael.mulholland@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0358; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0358; Product Identifier 2017–NM–142–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2017–0178, dated September 15, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A319–131, A319–132, A319–133, A320–231, A320–232, A320–233, A321–131, A321–231, and A321–232 airplanes. The MCAI states:

Fan Cowl Door (FCD) losses during take-off were reported on Airbus A320 family aeroplanes equipped with IAE [International Aero Engines] V2500 engines. Investigations confirmed that in all cases, the FCD were opened prior to the flight and were not correctly re-secured. During the pre-flight inspection, it was not detected that the FCD were not properly latched.

This condition, if not corrected, could lead to in-flight loss of an FCD, possibly resulting in damage to the aeroplane and/or injury to persons on the ground.

EASA issued AD 2016–0053 [which corresponds to FAA AD 2017–13–10, Amendment 39–18940 (82 FR 29371, June 29, 2017) (''AD 2017–13–10'')], requiring modification of the FCD installed on affected aeroplanes, and installation of a placard in the cockpit, in accordance with the instructions of Airbus Service Bulletin (SB) A320–71–1069 (which in turns refers to Goodrich SB V2500–NAC–71–0331 for FCD modification and re-identification).

The monolithic FCDs, installed on aeroplanes embodying Short Brothers supplemental type certificate (STC) 10029547, are also affected by this potential unsafe condition. Consequently, the STC Holder, trading as Bombardier Short Brothers, developed a modification, similar to the one designed by Airbus, and issued SB V25MFC–71–1003. The modification consists of a new FCD front latch and keeper assembly, having a specific key necessary to un-latch the FCD. This key cannot be removed unless the FCD front latch is safely closed. The key, after removal, must be stowed in the flight deck at a specific location, as instructed in the applicable Aircraft Maintenance Manual. The applicable Flight Crew Operating Manual has been amended accordingly. After modification, the FCD is identified with a different Part Number (P/N).

Mixed FCD installation can be found on aeroplanes embodying [EASA] STC 10029547 (*i.e.,* Monolithic FCD and standard production non-Monolithic FCD). For standard production non-Monolithic FCD, Bombardier Short Brothers SB V25MFC–71–1003 specifies to accomplish the instructions

of Goodrich SB V2500–NAC–71–0331, as applicable.

For the reasons described above, this [EASA] AD requires modification and re-identification of FCD, and installation of a placard in the cockpit.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0358.

Related Service Information Under 1 CFR Part 51

Bombardier Short Brothers, PLC has issued Service Bulletin V25MFC–71–1003, dated September 28, 2016. The service information describes procedures for installing modified latches on the left and right engine FCDs, and re-identifying the FCDs. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

EASA AD 2017–0178, dated September 15, 2017, includes both monolithic FCDs and non-monolithic FCDs (those not modified by Bombardier Short Brothers, PLC Supplemental Type Certificate (STC) ST03076NY). Required actions for the non-monolithic FCDs are included in AD 2017–13–10 (which corresponds to EASA AD 2016–0053, dated March 14, 2016), so we have not included them in this AD.

Costs of Compliance

We estimate that this proposed AD affects 557 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification and re-identification (or replacement), and placard installation.	8 work-hours × $85 per hour = $680	$1,500	$2,180	$1,214,260

Authority for This Rulemaking

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

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

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2018–0358; Product Identifier 2017–NM–142–AD.

(a) Comments Due Date

We must receive comments by June 18, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A319–131, A319–132, A319–133, A320–231, A320–232, A320–233, A321–131, A321–231, and A321–232 airplanes, certificated in any category, if modified by Bombardier Short Brothers, PLC Supplemental Type Certificate (STC) ST03076NY.

(d) Subject

Air Transport Association (ATA) of America Code 71, Powerplant.

(e) Reason

This AD was prompted by reports of fan cowl door (FCD) losses during takeoff. We are issuing this AD to prevent in-flight loss of an FCD, which could result in damage to the airplane and injury to persons on the ground.

(f) Compliance

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

(g) Modification and Re-Identification of FCDs

Within 18 months after the effective date of this AD: Do the modification and re-identification specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Modify each left-hand (LH) and right-hand (RH) FCD having a part number listed as ''Old Part Number'' in table 1 to paragraphs (g), (h), and (l) of this AD, in accordance with the Accomplishment Instructions of Bombardier Short Brothers Service Bulletin V25MFC–71–1003, dated September 28, 2016.

(2) Re-identify each modified FCD with the part number listed as ''New Part Number'' in table 1 to paragraphs (g), (h), and (l) of this AD, in accordance with the Accomplishment Instructions of Bombardier Short Brothers Service Bulletin V25MFC–71–1003, dated September 28, 2016.

TABLE 1 TO PARAGRAPHS (g), (h), AND (l) OF THIS AD—MONOLITHIC FCD PART NUMBER CHANGE

FCD position	Old part No.	New part No.
LH	745B4000–501	745B4000–507
	745B4000–503	745B4000–509
	745B4000–505	745B4000–511
RH	745B4000–502	745B4000–508
	745B4000–504	745B4000–510
	745B4000–506	745B4000–512

(h) Optional Compliance by Replacement or Installation

(1) Replacement of the FCDs having a part number listed as ''Old Part Number'' in table 1 paragraphs (g), (h), and (l) of this AD, with the FCDs having the corresponding part number listed as ''New Part Number'' in table 1 to paragraphs (g), (h), and (l) of this AD, is acceptable for compliance with the requirements of paragraph (g) of this AD.

(2) Installation on an engine of a right-hand and left-hand engine FCD having a part number approved after the effective date of this AD is acceptable for compliance with the requirements of paragraph (g) of this AD for that engine only, provided the conditions specified in paragraphs (h)(2)(i) and (h)(2)(ii) of this AD are met.

(i) The part number is approved using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Bombardier Short Brothers, PLC's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(ii) The installation is accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Bombardier Short Brothers, PLC's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(i) Placard Installation

For airplanes on which Airbus modification 157718 has not been embodied in production: Within 18 months after the effective date of this AD, install a placard that specifies the FCD keys stowage location in the flight deck on the box located at the bottom of the 120VU panel, or at the bottom of the coat stowage, as applicable to airplane configuration, using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Bombardier Short Brothers, PLC's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Missing FCD Keys or Placard

Flights with one or both FCD keys missing from the stowage location in the fight deck, or with the placard (that specifies the FCD keys stowage location) missing or damaged, are permitted for a period not to exceed 10 calendar days from the date of discovery.

(k) Alternate Location of FCD Keys and Placard

As an option to paragraph (i) of this AD, an alternate location for the key stowage in the flight deck and installation of a placard for identification of that stowage location are permitted as specified in the operator's FAA-accepted maintenance or inspection program, provided the keys can be retrieved from that flight deck location when needed and the placard installation is done within 18 months after the effective date of this AD.

(l) Parts Installation Prohibition

No person may install on any airplane an FCD with a part number identified as ''Old Part Number'' in table 1 to paragraphs (g), (h), and (l) of this AD, after the time specified in paragraph (l)(1) or (l)(2) of this AD, as applicable.

(1) For any airplane with an installed FCD having a part number identified as ''Old Part Number'' in table 1 to paragraphs (g), (h), and (l) of this AD: After modification of that airplane as required by paragraph (g) of this AD or as specified in paragraph (h) of this AD.

(2) For any airplane without an installed FCD having a part number identified as ''Old Part Number'' in table 1 to paragraphs (g), (h), and (l) of this AD: After the effective date of this AD.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (n)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the EASA; or Bombardier Short Brothers, PLC's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2017–0178, dated September 15, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0358.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223.

(3) For service information identified in this AD, contact Bombardier Short Brothers, PLC, Airworthiness, P.O. Box 241, Airport Road, Belfast, BT3 9DZ Northern Ireland; telephone +44(0)2890–462469; fax +44(0)2890–468444; email *michael.mulholland@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on April 20, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–09277 Filed 5–3–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–1033; Airspace Docket No. 17–ANM–19]

RIN 2120–AA66

Proposed Amendment of Class D and Class E Airspace; Moses Lake, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class D airspace, Class E surface area airspace, Class E airspace designated as an extension, and Class E

airspace extending upward from 700 and 1,200 feet above the surface at Grant County International Airport (formerly Grant County Airport), Moses Lake, WA. This action also proposes to remove the Notice to Airmen (NOTAM) part-time status of Class E airspace designated as an extension, and update the airport name and geographic coordinates for the airport in the associated Class D and E airspace areas to match the FAA's aeronautical database. These changes are necessary to accommodate airspace redesign for the safety and management of instrument flight rules (IFR) operations at the airport. Also, an editorial change would be made to the Class D and Class E airspace legal descriptions replacing ''Airport/Facility Directory'' with the term ''Chart Supplement''.

DATES: Comments must be received on or before June 18, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1–800–647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2017–1033; Airspace Docket No. 17–ANM–19, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.*

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

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

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S 216th St., Des Moines, WA 98198–6547; telephone (206) 231–2253.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class D and Class E surface airspace at Grant County International Airport, Moses Lake, WA, to support standard instrument approach procedures under IFR operations at the airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2017–1033; Airspace Docket No. 17–ANM–19''. The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

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

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class D airspace, Class E surface area airspace, Class E airspace designated as an extension, and Class E airspace extending upward from 700 feet above the surface, and removing Class E airspace extending upward from 1,200 feet above the surface at Grant County International Airport, Moses Lake, WA.

Class D airspace would be modified to a 5.3-mile radius (from a 5.7-mile radius) of the airport, and the excluded area southeast of the airport would be re-defined as ''within an area bounded by a line beginning at the point where the 147° bearing from the airport intersects the 5.3-mile radius of the airport to lat. 47°09′59″ N, long. 119°14′55″ W, to the point where the 103° bearing from the airport intersects the airport 5.3-mile radius, thence clockwise along the 5.3-mile radius of the airport to the point of beginning.''

Class E surface area airspace would be modified to be coincident with the dimensions of the Class D airspace, and would be effective during the hours when the Class D is not in effect to protect IFR operations continuously.

Class E airspace designated as an extension to a Class D or Class E surface

area would be modified by removing the segments extending to the northeast (within 2.2 miles each side of the Moses Lake VOR/DME 050 radial extending from the 5.7-mile radius of the airport to 13.5 miles northeast of the VOR/DME, and within 3.5 miles each side of the Moses Lake VOR/DME 063° radial extending from the 5.7-mile radius of the airport to 12.9 miles northeast of the VOR/DME). Also, the segment extending north of the airport would be enlarged to within 4.2 miles west and 3.9 miles east of the 339° bearing from Grant County International Airport extending from the airport 5.3-mile radius to 15.3 miles north of the airport (from within 1.8 miles each side of the Ephrata VORTAC 156° radial extending from the 5.7-mile radius of Grant County Airport to 2.7 miles southeast of the VORTAC), excluding the Ephrata Municipal Airport, WA, Class E surface area airspace. Also, a small extension south of the airport would be added within 1.0 mile each side of the airport 162° bearing extending from the 5.3-mile radius of the airport to 5.9 miles south of the airport. This proposal would also remove the NOTAM part-time status of Class E airspace designated as an extension, which would be in effect continuously.

Class E airspace extending upward from 700 feet would be modified to within a 7.1-mile (from a 16.6-mile) radius of Grant County International Airport, and within 3.8 miles southwest and 9-miles northeast of a 336° bearing extending from the airport to 27.5 miles northwest of the airport, and within 4 miles north and 8 miles south of the 069° bearing from the airport extending to 22.3 miles east of the airport, and within 8 miles east and 4 miles west of the 162° bearing from the airport extending to 22 miles south of the airport, and within 4-miles northwest and 8 miles southeast of the 223° bearing from the airport extending to 21.5 miles southwest of the airport (from a 16.6-mile radius of the Ephrata VORTAC). Also, the Class E airspace extending upward from 1,200 feet above the surface at the airport would be removed as it is wholly contained within the larger Spokane Class E en route airspace area, and duplication is not necessary.

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

Finally, an editorial change would be made to the Class D and Class E airspace legal descriptions replacing ''Airport/Facility Directory'' with the term ''Chart Supplement''. An editorial change also would be made removing the city associated with the airport name in the airspace designation to comply with a recent change to FAA Order 7400.2L, Procedures for Handling Airspace Matters, dated October 12, 2017.

Class D and Class E airspace designations are published in paragraph 5000, 6002, 6004, and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ANM WA D Moses Lake, WA [Amended]

Grant County International Airport, WA
(Lat. 47°12′31″ N, long. 119°19′09″ W)

That airspace extending upward from the surface to and including 3,700 feet MSL within a 3-mile radius of Grant County International Airport, excluding that airspace within an area bounded by a line beginning at the point where the 147° bearing from the airport intersects the 5.3-mile radius of the airport to lat. 47°09′59″ N, long. 119°14′55″ W, to the point where the 103° bearing from the airport intersects the airport 5.3-mile radius, thence clockwise along the 5.3-mile radius of the airport to the point of beginning. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ANM WA E2 Moses Lake, WA [Amended]

Grant County International Airport, WA
(Lat. 47°12′31″ N, long. 119°19′09″ W)

That airspace extending upward from the surface within a 5.3-mile radius of Grant County International Airport, excluding that airspace within an area bounded by a line beginning at the point where the 147° bearing from the airport intersects the 5.3-mile radius of the airport to lat. 47°09′59″ N, long. 119°14′55″ W, to the point where the 103° bearing from the airport intersects the airport 5.3 mile radius, thence clockwise along the 5.3-mile radius of the airport to the point of beginning. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

ANM WA E4 Moses Lake, WA [Amended]

Grant County International Airport, WA
(Lat. 47°12′31″ N, long. 119°19′09″ W)

That airspace extending upward from the surface within 4.2 miles west and 3.9 miles

east of the 339° bearing from Grant County International Airport extending from the airport 5.3-mile radius to 15.3 miles north of the airport, and within 1.0 mile each side of the airport 162° bearing extending from the 5.3-mile radius of the airport to 5.9 miles south of the airport, excluding that airspace within the Ephrata Municipal Airport, WA, Class E surface area.

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

* * * * *

ANM WA E5 Moses Lake, WA [Amended]

Grant County International Airport, WA
(Lat. 47°12′31″ N, long. 119°19′09″ W)

That airspace upward from 700 feet above the surface within a 7.1-mile radius of Grant County International Airport, and within 3.8 miles southwest and 9-miles northeast of a 336° bearing extending from the airport to 27.5 miles northwest of the airport, and within 4 miles north and 8 miles south of the 069° bearing from the airport extending to 22.3 miles east of the airport, and within 8 miles east and 4 miles west of the 162° bearing from the airport extending to 22 miles south of the airport, and within 4-miles northwest and 8 miles southeast of the 223° bearing from the airport extending to 21.5 miles southwest of the airport.

Issued in Seattle, Washington, on April 23, 2018.

B.G. Chew,

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

[FR Doc. 2018–09105 Filed 5–3–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0125; Airspace Docket No. 18–AAL–5]

RIN 2120–AA66

Proposed Amendment of Class D and Class E Airspace, and Revocation of Class E Airspace; Juneau, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace, Class E surface area airspace, Class E airspace extending upward from 700 feet above the surface, and remove Class E airspace designated as an extension at Juneau International Airport, Juneau, AK. Airspace redesign is necessary as the FAA transitions from ground-based to satellite-based navigation for the safety and management of instrument flight rules (IFR) operations at the airport. This proposal would also update the airport's geographic coordinates to match the FAA's aeronautical database for the associated Class D and E airspace areas, and would make an editorial change to the Class D airspace legal description replacing Airport/Facility Directory with the term Chart Supplement.

DATES: Comments must be received on or before June 18, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1(800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2018–0125; Airspace Docket No. 18–AAL–5, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.*

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

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

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S 216th St., Des Moines, WA 98198–6547; telephone (206) 231–2253.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would amend Class D and Class E airspace at Juneau International Airport, Juneau, AK, in support of IFR operations at the airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA–2018–0125; Airspace Docket No. 18–AAL–5) and be submitted in triplicate to DOT Docket Operations (see ADDRESSES section for address and phone number). Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2018–0125; Airspace Docket No. 18–AAL–5.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the ADDRESSES section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday

through Friday, except federal holidays, at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th St., Des Moines, WA 98198–6547.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by enlarging Class D airspace and Class E surface area airspace, removing Class E airspace designated as an extension, and reducing Class E airspace extending upward from 700 feet above the surface at Juneau International Airport, Juneau, AK. Also, the airport geographic coordinates for the associated Class D and E airspace areas would be updated to match the FAA's aeronautical database.

Class D airspace would be modified to within a 3-mile radius of Juneau International Airport and within 2.5 miles each side of the 271° bearing from the airport extending from the 3-mile radius to 5.2 miles west of the airport, and within 1.0 mile southwest and 2.6 miles northeast of the airport 135° bearing extending from the airport 3-mile radius to 5 miles southeast of the airport, excluding that airspace below 2,000 feet MSL within the area bounded by a line beginning at lat. 58°19′35″ N, long. 134°24′31″ W, to lat. 58°19′02″ N, long. 134°25′33″ W, to lat. 58°20′16″ N, long. 134°27′28″ W, to lat. 58°20′34″ N, long. 134°26′22″ W, thence to the point of beginning. The extended areas to the west and southeast of the airport would contain IFR departures and arrivals. A small area within the extended area to the southeast near Salmon Creek would be excluded from Class D airspace below 2,000 feet MSL to ensure 2-way radio communication with the Juneau Airport Traffic Control Tower is possible prior to entering Class D airspace from that area.

Class E surface area airspace would be modified to be coincident with the Class D airspace area described above.

Class E airspace designated as an extension would be removed since the proposed Class D airspace would contain arrival aircraft within 1,000 feet of the surface, and a Class E arrival extension would not be required.

Class E airspace extending upward from 700 feet above the surface would be modified to a polygon approximately 12–18 miles wide by 42-miles long (from approximately 48 miles wide by 70 miles long) oriented northwest to southeast (from west to east). The area would be defined as that airspace upward from 700 feet above the surface within the area bounded by a line beginning at lat. 58°27′33″ N, long. 134°37′40″ W, to lat. 58°13′13″ N, long. 134°11′51″ W, to lat. 58°05′59″ N, long. 134°21′04″ W, to lat. 58°10′51″ N, long. 134°59′18″ W, to lat. 58°23′41″ N, long. 135°31′13″ W, to lat. 58°32′22″ N, long. 135°18′32″ W, to lat. 58°27′17″ N, long. 135°01′27″ W, thence to the point of beginning. This modification would reduce the airspace area to only that area necessary to contain IFR operations as they transition between the airport and en route environments. Also, Class E airspace extending upward from 1,200 feet above the surface designated for Juneau International Airport would be removed since this airspace is wholly contained within the Southeast Alaska Class E en route airspace, and duplication is not necessary.

This proposal would also make an editorial change to the Class D airspace legal description replacing Airport/Facility Directory with the term Chart Supplement.

A graphic illustration of the proposed airspace will be entered into Docket No. FAA–2018–0125, and be available for download under the ''Supporting/Related Materials'' section.

Class E airspace designations are published in paragraph 5000, 6002, 6004, and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017 and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

AAL AK D Juneau, AK [Amended]

Juneau International Airport, AK
(Lat. 58°21′17″ N, long. 134°34′42″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 3-mile radius of Juneau International Airport, and within 2.5 miles each side of the 271° bearing from the airport extending from the 3-mile radius to 5.2 miles west of the airport, and within 1.0 mile southwest and 2.6 miles northeast of the airport 135° bearing extending from the airport 3-mile radius to 5 miles southeast of the airport, excluding that airspace below 2,000 feet MSL within the area bounded by a line beginning at lat. 58°19′35″ N, long. 134°24′31″ W, to lat. 58°19′02″ N, long. 134°25′33″ W, to lat. 58°20′16″ N, long. 134°27′28″ W, to lat. 58°20′34″ N, long.

134°26′22″ W, thence to the point of beginning. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Airspace Areas Designated as Surface Areas.

* * * * *

AAL AK E2 Juneau, AK [Amended]

Juneau International Airport, AK
(Lat. 58°21′17″ N, long. 134°34′42″ W)

That airspace extending upward from the surface within a 3-mile radius of Juneau International Airport, and within 2.5 miles each side of the 271° bearing from the airport extending from the 3-mile radius to 5.2 miles west of the airport, and within 1.0 mile southwest and 2.6 miles northeast of the airport 135° bearing extending from the airport 3-mile radius to 5 miles southeast of the airport, excluding that airspace below 2,000 feet MSL within the area bounded by a line beginning at lat. 58°19′35″ N, long. 134°24′31″ W, to lat. 58°19′02″ N, long. 134°25′33″ W, to lat. 58°20′16″ N, long. 134°27′28″ W, to lat. 58°20′34″ N, long. 134°26′22″ W, thence to the point of beginning. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

AAL AK E4 Juneau, AK [Removed]

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

* * * * *

AAL AK E5 Juneau, AK [Amended]

Juneau International Airport, AK
(Lat. 58°21′17″ N, long. 134°34′42″ W)

That airspace upward from 700 feet above the surface within the area bounded by a line beginning at lat. 58°27′33″ N, long. 134°37′40″ W, to lat. 58°13′13″ N, long. 134°11′51″ W, to lat. 58°05′59″ N, long. 134°21′04″ W, to lat. 58°10′51″ N, long. 134°59′18″ W, to lat. 58°23′41″ N, long. 135°31′13″ W, to lat. 58°32′22″ N, long. 135°18′32″ W, to lat. 58°27′17″ N, long. 135°01′27″ W, thence to the point of beginning.

Issued in Seattle, Washington, on April 23, 2018.

B.G. Chew,

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

[FR Doc. 2018–09106 Filed 5–3–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0126; Airspace Docket No. 18–AAL–6]

RIN 2120–AA66

Proposed Establishment of Class E Airspace; Hoonah, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace extending upward from 700 feet above the surface, at Hoonah Airport, Hoonah, AK, to accommodate area navigation (RNAV) procedures at the airport. This action would ensure the safety and management of instrument flight rules (IFR) operations within the National Airspace System.

DATES: Comments must be received on or before June 18, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1 (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2018–0126; Airspace Docket No. 18–AAL–6, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.*

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

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

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S 216th St., Des Moines, WA 98198–6547; telephone (206) 231–2253.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace at Hoonah Airport, Hoonah, AK, in support of IFR operations at the airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA–2018–0126; Airspace Docket No. 18–AAL–6) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for address and phone number).

Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2018–0126; Airspace Docket No. 18–AAL–6.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays, at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th St., Des Moines, WA 98198–6547.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing a designated stand-alone Class E airspace extending upward from 700 feet above the surface at Hoonah Airport, Hoonah, AK, within a 3-mile radius of the airport and within 3 miles each side of the 077° bearing from the airport extending from the airport 3-mile radius to 8.1 miles east of the airport. This airspace area would specifically support IFR operations at Hoonah Airport, and would be unaffected by any proposed changes that would occur at any other airport.

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AAL AK E5 Hoonah, AK [New]

Hoonah Airport, AK

(Lat. 58°05′46″ N, long. 135°24′32″ W)

That airspace extending upward from 700 feet above the surface within a 3-mile radius of the Hoonah Airport and within 3 miles each side of the airport 077° bearing extending from the airport 3-mile radius to 8.1 miles east of the airport.

Issued in Seattle, Washington, on April 23, 2018.

B.G. Chew,

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

[FR Doc. 2018–09108 Filed 5–3–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2018–0209]

RIN 1625–AA08

Special Local Regulations for Marine Events, Delaware River; Philadelphia, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard is proposing to establish a special local regulation on the waters of the Delaware River in Philadelphia, Pennsylvania. The regulation would restrict vessel traffic operations on a portion of the Delaware River during the Tall Ships Parade of Sail event that is taking place on May 24, 2018, from 12:00 noon to 6:00 p.m. This regulation is necessary to protect the surrounding public and vessels from the hazards associated with a parade of sail.

DATES: Comments and related material must be received by the Coast Guard on or before May 11, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2018–0209 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant (Junior Grade) Kiley Relf, U.S. Coast Guard, Sector Delaware Bay, Chief Waterways Management Division, Coast Guard; telephone (215) 271–4851, email *Kiley.A.Relf@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

The sponsor for the Sail Philadelphia marine event submitted an application for a marine event permit that will take place from May 24, 2018, through May 28, 2018. The event includes a tall ships parade from noon to 6 p.m. on May 24, 2018. The COTP Delaware Bay has determined that potential hazards associated with the parade would be a safety concern for anyone intending to participate in this event or for vessels that operate within the waters where this event will be held.

The purpose of this proposed rulemaking is to ensure the safety of vessels and persons during the tall ships' parade on the navigable waters of the Delaware River in Philadelphia, Pennsylvania. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1233.

III. Discussion of Proposed Rule

The COTP Delaware Bay, proposes the establishment of a special local regulation on specified waters of the Delaware River, adjacent to Philadelphia, Pennsylvania, bounded in the west by the Pennsylvania shoreline, bounded in the east by the eastern edge of the navigation channel, bounded in the South by the Walt Whitman Bridge, and bounded on the north by the Benjamin Franklin Bridge. In addition, the special local regulation includes all waters of the Delaware River South of the Benjamin Franklin Bridge to an east-west line from the northern end of Wiggins Marina in Camden, New Jersey, (39°56′32″ N and 075°07′56″ W) to the Pennsylvania shoreline. The special local regulation will be effective and enforced during the tall ships parade from noon through 6 p.m. on May 24, 2018. Access to the regulated area will be restricted during the specified date and time.

A fleet of spectator vessels is anticipated to gather nearby to view the marine event. Due to the need for vessel control during the marine event, vessel traffic will temporarily be restricted to provide safety of participants, spectators and transiting vessels. The Coast Guard will apply the provisions of 33 CFR 100.501(c) to the above specified locations during the enforcement period. Vessels may not enter the regulated area unless they receive permission from the designated representative.

The Coast Guard will have a marine event patrol, as described in 33 CFR 100.40(a), to the event. Additionally, a Patrol Commander will be assigned to oversee the patrol. The marine event patrol and Patrol Commander may be contacted on VHF–FM Channel 16. During the enforcement period, the Coast Guard Patrol Commander may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by the marine event patrol vessel or Patrol Commander, a vessel within the regulated area shall immediately comply with the directions given. Failure to do so may result in expulsion from the regulated area, citation for failure to comply, or both. The Coast Guard Patrol Commander may terminate the event, or the operation of any vessel participating in the event, at any time he or she deems it necessary for the protection of life or property. Coast Guard Sector Delaware Bay will notify the public by a broadcast notice to mariners at least one hour prior to the times of enforcement. Additionally a broadcast notice to marines will notify mariners of the termination of the Special Local Regulation.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

Although this regulation will restrict access to the regulated area, the effect of this proposed rule will not be significant because: (i) The Coast Guard will make extensive notification of the regulated area to the maritime public via maritime advisories so mariners can alter their plans accordingly; (ii) vessels may still be permitted to transit through the regulated area with the permission of the designated representative on a case-by-case basis; and (iii) this rule will be enforced for only the duration of the tall ships parade, a six hour event.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a special local regulation lasting less than 7 hours that would prohibit entry into portions of the Delaware River in order to promote public and maritime safety during a tall ships parade. Normally such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. Supporting documentation is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.*

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that 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 or a final rule is published.

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C 1233, 33 CFR 1.05–1.

■ 2. Add temporary § 100.T05–0209, to read as follows:

§ 100.T05–0209 Special Local Regulations For Marine Events, Delaware River; Philadelphia, PA.

(a) *Regulated areas.* All waters of the Delaware River, adjacent to Philadelphia, Pennsylvania, bounded in the west by the Pennsylvania shoreline, bounded in the east by the eastern edge of the navigation channel as depicted on U.S. Nautical Chart 12313 or U.S. Electronic Nautical Chart US5PA12M, bounded in the south by the Walt Whitman Bridge, and bounded on the north by the Benjamin Franklin Bridge. In addition, the special local regulation includes all waters of the Delaware River south of the Benjamin Franklin Bridge to an east-west line from the northern end of Wiggins Marina in Camden, New Jersey, (39°56′32″ N and 075°07′56″ W) to the Pennsylvania shoreline. The coordinates for both areas are based on datum WGS 84.

(b) *Definitions.* (1) As used in this section, *Captain of the Port* means the Commander, Sector Delaware Bay or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(2) *Coast Guard Patrol Commander.* A Patrol Commander (PATCOM) is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the respective Coast Guard Sector—Captain of the Port to enforce these regulations.

(3) *Official patrol.* Any vessel assigned or approved by the respective Captain of the Port with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(4) *Spectators.* All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(c) *Regulations.* (1) Controls on vessel movement. The PATCOM or designated marine event patrol may forbid and control the movement of all vessels in the regulated area(s). When hailed or signaled by an official patrol vessel, a vessel in these areas shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) Directions, instructions, and minimum speed necessary. The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(iii) Vessel operators may request permission to enter and transit through a regulated area by contacting the PATCOM on VHF–FM channel 16. When authorized to transit through the regulated area, vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course or marine event area.

(d) *Enforcement Period.* This rule will be enforced from noon through 6 p.m. on May 24, 2018, unless cancelled earlier by the Captain of the Port once all operations are completed.

Dated: April 30, 2018.

Scott. E. Anderson,

Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.

[FR Doc. 2018–09436 Filed 5–3–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0257]

RIN 1625–AA09

Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; reopening comment period.

SUMMARY: The Coast Guard is reopening the comment period to solicit additional comments concerning the notice of proposed rulemaking (NPRM), which published on June 30, 2017. Reopening the comment period will allow the public to provide input on the proposed change to the regulation governing the DELAIR Memorial Railroad Bridge across the Delaware River, mile 104.6, at Pennsauken Township, NJ.

DATES: The comment period for the proposed rule published June 30, 2017, at 82 FR 29800, is reopened. Comments and related material must reach the Coast Guard on or before August 17, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2016–0257 using Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Hal R. Pitts, Fifth Coast Guard District (dpb); telephone (757) 398–6222, email *Hal.R.Pitts@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

On June 30, 2017, we published a notice of proposed rulemaking (NPRM) entitled, ''Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ'' in the **Federal Register** (82 FR 29800). The original comment period closed on August 18, 2017. The NPRM proposed changes to the regulation governing the DELAIR Memorial Railroad Bridge across the Delaware River, mile 104.6, at Pennsauken Township, and contained useful background and analysis related to the proposed changes. The installation of the remote operation system did not change the operational schedule of the bridge.[1] The public is encouraged to review the NPRM.

On April 12, 2017, we published a temporary deviation entitled ''Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ'' in the **Federal Register** (82 FR 17561). During the initial test deviation performed from 8 a.m. on April 24, 2017, through 7:59 a.m. on October 21, 2017, the bridge owner identified deficiencies in the remote operation center procedures, bridge to vessel communications, and equipment redundancy.

The bridge owner implemented policies and provided training to address the procedural and communications deficiencies, and implemented backup systems to mitigate potential equipment and systems failures. These changes were not fully evaluated during the temporary deviation ending October 21, 2017. Therefore, the Coast Guard decided to issue a second temporary deviation (''Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ'' in the **Federal Register** (82 FR 48419), to complete the evaluation of the changes incorporated into the remote operation system.

On December 6, 2017, we published a notice of proposed rulemaking; reopening of comment period (NPRM); entitled ''Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ'' in the **Federal Register** (82 FR 57561). This notice included a request for comments and related material to reach the Coast Guard on or before January 15, 2018.

On January 22, 2018, we published a notice of temporary deviation; reopening of comment period; entitled ''Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ'' in the **Federal Register** (83 FR 2909). This notice included a request for comments and related material to reach the Coast Guard on or before March 2, 2018.

On February 15, 2018, we published a notice of proposed rulemaking; reopening comment period; entitled ''Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ'' in the **Federal Register** (see 83 FR 6821). This notice included a request for comments and related material to reach the Coast Guard on or before March 2, 2018.

The Coast Guard has reviewed 25 comments posted to the docket, six reports with supporting documentation submitted by the bridge owner during the initial and second temporary deviations, and other information concerning the remote operation system of the DELAIR Memorial Railroad Bridge. Through this review, the Coast Guard found that further testing and evaluation of the remote operation system of the drawbridge is necessary before making a decision on the proposed regulation. The Coast Guard has issued a third temporary deviation from 8 a.m. on April 19, 2018, through 7:59 a.m. on October 16, 2018, to provide sufficient time for further testing and evaluation of the remote operation system of the DELAIR Memorial Railroad Bridge.

During this temporary deviation, the following changes have been implemented: (1) The on-site bridge tender will be removed from the bridge, (2) qualified personnel will return and operate the bridge within 60 minutes if the remote operation system is considered in a failed condition,[2] and

[1] A full description of the remote operational system is outlined in the aforementioned publication, which can be found at *http://regulations.gov.* (see **ADDRESSES** for more information).

[2] The conditions in which the remote operation system will be considered in a failed condition are detailed in the Supplementary Information: III. Discussion of Proposed Rule section of the Notice of Proposed Rulemaking (NPRM), which can be found at: *http://regulations.gov,* (see **ADDRESSES** for more information).

(3) comments concerning the utility and value of the automated identification system (AIS) are requested.

II. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.*

Documents mentioned in this NPRM as being available in this docket, as well as all public comments, will be 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 or a final rule is published.

M.L. Austin,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2018–09531 Filed 5–3–18; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 15, 25, 30, and 101

[AU Docket No. 18–85; FCC 18–43]

Auctions of Upper Microwave Flexible Use Licenses for Next-Generation Wireless Services; Comment Sought on Competitive Bidding Procedures for Auctions 101 (28 GHz) and 102 (24 GHz); Bidding in Auction 101 Scheduled To Begin November 14, 2018

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; proposed auction procedures.

SUMMARY: In this document, the Commission announces auctions of Upper Microwave Flexible Use Service licenses in the 27.5–28.35 GHz (28 GHz) and 24.25–24.45 and 24.75–25.25 GHz (24 GHz) bands, designated as Auctions 101 and 102, respectively. This document proposes and seeks comment on competitive bidding procedures and minimum opening bids to be used for Auctions 101 and 102.

DATES: Comments are due on or before May 9, 2018, and reply comments are due on or before May 23, 2018. Bidding in Auction 101 for licenses in the 28 GHz band is scheduled to commence on November 14, 2018. Bidding in Auction 102 for licenses in the 24 GHz band is scheduled to commence subsequent to the conclusion of bidding in Auction 101.

ADDRESSES: Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (May 1, 1998). All filings in response to the *Auctions 101 and 102 Comment Public Notice* must refer to AU Docket No.18–85. The Commission strongly encourages interested parties to file comments electronically, specifying the particular auction(s) (*i.e.,* Auction 101 and/or Auction 102) to which their comments are directed, and request that an additional copy of all comments and reply comments be submitted electronically to the following email address: *auction101-102@fcc.gov.*

Electronic Filers: Comments may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs/.* Filers should follow the instructions provided on the website for submitting comments. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number, AU Docket No. 18–85.

Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For auction legal questions, Erik Beith or Kathryn Hinton in the Wireless Telecommunications Bureau's Auctions and Spectrum Access Division at (202) 418–0660. For general auction questions, the Auctions Hotline at (717) 338–2868. For Upper Microwave Flexible Use Service questions, Nancy Zaczek or Janet Young in the Wireless Telecommunications Bureau's Broadband Division at (202) 418–2487.

SUPPLEMENTARY INFORMATION: This is a summary of the Public Notice (*Auctions 101 and 102 Comment Public Notice*), AU Docket No. 18–85, FCC 18–43, adopted and released on April 17, 2018. The *Auctions 101 and 102 Comment Public Notice* includes the following attachments: Attachment A, Summary of Licenses to be Auctioned; and Attachment B, Bid Formula for Auction 101. The complete text of the *Auctions 101 and 102 Comment Public Notice,* including all attachments, is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW, Room CY–A257, Washington, DC 20554. The complete text is also available on the Commission's website at *www.fcc.gov/auction/101-102/* or by using the search function for AU Docket No. 18–85 on the Commission's ECFS web page at *www.fcc.gov/cgb/ecfs/.* Alternative formats are available to persons with disabilities by sending an email to *FCC504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates

indicated in the *Auctions 101 and 102 Comment Public Notice* in AU Docket No. 18–85.

I. Introduction

1. By the *Auctions 101 and 102 Comment Public Notice,* the Commission announces that it will auction a total of 5,986 Upper Microwave Flexible Use Service (UMFUS) licenses in the 27.5–28.35 GHz (28 GHz) and 24.25–24.45 and 24.75–25.25 GHz (24 GHz) bands (collectively, the UMFUS bands), and it seeks comment on the procedures to be used for these auctions. The bidding in the auction for licenses in the 28 GHz band, which is designated as Auction 101, is scheduled to commence on November 14, 2018. Bidding in the auction for licenses in the 24 GHz band, which is designated as Auction 102, will be scheduled to commence subsequent to the conclusion of bidding in Auction 101. As discussed below, the Commission proposes to use its standard simultaneous multiple-round (SMR) auction format for Auction 101 (28 GHz) and a clock auction format for Auction 102 (24 GHz).

II. Licenses To Be Offered in Auctions 101 and 102

A. Description of Licenses

2. The 1.55 gigahertz of UMFUS spectrum available in Auctions 101 and 102 will be licensed on a geographic area basis. The Second Further Notice of Proposed Rulemaking in the Spectrum Frontiers proceeding raised issues with respect to Fixed-Satellite Services (FSS) use in a portion of the 24 GHz band, operability in the 24 GHz band, whether to add an alternative performance requirement metric for UMFUS services in the millimeter wave (mmW or mmWave) bands, and certain issues related to mobile spectrum holdings policies for UMFUS services in the mmW bands. The Commission plans to make a decision on these issues before the start of Auction 101. The 3,074 licenses in the 28 GHz band offered in Auction 101 will be county-based licenses. The 28 GHz band will be licensed as two 425 megahertz blocks (27.500- 27.925 GHz and 27.925–28.350 GHz). For each county in which 28 GHz licenses will be available for auction, both blocks of the 28 GHz band will be available.

3. Auction 102 will offer 2,912 licenses in the 24 GHz band, and the licenses will be based on PEAs. The lower segment of the 24 GHz band (24.25–24.45 GHz) will be licensed as two 100 megahertz blocks, while the upper segment (24.75–25.25 GHz) will be licensed as five 100 megahertz blocks.

4. Each of the bands available in Auctions 101 and 102 will be licensed on an unpaired basis. A licensee in these bands may provide any services permitted under a fixed or mobile allocation, as set forth in the non-Federal Government column of the Table of Frequency Allocations in Section 2.106 of the Commission's rules.

5. Table 1 in the *Auctions 101 and 102 Comment PN* contains summary information regarding the UMFUS licenses available in Auction 101. Table 2 in the *Auctions 101 and 102 Comment PN* contains summary information regarding the UMFUS licenses available in Auction 102.

6. A summary of the licenses to be offered in Auctions 101 and 102 is available in Attachment A to the *Auctions 101 and 102 Comment Public Notice.* The 28 GHz licenses listed in Attachment A as available in Auction 101 do not include counties within the boundaries of existing active 28 GHz licenses. Due to the large number of licenses offered in Auctions 101 and 102, the complete list of licenses to be offered in these auctions will be provided in electronic format only, available as separate Attachment A files at *www.fcc.gov/auction/101-102.*

B. Incumbents in 28 GHz and 24 GHz Bands

7. Active licenses in the 28 GHz band cover 1,695 full counties and two partial counties. Active licenses in the 24 GHz band cover nine PEAs.

C. Sharing Issues

1. 28 GHz Band

8. As background that should guide decisions to participate in the auctions, the Commission set up a sharing scheme for the 28 GHz band. Specifically, licenses for UMFUS in the 28 GHz band are being made available on a shared basis with FSS earth stations on a co-primary basis. Up to three transmitting FSS earth stations may be located in each county that are not required to protect UMFUS operations within a specified interference zone. In the *2016 Spectrum Frontiers Order,* 81 FR 79894, November 14, 2016, the Commission grandfathered all existing 28 GHz FSS earth stations authorized as of the adoption date, July 14, 2016, and granted them the right to operate under the terms of their existing authorizations without taking into account possible interference to UMFUS operations. That decision also grandfathered pending applications for 28 GHz earth stations filed prior to the adoption date of the *2016 Spectrum Frontiers Order* if such applications were subsequently granted pursuant to the existing Part 25 rules. The Commission also gave FSS operators multiple mechanisms for deploying earth stations. First, it granted status to any FSS earth stations for which the FSS operator also holds the UMFUS license, whether through participation in an auction or the secondary markets, that covers the earth station's permitted interference. To the extent FSS operators and UMFUS licensees enter into private agreements, the Commission held that their relationship will be governed by those agreements. The Commission also determined that FSS earth stations may continue to be authorized without the benefit of an interference zone, *i.e.,* on a secondary basis.

9. In the *2017 Spectrum Frontiers Order,* 83 FR 37, January 2, 2018, the Commission decided that it would continue to authorize satellite earth stations on a first-come, first-served basis in the 28 GHz band, but modified the guidelines for their deployment. The current rule for sharing between UMFUS and FSS earth stations in the 28 GHz band is Section 25.136(a) of the Commission's rules.

2. 24 GHz Band

10. Similarly, the Commission adopted a sharing regime for the 24 GHz band as well. Specifically, licenses for UMFUS in the upper segment of the 24 GHz band (24.75–25.25 GHz) are being made available on a shared basis with incumbent Broadcast Satellite Service (BSS) feeder link stations. The upper segment of the 24 GHz band (24.75–25.25 GHz) is divided into two parts. Satellite use of the upper part (25.05–25.25 GHz) is currently restricted to BSS feeder link earth stations in EAs where there is no Fixed Service licensee. The lower part (24.75–25.05 GHz), which has no terrestrial licensees, is open for all FSS use, though BSS feeder links have priority. BSS feeder link earth stations can be licensed to operate in the 24.75–25.05 GHz and 25.05–25.25 GHz bands. In the *2017 Spectrum Frontiers FNPRM,* 83 FR 85, January 2, 2018, the Commission sought comment on licensing FSS earth stations in the 24.75–25.25 GHz band on a co-primary basis under the provisions in Section 25.136(d). This means that the 24.75–25.25 GHz band would be available only for individually-licensed FSS earth stations that meet specific requirements applicable to earth stations in other bands shared with UMFUS (*e.g.,* limitations on population covered, number of earth station locations in a PEA, and a prohibition on earth stations

in places where they would preclude terrestrial service to people or equipment that are in transit or are present at mass gatherings).

III. Application and Bidding Processes: Implementation of Part 1 Rules for Auctions 101 and 102

A. Separate Auction Application and Bidding Processes

11. The Commission proposes to offer the 5,986 licenses described above through two separate auctions, Auctions 101 and 102, respectively. Bidding in Auction 101 for 28 GHz band licenses is scheduled to commence on November 14, 2018. The Commission proposes to commence bidding in Auction 102 for 24 GHz band licenses subsequent to the close of bidding in Auction 101.

12. The Commission proposes to use separate application and bidding processes for Auctions 101 and 102. The Commission proposes separate auctions so that it can use different auction formats for Auctions 101 and 102, which will accommodate differences in the characteristics of the specific inventories of licenses available in these two bands and simplify the bidding process for participants. For example, the similarities among blocks in the 24 GHz band facilitate using a clock auction with generic blocks, which will speed up the bidding relative to license-by-license bidding, which is needed when blocks in the band are less uniformly available, as in 28 GHz. With respect to bidding, the Commission proposes to use its standard SMR auction format for Auction 101 (28 GHz) and a clock auction format, similar to that used for the forward auction portion (Auction 1002) of the Broadcast Incentive Auction, for Auction 102 (24 GHz), as described and explained in greater detail below. The Commission proposes to accept auction applications during separate application filing windows—one for Auction 101 and one for Auction 102. The Commission also seeks comment on whether the filing window for Auction 102 should occur prior to the close of bidding in Auction 101.

13. The Commission seeks comment on issues related to the timing of the proposed, separate application and bidding processes. Commenters should address how the sequence and timing for Auctions 101 and 102 processes, including pre- and post-auction procedures, may affect bidder participation in one or both auctions. Specifically, how can the Commission coordinate the timing of auction application and bidding procedures so as to minimize burdens on auction applicants and maximize participation and competition in both auctions? Should the Commission open both windows before bidding begins in Auction 101? Or should the Commission wait to open the filing window for Auction 102 until after bidding in Auction 101 has begun? Alternatively, should the Commission wait to open the application window for Auction 102 until after the close of bidding in Auction 101?

14. The Commission notes that, if the filing window for Auction 102 occurs prior to the close of bidding in Auction 101, entities wishing to participate in either auction would be applicants during overlapping periods of time. Further, because the licenses to be offered in both Auctions 101 and 102 cover UMFUS spectrum and are subject to many of the same service rules, applicants may view the licenses to be offered in these auctions as substitutes, at least to some extent, and therefore may be interested in participating in both auctions. Therefore, the Commission encourages commenters to consider how the timing of the separate application windows and bidding processes for Auctions 101 and 102 might affect the ban on joint bidding agreements and prohibition of certain communications by auction applicants during these overlapping auctions, as well as information disclosure procedures during the auction process, as discussed in greater detail below. Commenters should provide specific reasons for supporting or objecting to any approach.

B. Information Procedures During the Auction Process

15. As with most recent Commission spectrum license auctions, the Commission proposes to limit information available in Auctions 101 and 102 in order to prevent the identification of bidders placing particular bids until after the bidding has closed. More specifically, the Commission proposes to not make public until after bidding has closed: (1) The licenses or license areas that an applicant selects for bidding in its auction application (FCC Form 175), (2) the amount of any upfront payment made by or on behalf of an applicant for Auction 101 or 102, (3) any applicant's bidding eligibility, and (4) any other bidding-related information that might reveal the identity of the bidder placing a bid.

16. Under these proposed limited information procedures (sometimes also referred to as anonymous bidding), information to be made public after each round of bidding in Auction 101 would include the amount of every bid placed and whether a bid was withdrawn (if withdrawals are permitted). In Auction 102, information to be made public would include, for each category of license in each geographic area, the supply, the aggregate demand, the price at the end of the last completed round, and the price for the next round. In both auctions, however, the identities of bidders placing specific bids or withdrawals (if permitted) and the net bid amounts (reflecting bidding credits) would not be disclosed until after the close of bidding.

17. Bidders would have access to additional information related to their own bidding and bid eligibility. For example, bidders would be able to view their own level of eligibility, before and during the respective auction, through the FCC auction bidding system.

18. After the close of bidding, bidders' license and/or PEA selections, as applicable, upfront payment amounts, bidding eligibility, bids, and other bidding-related actions would be made publicly available. Under the Commission's proposed SMR auction design for Auction 101, an applicant would identify on its auction application the licenses offered on which it may wish to bid during the auction. Under the Commission's proposed clock auction design for Auction 102, an applicant would select on its auction application all of the PEA(s) on which it may want to bid from the list of available PEAs.

19. Because applicants may be interested in participating in both auctions, if the Auction 102 application window occurs before the close of Auction 101, the Commission proposes that information relating to either auction that is non-public under its limited information procedures would remain non-public until after bidding has closed in both auctions. This approach will protect against disclosure, prior to the close of both auctions, of information relating to either auction that may indicate bidding strategies in the other. Under this scheduling scenario, should the Commission instead release results and make available all bidding information related to Auction 101 after the close of that auction is announced by public notice? Commenters should discuss the potential impact of the approach they favor on participation and competition in both auctions. If the Commission adopts an alternative scheduling approach and opens the Auction 102 application window after the close of bidding in Auction 101, however, the Commission proposes to apply the limited information procedures

discussed above to each auction separately, and would make non-public information relating to Auction 101 available after the close of that auction and before the application filing window for Auction 102.

20. The Commission seeks comment on the above details of its proposal for implementing limited information procedures, or anonymous bidding, in Auctions 101 and 102, under a scenario in which the Commission schedules the application window for Auction 102 to occur prior to the close of bidding in Auction 101. The Commission also seeks comment on the implementation alternatives under alternative scenarios for the timing of the auction application windows. Concerns about anti-competitive bidding and other factors that the Commission relied on as a basis for using anonymous bidding in prior auctions also would appear to apply to Auctions 101 and 102. The Commission encourages parties to provide information about the benefits and costs of complying with limited information procedures in Auctions 101 and 102, as compared with the benefits and costs of alternative procedures that would provide for the disclosure of more information on bidder identities and interests in the auctions. Commenters opposing the use of anonymous bidding in Auctions 101 and 102 should explain their reasoning and propose alternative information rules.

C. Application of Prohibition of Certain Communications

21. Section 1.2105(c)(1) of the Commission's rules provides that, subject to specified exceptions, after the short-form application filing deadline, all applicants are prohibited from cooperating or collaborating with respect to, communicating with or disclosing, to each other or any nationwide provider of communications services that is not an applicant, or, if the applicant is a nationwide provider, any non-nationwide provider that is not an applicant, in any manner the substance of their own, or each other's, or any other applicants' bids or bidding strategies (including post-auction market structure), or discussing or negotiating settlement agreements, until after the down payment deadline. For purposes of Section 1.2105(c)'s prohibition, Section 1.2105(c)(5)(i) defines ''applicant'' as including all officers and directors of the entity submitting a short-form application to participate in the auction, all controlling interests of that entity, as well as all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application.

22. If, based on the Commission's final procedures for these auctions, the short-form window for Auction 102 occurs before the close of Auction 101, entities wishing to participate in either auction will be applicants during overlapping periods of time. In this scenario, based on the relationship between the two auctions, the Commission proposes to apply the prohibition of Section 1.2105(c)(1) across both auctions. Thus, an applicant in either auction that communicates its bids or bidding strategies to an applicant to participate in the other auction would violate the Commission's prohibited communication rule, which will apply to ''all applicants'' to participate in either auction, and not only to applicants for the same auction. That is, the rule prohibiting certain communications will apply to any applicant in either Auction 101 or 102. Accordingly, no Auction 101 applicant may discuss bids or bidding strategies with any other Auction 101 applicant or with an Auction 102 applicant. Conversely, no Auction 102 applicant may discuss bids or bidding strategies with any other Auction 102 applicant or with an Auction 101 applicant. In addition, the down payment deadline for Auction 102 would be the relevant down payment deadline for determining when the prohibition ends for each applicant in either auction. This approach should provide clarity with respect to permitted and prohibited communications by establishing a single end point for the prohibition.

23. If the Commission adopts an alternative approach and schedules the Auction 102 application window to occur after the close of bidding in Auction 101, the Commission proposes to apply the prohibition of certain communications separately to each auction, using each auction's post-auction down payment deadline to determine when the prohibition ends for applicants in that auction.

24. The Commission seeks comment on the details of its proposals for applying the prohibition of certain communications across Auctions 101 and 102 in the scenario in which the Auction 102 application window occurs before the close of bidding in Auction 101. If commenters support alternatives for applying the prohibition in this scenario they should provide implementation details and explain how such suggestions promote the purpose of the prohibition. The Commission also seeks comment on its suggestion for applying the prohibition under the alternative scenario in which the Auction 102 application window occurs after the close of bidding in Auction 101. The Commission requests that commenters address costs and benefits of each of these alternative ways of implementing the prohibition, and any other alternatives they may suggest, including any potential effects on auction participation and competition as well as any burden on applicants.

D. Application Requirements and Certifications Relating to Joint Bidding and Other Agreements

25. As recently amended in the *2015 Part I Report and Order,* 80 FR 56764, September 18, 2015, the Commission's rules generally prohibit joint bidding and other arrangements involving auction applicants (including any party that controls or is controlled by such applicants). For purposes of the prohibition on joint bidding arrangements, ''joint bidding arrangements'' include arrangements relating to the licenses being auctioned that address or communicate, directly or indirectly, bidding at the auction, bidding strategies, including arrangements regarding price or the specific licenses on which to bid, and any such arrangements relating to the post-auction market structure. This prohibition applies to joint bidding arrangements involving two or more nationwide providers, as well as joint bidding arrangements involving a nationwide and one or more non-nationwide providers, where any party to the arrangement is an applicant for the auction. A ''non-nationwide provider'' refers to any provider of communications services that is not a ''nationwide provider.''

26. For the purpose of implementing its competitive bidding rules in Auctions 101 and 102, the Commission proposes to identify AT&T, Sprint, T-Mobile, and Verizon Wireless as ''nationwide providers.'' Because the Commission's rules allow an UMFUS licensee in the 28 GHz and 24 GHz bands to provide flexible terrestrial wireless services, including mobile services, the Commission bases its proposal on its identification of nationwide providers in the *20th Annual Mobile Competition Report,* FCC 17–126. Commenters who disagree with this proposal should identify alternative ''nationwide providers'' and explain why the Commission should depart from the list of nationwide providers identified in the *20th Annual Mobile Competition Report.*

27. To implement the prohibition on joint bidding arrangements, the Commission's rules require each auction

applicant in its short-form application to certify that it has disclosed any arrangements or understandings of any kind relating to the licenses being auctioned to which it (or any party that controls or is controlled by it) is a part; the applicant must also certify that it (or any party that controls or is controlled by it) has not entered and will not enter into any arrangement or understanding of any kind relating directly or indirectly to bidding at auction with, among others, ''any other applicant'' or a nationwide provider.

28. If, based on the Commission's final procedures for these auctions, the Auction 102 short-form window occurs before the close of bidding in Auction 101, because entities wishing to participate in either auction would be applicants during overlapping periods of time, the Commission proposes to apply the rule prohibiting joint bidding arrangements to any applicant for Auction 101 or 102. Moreover, an entity wishing to participate in either auction would be required to disclose in its short-form application any bidding arrangements or understandings of any kind relating to the licenses being auctioned in either Auction 101 or 102. That is, under this scenario, for the purpose of implementing its competitive bidding rules in Auctions 101 and 102, the Commission proposes to apply the prohibition against joint bidding agreements such that the ''licenses being auctioned'' and ''licenses at auction'' include all of the licenses being offered in Auctions 101 and 102. The Commission seeks comment on this proposal. If, in the alternative, the Commission were to adopt procedures to schedule the Auction 102 application window to occur after the close of bidding in Auction 101, the Commission proposes that it would apply the prohibition separately to the specific licenses in each auction. The Commission seeks comment on this alternative. Commenters should give specific reasons for preferring one approach or the other and address the potential effects of each approach on applicants as well as the potential effect of each on auction participation and competition.

E. Bidding Credit Caps

29. The Commission seeks comment on establishing reasonable caps on the total amount of bidding credits that an eligible small business or rural service provider may be awarded for either Auction 101 or 102.

30. In the *2016 Spectrum Frontiers Order,* the Commission determined that an entity with average annual gross revenues for the preceding three years not exceeding $55 million would be designated as a ''small business'' eligible for a 15 percent bidding credit, and that an entity with average annual gross revenues for the preceding three years not exceeding $20 million would be designated as a ''very small business'' eligible for a 25 percent bidding credit. The Commission further determined that entities providing commercial communication services to a customer base of fewer than 250,000 combined wireless, wireline, broadband, and cable subscribers in primarily rural areas would be eligible for the 15 percent rural service provider bidding credit.

31. The Commission, in the *2015 Part 1 Report and Order,* established a process to implement a reasonable cap on the total amount of bidding credits that an eligible small business or rural service provider may be awarded in any auction, based on an evaluation of the expected capital requirements presented by the particular service and inventory of licenses being auctioned. Specifically, the Commission determined that bidding credit caps would be implemented on an auction-by-auction basis, but resolved that, for any particular auction, the total amount of the bidding credit cap for small businesses would not be less than $25 million, and the bidding credit cap for rural service providers would not be less than $10 million. For the Broadcast Incentive Auction, the Commission adopted a $150 million cap on small business bidding credits and a $10 million cap on rural service provider bidding credits.

32. For Auction 101 and Auction 102, the Commission proposes a $25 million cap on the total amount of bidding credits that may be awarded to an eligible small business in each auction (*i.e.,* $25 million in each auction). As noted in the *2015 Part 1 Report and Order,* the Commission set the $150 million cap for the Broadcast Incentive Auction at a higher level than anticipated for future auctions, given the significant advantages of the low-band spectrum licenses in the Incentive Auction and the capital requirements associated with low-band spectrum. By comparison, Auction 101 and Auction 102 will offer licenses in the mmW spectrum, which has less robust propagation characteristics than the 600 MHz spectrum offered in the Incentive Auction. Moreover, the Commission anticipates that the range of potential use cases suitable for the UMFUS bands, including localized fiber replacement and IoT, combined with the small license areas in these bands, may permit deployment of smaller scale networks with lower total costs. Further, based on past auction data, the Commission expects that a $25 million cap on small business bidding credits will allow the substantial majority of small businesses in the auction to take full advantage of the bidding credit program. The Commission therefore believes that its proposed cap will promote the statutory goals of providing meaningful opportunities for *bona fide* small businesses to compete in auctions and in the provision of spectrum-based services, without compromising its responsibility to prevent unjust enrichment and ensure efficient and intensive use of spectrum.

33. The Commission proposes to adopt a $10 million cap on the total amount of bidding credits that may be awarded to an eligible rural service provider in Auction 101 and Auction 102 (*i.e.,* $10 million in each auction). An entity is not eligible for a rural service provider bidding credit if it has already claimed a small business bidding credit. Based on its analysis of data from the Broadcast Incentive Auction, in which no rural service provider exceeded the $10 million cap, the Commission anticipates that a $10 million cap on rural service provider bidding credits will not constrain the ability of any rural service provider to participate fully and fairly in Auction 101 or Auction 102. In addition, to create parity in Auctions 101 and 102 among eligible small businesses and rural service providers competing against each other in smaller markets, the Commission proposes a $10 million cap on the overall amount of bidding credits that any winning small business bidder in either auction may apply to winning licenses in markets with a population of 500,000 or less.

34. The Commission seeks comment on these proposals. Specifically, do the expected capital requirements associated with operating in the UMFUS bands, the potential number and value of UMFUS licenses, past auction data, or any other considerations justify the proposed caps or a higher or lower cap for either type of bidding credit in either auction? Commenters are encouraged to identify circumstances and characteristics of these mmW auctions that should guide the Commission in establishing bidding credit caps, and to provide specific, data-driven arguments in support of their proposals.

IV. Due Diligence

35. Each potential bidder is solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the licenses that it is seeking in Auctions 101 and 102. Each bidder is

responsible for assuring that, if it wins a license, it will be able to build and operate facilities in accordance with the Commission's rules. The Commission makes no representations or warranties about the use of this spectrum for particular services. Each applicant should be aware that a Commission auction represents an opportunity to become a Commission licensee, subject to certain conditions and regulations. This includes the established authority of the Commission to alter the terms of existing licenses by rulemaking, which is equally applicable to licenses awarded by auction. A Commission auction does not constitute an endorsement by the Commission of any particular service, technology, or product, nor does a Commission license constitute a guarantee of business success.

36. An applicant should perform its due diligence research and analysis before proceeding, as it would with any new business venture. Each potential bidder should perform technical analyses and/or refresh any previous analyses to assure itself that, should it become a winning bidder for any Auction 101 or Auction 102 license, it will be able to build and operate facilities that will comply fully with all applicable technical and regulatory requirements. The Commission strongly encourages each applicant to inspect any prospective sites for communications facilities located in, or near, the geographic area for which it plans to bid; confirm the availability of such sites; and familiarize itself with the Commission's rules regarding the National Environmental Policy Act.

37. The Commission strongly encourages each applicant to conduct its own research prior to Auctions 101 and 102, as applicable, in order to determine the existence of pending administrative, rulemaking, or judicial proceedings that might affect its decisions regarding participation in the auction.

38. The Commission also strongly encourages participants in Auctions 101 and 102 to continue such research throughout the auctions. The due diligence considerations mentioned in the *Auctions 101 and 102 Comment Public Notice* do not constitute an exhaustive list of steps that should be undertaken prior to participating in these auctions. As always, the burden is on the potential bidder to determine how much research to undertake, depending upon the specific facts and circumstances related to its interests.

39. In addition to the foregoing due diligence considerations, which the Commission encourages of bidders in all auctions, the Commission calls particular attention in Auctions 101 and 102 to the spectrum-sharing issues described above. Each applicant should follow closely releases from the Commission concerning these issues and to consider carefully the technical and economic implications for commercial use of the UMFUS bands.

40. The Commission also reminds bidders of the Commission's mobile spectrum holding policies applicable to the mmW bands. Specifically, for purposes of reviewing proposed secondary market transactions, the Commission adopted a threshold of 1850 megahertz of combined mmW spectrum in the 24 GHz, 28 GHz, 37 GHZ, 39 GHz, and 47 GHz bands. In addition, the Commission proposed in the *2017 Spectrum Frontiers FNPRM* to eliminate the pre-auction limit of 1250 megahertz that had been adopted for the 28 GHz, 37 GHz, and 39 GHz bands, consistent with the Commission's conclusion not to adopt a pre-auction limit for the 24 GHz and 47 GHz bands. Further, the Commission sought comment on whether, in the absence of pre-auction limits for mmW spectrum, it should adopt a post-auction, case-by-case review of mmW spectrum holdings for long-form applications for initial mmW licenses.

V. Proposed Bidding Procedures

A. Auction 101—28 GHz

1. Simultaneous Multiple-Round Auction Design

41. The Commission proposes to use its standard SMR auction format for Auction 101, which offers license-by-license bidding. As described further below, this type of auction offers every license for bid at the same time and consists of successive bidding rounds in which bidders may place bids on individual licenses. Typically, bidding remains open on all licenses until bidding stops on every license. The Commission seeks comment on this proposal.

2. Bidding Rounds

42. Under this proposal, Auction 101 will consist of sequential bidding rounds, each followed by the release of round results. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of bidding. Details on viewing round results, including the location and format of downloadable round results files will be included in the same public notice.

43. The Commission will conduct Auction 101 over the internet using the FCC auction bidding system. Bidders will also have the option of placing bids by telephone through a dedicated auction bidder line. The toll-free telephone number for the auction bidder line will be provided to qualified bidders prior to the start of bidding in the auction.

44. The Commission proposes that the Wireless Telecommunications Bureau (Bureau) would retain the discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. This will allow the Bureau to change the amount of time for bidding rounds, the amount of time between rounds, or the number of rounds per day, depending upon bidding activity and other factors. The Commission seeks comment on this proposal. Commenters on this issue should address the role of the bidding schedule in managing the pace of the auction, specifically discussing the tradeoffs in managing auction pace by bidding schedule changes, by changing the activity requirements or bid amount parameters, or by using other means.

3. Stopping Rule

45. The Commission has discretion to establish stopping rules before or during multiple round auctions in order to complete the auction within a reasonable time. For Auction 101, the Commission proposes to employ a simultaneous stopping rule approach, which means all licenses remain available for bidding until bidding stops on every license. Specifically, bidding will close on all licenses after the first round in which no bidder submits any new bids, applies a proactive waiver, or withdraws any provisionally winning bids (if bid withdrawals are permitted in Auction 101). Under the proposed simultaneous stopping rule, bidding would remain open on all licenses until bidding stops on every license. Consequently, under this approach, it is not possible to determine in advance how long the bidding in Auction 101 would last.

46. Further, the Commission proposes that the Bureau would retain the discretion to exercise any of the following stopping options during Auction 101: (1) The auction would close for all licenses after the first round in which no bidder applies a waiver, no bidder withdraws a provisionally winning bid (if withdrawals are permitted in Auction 101), or no bidder places any new bid on a license for which it is not the provisionally winning bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the provisionally winning bidder would not

keep the auction open under this modified stopping rule; (2) The auction would close for all licenses after the first round in which no bidder applies a waiver, no bidder withdraws a provisionally winning bid (if withdrawals are permitted in Auction 101), or no bidder places any new bid on a license that already has a provisionally winning bid. Thus, absent any other bidding activity, a bidder placing a new bid on a FCC-held license (a license that does not have a provisionally winning bid) would not keep the auction open under this modified stopping rule; (3) The auction would close using a modified version of the simultaneous stopping rule that combines options (1) and (2); (4) The auction would close after a specified number of additional rounds (special stopping rule) to be announced by the Bureau. If the Bureau invokes this special stopping rule, it will accept bids in the specified final round(s), after which the auction will close; and (5) The auction would remain open even if no bidder places any new bid, applies a waiver, or withdraws any provisionally winning bids (if withdrawals are permitted in Auction 101). In this event, the effect will be the same as if a bidder had applied a waiver. The activity rule will apply as usual, and a bidder with insufficient activity will lose bidding eligibility or use a waiver.

47. The Commission proposes that the Bureau would exercise these options only in certain circumstances, for example, where the auction is proceeding unusually slowly or quickly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time or will close prematurely. Before exercising these options, the Bureau is likely to attempt to change the pace of Auction 101. For example, the Bureau may adjust the pace of bidding by changing the number of bidding rounds per day and/or the minimum acceptable bids. The Commission proposes that the Bureau retain continuing discretion to exercise any of these options with or without prior announcement by the Bureau during the auction. The Commission seeks comment on these proposals.

4. Information Relating to Auction Delay, Suspension, or Cancellation

48. For Auction 101, the Commission proposes that at any time before or during the bidding process, the Bureau may delay, suspend, or cancel bidding in the auction in the event of a natural disaster, technical obstacle, network interruption, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. The Bureau will notify participants of any such delay, suspension or cancellation by public notice and/or through the FCC auction bidding system's announcement function. If the bidding is delayed or suspended, the Bureau may, in its sole discretion, elect to resume the auction starting from the beginning of the current round or from some previous round, or cancel the auction in its entirety. The Commission emphasizes that the Bureau will exercise this authority solely at its discretion, and not as a substitute for situations in which bidders may wish to apply their activity rule waivers. The Commission seeks comment on this proposal.

5. Upfront Payments and Bidding Eligibility

49. In keeping with the Commission's usual practice in spectrum license auctions, the Commission proposes that applicants be required to submit upfront payments as a prerequisite to becoming qualified to bid. As described below, the upfront payment is a refundable deposit made by an applicant to establish its eligibility to bid on licenses. Upfront payments related to the inventory of licenses being auctioned protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of bidding. With these considerations in mind, the Commission proposes upfront payments based on $0.001 per megahertz of bandwidth per population (per ''MHz-pop''). The results of these calculations are subject to a minimum of $100 and will be rounded using the Commission's standard rounding procedures for auctions: Results above $10,000 are rounded to the nearest $1,000; results below $10,000 but above $1,000 are rounded to the nearest $100; and results below $1,000 are rounded to the nearest $10. The proposed upfront payments equal approximately half the proposed minimum opening bids. The Commission seeks comment on these upfront payment amounts, which are specified in the Attachment A files.

50. The Commission further proposes that the amount of the upfront payment submitted by a bidder will determine its initial bidding eligibility in bidding units, which are a measure of bidder eligibility and bidding activity. The Commission proposes to assign each license a specific number of bidding units, equal to one bidding unit per dollar of the upfront payment. The number of bidding units for a given license is fixed and does not change during the auction as prices change. If an applicant is found to be qualified to bid on more than one license being offered in Auction 101, such bidder may place bids on multiple licenses, provided that the total number of bidding units associated with those licenses does not exceed its current eligibility. A bidder cannot increase its eligibility during the auction; it can only maintain its eligibility or decrease its eligibility. Thus, in calculating its upfront payment amount and hence its initial bidding eligibility, an applicant must determine the maximum number of bidding units on which it may wish to bid (or hold provisionally winning bids) in any single round, and submit an upfront payment amount covering that total number of bidding units. The Commission seeks comment on these proposals.

51. Congress recently passed legislation amending the Communications Act to provide that upfront auction payments for future auctions are to be deposited in the U.S. Treasury. Accordingly, upfront payments for Auctions 101 and 102 will be deposited in the U.S. Treasury.

6. Activity Rule

52. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. The bidding system calculates a bidder's activity in a round as the sum of the bidding units associated with any licenses upon which it places bids during the current round and the bidding units associated with any licenses for which it holds provisionally winning bids. Bidders are required to be active on a specific percentage of their current bidding eligibility during each round of the auction. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a reduction in the bidder's eligibility, possibly curtailing or eliminating the bidder's ability to place additional bids in the auction.

53. The Commission proposes to divide the auction into at least two stages, each characterized by a different activity requirement. The auction will start in Stage One. The Commission proposes that the Bureau will have the discretion to advance the auction to the next stage by announcement during the auction. In exercising this discretion, the Commission anticipates that the Bureau will consider a variety of measures of auction activity, including

but not limited to, the percentage of bidding units associated with licenses on which there are new bids, the number of new bids, and the increase in revenue. The Commission seeks comment on these proposals.

54. The Commission proposes the following stages and corresponding activity requirements:

Stage One: In each round of the first stage of the auction, a bidder desiring to maintain its current bidding eligibility is required to be active on bidding units associated with licenses representing at least 80 percent of its current bidding eligibility. Failure to maintain the required activity level will result in the use of an activity rule waiver or a reduction in the bidder's bidding eligibility for the next round of bidding. During Stage One, a bidder's reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity by five-fourths (5⁄4).

Stage Two: In each round of the second stage, a bidder desiring to maintain its current bidding eligibility is required to be active on 95 percent of its current bidding eligibility. Failure to maintain the required activity level will result in the use of an activity rule waiver or a reduction in the bidder's bidding eligibility for the next round of bidding. During Stage Two, a bidder's reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity by twenty-nineteenths (20/19).

55. The Commission seeks comment on these activity requirements. Under this proposal, the Bureau will also retain the discretion to change the activity requirements during the auction. For example, the Bureau could decide to add an additional stage with a higher activity requirement, not to transition to Stage Two if it believes the auction is progressing satisfactorily under the Stage One activity requirement, or to transition to Stage Two with an activity requirement that is higher or lower than the 95 percent proposed herein. If the Bureau implements stages with activity requirements other than the ones listed above, a bidder's reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity by the reciprocal of the activity requirement. For example, with a 98 percent activity requirement, the bidder's current round activity would be multiplied by 50/49; with a 100 percent activity requirement, the bidder's current round activity would become its bidding eligibility (current round activity would be multiplied by 1⁄1). If the Bureau exercises this discretion, it will alert bidders by announcement in the FCC auction bidding system.

7. Activity Rule Waivers and Reducing Eligibility

56. For its proposed SMR auction format, the Commission proposes that when a bidder's activity in the current round is below the required minimum level, it may preserve its current level of eligibility through an activity rule waiver, if available. An activity rule waiver applies to an entire round of bidding, not to a particular license. Activity rule waivers can be either proactive or automatic. Activity rule waivers are principally a mechanism for a bidder to avoid the loss of bidding eligibility in the event that exigent circumstances prevent it from bidding in a particular round.

57. Consistent with recent FCC spectrum auctions, the Commission proposes that each bidder in Auction 101 be provided with three activity rule waivers that may be used as set forth at the bidder's discretion during the course of the auction. The FCC auction bidding system will assume that a bidder that does not meet the activity requirement would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver at the end of any bidding round in which a bidder's activity level is below the minimum required unless (1) the bidder has no activity rule waivers remaining; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the activity requirement. If a bidder has no waivers remaining and does not satisfy the required activity level, the bidder's current eligibility will be permanently reduced, possibly curtailing or eliminating the ability to place additional bids in the auction.

58. A bidder with insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding round by using the reduce eligibility function in the FCC auction bidding system. In this case, the bidder's eligibility would be permanently reduced to bring it into compliance with the activity rule described above. Reducing eligibility is an irreversible action; once eligibility has been reduced, a bidder cannot regain its lost bidding eligibility.

59. Under the proposed simultaneous stopping rule, a bidder would be permitted to apply an activity rule waiver proactively as a means to keep the auction open without placing a bid. If a bidder proactively were to apply an activity rule waiver (using the *proactive waiver* function in the FCC auction bidding system) during a bidding round in which no bids are placed or withdrawn (if bid withdrawals are permitted in Auction 101), the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver applied by the FCC auction bidding system in a round in which there is no new bid, no bid withdrawal (if bid withdrawals are permitted in Auction 101), or no proactive waiver will not keep the auction open. The Commission seeks comment on this proposal.

8. Reserve Price or Minimum Opening Bids

60. The Commission seeks comment on the use of a minimum opening bid amount and/or reserve price prior to the start of each auction. A reserve price is an amount below which an item, or group of items, may not be won. A reserve price may be higher than the minimum opening bid, or for a group of items, the sum of minimum opening bids.

61. The Commission proposes to establish minimum opening bid amounts for Auction 101. The bidding system will not accept bids lower than these amounts. Based on the Commission's experience in past auctions, setting minimum opening bid amounts judiciously is an effective tool for accelerating the competitive bidding process. The Commission does not propose to establish an aggregate reserve price or license reserve prices different from minimum opening bid amounts for the licenses to be offered in Auction 101.

62. For Auction 101, the Commission proposes to calculate minimum opening bid amounts on a license-by-license basis using a formula based on bandwidth and license area population, similar to its approach in many previous spectrum auctions. The Commission proposes to use a calculation based on $0.002 per MHz-pop. The results of these calculations are subject to a minimum of $200 and will be rounded. The Commission seeks comment on these minimum opening bid amounts, which are specified in the Attachment A files. If commenters believe that these minimum opening bid amounts will result in unsold licenses or are not reasonable amounts, they should explain why this is so and comment on the desirability of an alternative approach. Commenters should support their claims with valuation analyses and suggested amounts or formulas for

reserve prices or minimum opening bids.

63. In establishing minimum opening bid amounts, the Commission particularly seeks comment on factors that could reasonably have an impact on bidders' valuation of the spectrum, including the type of service offered, market size, population covered by the proposed facility, and any other relevant factors.

64. Commenters may also wish to address the general role of minimum opening bids in managing the pace of the auction. For example, commenters could compare using minimum opening bids—*e.g.,* by setting higher minimum opening bids to reduce the number of rounds it takes licenses to reach their final prices—to other means of controlling auction pace, such as changes to bidding schedules or activity requirements.

9. Bid Amounts

65. The Commission proposes that, in each round, an eligible bidder will be able to place a bid on a given license in any of up to nine different amounts. Under this proposal, the FCC auction bidding system interface will list the acceptable bid amounts for each license.

a. Minimum Acceptable Bid Amounts

66. The first of the acceptable bid amounts is called the minimum acceptable bid amount. The minimum acceptable bid amount for a license will be equal to its minimum opening bid amount until there is a provisionally winning bid on the license. After there is a provisionally winning bid for a license, the minimum acceptable bid amount for that license will be equal to the amount of the provisionally winning bid plus a percentage of that bid amount calculated using the activity-based formula described below. In general, the percentage will be higher for a license receiving many bids than for a license receiving few bids. In the case of a license for which the provisionally winning bid has been withdrawn (if withdrawals are allowed in Auction 101), the minimum acceptable bid amount will equal the second highest bid received for the license.

67. The percentage of the provisionally winning bid used to establish the minimum acceptable bid amount (the additional percentage) is calculated based on an activity index at the end of each round. The activity index is a weighted average of (a) the number of distinct bidders placing a bid on the license in that round, and (b) the activity index from the prior round. Specifically, the activity index is equal to a weighting factor times the number of bidders placing a bid covering the license in the most recent bidding round plus one minus the weighting factor times the activity index from the prior round. For Round 1 calculations, because there is no prior round (*i.e.,* no round 0), the activity index from the prior round is set at 0. The additional percentage is determined as one plus the activity index times a minimum percentage amount, with the result not to exceed a given maximum. The additional percentage is then multiplied by the provisionally winning bid amount to obtain the minimum acceptable bid for the next round. The result will be rounded using the Commission's standard rounding procedures for auctions. The Commission proposes to set the weighting factor initially at 0.5, the minimum percentage at 0.1 (10 percent), and the maximum percentage at 0.2 (20 percent). Hence, at these initial settings, the minimum acceptable bid for a license would be between 10 percent and 20 percent higher than the provisionally winning bid, depending upon the bidding activity for the license. Equations and examples are shown in Attachment B to the *Auctions 101 and 102 Comment Public Notice.* The Commission seeks comment on whether to use this activity-based formula or a different approach.

b. Additional Bid Amounts

68. The FCC auction bidding system calculates any additional bid amounts using the minimum acceptable bid amount and an additional bid increment percentage. The minimum acceptable bid amount is multiplied by the additional bid increment percentage, and that result (rounded) is the additional increment amount. The first additional acceptable bid amount equals the minimum acceptable bid amount plus the additional increment amount. The second additional acceptable bid amount equals the minimum acceptable bid amount plus two times the additional increment amount; the third additional acceptable bid amount is the minimum acceptable bid amount plus three times the additional increment amount; etc. The Commission proposes to set the additional bid increment percentage at five percent initially. Hence, the calculation of the additional increment amount would be (minimum acceptable bid amount) * (0.05), rounded. The Commission seeks comment on this proposal.

c. Bid Amount Changes

69. The Commission proposes that the Bureau would retain the discretion to change the minimum acceptable bid amounts, the additional bid amounts, the number of acceptable bid amounts, and the parameters of the formulas used to calculate minimum acceptable bid amounts and additional bid amounts if the Bureau determines that circumstances so dictate. Further, the Commission proposes that the Bureau retain the discretion to do so on a license-by-license basis. The Commission also proposes for the Bureau to retain the discretion to limit (a) the amount by which a minimum acceptable bid for a license may increase compared with the corresponding provisionally winning bid, and (b) the amount by which an additional bid amount may increase compared with the immediately preceding acceptable bid amount. For example, the Bureau could set a $100,000 limit on increases in minimum acceptable bid amounts over provisionally winning bids. Thus, if calculating a minimum acceptable bid using the activity-based formula results in a minimum acceptable bid amount that is $200,000 higher than the provisionally winning bid on a license, the minimum acceptable bid amount would instead be capped at $100,000 above the provisionally winning bid. The Commission seeks comment on the circumstances under which the Bureau should employ such a limit, factors the Bureau should consider when determining the dollar amount of the limit, and the tradeoffs in setting such a limit or changing other parameters—such as the minimum and maximum percentages of the activity-based formula. If the Bureau exercises this discretion, it will alert bidders by announcement in the FCC auction bidding system. The Commission seeks comment on these proposals.

70. The Commission seeks comment on the above proposals, including whether to use the activity-based formula to establish the additional percentage or a different approach. If commenters disagree with the proposal to begin the auction with nine acceptable bid amounts per license, they should suggest an alternative number of acceptable bid amounts to use at the beginning of the auction and an alternative number to use later in the auction. Commenters may wish to address the role of the minimum acceptable bids and the number of acceptable bid amounts in managing the pace of the auction and the tradeoffs in managing auction pace by changing the bidding schedule, activity requirements, or bid amounts, or by using other means.

10. Provisionally Winning Bids

71. The FCC auction bidding system will determine provisionally winning bids consistent with practices in past auctions. At the end of each bidding round, the bidding system will determine a provisionally winning bid for each license based on the highest bid amount received for the license. A provisionally winning bid will remain the provisionally winning bid until there is a higher bid on the same license at the close of a subsequent round. Provisionally winning bids at the end of Auction 101 become the winning bids.

72. If identical high bid amounts are submitted on a license in any given round (*i.e.,* tied bids), the FCC auction bidding system will use a pseudo-random number generator to select a single provisionally winning bid from among the tied bids. The auction bidding system assigns a pseudo-random number to each bid when the bid is entered. The tied bid with the highest pseudo-random number will become the provisionally winning bid. The remaining bidders, as well as the provisionally winning bidder, can submit higher bids in subsequent rounds. However, if the auction were to end with no other bids being placed, the winning bidder would be the one that placed the provisionally winning bid. If the license receives any bids in a subsequent round, the provisionally winning bid again will be determined by the highest bid amount received for the license.

73. A provisionally winning bid will be retained until there is a higher bid on the license at the close of a subsequent round, unless the provisionally winning bid is withdrawn (if bid withdrawals are permitted in Auction 101). As a reminder, for Auction 101, provisionally winning bids count toward activity for purposes of the activity rule.

11. Bid Removal and Bid Withdrawal

74. The FCC auction bidding system allows each bidder to remove any of the bids it placed in a round before the close of that round. By removing a bid placed within a round, a bidder effectively ''unsubmits'' the bid. In contrast to the bid withdrawal provisions described below, a bidder removing a bid placed in the same round is not subject to a withdrawal payment. Once a round closes, a bidder may no longer remove a bid.

75. The Commission seeks comment on whether bid withdrawals should be permitted in Auction 101. When permitted in an auction, bid withdrawals provide a bidder with the option of withdrawing bids placed in prior rounds that have become provisionally winning bids. A bidder would be able to withdraw its provisionally winning bids using the withdraw function in the FCC auction bidding system. A bidder that withdraws its provisionally winning bid(s), if permitted, is subject to the bid withdrawal payment provisions of the Commission's rules.

76. The Commission has recognized that bid withdrawals may be a helpful tool for bidders seeking to efficiently aggregate licenses or implement backup strategies in certain auctions. The Commission has also acknowledged that allowing bid withdrawals may encourage insincere bidding or increase opportunities for undesirable strategic bidding in certain circumstances.

77. Applying this reasoning to Auction 101, the Commission proposes to allow each bidder to withdraw provisionally winning bids in no more than two rounds during the course of the auction. To permit a bidder to withdraw bids in more than two rounds may encourage insincere bidding or the use of withdrawals for undesirable strategic bidding purposes. The two rounds in which a bidder may withdraw provisionally winning bids will be at the bidder's discretion, and there is no limit on the number of provisionally winning bids that a bidder may withdraw in either of the rounds in which it withdraws bids. Withdrawals must be in accordance with the Commission's rules, including the bid withdrawal payment provisions specified in Section 1.2104(g).

78. The Commission seeks comment on this proposal. If commenters disagree with this proposal, the Commission asks them to support their arguments by taking into account the licenses available, the impact on auction dynamics and the pricing mechanism, and the effects on the bidding strategies of other bidders.

B. Auction 102—24 GHz

1. Clock Auction Design

79. The Commission proposes to conduct Auction 102 using an ascending clock auction design. Under this proposal, the first phase of the auction will consist of successive clock bidding rounds in which bidders indicate their demands for categories of generic license blocks in specific geographic areas, followed by a second phase with bidding for frequency-specific license assignments.The Commission also directs the Bureau to prepare and release, concurrent with the *Auctions 101 and 102 Comment Public Notice,* technical guides that provide the mathematical details of the proposed auction design and algorithms for the clock and assignment phases of Auction 102. Pursuant to the Commission's direction, the Bureau released the *Technical Guides on Proposed Bidding Procedures for Auction 102 (24 GHz) Public Notice,* DA 18–386, on April 17, 2018, announcing the availability of the Clock Phase Technical Guide and Assignment Phase Technical Guide on the Commission's website at *www.fcc.gov/auction/101–102/.* The Clock Phase Technical Guide details proposals for the clock phase of Auction 102. The Assignment Phase Technical Guide details proposals for the assignment phase. The information in the technical guides supplements the proposals in the *Auctions 101 and 102 Comment Public Notice.* For bidding in the clock phase, the Commission proposes to establish two categories of generic blocks in most PEAs; the first will consist of the two blocks between 24.25–24.45 GHz and the second category will consist of the five blocks between 24.75–25.25 GHz. In a limited number of PEAs, the Commission proposes to include one or more additional bidding categories to include any blocks with less than the full 100 megahertz of spectrum due to relocation of the incumbent licensees.

80. Consistent with the clock auction design used in the forward auction portion of the Broadcast Incentive Auction, Auction 1002, the Commission's proposed clock auction format would proceed in a series of rounds, with bidding being conducted simultaneously for all spectrum blocks available in the auction. During the clock phase, the Bureau would announce prices for blocks in each category in each geographic area, and qualified bidders would submit quantity bids for the number of blocks they seek. Bidding rounds would be open for predetermined periods of time, during which bidders would indicate their demands for blocks at the clock prices associated with the current round. As in SMR auctions, bidders would be subject to activity and eligibility rules that govern the pace at which they participate in the auction.

81. Under the Commission's proposal, in each geographic area, the clock price for a license category would increase from round to round if bidders indicate total demand that exceeds the number of blocks available in the category. The clock rounds would continue until, for all categories of blocks in all geographic areas, the number of blocks demanded does not exceed the supply of available blocks. At that point, those bidders indicating demand for a block in a

category at the final clock price would be deemed winning bidders.

82. The Commission expects that using a clock auction format with bidding for generic blocks followed by an assignment phase will considerably speed up Auction 102 relative to a typical FCC SMR auction. The relatively unencumbered nature of the 24 GHz band means that the blocks can be treated as largely interchangeable, or generic, within a bidding category and a PEA. Bidding for generic blocks in the clock phase rather than for multiple frequency-specific licenses greatly reduces auction duration since bidders no longer need to iteratively bid on the least expensive of several specific but substitutable licenses, as in an SMR auction. An assignment phase allows winners of generic blocks the opportunity to bid for specific frequency assignments. Given the number of licenses being offered in Auction 102 and the generic nature of the licenses, the Commission believes that the time savings of a clock auction relative to an SMR auction will offer significant benefits to bidders and the Commission, and enable the 24 GHz band spectrum to be put to effective use more quickly. In particular, speeding up the auction will reduce the cost of bidder participation, which typically involves internal and external staff resources dedicated to auction monitoring and strategy, as well as the opportunity costs of foregoing communications and arrangements that otherwise would be permitted outside of the ''quiet period'' under the Commission's Part 1 rules.

83. The Commission seeks comment on this proposal and on alternative approaches to conducting, in a timely manner, an auction of 24 GHz licenses.

2. Determining Categories of Generic Blocks for Bidding

84. The *2017 Spectrum Frontiers Order* determined that the 24 GHz band would be licensed uniformly in 100 megahertz blocks, with the lower segment (24.25–24.45 GHz) licensed as two 100 megahertz blocks, and the upper segment (24.75–25.25) as five 100 megahertz blocks, in each of 416 PEAs. Given the 300 megahertz separation between the two segments of the band, the Commission proposes to conduct bidding in most PEAs in the clock phase of Auction 102 for generic blocks in two categories. Under this proposal, there will be two generic blocks in the lower 24 GHz segment (Category L) and five generic blocks in the upper 24 GHz segment (Category U). In nine PEAs, an incumbent licensee will be relocated to part of one, and potentially two, 100 megahertz blocks, leaving those blocks with less available bandwidth to be licensed in the auction. Therefore, the Commission proposes to include an additional bidding category, or potentially two additional bidding categories, to accommodate any blocks with reduced bandwidth. The Commission anticipates that a reduced-bandwidth block will be located in the upper block of the lower segment and a possible second reduced block will be in the uppermost block of the upper segment. The bidding categories for these blocks will be referred to as Category LI and Category UI, respectively.

85. Accordingly, in each round of the clock phase, a bidder will have the opportunity to bid for up to two blocks of spectrum in Category L and for up to five blocks in Category U, in each of 407 PEAs. In nine PEAs, bidders may bid for one fewer block in either Category L or Category U (and possibly in both categories), and for one block in Category LI and/or UI. Bidding in the auction will determine a single price for all of the generic blocks in each category in each PEA. Winners of generic blocks in the clock phase will then have the opportunity to bid for specific frequency license assignments during the assignment phase of the auction.

86. The Commission seeks comment on its proposal to conduct bidding in two categories of generic blocks, corresponding to the two segments of the band, in the unencumbered PEAs during the clock phase of the auction. The Commission also seeks comment on conducting bidding on an additional category or categories when a block in a PEA has less than 100 megahertz of bandwidth. Is there a minimum number of megahertz below which the Commission should not offer a block? If there is a reduced bandwidth block in the lower segment of the band and another in the upper segment of the band, should the Commission include both blocks in a single category, instead of its proposal to create a separate category for each? Commenters that believe the Commission should instead conduct bidding for a single category of generic blocks in the unencumbered PEAs, or for more than two categories, should explain their reasoning and address issues of auction length and bidder manageability.

3. Bidding Rounds

87. Under this proposal, Auction 102 will consist of sequential bidding rounds, each followed by the release of round results. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of bidding.

88. The Commission will conduct Auction 102 over the internet using the FCC auction bidding system. Bidders will also have the option of placing bids by telephone through a dedicated auction bidder line. The toll-free telephone number for the auction bidder line will be provided to qualified bidders prior to the start of bidding in the auction.

89. The Commission proposes that the Bureau retain the discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. Under this proposal, the Bureau may change the amount of time for bidding rounds, the amount of time between rounds, or the number of rounds per day, depending upon bidding activity and other factors. The Commission seeks comment on this proposal. Commenters on this issue should address the role of the bidding schedule in managing the pace of the auction, specifically discussing the tradeoffs in managing auction pace by bidding schedule changes, by changing the activity requirements or bid amount parameters, or by using other means.

4. Stopping Rule

90. The Commission proposes a simultaneous stopping rule for Auction 102, under which all categories of licenses in all PEAs would remain available for bidding until the bidding stops on every category. Specifically, the Commission proposes that the clock phase of bidding will close for all categories of blocks after the first round in which there is no excess demand in any category in any PEA. Consequently, under this approach, it is not possible to determine in advance how long Auction 102 would last. The Commission seeks comment on its proposed simultaneous stopping rule.

5. Information Relating to Auction Delay, Suspension, or Cancellation

91. For Auction 102, the Commission proposes that at any time before or during the bidding process, the Bureau may delay, suspend, or cancel bidding in Auction 102 in the event of a natural disaster, technical obstacle, network interruption, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. The Bureau will notify participants of any such delay, suspension, or cancellation by public notice and/or through the FCC auction bidding system's announcement function. If the bidding is delayed or

suspended, the Bureau may, in its sole discretion, elect to resume the auction starting from the beginning of the current round or from some previous round, or cancel the auction in its entirety. The Commission emphasizes that the Bureau will exercise this authority solely at its discretion. The Commission seeks comment on this proposal.

6. Upfront Payments and Bidding Eligibility

92. In keeping with the Commission's usual practice in spectrum license auctions, the Commission proposes that applicants be required to submit upfront payments as a prerequisite to becoming qualified to bid. The upfront payment is a refundable deposit made by an applicant to establish its eligibility to bid on licenses. Upfront payments that are related to the inventory of licenses being auctioned protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of bidding. With these considerations in mind, the Commission proposes upfront payments based on $0.001 per MHz-pop. The results of these calculations will be rounded using the Commission's standard rounding procedures for auctions. Additionally, the proposed upfront payment amount for Gulf of Mexico licenses is $1,000. The proposed upfront payments equal approximately half the proposed minimum opening bids. The Commission seeks comment on these upfront payment amounts, which are specified in Attachment A to the *Auctions 101 and 102 Comment Public Notice.*

93. The Commission further proposes that the amount of the upfront payment submitted by a bidder will determine its initial bidding eligibility in bidding units, which are a measure of bidder eligibility and bidding activity. The Commission proposes to assign each PEA a specific number of bidding units, equal to one bidding unit per dollar of the upfront payment listed in Attachment A to the *Auctions 101 and 102 Comment Public Notice.* The number of bidding units for a given PEA is fixed and does not change during the auction as prices change. The bidding unit amount assigned to a specific PEA will pertain to a single generic block for that PEA. To the extent that bidders wish to bid on multiple generic blocks simultaneously, they will need to ensure that their upfront payment provides enough eligibility to cover multiple blocks. Under this proposed approach to calculating bidding units, the generic Category L and Category U blocks in a PEA will be assigned the same number of bidding units, which will facilitate bidding across categories. Any Category LI and Category UI blocks in a PEA will be assigned proportionally fewer bidding units than the 100 megahertz blocks.

94. Under the Commission's proposed approach, a bidder's upfront payment will not be attributed to blocks in a specific PEA or PEAs. If an applicant is found to be qualified to bid on more than one block being offered in Auction 102, such bidder may place bids on multiple blocks, provided that the total number of bidding units associated with those blocks does not exceed its current eligibility. A bidder cannot increase its eligibility during the auction; it can only maintain its eligibility or decrease its eligibility. Thus, in calculating its upfront payment amount and hence its initial bidding eligibility, an applicant must determine the maximum number of bidding units on which it may wish to bid in any single round, and submit an upfront payment amount covering that total number of bidding units. The Commission seeks comment on these proposals.

95. For Auction 102, the Commission anticipates setting a deadline for the submission of upfront payments that will occur after bidding in Auction 101 concludes even if the Auction 102 auction application window is scheduled to occur prior to the close of bidding in Auction 101. Under this approach, an Auction 102 applicant that participated in Auction 101 could take into account the licenses it won in Auction 101 when determining the amount of its upfront payment. The Commission seeks comment on the anticipated timing for upfront payments for Auction 102.

7. Activity Rule, Activity Rule Waivers, and Reducing Eligibility

96. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. For a clock auction, a bidder's activity in a round for purposes of the activity rule will be the sum of the bidding units associated with the bidder's demands as applied by the auction system during bid processing. Bidders are required to be active on a specific percentage of their current bidding eligibility during each round of the auction. Failure to maintain the requisite activity level will result in a reduction in the bidder's eligibility, possibly curtailing or eliminating the bidder's ability to place additional bids in the auction.

97. The Commission proposes to require that bidders maintain a fixed, high level of activity in each round of Auction 102 in order to maintain bidding eligibility. Specifically, the Commission proposes to require that bidders be active on between 92 and 97 percent of their bidding eligibility in all regular clock rounds. Thus, the activity rule would be satisfied when a bidder has bidding activity on blocks with bidding units that total 92 to 97 percent of its current eligibility in the round. If the activity rule is met, then the bidder's eligibility does not change in the next round. The Commission proposes to calculate bidding activity based on the bids that are accepted by the FCC auction bidding system. That is, if a bidder requests a reduction in the quantity of blocks it demands in a category, but the FCC auction bidding system does not accept the request because demand for the category would fall below the available supply, the bidder's activity will reflect its unreduced demand. If the activity rule is not met in a round, a bidder's eligibility automatically would be reduced. Under the Commission's proposal, the Bureau will retain the discretion to change the activity requirements during the auction.

98. The Commission invites comment on this proposal, in particular on where to set the activity requirement between 92 and 97 percent. Commenters may wish to address the relationship between the proposed activity rule and the ability of bidders to switch their demands across PEAs or across categories of blocks within a PEA. The Commission encourages any commenters that oppose an activity rule in this range to explain their reasons with specificity.

99. The Commission points out that under its proposed clock auction, bidders are required to indicate their demands in every round, even if their demands at the new round's prices are unchanged from the previous round. Missing bids—bids that are not reconfirmed—are treated by the auction bidding system as requests to reduce to a quantity of zero blocks for the category. If these requests are applied, or applied partially, a bidder's bidding activity, and hence its bidding eligibility for the next round, will be reduced.

100. For Auction 102, the Commission does not propose to provide for activity rule waivers to preserve a bidder's eligibility. This proposal is consistent with the ascending clock auction procedures used in Auction 1002. In previous FCC multiple round auctions, when a bidder's eligibility in the current round

was below a required minimum level, the bidder was able to preserve its current level of eligibility with a limited number of activity rule waivers. The clock auction, however, relies on precisely identifying the point at which demand falls to equal supply to determine winning bidders and final prices. Allowing waivers would create uncertainty with respect to the exact level of bidder demand, interfering with the basic clock price-setting and winner determination mechanism. Moreover, uncertainty about the level of demand would affect the way bidders' requests to reduce demand are processed by the FCC auction bidding system, as discussed below. The Commission seeks comment on this proposal.

8. Acceptable Bids

a. Reserve Price or Minimum Opening Bids

101. The Commission seeks comment on the use of a minimum opening bid amount and/or reserve price prior to the start of each auction.

102. The Commission proposes to establish minimum opening bid amounts for Auction 102. The bidding system will not accept bids lower than these amounts. At the beginning of the clock phase, a bidder will indicate how many blocks in a generic license category in a PEA it demands at the minimum opening bid price. For Auction 102, the Commission proposes to establish initial clock prices, or minimum opening bids, as set forth in the following paragraph. The Commission does not propose to establish an aggregate reserve price or block reserve prices that are different from minimum opening bid amounts for the licenses to be offered in Auction 102.

103. For Auction 102, the Commission proposes to calculate minimum opening bid amounts using a formula based on bandwidth and license area population, similar to its approach in many previous spectrum auctions. Accordingly, blocks with less than the full 100 megahertz of bandwidth would have lower minimum opening bid amounts than the other blocks in a PEA. The Commission proposes to use a calculation based on $0.002 per MHz-pop. Additionally, the minimum opening bid amount for Gulf of Mexico licenses is $1,000. The Commission seeks comment on these minimum opening bid amounts, which are specified in Attachment A to the *Auctions 101 and 102 Comment PN.* If commenters believe that these minimum opening bid amounts will result in unsold licenses, are not reasonable amounts, or should instead operate as reserve prices, they should explain why this is so and comment on the desirability of an alternative approach. Commenters should support their claims with valuation analyses and suggested amounts or formulas for reserve prices or minimum opening bids.

104. In establishing minimum opening bid amounts, the Commission particularly seeks comment on factors that could reasonably have an impact on bidders' valuation of the spectrum, including the type of service offered, market size, population covered by the proposed facility, and any other relevant factors.

105. Commenters may also wish to address the general role of minimum opening bids in managing the pace of the auction. For example, commenters could compare using minimum opening bids—*e.g.,* by setting higher minimum opening bids to reduce the number of rounds it takes licenses to reach their final prices—to other means of controlling auction pace, such as changes to bidding schedules or activity requirements.

b. Clock Price Increments

106. Under the Commission's proposed clock auction format for Auction 102, after bidding in the first round and before each subsequent round, the FCC auction bidding system will announce a clock price for the next round, which is the highest price to which bidders can respond during the round. The Commission proposes to set the clock price for each category available in each specific PEA for a round by adding a fixed percentage increment to the price for the previous round. As long as total demand for blocks in a category exceeds the supply of blocks, the percentage increment will be added to the clock price from the prior round. If demand equaled supply at an intra-round bid price in a previous round, then the clock price for the next round will be set by adding the percentage increment to the intra-round bid price. Final clock prices, however, will not increase above the price at which there is no excess demand.

107. The Commission proposes to apply an increment that is between five and fifteen percent and generally to apply the same increment percentage to all categories in all PEAs. The Commission proposes to set the initial increment within this range, and to adjust the increment as rounds continue. The proposed five-to-fifteen percent increment range will allow the FCC to set a percentage that manages the auction pace, taking into account bidders' needs to evaluate their bidding strategies while moving the auction along quickly. The Commission also proposes that increments may be changed during the auction on a PEA-by-PEA or category-by-category basis based on bidding activity to assure that the system can offer appropriate price choices to bidders.

c. Intra-Round Bids

108. The Commission proposes to permit a bidder to make intra-round bids by indicating a point between the previous round's price and the new clock price at which its demand for blocks in a category changes. In placing an intra-round bid, a bidder would indicate a specific price and a quantity of blocks it demands if the price for blocks in the category should increase beyond that price.

109. Intra-round bids would be optional; a bidder may choose to express its demands only at the clock prices. This proposal to permit intra-round bidding would allow the auction system to use relatively large clock increments, thereby speeding the clock phase, without running the risk that a jump in the clock price will overshoot the market clearing price—the point at which demand for blocks equals the available supply.

9. Reducing Demand, Bid Types, and Bid Processing

110. Here the Commission proposes specific bidding procedures for the clock phase of Auction 102, and addresses how the FCC auction bidding system will process the proposed types of permitted bids. As an initial matter, the Commission proposes that the FCC auction bidding system not allow a bidder to reduce the quantity of blocks it demands in a category if the reduction will result in aggregate demand falling below the available supply of blocks in the category.

111. Under the ascending clock format the Commission proposes for Auction 102, a bidder will indicate in each round the quantity of blocks in each category in each PEA that it demands at a given price, indicating that it is willing to pay up to that price for the specified quantity. A bidder can express its demands at the clock price or at an intra-round price, and bid quantities can represent an increase or a decrease over the bidder's previous demands for blocks in a category.

112. Under the Commission's proposal, if a bidder demands fewer blocks in a category than it did in the previous round, the FCC auction bidding system will treat the bid as a request to reduce demand that will be

implemented only if aggregate demand would not fall below the available supply of blocks in the category.

113. The Commission also proposes to process bids in order of price point after a round ends, where the price point represents the percentage of the bidding interval for the round. For example, if the price for the previous round is $5,000 and the new clock price is $6,000, a price of $5,100 will correspond to the 10 percent price point, since it is 10 percent of the bidding interval between $5,000 and $6,000. Under this proposal, once a round ends, the FCC auction bidding system will process bids in ascending order of price point, first considering intra-round bids in order of price point and then bids at the clock price. The system will consider bids at the lowest price point for all categories in all PEAs, then look at bids at the next price point in all areas, and so on. In processing the bids submitted in the round, the FCC auction bidding system will determine the extent to which there is excess demand for each category in each PEA in order to determine whether a bidder's requested change(s) in demand can be implemented.

114. For a given category in a given PEA, the uniform price for all of the blocks in the category will stop increasing when aggregate demand no longer exceeds the available supply of blocks in the category. If no further bids are placed, the final clock phase price for the category will be the stopped price.

115. In order to facilitate bidding for multiple blocks in a PEA, the Commission proposes that bidders will be permitted to make two types of bids: Simple bids and switch bids.

116. A ''simple'' bid indicates a desired quantity of licenses in a category at a price (either the clock price or an intra-round price). Simple bids may be applied partially. A simple bid that involves a reduction from the bidder's previous demands may be implemented partially if aggregate excess demand is insufficient to support the entire reduction. A simple bid to increase a bidder's demands in a category may be applied partially if the total number of bidding units associated with the bidder's demand exceeds the bidder's bidding eligibility for the round.

117. A ''switch'' bid allows the bidder to request to move its demand for a quantity of licenses from the L category to the U category, or vice versa, within the same PEA. Switch bids may not include a block in Category LI or UI. A switch bid may be applied partially, but the increase in demand in the ''to'' category will always match in quantity the reduction in the ''from'' category.

118. The proposed bid types will allow bidders to express their demand for blocks in the next clock round without running the risk that they will be forced to purchase more spectrum at a higher price than they wish. When a bid to reduce demand can be applied only partially, the uniform price for the category will stop increasing at that point, since the partial application of the bid results in demand falling to equal supply. Hence, a bidder that makes a simple bid or a switch bid that cannot be fully applied will not face a price for the remaining demand that is higher than its bid price.

119. Because in any given round some bidders may increase demands for licenses in a category while others may request reductions, the price point at which a bid is considered by the auction bidding system can affect whether it is accepted. In addition to proposing that bids be considered by the system in order of increasing ''price point,'' the Commission further proposes that bids not accepted because of insufficient aggregate demand or insufficient eligibility be held in a queue and considered, again in order, if there should be excess supply or sufficient eligibility later in the processing after other bids are processed.

120. More specifically, under the Commission's proposed procedures, once a round closes, the auction system will process the bids by first considering the bid submitted at the lowest price point and determine whether it can be accepted given aggregate demand as determined most recently and given the associated bidder's eligibility. If the bid can be accepted, or partially accepted, the number of licenses the bidder demands will be adjusted, and aggregate demand will be recalculated accordingly. If the bid cannot be accepted in part or in full, the unfulfilled bid, or portion thereof, will be held in a queue to be considered later during bid processing for that round. The FCC auction bidding system will then consider the bid submitted at the next highest price point, accepting it in full, in part, or not at all, given recalculated aggregate demand and given the associated bidder's eligibility. Any unfulfilled requests will again be held in a queue, and aggregate demand will again be recalculated. Every time a bid or part of a bid is accepted and aggregate demand has been recalculated, the unfulfilled bids held in queue will be reconsidered, in the order of their original price points (and by pseudo-random number, in the case of tied price points). The auction bidding system will not carry over unfulfilled bid requests to the next round, however. The bidding system will advise bidders of the status of their bids when round results are released.

121. After the bids are processed in each round, the FCC auction bidding system will announce new clock prices to indicate a range of acceptable bids for the next round. Each bidder will be informed of the number of blocks in a category on which it holds bids, the extent of excess demand for each category, and, if demand fell to equal supply during the round, the intra-round price point at which that occurred.

122. No Bidding Aggregation. Because of the additional complexity such procedures would introduce into the auction, the Commission does not propose to incorporate any package bidding procedures into Auction 102. A bidder may bid on multiple blocks in a PEA and in multiple PEAs. As set forth below, the Commission proposes that the assignment phase will assign contiguous blocks to winners of multiple blocks in a category in a PEA, and give bidders an opportunity to express their preferences for specific frequency blocks, thereby facilitating aggregations of licenses.

123. The Commission seeks comment on its proposals regarding reducing demand, bid types, and bid processing for Auction 102.

10. Winning Bids in the Clock Phase

124. Under the Commission's proposed clock auction format for Auction 102, bidders that are still expressing demand for a quantity of blocks in a category in a PEA at the time the stopping rule is met will become the winning bidders, and will be assigned specific frequencies in the assignment phase.

11. Bid Removal and Bid Withdrawal

125. The FCC auction bidding system allows each bidder to remove any of the bids it placed in a round before the close of that round. By removing a bid placed within a round, a bidder effectively ''unsubmits'' the bid. Once a round closes, a bidder may no longer remove a bid.

126. Unlike an SMR auction, there are no provisionally winning bids in a clock auction. As a result, the concept of bid withdrawals is inapplicable to a clock auction. As proposed above, however, bidders in Auction 102 may request to reduce demand for generic blocks.

12. Assignment Phase

127. The Commission proposes procedures to implement the

assignment phase, for which the *Assignment Phase Technical Guide* provides the mathematical details. Under the Commission's proposal, winning bidders from the clock phase that have a preference for specific frequencies will have an opportunity to submit sealed bids for particular frequency blocks in a separate single assignment round for each particular PEA or group of PEAs. The Commission proposes that this assignment phase be voluntary: Winning bidders in the clock phase of Auction 102 need not participate in order to be assigned a number of licenses corresponding to the outcome of the clock phase. Moreover, a bidder that wins multiple blocks in a category in a PEA will be assigned contiguous blocks of licenses, even without participating in the assignment phase. A winner of a block in a category that includes only a single block will not need to bid for an assignment in the assignment phase. The Commission proposes to group bidding for multiple PEAs in some circumstances, so as to reduce the number of separate assignment rounds required, and to sequence the bidding for the various PEAs.

128. The Commission seeks comment below on this proposed approach to structure bidding and bid processing in each assignment round.

a. Sequencing and Grouping of PEAs

129. The Commission proposes to sequence assignment rounds so as to make it easier for bidders to incorporate frequency assignments from previously-assigned areas into their bid preferences for other areas, recognizing that bidders winning multiple blocks of licenses generally will prefer contiguous blocks across adjacent PEAs. The Commission proposes to conduct rounds for the largest markets first to enable bidders to establish a ''footprint'' from which to work.

130. Specifically, the Commission proposes to conduct a separate assignment round for each of the top 40 PEAs and to conduct these assignment rounds sequentially, beginning with the largest PEAs. Once the top 40 PEAs have been assigned, the Commission proposes to conduct, for each Regional Economic Area Grouping (REAG), a series of assignment rounds for the remaining PEAs within that region. The Commission further proposes, where feasible, to group into a single market for assignment any non-top 40 PEAs within a region in which the supply of blocks is the same in each category, the same bidders won the same number of blocks in each category, and all are subject to the small markets bidding cap or all not subject to the cap, which will also help maximize contiguity across PEAs. The Commission proposes to sequence the assignment rounds within a REAG in descending order of population for a PEA group or individual PEA. The Commission further proposes, to the extent practical, to conduct the bidding for the different REAGs in parallel, to reduce the total amount of time required to complete the assignment phase.

131. The Commission seeks comment on these proposals for sequencing assignment rounds, and on its proposal to group PEAs for bidding under some circumstances within REAGs.

b. Acceptable Bids and Bid Processing

132. Under the Commission's proposal, in each assignment round, a bidder will be asked to assign a price to one or more possible frequency assignments for which it wishes to express a preference, consistent with its winning bid(s) for generic blocks in the clock phase. The price will represent a maximum payment that the bidder is willing to pay, in addition to the base price established in the clock phase for the generic blocks, for the frequency-specific license or licenses in its bid. The Commission proposes that a bidder will submit its preferences for blocks it won in the upper and lower segments separately, rather than submitting bids for preferences that include blocks in both segments. That is, if a bidder won one block in the lower segment and two blocks in the upper segment, it would not be able to submit a single bid amount for an assignment that included all three blocks. Instead, it would submit its bid for an assignment in the lower segment separately from its bid or bids for assignments in the upper segment.

133. The Commission proposes to use an optimization approach to determine the winning frequency assignment for each category in each assignment round. The Commission proposes that the auction system will select the assignment that maximizes the sum of bid amounts among all assignments that satisfy the contiguity requirements. Furthermore, if multiple blocks in Category U in a PEA remain unsold, the unsold licenses will be contiguous. The Commission proposes that the additional price a bidder will pay for a specific frequency assignment (above the base price) will be calculated consistent with a generalized ''second price'' approach—that is, the winner will pay a price that would be just sufficient to result in the bidder receiving that same winning frequency assignment while ensuring that no group of bidders is willing to pay more for an alternative assignment that satisfies the contiguity restrictions. This price will be less than or equal to the price the bidder indicated it was willing to pay for the assignment. The Commission proposes to determine prices in this way because it facilitates bidding strategy for the bidders, encouraging them to bid their full value for the assignment, knowing that if the assignment is selected, they will pay no more than would be necessary to ensure that the outcome is competitive.

134. The Commission seeks comment on these proposed procedures. In particular, the Commission asks whether bidders would find it useful to be able to submit a single bid for assignments that include frequencies in the lower segment and frequencies in the upper segment, in cases where the bidder won blocks in both segments.

VI. Post-Auction Payments

A. Interim Withdrawal Payment Percentage

135. In the event the Commission allows bid withdrawals in Auction 101, the Commission proposes the interim bid withdrawal payment be 15 percent of the withdrawn bid. A bidder that withdraws a bid during an auction is subject to a withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the winning bid in the same or a subsequent auction. The withdrawal payment amount is deducted from any upfront payments or down payments that the withdrawing bidder has deposited with the Commission. No withdrawal payment is assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids equals or exceeds that withdrawn bid. However, if a license for which a bid had been withdrawn does not receive a subsequent higher bid or winning bid in the same auction, the FCC cannot calculate the final withdrawal payment until that license receives a higher bid or winning bid in a subsequent auction. In such cases, when that final withdrawal payment cannot yet be calculated, the FCC imposes on the bidder responsible for the withdrawn bid an interim bid withdrawal payment, which will be applied toward any final bid withdrawal payment that is ultimately assessed.

136. The amount of the interim bid withdrawal payment is established in advance of bidding in each auction and may range from three percent to twenty percent of the withdrawn bid amount. The Commission has determined that

the level of the interim withdrawal payment in a particular auction will be based on the nature of the service and the inventory of the licenses being offered. The Commission noted specifically that a higher interim withdrawal payment percentage is warranted to deter the anti-competitive use of withdrawals when, for example, bidders will not need to aggregate the licenses being offered in the auction or when there are few synergies to be captured by combining licenses. With respect to the flexible-use UMFUS licenses being offered in Auction 101, the service rules permit a variety of advanced spectrum-based services, some of which may best be offered by combining licenses on adjacent frequencies or in adjacent areas. Balancing the potential need for bidders to use withdrawals to avoid winning incomplete combinations of licenses with the Commission's interest in deterring undesirable strategic use of withdrawals, the Commission proposes to establish an interim bid withdrawal payment of 15 percent of the withdrawn bid for Auction 101. The Commission seeks comment on this proposal.

B. Additional Default Payment Percentage

137. Any winning bidder that defaults or is disqualified after the close of an auction (*i.e.,* fails to remit the required down payment by the specified deadline, fails to submit a timely long-form application, fails to make full and timely final payment, or is otherwise disqualified) is liable for a default payment under Section 1.2104(g)(2) of the rules. This payment consists of a deficiency payment, equal to the difference between the amount of the bidder's winning bid and the amount of the winning bid the next time a license covering the same spectrum is won in an auction, plus an additional payment equal to a percentage of the defaulter's bid or of the subsequent winning bid, whichever is less.

138. The Commission's rules provide that, in advance of each auction, it will establish a percentage between three and twenty percent of the applicable winning bid to be assessed as an additional default payment. As the Commission has indicated, the level of this additional payment in each auction will be based on the nature of the service and the licenses being offered.

139. For Auctions 101 and 102, the Commission proposes to establish an additional default payment of 15 percent. As noted in the *CSEA/Part 1 Report and Order,* 71 FR 6214, February 7, 2006, defaults weaken the integrity of the auction process and may impede the deployment of service to the public, and an additional default payment of up to 20 percent will be more effective in deterring defaults than the 3 percent used in some earlier auctions. At the same time, the Commission does not believe the detrimental effects of any defaults in Auctions 101 and 102 are likely to be unusually great. In light of these considerations, the Commission proposes for Auctions 101 and 102 an additional default payment of 15 percent of the relevant bid. The Commission seeks comment on this proposal.

140. In case they are needed for post-auction administrative purposes, the bidding system will calculate individual per-license prices that are separate from final auction payments, which are calculated on an aggregate basis. The bidding system will apportion to individual licenses any assignment phase payments and any capped bidding credit discounts, since in both cases, a single amount may apply to multiple licenses.

VII. Tutorial and Additional Information for Applicants

141. The Commission intends to provide additional information on the bidding system and to offer demonstrations and other educational opportunities for applicants in Auctions 101 and 102 to familiarize themselves with the FCC auction application system and the auction bidding system. For example, the Commission intends to release an online tutorial for each auction that will help applicants understand the procedures to be followed in the filing of their auction short-form applications (FCC Form 175) for Auctions 101 and 102, respectively.

VIII. Procedural Matters

A. Supplemental Initial Regulatory Flexibility Analysis

142. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in the *Auctions 101 and 102 Comment Public Notice* to supplement the Commission's Initial and Final Regulatory Flexibility Analyses completed in the *Spectrum Frontiers Orders* and other Commission orders pursuant to which Auctions 101 and 102 will be conducted. Written public comments are requested on this Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the same deadline for comments specified on the first page of the *Auctions 101 and 102 Comment Public Notice.* The Commission will send a copy of the *Auctions 101 and 102 Comment Public Notice,* including this Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

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

143. The *Auctions 101 and 102 Comment Public Notice* seeks comment on proposed procedural rules to govern Auctions 101 and 102, two auctions of 5,986 Upper Microwave Flexible Use Service (UMFUS) licenses. This process is intended to provide notice of and adequate time for potential applicants to comment on proposed auction procedures. To promote the efficient and fair administration of the competitive bidding process for all Auction 101 and Auction 102 participants, the Commission seeks comment on the following proposed procedures: (1) Use of separate application and bidding processes for Auctions 101 and 102, including separate application filing windows; (2) application of the current rules prohibiting certain communications among applicants in the same auction (*i.e.,* Auction 101 or Auction 102), and between Auction 101 applicants and Auction 102 applicants; (3) identification of ''nationwide providers'' for the purpose of implementing the Commission's competitive bidding rules in Auctions 101 and 102; (4) establishment of bidding credit caps for eligible small businesses and rural service providers in Auctions 101 and 102; (5) use of a simultaneous multiple-round auction format for Auction 101, consisting of sequential bidding rounds with a simultaneous stopping rule (with discretion by the Bureau to exercise alternative stopping rules under certain circumstances); (6) use of a clock auction format for Auction 102 under which each qualified bidder will indicate in successive clock bidding rounds its demands for categories of generic blocks in specific geographic areas; (7) a specific minimum opening bid amount for each license available in Auction 101 and for generic blocks in each PEA available in Auction 102; (8) a specific upfront payment amount for each license available in Auction 101 and for generic blocks in each PEA available in Auction 102; (9) establishment of a bidder's initial bidding eligibility in bidding units based on that bidder's upfront payment through assignment of a specific number of bidding units for each license

(Auction 101) or generic block (Auction 102); (10) use of an activity rule that would require bidders to bid actively during the auction rather than waiting until late in the auction before participating; (11) for Auction 101, a two-stage auction in which a bidder is required to be active on 80 percent of its bidding eligibility in each round of the first stage, and on 95 percent of its bidding eligibility in each round of the second stage; (12) for Auction 102, a requirement that bidders be active on between 92 and 97 percent of their bidding eligibility in all regular clock rounds; (13) for Auction 101, provision of three activity rule waivers for each bidder to allow it to preserve eligibility during the course of the auction; (14) for Auction 101, use of minimum acceptable bid amounts and additional bid increments, along with a proposed methodology for calculating such amounts, with the Bureau retaining discretion to change its methodology if circumstances dictate; (15) for Auction 102, establishment of acceptable bid amounts, including clock price increments and intra-round bids, along with a proposed methodology for calculating such amounts; (16) for Auction 102, use of two bid types, along with a proposed methodology for processing bids and requests to reduce demand; (17) for Auction 101, a procedure for breaking ties if identical high bid amounts are submitted on a license in a given round; (18) bid removal procedures; (19) whether to permit bid withdrawals; (20) for Auction 102, establishment of an assignment phase that will determine which frequency-specific licenses will be won by the winning bidders of generic blocks during the clock phase; (21) establishment of an interim bid withdrawal percentage of 15 percent of the withdrawn bid in the event the Commission allows bid withdrawals in Auction 101; and (22) establishment of an additional default payment of 15 percent under Section 1.2104(g)(2) of the rules in the event that a winning bidder defaults or is disqualified after either auction.

2. Legal Basis

144. The Commission's statutory obligations to small businesses under the Communications Act of 1934, as amended, are found in Sections 309(j)(3)(B) and 309(j)(4)(D). The statutory basis for the Commission's competitive bidding rules is found in various provisions of the Communications Act of 1934, as amended, including 47 U.S.C. 154(i), 301, 302, 303(e), 303(f), 303(r), 304, 307, and 309(j). The Commission has established a framework of competitive bidding rules, updated most recently in 2015, pursuant to which it has conducted auctions since the inception of the auction program in 1994 and would conduct Auctions 101 and 102. In promulgating those rules, the Commission conducted numerous RFA analyses to consider the possible impact of those rules on small businesses that might seek to participate in Commission auctions. In addition, multiple Final Regulatory Flexibility Analyses (FRFAs) were included in the rulemaking orders which adopted or amended rule provisions relevant to the *Auctions 101 and 102 Comment Public Notice.*

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

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

146. As noted above, FRFAs were incorporated into the *Spectrum Frontiers Orders.* In those analyses, the Commission described in detail the small entities that might be significantly affected. In the *Auctions 101 and 102 Comment Public Notice,* the Commission incorporates by reference the descriptions and estimates of the number of small entities from the previous FRFAs in the *Spectrum Frontiers Orders.*

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

147. The Commission designed the auction application process itself to minimize reporting and compliance requirements for applicants, including small business applicants. In the first part of the Commission's two-phased auction application process, parties desiring to participate in an auction file streamlined, short-form applications in which they certify under penalty of perjury as to their qualifications. Eligibility to participate in bidding is based on an applicant's short-form application and certifications, as well as its upfront payment. In the second phase of the process, winning bidders file a more comprehensive long-form application. Thus, an applicant which fails to become a winning bidder does not need to file a long-form application and provide the additional showings and more detailed demonstrations required of a winning bidder.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

148. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

149. The Commission has taken steps to minimize any economic impact of its auction procedures on small businesses through among other things, the many resources it provides potential auction participants. Small entities and other auction participants may seek clarification of or guidance on complying with competitive bidding rules and procedures, reporting requirements, and the FCC's auction bidding system. An FCC Auctions Hotline provides access to Commission staff for information about the auction process and procedures. The FCC Auctions Technical Support Hotline is another resource which provides technical assistance to applicants, including small business entities, on issues such as access to or navigation within the electronic FCC Form 175 and use of the FCC's auction bidding system. Small entities may also utilize the web-based, interactive online tutorial produced by Commission staff for each auction to familiarize themselves with auction procedures, filing requirements, bidding procedures, and other matters related to an auction.

150. The Commission also makes various databases and other sources of information, including the Auctions program websites, and copies of Commission decisions, available to the public without charge, providing a low-cost mechanism for small businesses to conduct research prior to and

throughout the auction. Prior to and at the close of Auctions 101 and 102, the Commission will post public notices on the Auctions website, which articulate the procedures and deadlines for the respective auctions. The Commission makes this information easily accessible and without charge to benefit all Auction 101 and Auction 102 applicants, including small businesses, thereby lowering their administrative costs to comply with the Commission's competitive bidding rules.

151. Prior to the start of bidding in each auction, eligible bidders are given an opportunity to become familiar with auction procedures and the bidding system by participating in a mock auction. Further, the Commission intends to conduct Auctions 101 and 102 electronically over the internet using its web-based auction system that eliminates the need for bidders to be physically present in a specific location. Qualified bidders also have the option to place bids by telephone. These mechanisms are made available to facilitate participation in Auction 101 and Auction 102 by all eligible bidders, and may result in significant cost savings for small business entities who utilize these alternatives. Moreover, the adoption of bidding procedures in advance of the auctions, consistent with statutory directive, is designed to ensure that the auctions will be administered predictably and fairly for all participants, including small businesses.

152. For Auction 101 and Auction 102, the Commission proposes a $25 million cap on the total amount of bidding credits that may be awarded to an eligible small business and a $10 million cap on the total amount of bidding credits that may be awarded to a rural service provider in each auction. In addition, the Commission proposes a $10 million cap on the overall amount of bidding credits that any winning small business bidder in either auction may apply to winning licenses in markets with a population of 500,000 or less. Based on the technical characteristics of the UMFUS bands and its analysis of past auction data, the Commission anticipates that its proposed caps will allow the majority of small businesses in each auction to take full advantage of the bidding credit program, thereby lowering the relative costs of participation for small businesses.

153. These proposed procedures for the conduct of Auctions 101 and 102 constitute the more specific implementation of the competitive bidding rules contemplated by Parts 1 and 30 of the Commission's rules and the underlying rulemaking orders, including the *Spectrum Frontiers Orders* and relevant competitive bidding orders, and are fully consistent therewith.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

154. None.

B. Ex Parte Rules

155. This proceeding has been designated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Persons making oral ex parte presentations must file a copy of any written presentations or memoranda summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine Period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to the Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2018–09415 Filed 5–3–18; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 219 and Appendix I to Chapter 2

[Docket DARS–2018–0019]

RIN 0750–AJ25

Defense Federal Acquisition Regulation Supplement: Mentor-Protégé Program Modifications (DFARS Case 2017–D016)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement sections of the National Defense Authorization Act for Fiscal Year 2017 that provide modifications to the DoD Pilot Mentor-Protégé Program.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before July 3, 2018, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2017–D016, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2017–D016'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2017–D016.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2017–D016'' on your attached document.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2017–D016 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Jennifer D. Johnson, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal 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).

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer D. Johnson, telephone 571–372–6100.

SUPPLEMENTARY INFORMATION:

I. Background

This rule proposes to revise the DFARS to implement section 1823 and paragraph (b) of section 1813 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328). Sections 1823 and 1813 provide modifications to the DoD Pilot Mentor-Protégé Program (''the Program''). Section 1823 revises the definition and requirements associated with affiliation between mentor firms and their protégé firms. Both sections add new types of assistance for mentor firms to provide to their protégé firms.

II. Discussion and Analysis

This rule proposes amendments to DFARS subpart 219.71 and Appendix I as summarized in the following paragraphs:

A. *Subpart 219.71, Pilot Mentor-Protégé Program.* Section 219.7100, Scope, is amended to reflect the date of the most recent statutory changes to the Program.

B. *Appendix I, Policy and Procedures for the DoD Pilot Mentor-Protégé Program.*

- Section I–101, Definitions, is amended to add the definition of ''affiliation'' provided in section 1823.
- Section I–102, Participant eligibility, is amended to add new paragraph (e), which specifies that a mentor firm may not enter into an agreement with a protégé firm if the Small Business Administration (SBA) has made a determination of affiliation. In addition, paragraph (e) addresses the conditions under which DoD will request a determination from SBA regarding affiliation.
- Section I–106, Development of mentor-protégé agreements, is amended to add women's business centers under 15 U.S.C. 656 as a form of assistance that a mentor firm can obtain for a protégé firm.
- Section I–107, Elements of a mentor-protégé agreement, is amended to add new paragraph (h), which implements the requirement provided in section 1813 for mentor-protégé agreements to include assistance the mentor firm will provide to the protégé firm in understanding Federal contract regulations, including the FAR and DFARS.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

This rule does not propose to create any new provisions or clauses or impact any existing provisions or clauses.

IV. 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 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.

V. 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.

VI. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because of the relatively small number of small entities who participate in the DoD Pilot Mentor-Protégé Program. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

This rule proposes to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 1823 and paragraph (b) of section 1813 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328), which provide modifications to the DoD Pilot Mentor-Protégé Program (''the Program''). Specifically, section 1823 revises the definition and requirements associated with affiliation between mentor firms and their protégé firms. Both sections add new types of assistance for mentors to provide to their protégés.

The objective of this rule is to implement statutory modifications to the Program. The legal basis for the modifications is sections 1823 and paragraph (b) of section 1813 of the NDAA for FY 2017.

The rule will apply to small entities that participate in the Program. There are currently 85 small entities participating in the Program.

The rule does not impose any reporting or recordkeeping requirements on any small entities.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known, significant, alternative approaches to the proposed rule that would meet the requirements of the applicable statute.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2017–D016), in correspondence.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 219 and Appendix I to Chapter 2

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR part 219 and appendix I to chapter 2 are proposed to be amended as follows:

■ 1. The authority citation for 48 CFR part 219 and appendix I to chapter 2 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 219—SMALL BUSINESS PROGRAMS

219.7100 [Amended]

■ 2. Amend section 219.7100 by removing ''November 25, 2015'' and adding ''December 23, 2016'' in its place.

■ 3. Amend appendix I to chapter 2 as follows:

■ a. In section I–101 by—

■ i. Redesignating sections I–101.1 through I–101.6 as sections I–101.2 through I–101.7, respectively; and

■ ii. Adding new section I–101.1.

■ b. In section I–102 by—

■ i. Redesignating paragraphs (e) and (f) as paragraphs (f) and (g), respectively;

■ ii. Adding new paragraph (e); and

■ iii. In newly redesignated paragraph (f), removing ''Subpart 9.4'' and adding ''subpart 9.4'' in its place.

■ c. In section I–106 by adding paragraph (d)(6)(v).

■ d. In section I–107 by—

■ i. Redesignating paragraphs (h) through (o) as paragraphs (i) through (p), respectively; and

■ ii. Adding new paragraph (h).

The additions read as follows:

Appendix I to Chapter 2—Policy and Procedures for the DoD Pilot Mentor Protégé Program

* * * * *

I–101.1 Affiliation.

With respect to a relationship between a mentor firm and a protégé firm, a relationship described under 13 CFR 121.103.

* * * * *

I–102 Participant eligibility.

* * * * *

(e) A mentor firm may not enter into an agreement with a protégé firm if SBA has made a determination of affiliation. If SBA has not made such a determination and if the DoD Office of Small Business Programs (OSBP) has reason to believe, based on SBA's regulations regarding affiliation, that the mentor firm is affiliated with the protégé firm, then DoD OSBP will request a determination regarding affiliation from SBA.

* * * * *

I–106 Development of mentor-protégé agreements.

* * * * *

(d) * * *

(6) * * *

(v) Women's business centers described in section 29 of the Small Business Act (15 U.S.C. 656).

* * * * *

I–107 Elements of a mentor-protégé agreement.

* * * * *

(h) The assistance the mentor will provide to the protégé firm in understanding Federal contract regulations, including the FAR and DFARS, after award of a subcontract under the Program, if applicable;

* * * * *

[FR Doc. 2018–09487 Filed 5–3–18; 8:45 am]

BILLING CODE 5001–06–P

Notices

Federal Register
Vol. 83, No. 87
Friday, May 4, 2018

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

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Renew an Information Collection

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agricultural Research Service's (ARS) intention to request an extension of a currently approved information collection, Form AD–761, USDA Patent License Application for Government Invention that expires October 31, 2018.

DATES: Comments must be received on or before July 3, 2018.

ADDRESSES: Comments may be sent to Mojdeh Bahar, USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Room 4–1174, Beltsville, Maryland 20705–5131; Telephone Number 301–504–5989.

FOR FURTHER INFORMATION CONTACT: Mojdeh Bahar, USDA, ARS, Office of Technology Transfer, 301–504–5989.

SUPPLEMENTARY INFORMATION:

Title: USDA Patent License Application.

OMB Number: 0518–0003.

Expiration Date of Approval: October 31, 2018.

Type of Request: To extend a currently approved information collection.

Abstract: The USDA patent licensing program grants patent licenses to qualified businesses and individuals who wish to commercialize inventions arising from federally supported research. The objective of the program is to use the patent system to promote the utilization of inventions arising from such research. The licensing of federally owned inventions must be done in accordance with the terms, conditions and procedures prescribed under 37 CFR part 404. Application for a license must be addressed to the Federal agency having custody of the invention. Licenses may be granted only if the license applicant has supplied the Federal agency with a satisfactory plan for the development and marketing of the invention and with information about the applicant's capability to fulfill the plan. 37 CFR 404.8 sets forth the information which must be provided by a license applicant. For the convenience of the applicant, USDA has itemized the information needed on Form AD–761, and instructions for completing the form are provided to the applicant. The information submitted is used to determine whether the applicant has both a complete and sufficient plan for developing and marketing the invention and the necessary manufacturing, marketing, technical and financial resources to carry out the submitted plan.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3 hours per response.

Description of Respondents: Businesses or other for profit individuals.

Estimated Number of Respondents: 75.

Frequency of Responses: One time per invention.

Estimated Total Annual Burden on Respondents: 225 hours.

This data will be collected under the authority of 44 U.S.C. #3506(c)(2)(A).

Copies of this information collection and related instructions can be obtained without charge from Mojdeh Bahar, USDA, ARS, Office of Technology Transfer by calling 301–504–5989.

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, such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

Comments may be sent to USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Room 4–1174, Beltsville, Maryland 20705–5131. 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.

Mojdeh Bahar,

Assistant Administrator.

[FR Doc. 2018–09472 Filed 5–3–18; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Council for Native American Farming and Ranching

AGENCY: Office of Tribal Relations, USDA.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a forthcoming meeting of The Council for Native American Farming and Ranching (CNAFR), a public advisory committee of the Office of Tribal Relations (OTR). Notice of the meetings are provided in accordance with section 10(a)(2) of the Federal Advisory Committee Act, as amended. This will be the second meeting held during fiscal year 2018 and will consist of, but not be limited to: hearing public comments and subcommittee report outs. This meeting will be open to the public.

DATES: The meeting will be held on June 20, 2018. The meeting will be open to the public with time set aside for public comment on June 20 at approximately 4:00–6:00 p.m. The OTR will make the agenda available to the public via the OTR website (*http://www.usda.gov/tribalrelations*) no later than 10 business days before the meeting and at the meeting.

ADDRESSES: The meeting will be held at the U.S. Department of Agriculture's Whitten Building located at 1400 Jefferson Dr. SW, Washington, DC 20250—Whitten Building Patio—1st floor.

Written Comments: Written comments may be submitted to the CNAFR Contact Person: Abby Cruz, Designated Federal Officer and Senior Policy Advisor for the Office of Tribal Relations, 1400

Independence Ave. SW, Whitten Bldg., 501–A, Washington, DC 20250; by Fax: (202) 720–1058; or by email: *Abigail.Cruz@osec.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Questions should be directed to the CNAFR Contact Person: Abby Cruz, Designated Federal Officer and Senior Policy Advisor for the Office of Tribal Relations, 1400 Independence Ave. SW, Whitten Bldg., 501–A, Washington, DC 20250; by Fax: (202) 720–1058; or by email: *Abigail.Cruz@osec.usda.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App. 2), USDA established an advisory council for Native American farmers and ranchers. The CNAFR is a discretionary advisory committee established under the authority of the Secretary of Agriculture, in furtherance of the *Keepseagle* v. *Perdue* settlement agreement that was granted final approval by the District Court for the District of Columbia on April 28, 2011.

The CNAFR will operate under the provisions of the FACA and report to the Secretary of Agriculture. The purpose of the CNAFR is (1) to advise the Secretary of Agriculture on issues related to the participation of Native American farmers and ranchers in USDA programs; (2) to transmit recommendations concerning any changes to USDA regulations or internal guidance or other measures that would eliminate barriers to program participation for Native American farmers and ranchers; (3) to examine methods of maximizing the number of new farming and ranching opportunities created by USDA programs through enhanced extension and financial literacy services; (4) to examine methods of encouraging intergovernmental cooperation to mitigate the effects of land tenure and probate issues on the delivery of USDA programs; (5) to evaluate other methods of creating new farming or ranching opportunities for Native American producers; and (6) to address other related issues as deemed appropriate.

The Secretary of Agriculture selected a diverse group of members representing a broad spectrum of persons interested in providing solutions to the challenges of the aforementioned purposes. Equal opportunity practices were considered in all appointments to the CNAFR in accordance with USDA policies. The Secretary selected the members in December 2016.

Interested persons may present views, orally or in writing, on issues relating to agenda topics before the CNAFR. Written submissions may be submitted to the CNAFR Contact Person on or before June 12, 2018. Oral presentations from the public will be heard at approximately 4:00 p.m. to 6:00 p.m. on June 20, 2018. Individuals interested in making formal oral presentations should also notify the CNAFR Contact Person and submit a brief statement of the general nature of the issue they wish to present and the names, tribal affiliations, and addresses of proposed participants by June 12, 2018. All oral presentations will be given three (3) to five (5) minutes depending on the number of participants.

The OTR will also make the agenda available to the public via the OTR website (*http://www.usda.gov/tribalrelations*) no later than 10 business days before the meeting and at the meeting. The minutes from the meeting will be posted on the OTR website. OTR welcomes the attendance of the public at the CNAFR meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Abby Cruz at least 10 business days in advance of the meeting.

Dated: April 23, 2018.

Linda Cronin,

Acting Director, Office of Tribal Relations.

[FR Doc. 2018–09505 Filed 5–3–18; 8:45 am]

BILLING CODE 3420–AG–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection: Post-Hurricane Research and Assessment of Agriculture, Forestry, and Rural Communities in the U.S. Caribbean

AGENCY: Forest Service, USDA.

ACTION: Emergency Clearance Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is submitting a request to the Office of Management and Budget (OMB) for review and approval under the emergency processing procedures for a new information collection request, *Post-Hurricane Research and Assessment of Agriculture, Forestry, and Rural Communities in the U.S. Caribbean,* and is seeking comments from all interested individuals and organizations.

DATES: Comments on this proposal for emergency review must be received in writing on or before June 4, 2018 to be assured of consideration. Comments received after that date will be considered to the extent practicable. The USDA Forest Service is requesting OMB to take action by May 9, 2018.

ADDRESSES: Comments concerning this information collection should be addressed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: Desk Officer for the USDA Forest Service, 725 17th Street NW, Washington, DC 20503, or sent via electronic mail to: *oira_submissions@omb.eop.gov* or via facsimile to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be made to Kathleen McGinley, Social Scientist, USDA Forest Service, by electronic mail to *kmcginley@fs.fed.us,* via facsimile 919–513–2978, or phone 919–513–3331. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Post-Hurricane Research and Assessment of Agriculture, Forestry, and Rural Communities in the U.S. Caribbean.

OMB Number: 0596–NEW.

Expiration Date of Approval: New.

Type of Request: New request for emergency review and clearance.

Abstract: In September 2017, two major hurricanes passed through the Caribbean, causing catastrophic damage to communities, infrastructure, farms, and forests across Puerto Rico, U.S. Virgin Islands, and many neighboring islands, significantly compromising local livelihoods, food security, and economic stability throughout the region. To date, there is limited information on the impacts of Hurricanes Irma and Maria, particularly in terms of agricultural and forestry systems and the people who depend on them, and likewise, limited information about the effectiveness of related conservation practices or mitigation and adaptation strategies. Such information is critical to the design and implementation of ongoing recovery work and to longer-term resilience efforts in the U.S. Caribbean and in other regions affected by hurricanes or other major disturbances.

USDA, Forest Service seeks review and approval under the emergency processing procedures from Office of Management and Budget to collect information about the effects of Hurricanes Irma and Maria on agriculture, forestry, and rural communities in the U.S. Caribbean and the internal and external factors that

affected their vulnerabilities or resilience. This information is essential to the Department of Agriculture's mandate to support agriculture and natural resources that are productive, sustainable, and provide benefits for the American public under the Rural Development Policy Act of 1980, and to Forest Service's mandate to provide expert advice and conduct research on the management of forests outside the National Forest system through the Cooperative Forestry Assistance Act of 1978. Additionally, the importance of gathering, analyzing, and sharing this type of information is reflected in the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended, and the Forest and Rangeland Renewable Resources Research Act of 1978.

Information will be collected through focus groups and interviews with participants selected purposively in line with the collection objectives. This collection will generate scientifically-based, up-to-date information that can be used to inform ongoing post-hurricane recovery efforts and related risk reduction and mitigation and adaptation strategies by USDA, Forest Service, other Federal agencies, local government, civil society, and the private sector.

Affected Public: Individuals and Households, Private Sector Businesses, Non-Profit/Governmental Organizations, State/Local Government.

Estimated Annualized Burden Hours for Respondents and Non-Respondents for Six Month Emergency Approval Period: 376 hours.

Estimated Annual Number of Respondents for Six Month Emergency Approval Period: 220 (120 focus group participants; 100 interview respondents).

Estimated Annual Number of Responses per Respondent: 1 response/respondent is anticipated.

Comment Is Invited

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) 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 the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. USDA Forest Service will consider the comments received and amend the information collection as appropriate. All comments received in response to this notice, including names and addresses when provided, will be a matter of public record.

Dated: April 16, 2018.

Carlos Rodriguez-Franco,

Deputy Chief, Research & Development.

[FR Doc. 2018–09544 Filed 5–3–18; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Grand Mesa, Uncompahgre and Gunnison National Forests; Colorado; Revision of the Land and Resource Management Plan for the Grand Mesa, Uncompahgre, and Gunnison National Forests

AGENCY: Forest Service, USDA.

ACTION: Notice to extend the public scoping period for the notice of intent to revise the Grand Mesa, Uncompahgre and Gunnison Land and Resource Management Plan and to prepare an environmental impact statement.

SUMMARY: The Grand Mesa, Uncompahgre, and Gunnison (GMUG) National Forests are revising their Land and Resource Management Plan (Forest Plan) and will prepare an Environmental Impact Statement (EIS) for the revised Forest Plan. A Notice of Intent for this project was published in the **Federal Register** on April 3, 2018 and initiated the scoping comment period. This comment period has been extended by thirty days until June 2, 2018 to provide additional time for review and feedback. The GMUG has published the initial scoping material, as well as other helpful resources, on its website at *www.fs.usda.gov/goto/gmug/forestplan.*

DATES: Comments on the notice of intent that published on April 3, 2018 at 83 FR 14243 concerning the scoping material must be received by June 2, 2018.

ADDRESSES: Comments may be submitted electronically online at *http://www.fs.usda.gov/goto/gmug/forestplan_comments,* via email to *gmugforestplan@fs.fed.us,* by post to GMUG National Forests, Attn: Forest Plan Revision Team, 2250 S Main St., Delta, CO, 81416, or via facsimile to 970–874–6698. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received by visiting the public reading room online at *http://www.fs.usda.gov/goto/gmug/forestplan_readingroom.*

FOR FURTHER INFORMATION CONTACT: Please contact Forest Plan Revision Team Leader Samantha Staley at (970) 874–6666 or Assistant Forest Planner Brittany Duffy at (970) 874–6649, or via email to *gmugforestplan@fs.fed.us.* Additional information concerning the planning process can be found online at *http://www.fs.usda.gov/goto/gmug/forestplan.*

Dated: April 20, 2018.

Chris French,

Associate Deputy Chief, National Forest System.

[FR Doc. 2018–09548 Filed 5–3–18; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Proposed Information Collection; Comment Request; Comprehensive Economic Development Strategies

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Economic Development Administration (EDA or the Agency), Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a proposed extension of an information collection request approved through September 30, 2018, as required by the Paperwork Reduction Act of 1995 (PRA).

DATES: Written comments must be submitted on or before July 3, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via email at *PRAcomments@doc.gov*).

FOR FURTHER INFORMATION, CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to David Ives, Senior Program Analyst, Performance and National Programs Division, Room 71030, Economic Development Administration, 14th and Constitution Avenue NW, Washington, DC 20230 (or via email at *dives@eda.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The mission of EDA is to lead the federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. EDA accomplishes this mission by helping states, regions, and communities through capacity building, planning, infrastructure, research grants, and strategic initiatives. Further information on EDA's program and grant opportunities can be found at *www.eda.gov.*

In order to effectively administer and monitor its economic development assistance programs, EDA collects certain information from applications for, and recipients of, EDA investment assistance. The purpose of this notice is to seek comments from the public and other Federal agencies on a request for an extension of an information collected related to a Comprehensive Economic Development Strategy (CEDS). The collection of this information is required to ensure the recipient is complying with EDA's CEDS requirements. A CEDS is required for an eligible applicant to qualify for an EDA investment assistance under its Public Works, Economic Adjustment, and certain planning programs, and is a prerequisite for a region's designation by EDA as an Economic Development District (see 13 CFR 303, 305.2, and 307.2 of EDA's regulations). This information collection is scheduled to expire on September 30, 2018.

II. Method of Collection

The CEDS are collected via both paper and electronic submissions. A CEDS emerges from a continuing planning process developed and driven by a public sector planning organization by engaging a broad-based and diverse set of stakeholders to address the economic problems and potential of a region. The CEDS should include information about how and to what extent stakeholder input and support was solicited. Information on how the planning organization collaborated with its diverse set of stakeholders (including the public sector, private interests, non-profits, educational institutions, and community organizations) in the development of the CEDS should be included. In accordance with the regulations governing the CEDS (see 13 CFR 303.7), a CEDS must contain a summary background, a SWOT Analysis, Strategic Direction/Action Plan, and an Evaluation Framework. In addition, the CEDS must incorporate the concept of economic resilience (*i.e.,* the ability to avoid, withstand, and recover from economic shifts, natural disasters, etc.). EDA is not proposing any changes to the current information collection request.

III. Data

OMB Control Number: 0610–0093.

Form Number(s): None.

Type of Review: Regular submission; revision of a currently approved collection.

Affected Public: Not-for-profit institutions; Federal government; State, local or Tribal government; Business or other for-profit organizations.

Estimated Number of Respondents: 527.

Estimated Time per Response: 480 hours for the initial CEDS for a District organization or other planning organization funded by EDA; 160 hours for the CEDS revision required at least every 5 years from and EDA-funded District or other planning organization; 40 hours per applicant for EDA Public Works or Economic Adjustment Assistance with a project deemed by EDA to merit further consideration that is not located in an EDA-funded District.

Estimated Total Annual Burden Hours: 31,640.

Type of response	Number of responses	Hours per response	Total estimated time (hours)
Initial CEDS	3	480 hours/initial CEDS	1,440
Revised CEDS	77	160 hours/revised CEDS	12,320
CEDS Updates/Performance Reports	385	40 hours/report	15,400
CEDS by applicants not in EDA-funded District	62	40 hours	2,480
Total			31,640

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Pursuant to section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501 *et seq.*), comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and may be included in the request for Office of Management and Budget approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–09539 Filed 5–3–18; 8:45 am]

BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Proposed Information Collection; Comment Request; Request To Amend an Investment Award and Project Service Maps

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Economic Development Administration (EDA or the Agency), Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a proposed extension of an information collection

request approved through September 30, 2018, as required by the Paperwork Reduction Act of 1995 (PRA).

DATES: Written comments must be submitted on or before July 3, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via email at *PRAcomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Mitchell E. Harrison, Program Analyst, U.S. Economic Development Administration, Performance and National Programs, 1401 Constitution Avenue NW, Room 71030, Washington, DC 20230 (or via email at *mharrison@eda.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The mission of EDA is to lead the federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. EDA accomplishes this mission by helping states, regions, and communities through capacity building, planning, infrastructure, research grants, and strategic initiatives. Further information on EDA's program and grant opportunities can be found at *www.eda.gov.*

In order to effectively administer and monitor its economic development assistance programs, EDA collects certain information from applicants for, and recipients of, EDA investment assistance. The purpose of this notice is to seek comments from the public and other Federal agencies on a request for an extension of this information collection where a recipient must submit a written request to EDA to amend an investment award and provide such information and documentation as EDA deems necessary to determine the merit of altering the terms of an award (see 13 CFR 302.7(a) of EDA's regulations). EDA *may* require a recipient to submit a project service map and information from which to determine whether services are provided to all segments of the region being assisted (see 13 CFR 302.16(c) of EDA's regulations). This information collection is scheduled to expire on September 30, 2018.

II. Method of Collection

Amendments and project service maps are collected via both paper or electronic submissions, including email. A recipient must submit a written request to EDA to amend an investment award and provide such information and documentation as EDA deems necessary to determine the merit of altering the terms of an award (see 13 CFR 302.7(a) of EDA's regulations). EDA *may* require a recipient to submit a project service map and information from which to determine whether services are provided to all segments of the region being assisted (see CFR 302.16(c) of EDA's regulations). EDA is not proposing any changes to the current information collection request.

III. Data

OMB Control Number: 0610–0102.

Form Number(s): None.

Type of Review: Regular submission; Revision of a currently approved collection.

Affected Public: Current recipients of EDA construction (Public Works or Economic Adjustment Assistance) awards, to include (1) cities or other political subdivisions of a state, including a special purpose unit of state or local government engaged in economic or infrastructure development activities, or a consortium of political subdivisions; (2) states; (3) institutions of higher education or a consortium of institutions of higher education; (4) public or private non-profit organizations or associations; (5) District Organizations; and (6) Indian Tribes or a consortia of Indian Tribes and (7) (for training, research, and technical assistance awards only) individuals and for-profit businesses.

Estimated Number of Respondents: 632 (600 requests for amendments to construction awards, 30 requests for amendments to non-construction awards, 2 project service maps).

Estimated Time Per Response: 2 hours for an amendment to a construction award, 1 hour for an amendment to a non-construction award, 6 hours for a project service map.

Estimated Total Annual Burden Hours: 1,242 hours.

Type of request	Number of requests	Estimated hours per request	Estimated burden hours
Requests for amendments to construction awards	600	2 hours/request preparation	1200
Requests for amendment to non-construction awards	30	1 hour/request	30
Project service maps	2	6 hours/map	12
Total			1,242

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Pursuant to section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501 *et seq.*), comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and may be included in the request for Office of Management and Budget approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–09535 Filed 5–3–18; 8:45 am]

BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Proposed Information Collection; Comment Request; Requirements for Approved Construction Investments

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Economic Development Administration (EDA or the Agency), Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a proposed extension of an information collection request approved through September 30, 2018, as required by the Paperwork Reduction Act of 1995 (PRA).

DATES: Written comments must be submitted on or before July 3, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via email at *PRAcomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Bernadette Grafton, Program Analyst, U.S. Department of Commerce, Economic Development Administration Performance and National Programs Division, 1401 Constitution Avenue NW, Suite 71030, Washington, DC 20230 (or via email at *bgrafton@eda.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The mission of the EDA is to lead the federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. EDA accomplishes this mission by helping states, regions, and communities through capacity building, planning, infrastructure, research grants, and strategic initiatives. Further information on EDA's program and grant opportunities can be found at *www.eda.gov*.

EDA may award assistance for construction projects through its Public Works and Economic Adjustment Assistance (EAA) Programs. Public Works Program investments help support the construction or rehabilitation of essential public infrastructure and facilities necessary to generate or retain private sector jobs and investments, attract private sector capital, and promote vibrant economic ecosystems, regional competitiveness and innovation. The EAA Program provides a wide range of technical, planning and infrastructure assistance in regions experiencing adverse economic changes that may occur suddenly or over time.

In order to effectively administer and monitor its economic development assistance programs, EDA collects certain information from applications for, and recipients of, EDA investment assistance. Through this notice, EDA seeks comments from the public and other Federal agencies on a request for an extension of the series of checklists and templates (formerly referred to as the "bluebook") that constitute EDA's post-approval construction tools and the Standard Terms and Conditions for Construction Projects. These checklists and templates, as well as any special conditions incorporated into the terms and conditions at the time of award, supplement the requirements that apply to EDA-funded construction projects. This information collection is scheduled to expire on September 30, 2018.

II. Method of Collection

The checklists and templates are collected via both paper and electronic submissions. These checklists and templates, as well as any special conditions incorporated into the terms and conditions at the time of award, supplement the requirements that apply to EDA-funded construction projects.

As a part of this renewal process, EDA plans to make clarifying edits to the series of checklists and templates, including updates necessitated by issuance of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as set forth in 2 CFR part 200. The edits will also increase the clarity of the provided instructions and thus facilitate timely completion by the recipient and approval by EDA. None of the edits are expected to increase the time burden on the respondent nor do the modifications change the type of information collected.

III. Data

OMB Control Number: 0610–0096.

Form Number(s): None.

Type of Review: Regular submission; revision of a currently approved collection.

Affected Public: Current recipients of EDA construction (Public Works or Economic Assistance Adjustment) awards, to include (1) cities or other political subdivisions of a state, including a special purpose unit of state or local government engaged in economic or infrastructure development activities, or a consortium of political subdivisions; (2) states; (3) institutions of higher education or a consortium of institutions of higher education; (4) public or private non-profit organizations or associations; (5) District Organizations; and (6) Indian Tribes or a consortia of Indian Tribes.

Estimated Number of Respondents: 4,200.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 8,400 hours.

Type of submission	Number of submissions	Hours per submission	Total estimated hours
600 open construction grants	7	2 hours	8,400

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Pursuant to section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501 *et seq.*), comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and may be included in the request for Office of Management and Budget approval of

this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–09537 Filed 5–3–18; 8:45 am]

BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Proposed Information Collection; Comment Request; Property Management

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Economic Development Administration (EDA or the Agency), Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a proposed extension of an information collection request approved through September 30, 2018, as required by the Paperwork Reduction Act of 1995 (PRA).

DATES: Written comments must be submitted on or before July 3, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via email at *PRAcomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Bernadette Grafton, Program Analyst, U.S. Department of Commerce, Economic Development Administration Performance and National Programs Division, 1401 Constitution Avenue NW, Suite 71030, Washington, DC 20230 (or via email at: *bgrafton@eda.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The mission of EDA is to lead the federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. EDA accomplishes this mission by helping states, regions, and communities through capacity building, planning, infrastructure, research grants, and strategic initiatives. Further information on EDA's program and grant opportunities can be found at *www.eda.gov*.

In order to effectively administer and monitor its economic development assistance programs, EDA collects certain information from applications for, and recipients of, EDA investment assistance. This notice covers EDA's Property Management requirements. A recipient must request in writing EDA's approval to undertake an incidental use of property acquired or improved with EDA's investment assistance (see 13 CFR 314.3 of EDA's regulations). The purpose of this notice is to seek comments from the public and other Federal agencies on a request for an extension of this collection of information that allows EDA to determine whether an incidental use of property acquired or improved with EDA investment assistance is appropriate. If a recipient wishes EDA to release its real property or tangible personal property interests before the expiration of the property's estimated useful life, the recipient must submit a written request to EDA and disclose to EDA the intended future use of the real property or the tangible personal property for which the release is requested (see 13 CFR 314.10 of EDA's regulations). This collection of information allows EDA to determine whether to release its real property or tangible personal property interests.

This information collection is scheduled to expire on September 30, 2018.

II. Method of Collection

Property management requests are collected via both paper and electronic submissions. A recipient must request in writing EDA's approval to undertake an incidental use of property acquired or improved with EDA's investment assistance (see 13 CFR 314.3 of EDA's regulations). This collection of information allows EDA to determine whether an incidental use of property acquired or improved with EDA investment assistance is appropriate. This collection of information allows EDA to determine whether to release its real property or tangible personal property interests. EDA is not proposing any changes to the current information collection request.

III. Data

OMB Control Number: 0610–0103.

Form Number(s): None.

Type of Review: Ad hoc submission (only when a recipient makes a request).

Affected Public: Current recipients of EDA construction (Public Works or Economic Adjustment Assistance) awards, to include (1) cities or other political subdivisions of a state, including a special purpose unit of state or local government engaged in economic or infrastructure development activities, or a consortium of political subdivisions; (2) states; (3) institutions of higher education or a consortium of institutions of higher education; (4) public or private non-profit organizations or associations; (5) District Organizations; and (6) Indian Tribes or a consortia of Indian Tribes.

Estimated Number of Respondents: 150 (54 incidental use requests; 96 for requests to release EDA's Property interest).

Estimated Time per Response: 2 hours and 45 minutes.

Estimated Total Annual Burden Hours: 413.

Type of request	Number of requests (estimated)	Hours per request (estimated)	Total estimated burden hours
Incidental use request	54	2.75	148.5
Release request	96	2.75	264
Total	....	....	412.5

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Pursuant to section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501 *et seq.*), comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the

agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and may be included in the request for Office of Management and Budget approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–09540 Filed 5–3–18; 8:45 am]

BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Proposed Information Collection; Comment Request; Application for Investment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Economic Development Administration (EDA or the Agency), Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a proposed extension of an information collection request approved through September 30, 2018, as required by the Paperwork Reduction Act of 1995 (PRA).

DATES: Written comments must be submitted on or before July 3, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via email at *PRAcomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Ryan Smith, Program Analyst, Performance and National Programs Division, Room 71030, Economic Development Administration, 14th and Constitution Avenue NW, Washington, DC 20230, (or via email at *rsmith2@eda.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The mission of EDA is to lead the federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. EDA accomplishes this mission by helping states, regions, and communities through capacity building, planning, infrastructure, research grants, and strategic initiatives. Further information on EDA's program and grant opportunities can be found at *www.eda.gov*.

In order for EDA to evaluate whether proposed projects satisfy eligibility and programmatic requirements contained in EDA's authorizing legislation, the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121 *et seq.*) (PWEDA), EDA's accompanying regulations codified in 13 CFR Chapter III, and the applicable Notice of Funding Opportunity (NOFO), EDA must collect specific data from its grant applicants. The purpose of this notice is to seek comments from the public and other Federal agencies on a request for an extension of EDA's currently approved suite of ED–900 application forms which are scheduled to expire on September 30, 2018.

II. Method of Collection

EDA collects application information through a series of ED–900 forms:

• ED–900—General Application for EDA Programs;

• ED–900A—Additional EDA Assurances for Construction or Non-Construction Investments;

• ED–900C—EDA Application Supplement for Construction Programs;

• ED–900D—Requirements for Design and Engineering Assistance;

• ED–900E—Calculation of Estimated Relocation and Land Acquisition Expenses;

• ED–900F—Supplement for Revolving Loan Fund Applications;

• ED–900P—Proposal for EDA Assistance].

The forms are electronically submitted through *Grants.gov*, or via paper submission to the appropriate EDA office, in response to a NOFO. Applicants are required to submit the applicable ED–900 form(s) to the EDA Regional Office for review and evaluation.

As a part of this renewal process, EDA plans to make minor clarifying edits to the following ED–900 forms: ED–900, ED–900B, and ED–900C. None of these minor edits are expected to impact the time burden on the respondent nor do the modifications change the type or amount of information collected.

DETAILED INFORMATION ABOUT PROPOSED CHANGES

Form	Section	Proposed changes
All	Where applicable	Replace all occurrences of "FFO" or "Federal Funding Opportunity" with "NOFO" or "Notice of Funding Opportunity" as appropriate, per Department of Commerce grants policy.
ED–900—General Application for EDA Programs.	A. Applicant Information	None.
ED–900	B. Project Information	(1) To increase clarity, revise Question B.1. to read: "Provide a geographical definition of the region to be served by the investment (project), including the specific geographic location of the project within the region." (2) To increase clarity, revise Question B.2. to read: "Describe and outline the scope of work for the proposed EDA investment, including a list of tasks to be undertaken." (3) For consistency, add "N/A—Not Applicable" to the available options under "No" within Question B.3. (4) To increase clarity, revise Question B.3.b. to read: "Describe the economic conditions of your region. Define the economic development need to be addressed by the proposed EDA investment and explain how the proposed investment will address that need."

DETAILED INFORMATION ABOUT PROPOSED CHANGES—Continued

Form	Section	Proposed changes
ED–900	C. Regional Eligibility	(1) Reverse the order of C.2. and C.3. so that the basis of eligibility is asked about prior to the source of data. (2) Question C.3. (as renumbered): Add a new box C.3.b. and renumber the rest accordingly. The new box reads: "C.3.b. The most recent Bureau of Labor Statistics Data." This change will reflect the hierarchy of sources set out in 13 C.F.R. 301.3(a)(4).
ED–900	E. Administrative Requirements	Provide clarification in Question E.1.b. by adding "as listed in question B.9." in parenthesis after "other parties" and add "under 13 C.F.R. § 302.20" after "civil rights requirements".
ED–900	Instructions	(1) To avoid duplication, revise the instructions for B.2. to delete ", and key milestones and an associated schedule for when the project could start, when key milestones could be achieved, and when the project is anticipated to be completed". Milestones and schedule should not be included for this question. They should be included in the response to B.7. (2) To provide additional clarity on what EDA may require, revise the instructions for D.2. to include a third sentence: "Alternatively, applicants must provide supplemental documentation such as: a certificate of indirect costs and acknowledgment letter from the cognizant agency, a cost allocation plan, an indirect cost rate proposal and/or other acceptable documents under Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) as set forth in 2 C.F.R. part 200 or relevant procurement regulations."
ED–900B—Beneficiary Information Form.	D. Assurances by Beneficiary that is an "Other Party".	To increase clarity, revise the first sentence of the third paragraph to read: "By submitting these assurances, the Other Party certifies that it will comply with the following requirements:"
ED–900C—EDA Application Supplement for Construction Programs.	D. Title Requirements	To provide additional clarity on what EDA may require, revise Question D.2. to read: "EDA regulations normally require recipients to provide a security interest and/or covenant of use in the real property or significant items of tangible personal property acquired or improved with EDA investment assistance (see 13 C.F.R. §§ 314.8 & 314.9). Will you be able to provide the required security interest?" Additionally, after the "No" box in D.2.: revise the parenthetical to say "(explain how you will satisfy the requirements of 13 C.F.R. §§ 314.8 & 314.9)."
ED–900C	E. Sale or Lease	To increase clarity, revise Question E.3. to read: "Is the purpose of the project to construct facilities to serve a privately owned industrial or commercial party or other privately owned sites for sale or lease?" Also in Question E.3. and to provide additional clarity on what EDA may require, revise the second sentence after the No/Yes checkboxes to read: "Note that EDA may require that the private owner agree to certain restrictions on the use of the property and may require that those restrictions survive any sale or transfer of the property." Finally, in Question E.3. and to provide additional clarity on what EDA may require, revise the third sentence after the No/Yes checkboxes to read: "In addition, EDA may require evidence that the private party has title to the park or site and may require the private party to provide other assurance that EDA determines are necessary to ensure that the property is used in a manner consistent with the project purpose."

III. Data

OMB Control Number: 0610–0094.

Form Number(s): ED–900, ED–900A, ED–900B, ED–900C, ED–900D, ED–900E, ED–900F, ED–900P.

Type of Review: Regular submission; revision of a currently approved collection.

Affected Public: Not-for-profit institutions; Federal government; State, local, or Tribal government; Business or other for-profit organizations.

Estimated Number of Respondents: 1672.

Estimated Time per Response: 13 hours, 28 minutes.

Estimated Total Annual Burden Hours: 22,512.

Application type	Estimated number of responses	Average time estimate	Total hours
Proposal Submission for Non-Construction Applicants	448	4.8	2140.4
Proposal Submission for Construction Applicants	263	4.2	1109.0

Application type	Estimated number of responses	Average time estimate	Total hours
Full Application Submission for Construction Applicants	99	43.0	4246.6
Full Application Submission All Other EDA Programs	737	17.1	12579.2
Full Application Submission for Non-Profit Applicants	125	19.5	2436.9
Total	1672	....	22,512

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Pursuant to section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501 *et seq.*), comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and may be included in the request for Office of Management and Budget approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–09538 Filed 5–3–18; 8:45 am]

BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–535–905]

Polyethylene Terephthalate Resin From Pakistan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that polyethylene terephthalate resin (PET resin) from Pakistan is being, or is likely to be, sold in the United States at less than fair value. The period of investigation is July 1, 2016, through June 30, 2017.

DATES: Applicable May 4, 2018.

FOR FURTHER INFORMATION CONTACT: Lauren Caserta, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on October 23, 2017.[1] Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. On February 22, 2018, Commerce postponed the preliminary determination of this investigation.[2] The revised deadline for the preliminary determination of this investigation is now April 27, 2018.[3]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[4] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The merchandise covered by this investigation is PET resin from Pakistan. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[5] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[6] For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Decision Memorandum. After evaluating the comments, Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice* to exclude PET-glycol resin. *See* the revised scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. In addition, Commerce has preliminarily relied upon facts available under section 776(a)(1) of the Act for Novatex. For a full description of the methodology underlying the

[1] *See Polyethylene Terephthalate Resin from Brazil, Indonesia, the Republic of Korea, Pakistan, and Taiwan: Initiation of Less-Than-Fair-Value Investigations,* 82 FR 48977 (October 23, 2017) (*Initiation Notice*).

[2] *See Polyethylene Terephthalate from Brazil, Indonesia, the Republic of Korea, Pakistan, and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 83 FR 7655 (February 22, 2018).

[3] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Polyethylene Terephthalate Resin from Indonesia'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[6] *See Initiation Notice.*

preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. Commerce calculated an individual estimated weighted-average dumping margin for Novatex, the only individually examined exporter/producer in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis,* or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for Novatex is the margin assigned to all-other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Novatex Limited[7]	7.75
All-Others	7.75

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register.** Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondent listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise, and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[8] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On April 9, 2018, pursuant to 19 CFR 351.210(e), Novatex requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[9] On April 12, 2018, the petitioners[10] also requested that Commerce postpone the final determination.[11] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

[7] Commerce preliminarily determines that Novatex Limited and Gatron Industries Limited are a single entity. *See* Preliminary Decision Memorandum.

[8] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[9] *See* Novatex's Letter, "Polyethylene Terephthalate Resin from Pakistan: Novatex Request to Postpone Final Determination," dated April 9, 2018.

[10] The petitioners are DAK Americas LLC, Indorama Ventures USA, Inc., M&G Polymers USA, LLC, and Nan Ya Plastics Corporation, America.

[11] *See* Letter from the petitioners, "Polyethylene Terephthalate Resin from Brazil, Indonesia, the Republic of Korea, Pakistan, and Taiwan—Petitioners' Request to Extend the Antidumping Duty Determinations," dated April 12, 2018.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: April 27, 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.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is polyethylene terephthalate (PET) resin having an intrinsic viscosity of at least 70, but not more than 88, milliliters per gram (0.70 to 0.88 deciliters per gram). The scope includes blends of virgin PET resin and recycled PET resin containing 50 percent or more virgin PET resin content by weight, provided such blends meet the intrinsic viscosity requirements above. The scope includes all PET resin meeting the above specifications regardless of additives introduced in the manufacturing process.

The scope excludes PET-glycol resin, also referred to as PETG. PET-glycol resins are manufactured by replacing a portion of the raw material input monoethylene glycol (MEG) with one of five glycol modifiers: Cyclohexanedimethanol (CHDM), diethylene glycol (DEG), neopentyl glycol (NPG), isosorbide, or spiro glycol. Specifically, excluded PET-glycol resins must contain a minimum of 10 percent, by weight, of CHDM, DEG, NPG, isosorbide or spiro glycol, or some combination of these glycol modifiers. Unlike subject PET resin, PET-glycol resins are amorphous resins that are not solid-stated and cannot be crystallized or recycled.

The merchandise subject to this investigation is properly classified under subheadings 3907.61.0000 and 3907.69.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Postponement of Final Determination and Extension of Provisional Measures
V. Scope Comments
VI. Affiliation and Collapsing
VII. Discussion of the Methodology
A. Comparisons to Fair Value
1. Determination of Comparison Method
2. Results of the Differential Pricing Analysis
VIII. Date of Sale
IX. Product Comparisons
X. Export Price and Constructed Export Price
XI. Duty Drawback
XII. Normal Value
A. Home Market Viability and Comparison Market
B. Affiliated-Party Transactions and Arm's-Length Test
C. Level of Trade
D. Cost of Production (COP) Analysis
1. Calculation of COP
2. Test of Comparison Market Sales Prices
3. Results of the COP Test
E. Calculation of NV Based on Comparison Market Prices
XIII. Currency Conversion
XIV. Verification
XV. Conclusion

[FR Doc. 2018–09511 Filed 5–3–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–832]

Polyethylene Terephthalate Resin From Indonesia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that polyethylene terephthalate resin (PET resin) from Indonesia is being, or is likely to be, sold in the United States at less than fair value. The period of investigation is July 1, 2016, through June 30, 2017.

DATES: Applicable May 4, 2018.

FOR FURTHER INFORMATION CONTACT: Caitlin Monks, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2670.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on October 23, 2017.[1] On January 23, 2018, Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20, 2018, through January 22, 2018.[2] On February 22, 2018, Commerce postponed the preliminary determination of this investigation.[3] As a result, the revised deadline for the preliminary determination of this investigation is now April 27, 2018.

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[4] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The merchandise covered by this investigation is PET resin from Indonesia. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[5] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product

[1] *See Polyethylene Terephthalate Resin from Brazil, Indonesia, the Republic of Korea, Pakistan, and Taiwan: Initiation of Less-Than-Fair-Value Investigations,* 82 FR 48977 (October 23, 2017) (*Initiation Notice*).

[2] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated January 23, 2018.

[3] *See Polyethylene Terephthalate from Brazil, Indonesia, the Republic of Korea, Pakistan, and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 83 FR 7655 (February 22, 2018).

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Polyethylene Terephthalate Resin from Indonesia'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

coverage (*i.e.,* scope).[6] For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Decision Memorandum. After evaluating the comments, Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice* to exclude PET-glycol resin. *See* the revised scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. In addition, Commerce has preliminarily relied upon partial adverse facts available, in accordance with sections 776(a)(1) and 776(b) of the Act, for the Indorama Producers.[7] For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. Commerce calculated an individual estimated weighted-average dumping margin for the Indorama Producers, the only individually examined exporter/producer in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis,* or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for the Indorama Producers is the margin assigned to all-other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)
PT. Indo-Rama Synthetics Tbk./ PT. Indorama Polypet Indonesia/Indorama Ventures Indonesia	13.16
All-Others	13.16

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register.**

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. On April 20, 2018, Commerce preliminarily determined that critical circumstances exist for imports of PET resin from Indonesia produced or exported by Indorama Polymers and all other producers/exporters.[8] Accordingly, for Indorama Polymers and all other producers/exporters, in accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondent listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[9] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests

[6] *See Initiation Notice*.

[7] Commerce preliminarily determines, pursuant to section 771(33)(A) and 771(33)(F) of the Act, that mandatory respondent PT. Indo-Rama Synthetics Tbk. (Indorama Synthetics) is affiliated with mandatory respondent Indorama Polymers Public Co., Ltd. (Indorama Polymers), PT. Indorama Polypet Indonesia (Polypet), and Indorama Ventures Indonesia (Ventures Indonesia). Additionally, Commerce determined that Indorama Synthetics, Polypet, and Ventures Indonesia should be treated as a single entity (the Indorama Producers) pursuant to 19 CFR 351.401(f). *See* Preliminary Decision Memorandum at ''Affiliation and Collapsing.''

[8] *See Antidumping Duty Investigations on Polyethylene Terephthalate Resin from Indonesia, the Republic of Korea, and Taiwan; Preliminary Determinations of Critical Circumstances,* 83 FR 17791 (April 24, 2018).

[9] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On April 6, 2018, pursuant to 19 CFR 351.210(e), the Indorama Producers requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[10] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

[10] *See* Letter from Indorama, ''Polyethylene Terephthalate Resin from Indonesia: Request for Postponement of Final Determination,'' dated April 6, 2018.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: April 27, 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.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is polyethylene terephthalate (PET) resin having an intrinsic viscosity of at least 70, but not more than 88, milliliters per gram (0.70 to 0.88 deciliters per gram). The scope includes blends of virgin PET resin and recycled PET resin containing 50 percent or more virgin PET resin content by weight, provided such blends meet the intrinsic viscosity requirements above. The scope includes all PET resin meeting the above specifications regardless of additives introduced in the manufacturing process.

The scope excludes PET-glycol resin, also referred to as PETG. PET-glycol resins are manufactured by replacing a portion of the raw material input monoethylene glycol (MEG) with one of five glycol modifiers: Cyclohexanedimethanol (CHDM), diethylene glycol (DEG), neopentyl glycol (NPG), isosorbide, or spiro glycol. Specifically, excluded PET-glycol resins must contain a minimum of 10 percent, by weight, of CHDM, DEG, NPG, isosorbide or spiro glycol, or some combination of these glycol modifiers. Unlike subject PET resin, PET-glycol resins are amorphous resins that are not solid-stated and cannot be crystallized or recycled.

The merchandise subject to this investigation is properly classified under subheadings 3907.61.0000 and 3907.69.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Postponement of Final Determination and Extension of Provisional Measures
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VI. Affiliation and Collapsing
VII. Application of Facts Available and Use of Adverse Inferences
VIII. Discussion of the Methodology
  A. Comparisons to Fair Value
  1. Determination of Comparison Method
  2. Results of the Differential Pricing Analysis
IX. Date of Sale
X. Product Comparisons
XI. Export Price and Constructed Export Price
XII. Normal Value
  A. Home Market Viability
  B. Affiliated-Party Transactions and Arm's-Length Test
  C. Level of Trade
  D. Calculation of NV Based on Comparison Market Prices
  E. Calculation of NV Based on Constructed Value (CV)
  F. Cost of Production (COP) Analysis
  1. Calculation of COP
  2. Test of Comparison Market Sales Prices
  3. Results of the COP Test
XIII. Currency Conversion
XIV. Verification
XV. Conclusion

[FR Doc. 2018–09510 Filed 5–3–18; 8:45 am]
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DEPARTMENT OF COMMERCE

International Trade Administration

Proposed Information Collection; Comment Request; Surveys for User Satisfaction, Impact and Needs; Correction

AGENCY: International Trade Administration, Commerce.

ACTION: Notice; correction.

SUMMARY: The International Trade Administration (ITA) published a document in the **Federal Register** on May 1, 2018, concerning a request to solicit clients' opinions about the use of ITA products, services, and trade events, to promote optimal use and provide focused and effective improvements to ITA programs. The document was a duplicate submission of an identical notice published in the **Federal Register** on February 28, 2018 (83 FR 8651). This notice corrects the duplicate submission by withdrawing the notice published on May 1, 2018.

DATES: Document 2018–09119, that published May 1, 2018 at 83 FR 19047, is withdrawn as of May 1, 2018.

ADDRESSES: We will continue to accept public comments for the original **Federal Register** published on February 28, 2018 (83 FR 8651) that are submitted on or before April 30, 2018 by the following method:

Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer,

Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at PRAcomment@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Joe Carter—Office of Strategic Planning, 1999 Broadway—Suite 2205, Denver, CO 80220, (303) 844–5656, *joe.carter@trade.gov.*

SUPPLEMENTARY INFORMATION:

Correction

The **Federal Register** published May 1, 2018, in FR Doc. 2018–09119, document citation 83 FR 19047 on page 19047, is a duplicate submission that is being withdrawn.

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. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–09500 Filed 5–3–18; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–896]

Polyethylene Terephthalate Resin From the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that polyethylene terephthalate resin (PET resin) from the Republic of Korea (Korea) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2016, through June 30, 2017.

DATES: Applicable May 4, 2018.

FOR FURTHER INFORMATION CONTACT: Sean Carey, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3964.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on October 23, 2017.[1] Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. On February 22, 2018, Commerce postponed the preliminary determination of this investigation.[2] The revised deadline for the preliminary determination of this investigation is now April 27, 2018.[3]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[4] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The merchandise covered by this investigation is PET resin from Korea. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[5] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[6] For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Decision Memorandum. After evaluating the comments, Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice* to exclude PET-glycol resin. *See* the revised scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. In addition, Commerce has preliminarily relied upon adverse facts available under sections 776(a)(1) and 776(b) of the Act for Lotte Chemical Corp., Regd. (Lotte Chemical) and TK Chemical Corp. (TK Chemical). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Adverse Facts Available

Lotte Chemical and TK Chemical were selected as mandatory respondents, but failed to respond to Commerce's questionnaire. Accordingly, we preliminarily determine to base Lotte Chemical's and TK Chemical's dumping margins on adverse facts available (AFA), in accordance with sections 776(a) and (b) of the Act and 19 CFR 351.308. As AFA, we applied the highest dumping margin calculated for Korean exports of subject merchandise contained in the petition,[7] 101.41 percent. For further discussion, *see* the Preliminary Decision Memorandum.

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[1] *See Polyethylene Terephthalate Resin from Brazil, Indonesia, the Republic of Korea, Pakistan, and Taiwan: Initiation of Less-Than-Fair-Value Investigations,* 82 FR 48977 (October 23, 2017) (*Initiation Notice*).

[2] *See Polyethylene Terephthalate from Brazil, Indonesia, the Republic of Korea, Pakistan, and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 83 FR 7655 (February 22, 2018).

[3] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Polyethylene Terephthalate Resin from the Republic of Korea'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[6] *See Initiation Notice.*

[7] *See Polyethylene Terephthalate Resin from Brazil, Indonesia, the Republic of Korea, Pakistan, and Taiwan: Initiation of Less-Than-Fair-Value Investigations,* 82 FR 48977 (October 23, 2017).

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. Commerce calculated an individual estimated weighted-average dumping margin for SK Chemicals Co., Ltd., (SK Chemicals), the only cooperative individually examined exporter/producer in this investigation with shipments of subject merchandise during the POI. Because the only individually calculated dumping margin is not zero, *de minimis,* or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for SK Chemicals is the margin assigned to all-other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)
SK Chemicals Co., Ltd	8.81
Lotte Chemical Corp., Regd	101.41
TK Chemical Corp	101.41
All-Others	8.81

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. On April 20, 2018, Commerce preliminarily determined that critical circumstances exist for imports of PET resin from Korea produced and exported by Lotte Chemical, TK Chemical, and all other producers/exporters.[8] Accordingly, for Lotte Chemical, TK Chemical, and all other producers/exporters, in accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[9] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On April 11, 2018, pursuant to 19 CFR 351.210(e), SK Chemicals requested that Commerce postpone the final determination and that provisional measures be extended to a period not to

[8] *See Antidumping Duty Investigations on Polyethylene Terephthalate Resin from Indonesia, the Republic of Korea, and Taiwan; Preliminary Determinations of Critical Circumstances,* 83 FR 17791 (April 24, 2018).

[9] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

exceed six months.[10] The petitioners [11] filed the same request on April 12, 2018.[12] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: April 27, 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.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is polyethylene terephthalate (PET) resin having an intrinsic viscosity of at least 70, but not more than 88, milliliters per gram (0.70 to 0.88 deciliters per gram). The scope includes blends of virgin PET resin and recycled PET resin containing 50 percent or more virgin PET resin content by weight, provided such blends meet the intrinsic viscosity requirements above. The scope includes all PET resin meeting the above specifications regardless of additives introduced in the manufacturing process.

The scope excludes PET-glycol resin, also referred to as PETG. PET-glycol resins are manufactured by replacing a portion of the raw material input monoethylene glycol (MEG) with one of five glycol modifiers: Cyclohexanedimethanol (CHDM), diethylene glycol (DEG), neopentyl glycol (NPG), isosorbide, or spiro glycol. Specifically, excluded PET-glycol resins must contain a minimum of 10 percent, by weight, of CHDM, DEG, NPG, isosorbide or spiro glycol, or some combination of these glycol modifiers. Unlike subject PET resin, PET-glycol resins are amorphous resins that are not solid-stated and cannot be crystallized or recycled.

The merchandise subject to this investigation is properly classified under subheadings 3907.61.0000 and 3907.69.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

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V. Scope Comments
VI. Discussion of the Methodology
 A. Application of Adverse Facts Available (AFA)
 B. Corroboration of Secondary Information
 C. All-Others Rate
 D. Comparisons to Fair Value
 1. Determination of the Comparison Method
 2. Results of the Differential Pricing Analysis
VII. Date of Sale
VIII. Product Comparisons
IX. Export Price and Constructed Export Price
X. Normal Value
 A. Home Market Viability
 B. Affiliated-Party Transactions and Arm's-Length Test
 C. Level of Trade
 D. Calculation of NV Based on Comparison Market Prices
 E. Calculation of NV Based on Constructed Value (CV)
 F. Cost of Production (COP) Analysis
 1. Calculation of COP
 2. Test of Comparison Market Sales Prices
 3. Results of the COP Test
XI. Currency Conversion
XII. Verification
XIII. Conclusion

[FR Doc. 2018–09521 Filed 5–3–18; 8:45 am]

BILLING CODE 3510–DS–P

[10] *See* Letter from SK Chemicals, ''Polyethylene Terephthalate Resin from the Republic of Korea: Request for Postponement of Final Determination and Extension of Provisional Measures,'' dated April 11, 2018.

[11] The petitioners are DAK Americas LLC, Indorama Ventures USA, Inc., M&G Polymers USA, LLC, and Nan Ya Plastics Corporation, America.

[12] *See* Letter from the petitioners, ''Polyethylene Terephthalate Resin from Brazil, Indonesia, the Republic of Korea, Pakistan, and Taiwan—Request to Extend the Antidumping Duty Final Determination,'' dated April 12, 2018.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–862]

Polyethylene Terephthalate Resin From Taiwan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that polyethylene terephthalate resin (PET resin) from Taiwan is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2016, through June 30, 2017.

DATES: Applicable May 4, 2018.

FOR FURTHER INFORMATION CONTACT: Jun Jack Zhao or Alexander Cipolla, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1396 or (202) 482–4956, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on October 23, 2017.[1] On January 23, 2018, Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20, 2018, through January 22, 2018.[2] On February 22, 2018, Commerce postponed the preliminary determination of this investigation.[3] As a result, the revised deadline for the preliminary determination of this investigation is now April 27, 2018.

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary

[1] *See Polyethylene Terephthalate Resin from Brazil, Indonesia, the Republic of Korea, Pakistan, and Taiwan: Initiation of Less-Than-Fair-Value Investigations,* 82 FR 48977 (October 23, 2017) (*Initiation Notice*).

[2] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated January 23, 2018.

[3] *See Polyethylene Terephthalate from Brazil, Indonesia, the Republic of Korea, Pakistan, and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 83 FR 7655 (February 22, 2018).

Decision Memorandum.[4] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is PET resin from Taiwan. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[5] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[6] For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Decision Memorandum. After evaluating the comments, Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice* to exclude PET-glycol resin. *See* the revised scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Constructed export prices also have been calculated in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. In this investigation, Commerce calculated estimated weighted-average dumping margins for Far Eastern New Century Corporation and Shinkong Synthetic Fibers Corporation that are not zero, *de minimis,* or based entirely on facts otherwise available. Commerce calculated the all-others' rate using a weighted average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.[7]

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/Producer	Estimated weighted-average dumping margin (percent)
Far Eastern New Century Corporation, Far Eastern Textile Ltd., and Worldwide Polychem (HK), Ltd. (collectively, Far Eastern) [8]	11.89
Shinkong Synthetic Fibers Corporation	9.02
All-Others	10.99

Suspension ofLiquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. On April 20, 2018, Commerce preliminarily determined that critical circumstances exist for imports of PET resin from Taiwan produced or exported by Far Eastern and all other producers/exporters.[9] Accordingly, for Far Eastern and all other producers/exporters, in accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for

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[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Polyethylene Terephthalate Resin from Taiwan'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[6] *See Initiation Notice.*

[7] With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data was available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, please *see* the All-Others' Rate Calculation Memorandum.

[8] Commerce preliminarily determines that Far Eastern New Century Corporation and Worldwide Polychem (HK) Limited are a single entity, and Far Eastern New Century Corporation to be the successor-in-interest of Far Eastern Textile Ltd. *See* Preliminary Decision Memorandum.

[9] *See Antidumping Duty Investigations on Polyethylene Terephthalate Resin from Indonesia, the Republic of Korea, and Taiwan; Preliminary Determinations of Critical Circumstances,* 83 FR 17791 (April 24, 2018).

the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[10] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

[10] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until no later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On April 12, and April 17, 2018, pursuant to 19 CFR 351.210(e), Shinkong and Far Eastern requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[11] On April 12, 2018, the petitioners also requested that Commerce postpone the final determination.[12] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

[11] *See* Letter from Shinkong, ''Polyethylene Terephthalate (PET) Resin from Taiwan; Request to Extend Final Determination,'' dated April 12, 2018; and Letter from Far Eastern, ''Respondent Name(s), Investigation of Polyethylene Terephthalate Resin from Taiwan—Request for the Department's Final Determination Extension of Deadline,'' dated April 17, 2018.

[12] *See* Letter from the petitioners, ''Polyethylene Terephthalate Resin from Brazil, Indonesia, the Republic of Korea, Pakistan, and Taiwan—Petitioners' Request to Extend the Antidumping Duty Determinations,'' dated April 12, 2018.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: April 27, 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.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is polyethylene terephthalate (PET) resin having an intrinsic viscosity of at least 70, but not more than 88, milliliters per gram (0.70 to 0.88 deciliters per gram). The scope includes blends of virgin PET resin and recycled PET resin containing 50 percent or more virgin PET resin content by weight, provided such blends meet the intrinsic viscosity requirements above. The scope includes all PET resin meeting the above specifications regardless of additives introduced in the manufacturing process.

The scope excludes PET-glycol resin, also referred to as PETG. PET-glycol resins are manufactured by replacing a portion of the raw material input monoethylene glycol (MEG) with one of five glycol modifiers: Cyclohexanedimethanol (CHDM), diethylene glycol (DEG), neopentyl glycol (NPG), isosorbide, or spiro glycol. Specifically, excluded PET-glycol resins must contain a minimum of 10 percent, by weight, of CHDM, DEG, NPG, isosorbide or spiro glycol, or some combination of these glycol modifiers. Unlike subject PET resin, PET-glycol resins are amorphous resins that are not solid-stated and cannot be crystallized or recycled.

The merchandise subject to this investigation is properly classified under subheadings 3907.61.0000 and 3907.69.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Postponement of Final Determination and Extension of Provisional Measures
V. Scope Comments
VI. Affiliation and Collapsing
VII. Discussion of the Methodology
A. Comparison to Fair Value
B. Results of the Differential Pricing Analysis
VIII. Product Comparisons
IX. Date of Sale
X. Export Price and Constructed Export Price
XI. Normal Value
A. Home Market Viability
B. Affiliated-Party Transactions and Arm's-Length Test
C. Level of Trade
D. Cost of Production (COP) Analysis
1. Calculation of COP
2. Test of Comparison Market Sales Prices
3. Results of the COP Test
D. Calculation of NV Based on Comparison Market Prices
XII. Currency Conversion
XIII. Verification
XIV. Conclusion

[FR Doc. 2018–09515 Filed 5–3–18; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–852]

Polyethylene Terephthalate Resin From Brazil: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that polyethylene terephthalate resin (PET resin) from Brazil is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2016, through June 30, 2017.

DATES: Applicable May 4, 2018.

FOR FURTHER INFORMATION CONTACT: Elfi Blum-Page or Kathryn Wallace, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0197 or (202) 482–6251, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on October 23, 2017.[1] On February 22, 2018, Commerce postponed the preliminary determination of this investigation.[2] Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the preliminary determination of this investigation is now April 27, 2018.[3]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[4] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The merchandise covered by this investigation is PET resin from Brazil. For a complete description of the scope of this investigation, *see* Appendix I.

[1] *See Polyethylene Terephthalate Resin from Brazil, Indonesia, the Republic of Korea, Pakistan, and Taiwan: Initiation of Less-Than-Fair-Value Investigations,* 82 FR 48977 (October 23, 2017) (*Initiation Notice*).

[2] *See Polyethylene Terephthalate from Brazil, Indonesia, the Republic of Korea, Pakistan, and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 83 FR 7655 (February 22, 2018).

[3] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Polyethylene Terephthalate Resin from Brazil'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope Comments

In accordance with the preamble to Commerce's regulations,[5] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[6] For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Decision Memorandum. After evaluating the comments, Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice* to exclude PET-glycol resin. *See* the revised scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce calculated estimated weighted-average dumping margins for Textil de Pernambuco and MGP Brasil that are not zero, *de minimis,* or based entirely on facts otherwise available. Commerce calculated the all-others' rate using a weighted average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged

[5] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[6] *See Initiation Notice*.

values for the merchandise under consideration.[7]

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Companhia Integrada Textil de Pernambuco	226.91
M&G Polimeros Brasil, S.A	24.09
All-Others	93.60

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[8] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On March 29, 2018, pursuant to 19 CFR 351.210(e), Textil de Pernambuco requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[9] On April 12, 2018, the petitioners also requested that Commerce postpone the final determination.[10] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

[7] With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data was available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, please *see* the All-Others' Rate Calculation Memorandum.

[8] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[9] *See* Textil de Pernambuco's Letter, "Antidumping Duty Investigation of Polyethylene Terephthalate (PET) Resin from Brazil: Thailand: Request for Postponement of Final Determination and Provisional Measures Period," dated March 29, 2018.

[10] *See also* Petitioners' Letter, "Polyethylene Terephthalate ("PET") Resin from Brazil, Indonesia, the Republic of Korea, Pakistan, and Taiwan—Petitioners' Request to Extend the Antidumping Duty Final Determinations," dated April 12, 2018.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: April 27, 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.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is polyethylene terephthalate (PET) resin having an intrinsic viscosity of at least 70, but not more than 88, milliliters per gram (0.70 to 0.88 deciliters per gram). The scope includes blends of virgin PET resin and recycled PET resin containing 50 percent or more virgin PET resin content by weight, provided such blends meet the intrinsic viscosity requirements above. The scope includes all PET resin meeting the above specifications regardless of additives introduced in the manufacturing process.

The scope excludes PET-glycol resin, also referred to as PETG. PET-glycol resins are manufactured by replacing a portion of the raw material input monoethylene glycol (MEG) with one of five glycol modifiers: Cyclohexanedimethanol (CHDM), diethylene glycol (DEG), neopentyl glycol (NPG), isosorbide, or spiro glycol. Specifically, excluded PET-glycol resins must contain a minimum of 10 percent, by weight, of CHDM, DEG, NPG, isosorbide or spiro glycol, or some combination of these glycol modifiers. Unlike subject PET resin, PET-glycol resins are amorphous resins that are not solid-stated and cannot be crystallized or recycled.

The merchandise subject to this investigation is properly classified under subheadings 3907.61.0000 and 3907.69.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Postponement of Final Determination and Extension of Provisional Measures
V. Scope Comments
VI. Affiliation
VII. Discussion of the Methodology
A. Determination of the Comparison Method
B. Results of the Differential Pricing Analysis
VIII. Date of Sale
IX. Product Comparisons
X. Export Price and Constructed Export Price
XI. Duty Drawback
A. Duty Exemption Drawback
B. Duty Suspension Drawback
XII. Normal Value
A. Sample Sales
B. Home Market Viability
C. Affiliated-Party Transactions and Arm's-Length Test
D. Level of Trade
E. Calculation of NV Based on Comparison Market Prices
F. Calculation of NV Based on Constructed Value (CV)
G. Cost of Production (COP) Analysis
XIII. Currency Conversion
XIV. Verification
XV. Conclusion

[FR Doc. 2018–09516 Filed 5–3–18; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

Agency: National Institute of Standards and Technology (NIST).

Title: NIST Generic Request for Customer Service–Related Data Collections.

OMB Control Number: 0693–0031.

Form Number(s): None.

Type of Request: Revision of an approved request.

Number of Respondents: 120,000.

Average Hours per Response: Less than 2 minutes for a response card; 2 hours for focus group participation. The average estimated response time is expected to be 10 minutes.

Burden Hours: 15,000.

Needs and Uses: NIST conducts surveys, focus groups, and other customer satisfaction/service data collections. The collected information is needed and will be used to determine the kind and the quality of products, services, and information our key customers want and expect, as well as their satisfaction with and awareness or existing products, services, and information.

Affected Public: Business or other for-profit organizations, individuals or households, not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Voluntary, providing the requested information is necessary to obtain accurate information regarding customer satisfaction with NIST products, services and information.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–09536 Filed 5–3–18; 8:45 am]
BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF800

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Confined Blasting Operations in the East Channel by the U.S. Army Corps of Engineers During the Tampa Harbor Big Bend Channel Expansion Project in Tampa Harbor, Tampa, Florida

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

ACTION: Notice; issuance of Incidental Harassment Authorization (IHA).

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA), as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the U.S. Army Corps of Engineers, Jacksonville District, (USACE) for authorization to take one species of marine mammal incidental to confined blasting in the East Channel of the Big Bend Channel in Tampa Harbor, Tampa, Florida.

DATES: The IHA will be valid from April 1, 2019 through March 31, 2020.

FOR FURTHER INFORMATION CONTACT: Dale Youngkin, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the IHA and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *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

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 authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal. 16 U.S.C. 1362(13).

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment). 16 U.S.C. 1362(18)(A).

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.

Accordingly, NMFS adopted the USACE's Supplemental Environmental Assessment (EA) (August, 2017). After independent evaluation of the document and review of comments submitted in response to the proposed IHA notice, NMFS has concluded that the USACE's EA includes adequate information analyzing the effects on the human environment of issuing the IHA and issued our ow Finding of No Significant Impact (FONSI). NMFS' FONSI is available for review on our website at *http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

Summary of Request

On August 8, 2017, NMFS received a request from USACE for an IHA to take marine mammals incidental to confined blasting within the East Channel of the Tampa Harbor Big Bend Channel Expansion Project in Tampa, Florida. USACE's request is for take of a small number of the Tampa Bay stock of bottlenose dolphins (*Tursiops truncatus*) by Level B harassment only. Neither USACE nor NMFS expect mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS previously issued an IHA to USACE for similar work in the Miami Harbor (77 FR 49278, August 15, 2012). However, ultimately, USACE did not perform any confined blasting under that IHA. Prior to that, NMFS issued an IHA to the USACE for similar work in the Miami Harbor Phase II Project in 2005 (70 FR 21174, April 25, 2005) and 2003 (68 FR 32016, May 29, 2003).

Description of Proposed Activity

A detailed description of the planned USACE project is provided in the **Federal Register** notice for the proposed IHA (83 FR 11968; March 19, 2018). Since that time, no changes have been made to the planned activities. Therefore, we provide only a summary here. Please refer to the **Federal Register** Notice for the full description of the specified activity.

USACE plans to conduct confined underwater blasting within the East Channel as part of the Tampa Harbor Big Bend Channel Expansion Project in Tampa, FL. The purpose of the confined underwater blasting is to break up rock in the existing East Channel to allow for dredging necessary to widen and deepen the existing channel.

Due to coordination with the U.S. Fish and Wildlife Service (USFWS) to avoid potential impacts to manatees, the USACE will be restricted to the months of April–October for blasting activities. In addition to the seasonal restriction for blasting activities, the USACE has proposed restricting the number of blasting events to a maximum of 42 events, and the maximum weight of each charge will be 18 kg (40 lbs)/charge, for a total of 725 kg (1,600 lbs) per each blasting event.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see ''Proposed Mitigation'' and ''Proposed Monitoring and Reporting'').

Comments and Responses

A notice of NMFS's proposal to issue an IHA to the USACE was published in the **Federal Register** on March 19, 2018 (83 FR 11968). That notice described the USACE's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received one comment letter from the Marine Mammal Commission (Commission). The Commission concurred with NMFS' preliminary findings and recommended that NMFS issue the IHA, subject to the inclusion of the proposed mitigation, monitoring, and reporting measures as provided in the notice of the proposed IHA.

Comment 1: The Commission recommended that NMFS enumerate the number of bottlenose dolphins that could be taken during the planned activities by applying standard rounding rules before summing the numbers of estimated takes across days of activities.

Response: Calculating predicted take is not an exact science and there are arguments for taking different mathematical approaches in different situations, and for making qualitative adjustments in other situations. NMFS is currently engaged in developing a protocol to guide more consistent take calculation given certain circumstances. We believe, however, that the methodology for this action remains appropriate and the the low likelihood of take in combination with implementation of monitoring and mitigation measures will avoid any take of marine mammals by Level A harassment.

Comment 2: The Commission recommended several items for NMFS to ensure are incorporated into either the final hydroacoustic monitoring plan or the IHA itself. In addition, the Commission stated these items would likely need to be stipulated by the USACE in its hydroacoustic monitoring contract.

Response: NMFS coordinated with the USACE in regard to the hydroacoustic monitoring plan. As stated in the MMC comment, USACE has indicated that they would need to have a contractor on board prior to development of the hydroacoustic monitoring plan. USACE agreed to develop the hydroacoustic monitoring

plan in coordination with NMFS, and agreed to provide NMFS with a draft plan for review at least 30 days prior to beginning the blasting activities. However, the information provided by the MMC was shared with USACE and NMFS will require this information to be included in hydroacoustic monitoring plan prior to approval of the plan and has incorporated this information into the IHA itself.

Description of Marine Mammals in the Area of Specified Activities

A detailed description of the species likely to be affected by the USACE confined blasting project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, are provided in USACE's application and the **Federal Register** notice for the proposed IHA (83 FR 11968; March 19, 2018). We are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to the **Federal Register** notice for these descriptions. Table 1 lists all marine mammal species with potential occurrence in the project area; however, only bottlenose dolphin (*Tursiops truncatus*) have the potential to be affected by the USACE proposed activities, so other species are not discussed further in this document. Please also refer to additional species information available in the NMFS Atlantic Ocean Stock Assessment Reports (SARs) s at *http://nmfs.noaa.gov/pr/sars/region.htm.*

TABLE 1—MARINE MAMMALS WITH POTENTIAL OCCURRENCE IN THE PROJECT AREA

Species	Habitat	Occurrence in project area	Stock population estimate [1]	ESA status [2]	MMPA status [3]	PBR
Humpback whale (*Megaptera novaengliae*).	Pelagic, nearshore waters and banks.	Rare	823—Gulf of Maine Stock	NL	NC	13
Minke whale (*Balaenoptera acutorostrata*).	Coastal, offshore	Rare	2,591—Canadian East Coast Stock.	NL	NC	14
Bryde's whale (*Balaenoptera brydei*).	Pelagic and coastal	Rare	33—Northern Gulf of Mexico Stock.	NL	S	0.03
Sei whale (*Balaenoptera borealis*).	Primarily offshore, pelagic	Rare	357—Nova Scotia Stock ...	EN	S	0.5
Fin whale (*Balaenoptera physalus*).	Slope, mostly pelagic	Rare	1,618—Western North Atlantic Stock.	EN	S	2.5
Blue whale (*Balaenoptera musculus*).	Pelagic and coastal	Rare	440—Western North Atlantic Stock.	EN	S	0.9
Sperm whale (*Physeter macrcephalus*).	Pelagic, deep seas	Rare	763—Northern Gulf of Mexico Stock.	EN	S	1.1
Dwarf sperm whale (Kogia sima).	Offshore, pelagic	Rare	186—Northern Gulf of Mexico Stock.	NL	NC	0.9
Gervais' beaked whale (*Mesoplodon europaeus*).	Pelagic, slope and canyons.	Rare	149—Northern Gulf of Mexico Stock.	NL	NC	0.8
Sowerby's beaked whale (*Mesoplodon bidens*).	Pelagic, slope and canyons.	Rare	7,092—Western North Atlantic Stock.	NL	NC	0.8
Blainville's beaked whale (*Mesoplodon densirostris*).	Pelagic, slope and canyons.	Rare	149—Northern Gulf of Mexico Stock.	NL	NC	0.8
Cuvier's beaked whale (*Ziphius cavirostris*).	Pelagic, slope and canyons.	Rare	74—Northern Gulf of Mexico Stock.	NL	NC	0.4
Killer whale (*Orcinus orca*)	Widely distributed	Rare	28—Northern Gulf of Mexico Stock.	NL	NC	0.1
Short-finned pilot whale (*Globicephala macrorhynchus*).	Inshore and offshore	Rare	2,415—Northern Gulf of Mexico Stock.	NL	NC	15
False killer whale (*Pseudorca crassidens*).	Pelagic	Rare	NA—Northern Gulf of Mexico Stock.	NL	NC	Unknown
Melon-headed whale (*Peponocephala electra*).	Pelagic	Rare	2,335—Northern Gulf of Mexico Stock.	NL	NC	13
Pygmy killer whale (*Feresa attenuata*).	Pelagic	Rare	152—Northern Gulf of Mexico Stock.	NL	NC	0.8
Risso's dolphin (*Grampus griseus*).	Pelagic, shelf	Rare	2,442—Northern Gulf of Mexico Stock.	NL	NC	16
Common bottlenose dolphin (*Tursiops truncatus*).	Offshore, inshore, coastal, and estuaries.	Common	564—Tampa Bay Stock [4] ..	NL	S	Unknown
Rough-toothed dolphin (*Steno bredanensis*).	Pelagic	Rare	624—Northern Gulf of Mexico Stock.	NL	NC	3
Fraser's dolphin (*Lagenodelphis hosei*).	Shelf and slope	Rare	NA—Northern Gulf of Mexico Stock.	NL	NC	Unknown
Striped dolphin (*Stenella coeruleoalba*).	Coastal, shelf and slope ...	Rare	1,849—Northern Gulf of Mexico Stock.	NL	NC	10
Pantropical spotted dolphin (*Stenella attenuata*).	Coastal, shelf and slope ...	Uncommon	50,880—Northern Gulf of Mexico Stock.	NL	NC	407
Atlantic spotted dolphin (*Stenella frontalis*).	Coastal to pelagic	Uncommon	NA—Northern Gulf of Mexico Stock.	NL	NC	Unknown
Spinner dolphin (*Stenella longirostris*).	Mostly pelagic	Uncommon	11,441—Northern Gulf of Mexico Stock.	NL	NC	62

TABLE 1—MARINE MAMMALS WITH POTENTIAL OCCURRENCE IN THE PROJECT AREA—Continued

Species	Habitat	Occurrence in project area	Stock population estimate [1]	ESA status [2]	MMPA status [3]	PBR
Clymene dolphin (*Stenella clymene*).	Coastal, shelf and slope ...	Uncommon	129—Northern Gulf of Mexico Stock.	NL	NC	0.6
West Indian manatee (Florida manatee) (*Trichechus manatus latirostris*).	Coastal, rivers, and estuaries.	Uncommon	6,620—Florida Stock [5]	T	D	....

[1] NMFS Marine Mammal Stock Assessment Reports (Hayes *et al.,* 2016) unless indicated otherwise.
[2] U.S. Endangered Species Act: EN = endangered; T = threatened; NL = not listed.
[3] U.S. Marine Mammal Protection Act: D = depleted; S = strategic; NC = not classified.
[4] Wells *et al.,* 1995.
[5] Florida Fish and Wildlife Conservation Commission Survey Data (USFWS jurisdiction).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The **Federal Register** notice for the proposed IHA (83 FR 11968; March 19, 2018) included a discussion of the effects of disturbance on marine mammals and their habitat; therefore, that information is summarized here. Please refer to the proposed IHA **Federal Register** notice for more detailed information.

The USACE's proposed confined blasting activities have the potential to take marine mammals by exposing them to impulsive noise and pressure waves generated by detonations of explosives. Exposure to energy, pressure, or direct strike has the potential to result in non-lethal injury (Level A harassment), disturbance (Level B harassment), serious injury, and/or mortality.

The potential effects of underwater detonations from the proposed confined blasting activities may 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.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007). However, the effects of noise on marine mammals are highly variable, often depending on species and contextual factors (based on Richardson *et al.,* 1995). Implementation of mitigation and monitoring efforts will avoid mortality, serious injury, and Level A harassment (PTS). Therefore, only Level B harassment (TTS and behavioral harassment) are anticipated due to the USACE confined underwater blasting activities.

While we anticipate that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat and prey resources would be temporary and reversible. The main impact associated with the proposed activity would be temporarily elevated noise levels and the associated direct effects on marine mammals. Marine mammals are anticipated to temporarily vacate the area of live detonations. However, these events are usually of short duration, and we anticipate that animals will return to the activity area during periods of non-activity. Thus, we do not anticipate that the proposed activity would have any habitat-related effects that could 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 whether the number of takes is ''small'' and the negligible impact determination.

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

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns and/or TTS for individual marine mammals resulting from exposure to noise from underwater confined blasting in the East Channel of the Big Bend Channel, Tampa Harbor. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.,* no blasting if marine mammals (or any protected species) are within the East Channel, which encompasses the entirety of the Level A take zone, as discussed in detail below in 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.

Described in the most basic way, we estimate take by considering: (1) Thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment or tissue damage; (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. 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). Thresholds have also been developed to identify the pressure levels above which animals may incur different types of tissue damage from exposure to pressure waves from explosive detonation.

These thresholds were developed by compiling and synthesizing the best available science and soliciting input multiple times from both the public and peer reviewers to inform the final product, and are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 2—NMFS' CURRENT THRESHOLDS AND CRITERIA FOR IMPACT ANALYSIS FROM THE USE OF EXPLOSIVES FOR MID-FREQUENCY CETACEANS

Hearing group	Species	Behavioral	TTS	PTS	GI tract injury	Lung injury	Mortality
Mid-frequency cetaceans.	Most delphinids, medium and large toothed whales.	165 dB SEL_{cum}.	170 dB SEL_{cum}; 224 dB PK.	185 dB SEL_{cum}; 230 dB PK.	237 dB	39.1 M1/3 (1 + [DRm/10.081])1 / 2 Pa-sec Where: M = mass of the animals in kg DRm = depth of the receiver (animal) in meters.	91.4 M1/3 (1 + [DRm/10.081])1 / 2 Pa-sec Where: M = mass of the animals in kg DRm = depth of the receiver (animal) in meters.

Explosive sources—Based on the best available science, NMFS uses the acoustic and pressure thresholds indicated in Table 2 above to predict the onset of behavioral harassment, TTS, PTS, tissue damage, and mortality.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds.

Radii for Level A and Level B harassment were calculated using algorithms specifically developed for confined underwater blasting operations by the NMFS (see Attachment B of the application, which provides more detail and spreadsheet results). The algorithms compute the cumulative sound exposure impact zone due to a pattern of charges. The code calculates the total explosive energy from all charges through a summation of the individual energy emanating from each charge as a function of temporal and spatial separation of charges. Acoustical transmission loss is assumed to occur through cylindrical spreading. The SEL of the first detonation and each subsequent detonation is summed and transmission loss of acoustic energy due to cylindrical spreading is subtracted from the total SEL. Ultimately, the distance where the received level falls to a set SEL is calculated by spherical spreading of the total SEL (refer to section 6 and Attachment B of the IHA application for more information on how this was modeled). However, the proposed blasting would occur within the East Channel, which is open to the Hillsborough Bay on the west side of the channel, but confined by land on the north, east, and south sides of the channel. NMFS and USACE agree that acoustic energy emanating from the East Channel and into Hillsborough Bay would rapidly decrease as the energy spreads to the north and south outside of the East Channel in the Bay. Under these conditions, sound energy beyond a 45 degree angle, or a 45 degree cone shape outside of the channel mouth would attenuate, and would not result in Level B take.

Level A and B take zones (km^2) were calculated using the calculated blasting radii. Some blasting radii are contained within the water column or between the East Channel's north and south shorelines. These areas therefore are circular in shape. However, larger blasting radii extend beyond the channel's shorelines. In these cases, the areas form an irregular polygon shape that are bounded by the channel's shoreline to the north, east, and south and are cone-shaped outside of the East Channel opening to Tampa/Hillsborough Bay. The areas of these irregular polygon shapes were determined with computer software (Google Earth Pro). This area was then multiplied by the density calculated for common bottlenose dolphins in the project area, as this is the only marine mammal species potentially occurring in the East Channel (density information provided below). Figure 10 of the application illustrates the take areas calculated for the largest blast pattern consisting of 18.1 kg (40 lbs)/delay and 40 individual charges, which was used to calculate estimated take for the confined blasting activities. The Level A (PTS) harassment zone was calculated to be 0.14 square kilometers based on an isopleth of 378 m; the Level B TTS harassment zone was calculated to be 2.85 square kilometers based on an isopleth of 2,125 m; and the Level B behavioral harassment zone was calculated to be 6 square kilometers based on an isopleth of 3,780 m.

We note here that Level A take is not anticipated due to the small Level A harassment zone and density of bottlenose dolphins in the proposed project area resulting in a low likelihood of Level A take for any one blasting event combined with mitigation measures to avoid Level A take.

Marine Mammal Occurrence/Density Calculation

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

As stated above, common bottlenose dolphins are the only species of marine mammal anticipated to occur in the proposed project area. Using photo-identification methods, Urian *et al.* (2009) identified 858 individual dolphins during their 6-year study in the Tampa Bay. However, as state above, data from Wells *et al.* (1995) was used for the abundance estimate of the Tampa Bay Stock of common bottlenose dolphins, as Urian *et al.* (2009) was not an abundance estimate, but a population structure study. The Wells *et al.* (1995) mark-resight method provided the most conservative, or highest average, abundance of 564 common bottlenose dolphins within the 852-km^2 study area. In order to calculate take, the USACE made an assumption that the dolphins would be evenly distributed throughout Tampa Bay. The number of dolphins per square kilometer within this area is calculated as 0.66 (564 dolphins ÷ 852 km^2 = 0.66 dolphins/km^2).

Take Calculation and Estimation

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

The USACE proposes a maximum charge weight of 725.7 kg (1,600 lbs) as a conservatively high estimate for the total amount of explosives that may be used in the largest blasting pattern. This is based on the fact that the maximum charge weight per delay would not exceed 18.1 kg (40 lbs)/delay for this project and the maximum number of charges per pattern would not exceed 40. Please refer to Table 3 of the application for the level of take associated with this charge weight as well as other charge weights. Figure 10 of the application provides visual representation of take areas plotted on an aerial photograph for 18.1 kg/delay.

A maximum of 42 blast events would occur over the one year period of this IHA. Using the Tampa Bay Stock abundance estimate (n=564), the density of common bottlenose dolphins occurring within the footprint of the project (0.66 dolphins/km^2), as well as the maximum charge weight of 18.1 kg (40 lbs)/delay, the USACE is requesting Level B take for behavioral harassment and/or TTS for up to 5.8 common bottlenose dolphins per blast (refer to Table 3 of the application). Therefore,

using the maximum amount of explosives per blast event and the maximum number of blast events, an estimated 244 Level B takes would occur over the one-year period of this IHA (5.8 dolphin/blast × 42 detonations = 243.6 exposures). However, the number of dolphins subjected to TTS and/or behavioral harassment is expected to be significantly lower for two reasons. First, the USACE will implement a test blast program to determine the smallest amount of explosives needed to fracture the rock and allow mechanical removal. This test blast program would begin with a single row pattern of charges, and would vary the number and charges/pattern as well as the charge weight/delay to determine the minimum needed and these test blasts would count toward the maximum of 42 total blast events. The maximum 1,600 lb blasting pattern of 18.1 kg (40 lb)/delay and 40 individual charges was used to calculate take due to the uncertainty regarding the minimum needed charge/delay and individual charges as well as uncertainty regarding the number of test blasts. Therefore, there would not actually be 42 blast events with the full pattern of 40 delays at full charge weight/delay (1,600 lb), as was assumed in the take calculation, and the take estimate is a conservative estimate. Second, we expect at least some of the exposures to be repeat exposures of the same individuals, as discussed further in the Small Numbers section below.

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, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

As discussed previously, the USACE will confine the blasts within the East Channel by boring holes into the existing rock, placing explosive charges within the holes, and stemming the holes in order to greatly reduce the energy released into the water column from the blasts (estimated to reduce the amount of energy by 60–90 percent versus open water blasting). In addition to utilizing the confined blasting, the following conditions will be incorporated into the project specifications to reduce the risk of impacts to marine mammals:

- Confined blasting will be restricted to the East Channel only;
- Blasting will be restricted to the months of April through October (this is to avoid impacts to Florida manatee, but may also serve to avoid impacts if there are seasonal increases in Tampa Bay/proposed project area during the fall/winter as reported by Scott *et al.* (1989), and discussed above);
- The blasting plan shall be provided for NMFS review at least 30 days prior to work, and the blasting plan must include detailed information about the protected species watch program as well as details about proposed blasting events (to be submitted to NMFS headquarters Protected Species Division as well as the NMFS Southeast Regional Office, the State Fish and Wildlife Commission (FWC) Office, and USFWS);
  - ○ The blasting plan shall include:
    - ■ A list of the observers, their qualifications, and positions for the watch, including a map depicting the proposed locations for boat or land-based observers. Qualified observers must have prior on-the-job experience observing for protected marine species (such as dolphins, manatees, marine turtles, etc.) during previous in-water blasting events where the blasting activities were similar in nature to this project;
    - ■ The amount of explosive charge proposed, the explosive charge's equivalency in TNT, how it will be executed (depth of drilling, stemming information, etc.), a drawing depicting the placement of the charges, size of the safety radius and how it will be marked (also depicted on a map), tide tables for the blasting event(s), and estimates of times and days for blasting events (with an understanding this is an estimate, and may change due to weather, equipment, etc.). Certain blasting restrictions will be imposed including the following: (1) Individual charge weights shall not exceed 18.1 kg (40 lbs)/delay, and (2) the contractor shall not exceed a total of 42 blast events during the blast window.
    - ■ Hydroacoustic monitoring will be performed for each blast event, up to the maximum of 42 blast events. A hydroacoustic monitoring plan will be developed in coordination with NMFS HQ Permits and Conservation Division, and will be submitted to NMFS for review at least 30 days prior to commencement of the blasting activities. As part of this hydroacoustic monitoring, the contractor shall:
      - ○ Describe hydroacoustic measurement methods. The sampling rate of the recording devices (*i.e.,* hydrophone and/or pressure transducer) shall be specified to ensure the necessary frequencies (10 Hz–40 kHz) and pressure signals (at least 1 MHz) are recorded and the appropriate filter (band pass) is used. The type of hydrophone proposed for use shall also be described and shall be appropriate for collecting measurements of underwater detonations as well as ambient measurements in the far field (*i.e.,* low vs high sensitivity). The plan shall specify that recording devices shall be placed in the near field (at 10 m) and sufficiently in the far field (and away from shipping lanes) to collect the relevant data.
      - ○ Describe analytical methods. The plan shall specify that pressure signals must be analyzed using appropriate signal processing methods and applicable equations. The various impulse metrics will be calculated using time series data. Cumulative sound exposure levels (SEL_{cum}) will be calculated using a linear summation of acoustic intensity. Weighted cumulative sound exposure thresholds will be used to estimate the various ranges.

The hydroacoustic monitoring plan shall stipulate that the contractor will:

- ○ Record the SEL and SPL associated with each blasting event;
- ○ Record the associated work (including borehole drilling and fish scare charges) as separate recordings;
- ○ Provide nearby hydrophone records of drilling operations of 30 minutes over three early contract periods at least 18 hours apart.
- ○ Provide hydrophone or transducer records within the contract area of three continuous 10-minute quiet periods (over three early contract periods) at least 18 hours apart or prior to the contractor's full mobilization to the site, and 10 close-approaches of varied vessel sizes. This information will be provided as both an Excel file and recording for each hydrophone (.wav file) shall include: GPS location of the hydrophone (to be located outside of the range that would cause clipping); Water depth to the sediment/rock bottom (to be placed at the shallower of 9.84 ft (3 m) depth of the mid-water column depth); and Information regarding the blast pattern or drilling.
- ○ Provide a report that includes the appropriate metrics (*i.e.,* impulse in Pa-sec or psi-msec; peak sound levels; and SEL_{cum} for the entire blast event); appropriate statistics (*i.e.,* median, mean, minimum, and maximum); and relevant information (*i.e.,* number of delays per blast event, total net explosive weight of each blast event, sediment characteristics/types, hydrophone depths and distances to the closest and farthest delay, water depth, power specral data).

- In addition to review of the blasting plan, NMFS's Southeast Region Office and local stranding network shall be notified at the beginning (24 hours prior) and after (24 hours after) any blasting;
- For each explosive charge placed, three zones will be calculated, denoted on monitoring reports and provided to protected species observers before each blast for incorporation in the watch plan for each planned detonation. All of the zones will be noted by buoys for each of the blasts. These zones are:
  - ○ *Level A Take Zone:* The Level A Take Zone is equal to the radius of the PTS Injury Zone. As shown in the application in Table 3, as well as Figure 10, all other forms of injurious take (*i.e.* gastro-intestinal injury, lung injury) and mortality have smaller radii than the PTS Injury Zone. Detonation shall not occur if a protected species is known to be (or based on previous sightings, may be) within the Level A Take Zone;
  - ○ *Exclusion Zone:* A zone which is the Level A Take Zone + 152.4 m (500 ft). Detonation will not occur if a protected species is known to be (or based on previous sightings, may be) within the Exclusion Zone;
  - ○ *Level B Take Zone:* The Level B Take Zone extends from the Exclusion Zone to the Behavior Zone radius. Detonation shall occur if a protected species is within the Level B Take Zone. Any protected species within this zone shall be monitored continuously and, if they are within the Level B Take Zone during detonation, then they shall be recorded on monitoring forms. Note that the Level B Take Zone should begin immediately beyond the end of the Level A Take Zone. However, the USACE proposes to implement an Exclusion Zone. Also, the area immediately beyond the Level B Take Zone shall also be monitored for protected species.
- No blasting shall occur within East Channel if dolphins or any other protected species are present within the East Channel (Note: the Level A harassment zone is entirely within the East Channel, which is why no Level A harassment is proposed for authorization);
- Protected species observers (PSOs) shall begin the watch program at least one hour prior to the scheduled start of the blasting activities, and will continue for at least one hour after blast activities have completed;
- The watch program shall consist of a minimum of six PSOs with a designated lead observer. Each observer shall be equipped with a two-way radio that shall be dedicated exclusively to the watch. Extra radios shall be available in case of failures. All of the observers shall be in close communication with the blasting subcontractor in order to halt the blast event if the need arises. If all observers do not have working radios and cannot contact the primary observer and the blasting subcontractor during the pre-blast watch, the blast shall be postponed until all observers are in radio contact. Observers will also be equipped with polarized sunglasses, binoculars, a red flag for backup visual communication, and a sighting log with a map to record sightings;
- All blasting events will be weather dependent. Climatic conditions must be suitable for adequate viewing conditions. Blasting will not commence in rain, fog or otherwise poor weather conditions, and can only commence when the entire Level A Take Zone, Exclusion Zone, and Level B Take Zone are visible to observers;
- The PSO program will also consist of a continuous aerial survey conducted as approved by the Federal Aviation Administration (FAA). The blasting event shall be halted if an animal is spotted approaching or within the Exclusion Zone. An ''all-clear'' signal must be obtained from the aerial observer before detonation can occur. Note that all observers must give the ''all-clear'' signal before blasting can commence. The blasting event shall be halted immediately upon request of any of the observers. If animals are sighted, the blast event shall not take place until the animal moves out of the Exclusion Zone on its own volition. Animals shall not be herded away or harassed into leaving. Specifically, the animals must not be intentionally approached by project watercraft. Blasting may only commence when 30 minutes have passed without an animal being sighted within or approaching the Exclusion Zone or Level A Take Zone;
- If multiple blast events take place in one day, blast events shall be separated by a minimum of six hours;
- After each blast, the observers and contractors shall meet and evaluate any problems encountered during blasting events and logistical solutions shall be presented to the Contracting Officer. Corrections to the watch shall be made prior to the next blasting event. If any one of the aforementioned conditions (bullet points directly above) is not met prior to or during the blasting, the contractor as advised by the watch observers shall have the authority to terminate the blasting event, until resolution can be reached with the Contracting Officer. The USACE will contact FWC, USFWS and NMFS;
- If an injured or dead protected species is sighted after the blast event, the watch observers shall contact the USACE and the USACE will contact the resource agencies at the following phone numbers:
  - ○ FWC through the Manatee Hotline: 1–888–404–FWCC and 850–922–4300;
  - ○ USFWS Jacksonville: 904–731–3336;
  - ○ NMFS Southeast Region: 772–570–5312, and Emergency Stranding Hotline—1–877–433–8299.
- The observers shall maintain contact with the injured or dead protected species to the greatest extent practical until authorities arrive. Blasting shall be postponed until consultations are completed and determinations can be made of the cause of injury or mortality. If blasting injuries are documented, all demolition activities shall cease. The USACE will then submit a revised plan to FWC, NMFS and USFWS for review.

Based on our evaluation of the applicant's proposed measures, NMFS has 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.

Monitoring and Reporting

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

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

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

With some exceptions, the USACE will rely upon the same monitoring protocol developed for the Port of Miami project in 2005 (Barkaszi, 2005) and published in Jordan *et al.,* 2007. A summary of that protocol is summarized here.

A watch plan will be formulated based on the required monitoring radii and optimal observation locations. The watch plan will consist of at least six observers including at least one (1) aerial observer, two (2) boat-based observers, and two (2) observers stationed on the drill barge (Figures 12, 13, 14, & 15). The 6th observer will be placed in the most optimal observation location (boat, barge or aircraft) on a day-by-day basis depending on the location of the blast and the placement of dredging equipment. There shall also be one lead observer. This process will insure complete coverage of the three zones as well as any critical areas. The watch will begin at least 1 hour prior to each blast and continue for one half-hour after each blast (Jordan *et al* 2007).

Boat-based observers will be placed on vessels with viewing platforms. The boat observers will cover the Level B Take Zone where waters are deep enough to safely operate the vessel. The aerial observer will fly in a helicopter with doors removed at an average height of 500 ft. The helicopter will drop lower if they need to identify something in the water. This will provide maximum visibility of all zones as well as exceptional maneuverability and the needed flexibility for continual surveillance without fuel stops or down time, and the ability to deliver post-blast assistance. The area being monitored is a high traffic area, surrounded by an urban environment where animals are potentially exposed to multiple overflights daily, and prior experience has shown that this activity is not anticipated to result in take of marine mammals in the area.

As previously stated, blasting cannot commence until the entire Level A Take Zone, Exclusion Zone, and Level B Take Zone are visible to monitors, and would not commence in rain, fog, or other adverse weather conditions. The visibility below the surface of the water is naturally poor, so animals are not anticipated to be seen below the surface. However, animals surfacing in these turbid conditions are still routinely spotted from the air and from the boats, thus the overall observer program is not compromised, only the degree to which animals are tracked below the surface. Observers must confirm that all protected species are out of the Exclusion Zone and the Level A Take Zone for 30 minutes before blasting can commence.

All observers will be equipped with marine-band VHF radios, maps of the blast zone, polarized sunglasses, and appropriate data sheets. Communications among observers and with the blaster is critical to the success of the watch plan. The aerial observer will be in contact with vessel and drill-barge based observers as well as the drill barge crew with regular 15-minute radio checks throughout the watch period. Constant tracking of animals spotted by any observer will be possible due to the amount and type of observer coverage and the communications plan. Watch hours will be restricted to between two hours after sunrise and one hour before sunset. The watch will begin at least one hour prior to the scheduled blast and is continuous throughout the blast. Watch continues for at least 60 minutes post blast at which time any animals that were seen prior to the blast are visually re-located whenever possible and all observers in boats and in the aircraft assisted in cleaning up any blast debris.

If any protected species are spotted during the watch, the observer will notify the lead observer, aerial observer, and/or the other observers via radio. The animal will be located by the aerial observer to determine its range and bearing from the blast pattern. Initial locations and all subsequent observations will be plotted on maps. Animals within or approaching the Exclusion Zone will be tracked by the aerial and boat based observers until they exit the Exclusion Zone. As stated earlier, animals that exit the Exclusion Zone and enter the Level B Take Zone will also be monitored. The animal's heading shall be monitored continuously until it is confirmed beyond the Level B Take Zone. Anytime animals are spotted near the Exclusion Zone, the drill barge and lead observer will be alerted as to the animal's proximity and some indication of any potential delays it might cause.

If an animal is spotted inside the Exclusion Zone and not re-observed, no blasting will be authorized until at least 30 minutes has elapsed since the last sighting of that animal. The watch will continue its countdown up until the T-minus five (5) minute point. At this time, the aerial observer will confirm that all animals are outside the Exclusion Zone and that all holds have expired prior to clearing the drill barge for the T-minus five (5) minute notice. A fish-scare charge will be fired at T-minus five (5) minutes and T-minus one (1) minute to minimize effects of the blast on fish that may be in the area of the blast pattern by scaring them from the blast area.

An actual postponement in blasting will only occur when a protected species is located within or is approaching the Exclusion Zone at the point where the blast countdown reaches the T-minus five (5) minutes. At that time, if an animal is in or near the Exclusion Zone, the countdown will be put on hold until the Exclusion Zone is completely clear of protected species and all 30-minute sighting holds have expired.

Within 30 days after completion of all blasting events, the primary PSO shall submit a report to the USACE, who will provide it to FWC, NMFS and USFWS providing a description of the event, number and location of animals seen and what actions were taken when animals were seen. Any problems associated with the event and suggestions for improvements shall also be documented in the report.

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).

For reasons stated previously in this document, the specified activities associated with the USACE's confined blasting activities in the East Channel of Big Bend Channel, Tampa Harbor are not likely to cause PTS, or other non-auditory injury, gastro-intestinal injury, lung injury, serious injury, or death to affected marine mammals. As a result, no take by injury, serious injury, or death is anticipated or authorized, and the potential for temporary or permanent hearing impairment is very low and would be minimized through the incorporation of the required monitoring and mitigation measures.

Approximately 244 instances of take to some smaller number of Atlantic bottlenose dolphins from the Tampa Bay Stock are anticipated to occur in the form of short-term, minor, hearing impairment (TTS) and associated behavioral disruption due to the instantaneous duration of the confined blasting activities. While some other species of marine mammals may occur in the Tampa Harbor, only common bottlenose dolphins are anticipated to be potentially impacted by the USACE's confined blasting activities.

For bottlenose dolphins within the proposed action area, there are no known designated or important feeding and/or reproductive areas in the proposed project area, which consists of a man-made channel with a history of maintenance dredging. Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (*i.e.,* 24-hour cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) 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). The USACE's proposed confined blasting action at the Tampa Harbor, Big Bend Channel's East Channel includes up to two planned blasting events per day over multiple days; however, they are very short in duration and in a relatively small area surrounding the blast holes (compared to the range of the animals) located solely with the East Channel, and are only expected to potentially result in momentary exposures and reactions by marine mammals in the proposed action area, which would not be expected to accumulate in a manner that would impact reproduction or survival.

Atlantic common bottlenose dolphins are the only species of marine mammals under NMFS jurisdiction that are likely to occur in the proposed action area. They are not listed as threatened or endangered under the ESA; however the BSE stocks are considered strategic under the MMPA. To reduce impacts on these stocks (and other protected species in the proposed action area), the USACE must delay operations if animals enter designated zones, and will not conduct blasting if any dolphins (or other protected species) are located within the East Channel. Due to the nature, degree, and context of the Level B harassment anticipated and described in this notice as well as the Proposed IHA notice (see ''Potential Effects on Marine Mammals and Their Habitat'' section above and in 83 FR 11968, March 19, 2018)), the activity is not expected to impact rates of recruitment or survival for any affected species or stock, particularly given NMFS's and USACE's plan to implement mitigation, monitoring, and reporting measures to minimize impacts to marine mammals. Also, the confined blasting activities are very short in duration and there are no known important areas in the USACE's proposed action area. Additionally, the proposed confined blasting activities would not adversely impact marine mammal habitat.

As mentioned previously, NMFS estimates that one species of marine mammals under its jurisdiction could be potentially affected by Level B harassment over the course of the IHA. The population estimates for the marine mammal species that may be taken by Level B harassment is estimated to be 564 individuals. To protect these marine mammals in the proposed action area, USACE are be required to cease or delay confined blasting activities if any marine mammals enters designated exclusion zone.

NMFS has determined, provided that the aforementioned mitigation and monitoring measures are implemented, that the impact of conducting the confined blasting activities in the East Channel of the Big Bend Channel in the Tampa Harbor may result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of common bottlenose dolphins.

While behavioral modifications, including temporarily vacating the area immediately after confined blasting operations, may be made by these species to avoid the resultant underwater acoustic disturbance, alternate areas are available within this area and the confined blasting activities will be instantaneous and sporadic in duration. Due to the nature, degree, and context of Level B harassment anticipated, the proposed activity is not

expected to impact rates of annual recruitment or survival of any affected species or stock, particularly given the NMFS and applicant's plan to implement mitigation and monitoring measures that would minimize impacts to marine mammals. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS finds that the total marine mammal take from USACE's proposed confined blasting operations would have a negligible impact on the affected marine mammal species or stocks.

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:

- No mortality is anticipated or authorized;
- No injury is anticipated or authorized;
- Take is limited to Level B harassment, and would be expected to be mainly temporary and short-term behavioral disturbance and potential for a small number of TTS takes;
- The USACE's proposed confined blasting activities within the East Channel includes up to two planned blasting events per day over multiple days (up to a maximum of 42 blast events total), but these would be very short in duration and in a small area relative to the range of the animals; and
- While temporary short-term avoidance of the area may occur due to blasting activities, the proposed project area does not represent an area of known biological importance such that temporary avoidance would constitute an impact to the foraging, socialization, and resting activities of bottlenose dolphins.

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

As noted above, the number of instances of take proposed for authorization equates to approximately 43 percent of the estimated stock abundance if each instance represents a different individual marine mammal. However, as noted above, NMFS anticipates that the calculated number of exposures represents some repeated exposures of some individuals; in other words, the number of exposures is likely an overestimate of individuals. Urian *et al.* (2009) studied fine-scale population structure of bottlenose dolphins in Tampa Bay, and concluded that there are five discrete communities (that are not defined as separate stocks) of bottlenose dolphins in Tampa Bay. They found significant differences in location and association patterns among these communities and note that all five communities differed significantly in latitude, longitude, or both. Based on the range patterns of these discrete communities, only one of these communities, Community 5, is expected to occur in the USACE proposed project area. The other four communities range farther south of the proposed project location. In addition, Community 5 appeared to be the smallest community of the five identified communities. Therefore, we conclude that the takes associated with the USACE proposed confined blasting actually represents no more than 20 percent of the total Tampa Bay stock of bottlenose dolphins.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS 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 preliminarily determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the NMFS Southeast Region (SERO) Protected Resources Division Office, whenever we propose to authorize take for endangered or threatened species.

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

Authorization

NMFS has issued an IHA to the USACE to take one species of marine mammal incidental to confined blasting in the East Channel of the Big Bend Channel in Tampa Harbor, Tampa, Florida provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: May 1, 2018.

Donna S. Wieting,

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

[FR Doc. 2018–09499 Filed 5–3–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG206

Marine Mammals; File No. 22049

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Living Planet Productions/Silverback Films, 1 St. Augustine Yard, Gaunts Lane, Bristol, BS1 5DE, UK (Responsible Party: Sarah Wade), has applied in due form for a permit to conduct commercial or educational photography on bottlenose dolphins (*Tursiops truncatus*).

DATES: Written, telefaxed, or email comments must be received on or before June 4, 2018.

ADDRESSES: These documents are available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. 22049 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to film bottlenose dolphins in Everglades National Park, Florida from boats, helicopters, and underwater cameras from June through September 2018. Up to 140 dolphins may be harassed during helicopter flights. An additional 276 dolphins may be harassed during vessel filming. The goal of the project is to obtain footage of mud-ring feeding dolphins that will be used in an upcoming television documentary series to be released on Netflix. The permit would be valid until October 1, 2018.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 1, 2018.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–09547 Filed 5–3–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF984

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Marine Site Characterization Surveys Off of Rhode Island and Massachusetts

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from Deepwater Wind New England, LLC (DWW), for authorization to take marine mammals incidental to marine site characterization surveys off the coast of Rhode Island and Massachusetts in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0486) and along potential submarine cable routes to a landfall location in Rhode Island, Massachusetts or New York. 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 will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than June 4, 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.carduner@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Jordan Carduner, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the applications and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the internet at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (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 authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

National Environmental Policy Act

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

Accordingly, NMFS is preparing an Environmental Assessment (EA) to consider the environmental impacts associated with the issuance of the proposed IHA. 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 January 3, 2018, NMFS received a request from DWW for an IHA to take marine mammals incidental to marine site characterization surveys off the coast of Massachusetts and Rhode Island in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0486) and along potential submarine cable routes to a landfall location in either Rhode Island, Massachusetts or New York. A revised application was received on April 18, 2018. NMFS deemed that request to be adequate and complete. DWW's request is for take of 14 marine mammal species by Level B harassment. Neither DWW nor NMFS expects serious injury or mortality to result from this activity and the activity is expected to last no more than one year, therefore, an IHA is appropriate.

Description of the Proposed Activity

Overview

DWW proposes to conduct marine site characterization surveys, including high-resolution geophysical (HRG) and geotechnical surveys, in the area of Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf #OCS–A 0486 (Lease Area) and along potential submarine cable routes to landfall locations in either Rhode Island, Massachusetts or Long Island, New York. Surveys would occur from approximately June 15, 2018 through December 31, 2018.

The purpose of the marine site characterization surveys are to obtain a baseline assessment of seabed/sub-surface soil conditions in the Lease Area and cable route corridors to support the siting of potential future offshore wind projects. Underwater sound resulting from DWW's proposed site characterization surveys has the potential to result in incidental take of marine mammals in the form of behavioral harassment.

Dates and Duration

The estimated duration of the geophysical survey is expected to be up to 200 days between June 15, 2018, and December 31, 2018. The geotechnical surveys are expected to take up to 100 days between June 15, 2018, and December 31, 2018. This schedule is based on 24-hour operations and includes potential down time due to inclement weather. Surveys will last for approximately seven months and are anticipated to commence upon issuance of the requested IHA, if appropriate.

Specific Geographic Region

DWW's survey activities would occur in the Northwest Atlantic Ocean within Federal waters. Surveys would occur in the Lease Area and along potential submarine cable routes to landfall locations in either Rhode Island, Massachusetts or Long Island, New York (see Figure 1 in the IHA application). The Lease Area is approximately 394 square kilometers (km^2) (97,498 acres) and is approximately 20 km south of Rhode Island at its closest point to land.

Detailed Description of the Specified Activities

DWW's proposed marine site characterization surveys include HRG and geotechnical survey activities. Surveys would occur within the Bureau of Ocean Energy Management (BOEM) Rhode Island–Massachusetts Wind Energy Area (RI–MA WEA) which is east of Long Island, New York and south of Rhode Island and Massachusetts (see Figure 1 in the IHA application). Water depths in the Lease Area range from 26 to 48 meters (m) (85 to 157 feet (ft)). For the purpose of this IHA the Lease Area and submarine cable corridor are collectively termed the Project Area.

Geophysical and shallow geotechnical survey activities are anticipated to be supported by a vessel approximately 20–70 m long which will maintain a speed of up to five knots (kn) while transiting survey lines. Near shore geophysical and shallow geotechnical surveys (if required) would be performed by shallow draft vessels approximately 9 to 23 m long which will maintain a speed of up to five kn while transiting survey lines. Deep geotechnical survey activities and possible shallow geotechnical activities are anticipated to be conducted from a 40 to 100 m dynamically positioned (DP) vessel, jack-up vessel, or anchored vessel, with support of a tug boat. Survey activities will be executed in compliance with the July 2015 *BOEM Guidelines for Providing Geophysical, Geotechnical, and Geohazard Information Pursuant to 30 CFR part 585.* The proposed HRG and geotechnical survey activities are described below.

Geotechnical Survey Activities

DWW's proposed geotechnical survey activities would include the following:

- Vibracores to characterize the geological and geotechnical characteristics of the seabed, up to approximately 5 m deep. A hydraulic or electric driven pulsating head is used to drive a hollow tube into the seafloor and recover a stratified representation of the sediment.
- Core Penetration Testing (CPT) to determine stratigraphy and in-situ conditions of the sediments. Target penetration is 60 to 75 m.
- Deep Boring Cores would be drilled to determine the vertical and lateral variation in seabed conditions and provide geotechnical data to depths at least 10 m deeper than design penetration of the foundations (60 to 75 m target penetration).

Shallow geotechnical surveys, consisting of CPTs and vibracores, are planned for within the Lease Area and approximately every one to two kilometers (km) along the export cable routes. Foundation-depth geotechnical borings are also planned at each proposed foundation location within the Lease Area. While the quantity and locations of wind turbine generators to be installed, as well as cable route, has yet to be determined, an estimate of 153 vibracores, 20 CPTs, and 16 deep borings are planned within the Lease Area and along the export cable routes.

In considering whether marine mammal harassment is an expected outcome of exposure to a particular

activity or sound source, NMFS considers the nature of the exposure itself (*e.g.,* the magnitude, frequency, or duration of exposure), characteristics of the marine mammals potentially exposed, and the conditions specific to the geographic area where the activity is expected to occur (*e.g.,* whether the activity is planned in a foraging area, breeding area, nursery or pupping area, or other biologically important area for the species). We then consider the expected response of the exposed animal and whether the nature and duration or intensity of that response is expected to cause disruption of behavioral patterns (*e.g.,* migration, breathing, nursing, breeding, feeding, or sheltering) or injury.

Geotechnical survey activities would be conducted from a drill ship equipped with DP thrusters. DP thrusters would be used to position the sampling vessel on station and maintain position at each sampling location during the sampling activity. Sound produced through use of DP thrusters is similar to that produced by transiting vessels and DP thrusters are typically operated either in a similarly predictable manner or used for short durations around stationary activities. NMFS does not believe acoustic impacts from DP thrusters are likely to result in take of marine mammals in the absence of activity- or location-specific circumstances that may otherwise represent specific concerns for marine mammals (*i.e.,* activities proposed in area known to be of particular importance for a particular species), or associated activities that may increase the potential to result in take when in concert with DP thrusters. In this case, we are not aware of any such circumstances. Monitoring of past projects that entailed use of DP thrusters has shown a lack of observed marine mammal responses as a result of exposure to sound from DP thrusters. Therefore, NMFS believes the likelihood of DP thrusters used during the proposed geotechnical surveys resulting in harassment of marine mammals to be so low as to be discountable. As DP thrusters are not expected to result in take of marine mammals, these activities are not analyzed further in this document.

Vibracoring entails driving a hydraulic or electric pulsating head through a hollow tube into the seafloor to recover a stratified representation of the sediment. The vibracoring process is short in duration and is performed from a dynamic positioning vessel. The vessel would use DP thrusters to maintain the vessel's position while the vibracore sample is taken, as described above. The vibracoring process would always be performed in concert with DP thrusters, and DP thrusters would begin operating prior to the activation of the vibracore to maintain the vessel's position; thus, we expect that any marine mammals in the project area would detect the presence and noise associated with the vessel and the DP thrusters prior to commencement of vibracoring. Any reaction by marine mammals would be expected to be similar to reactions to the concurrent DP thrusters, which are expected to be minor and short term, *i.e.,* not constituting Level B harassment, as defined by the MMPA. In this case, vibracoring is not planned in any areas of particular biological significance for any marine mammals. Thus while a marine mammal may perceive noise from vibracoring and may respond briefly, we believe the potential for this response to rise to the level of take to be so low as to be discountable, based on the short duration of the activity and the fact that marine mammals would be expected to react to the vessel and DP thrusters before vibracoring commences, potentially through brief avoidance. In addition, the fact that the geographic area is not biologically important for any marine mammal species means that such reactions are not likely to carry any meaningful significance for the animals.

Field studies conducted off the coast of Virginia to determine the underwater noise produced by CPTs and borehole drilling found that these activities did not result in underwater noise levels that exceeded current thresholds for Level B harassment of marine mammals (Kalapinski, 2015). Given the small size and energy footprint of CPTs and boring cores, NMFS believes the likelihood that noise from these activities would exceed the Level B harassment threshold at any appreciable distance is so low as to be discountable. Therefore, geotechnical survey activities, including CPTs, boring cores and vibracores, are not expected to result in harassment of marine mammals and are not analyzed further in this document.

Geophysical Survey Activities

DWW has proposed that HRG survey operations would be conducted continuously 24 hours per day. Based on 24-hour operations, the estimated duration of the geophysical survey activities would be approximately 200 days (including estimated weather down time). The geophysical survey activities proposed by DWW would include the following:

- Multibeam Depth Sounder to determine water depths and general bottom topography. The multibeam echosounder sonar system projects sonar pulses in several angled beams from a transducer mounted to a ship's hull. The beams radiate out from the transducer in a fan-shaped pattern orthogonally to the ship's direction.
- Shallow Penetration Sub-Bottom Profiler (Chirp) to map the near surface stratigraphy (top 0 to 5 m of sediment below seabed). A Chirp system emits sonar pulses which increase in frequency (3.5 to 200 kHz) over time. The pulse length frequency range can be adjusted to meet project variables.
- Medium Penetration Sub-Bottom Profiler (Boomer) to map deeper subsurface stratigraphy as needed. This system is commonly mounted on a sled and towed behind a boat.
- Medium Penetration Sub-Bottom Profiler (Sparker and/or bubble gun) to map deeper subsurface stratigraphy as needed. Sparkers create acoustic pulses omni-directionally from the source that can penetrate several hundred meters into the seafloor. Hydrophone arrays towed nearby receive the return signals.
- Sidescan Sonar used to image the seafloor for seabed sediment classification purposes and to identify natural and man-made acoustic targets on the seafloor. The sonar device emits conical or fan-shaped pulses down toward the seafloor in multiple beams at a wide angle, perpendicular to the path of the sensor through the water. The acoustic return of the pulses is recorded in a series of cross-track slices, which can be joined to form an image of the sea bottom within the swath of the beam.
- Marine Magnetometer to detect ferrous metal objects on the seafloor which may cause a hazard including anchors, chains, cables, pipelines, ballast stones and other scattered shipwreck debris, munitions of all sizes, unexploded ordinances, aircraft, engines and any other object with magnetic expression.

Table 1 identifies the representative survey equipment that may be used in support of planned geophysical survey activities. The make and model of the listed geophysical equipment will vary depending on availability and the final equipment choices will vary depending upon the final survey design, vessel availability, and survey contractor selection. Geophysical surveys are expected to use several equipment types concurrently in order to collect multiple aspects of geophysical data along one transect. Selection of equipment combinations is based on specific survey objectives. Any survey equipment selected would have characteristics similar to the systems described below, if different.

TABLE 1—SUMMARY OF GEOPHYSICAL SURVEY EQUIPMENT PROPOSED FOR USE BY DWW

Equipment type	Operating frequencies (kHz)	Source level (SLrms dB re 1 µPA @1 m)	Operational depth (meters below surface)	Beam width (degrees)	Pulse duration (milliseconds)
Multibeam Depth Sounding					
Reson SeaBat 7125[1]	200 and 400	220	4	128	0.03 to 0.3.
Reson SeaBat 7101[2]	100	162	2 to 5	140	0.8 to 3.04.
R2SONIC Sonic 2020[1]	170 to 450	162	2 to 5	160	0.11.
Shallow Sub-bottom Profiling					
Teledyne Benthos Chirp III[3]	2 to 7	197	4	45	0.2.
EdgeTech SB3200 XS SB216[4]	2 to 16	176	2 to 5	170	3.4.
Medium Penetration Sub-bottom Profiling					
Applied Acoustics Fugro boomer[1]	0.1 to 10	175	1 to 2	60	58.
Applied Acoustics S-Boom system—CSP–D 2400HV (600 joule/pulse)[5]	0.25 to 8	203	2	25 to 35	0.6.
GeoResources 800 Joule Sparker[6]	0.75 to 2.75	203	4	360 (omni-directional).	0.1 to 0.2.
Falmouth Scientific HMS 620 bubble gun[7].	0.02 to 1.7	196	1.5	360 (omni-directional).	1.6.
Applied Acoustics Dura-Spark 240[5]	0.03 to 5	213	1 to 2	170	2.1.
Side Scan Sonar					
Klein Marine Systems model 3900[1].	445 and 900	242	20	40	0.025.
EdgeTech model 4125[1]	105 and 410	225	10	158	10 to 20.
EdgeTech model 4200[1]	300 and 600	215 to 220	1	0.5 and 0.26	5 to 12.

[1] Source level obtained from equipment specifications as described in 2017 IHA issued to DWW for takes of marine mammals incidental to site characterization surveys off the coast of New York (82 FR 22250).
[2] Source level based on published manufacturer specifications and/or systems manual.
[3] Source level based on published manufacturer specifications and/or systems manual—assumed configured as TTV–171 with AT–471 transducer per system manual.
[4] Source level obtained from Crocker and Fratantonio (2016). Assumed to be 3200 XS with SB216. Used as proxy: 3200 XS with SB424 in 4–24 kHz mode Since the 3200 XS system manual lists same power output between SB216 and SB 424.
[5] Source level obtained from Crocker and Fratantonio (2016).
[6] Source level obtained from Crocker and Fratantonio (2016)—ELC820 used as proxy.
[7] Source level obtained from Crocker and Fratantonio (2016)—Used single plate 1 due to discrepancies noted in Crocker and Fratantonio (2016) regarding plate 2.

The deployment of HRG survey equipment, including the equipment planned for use during DWW's planned activity, produces sound in the marine environment that has the potential to result in harassment of marine mammals. However, sound propagation is dependent on several factors including operating mode, frequency and beam direction of the HRG equipment; thus, potential impacts to marine mammals from HRG equipment are driven by the specification of individual HRG sources. The specifications of the potential equipment planned for use during HRG survey activities (Table 1) were analyzed to determine which types of equipment would have the potential to result in harassment of marine mammals. HRG equipment that would be operated either at frequency ranges that fall outside the functional hearing ranges of marine mammals (*e.g.,* above 200 kHz) or that operate within marine mammal functional hearing ranges but have low sound source levels (*e.g.,* a single pulse at less than 200 dB re re 1 µPa) were assumed to not have the potential to result in marine mammal harassment and were therefore eliminated from further analysis. Of the potential HRG survey equipment planned for use, the following equipment was determined to have the potential to result in harassment of marine mammals:

- Teledyne Benthos Chirp III Sub-bottom Profiler;
- EdgeTech Sub-bottom Profilers (Chirp);
- Applied Acoustics Fugro Sub-bottom Profiler (Boomer);
- Applied Acoustics S-Boom Sub-bottom Profiling System consisting of a CSP–D 2400HV power supply and 3-plate catamaran;
- GeoResources 800 Joule Sparker;
- Falmouth Scientific HMS 620 Bubble Gun; and
- Applied Acoustics Dura-Spark 240 System.

As the HRG survey equipment listed above was determined to have the potential to result in harassment of marine mammals, the equipment listed above was carried forward in the analysis of potential impacts to marine mammals; all other HRG equipment planned for use by DWW is not expected to result in harassment of marine mammals and is therefore not analyzed further in this document.

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 Activity

Sections 3 and 4 of DWW's IHA 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' Stock Assessment Reports (SAR; *www.nmfs.noaa.gov/pr/sars/*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*www.nmfs.noaa.gov/pr/species/mammals/*). All species that could potentially occur in the proposed survey areas are included in Table 5 of the IHA application. However, the temporal and/or spatial occurrence of several species listed in Table 5 of the IHA application is such that take of these species is not expected to occur, and they are not discussed further beyond the explanation provided here. Take of these species is not anticipated either because they have very low densities in the project area, are known to occur further offshore than the project area, or are considered very unlikely to occur in the project area during the proposed survey due to the species' seasonal occurrence in the area.

Table 2 lists all species with expected potential for occurrence in the survey area and with the potential to be taken as a result of the proposed survey 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 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' SARs). While no mortality is anticipated or authorized here, PBR is included here as a gross indicator 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' 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' U.S. Atlantic SARs (*e.g.,* Hayes *et al.,* 2018). All values presented in Table 2 are the most recent available at the time of publication and are available in the 2017 draft Atlantic SARs (Hayes *et al.,* 2018).

TABLE 2—MARINE MAMMALS KNOWN TO OCCUR IN THE SURVEY AREA

Common name	Stock	NMFS MMPA and ESA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	Predicted abundance (CV) [3]	PBR [4]	Occurrence and seasonality in the survey area
Toothed whales (Odontoceti)						
Sperm whale (*Physeter macrocephalus*).	North Atlantic	E; Y	2,288 (0.28; 1,815; n/a)	5,353 (0.12)	3.6	Rare.
Long-finned pilot whale (*Globicephala melas*).	W North Atlantic	-; Y	5,636 (0.63; 3,464; n/a)	[5] 18,977 (0.11)	35	Rare.
Atlantic white-sided dolphin (*Lagenorhynchus acutus*).	W North Atlantic	-; N	48,819 (0.61; 30,403; n/a)	37,180 (0.07)	304	Rare.
Atlantic spotted dolphin (*Stenella frontalis*).	W North Atlantic	-; N	44,715 (0.43; 31,610; n/a)	55,436 (0.32)	316	Rare.
Bottlenose dolphin (*Tursiops truncatus*).	W North Atlantic, Offshore	-; N	77,532 (0.40; 56,053; 2011)	[5] 97,476 (0.06)	561	Common year round.
Common dolphin [6] (*Delphinus delphis*).	W North Atlantic	-; N	173,486 (0.55; 55,690; 2011)	86,098 (0.12)	557	Common year round.
Harbor porpoise (*Phocoena phocoena*).	Gulf of Maine/Bay of Fundy	-; N	79,833 (0.32; 61,415; 2011)	* 45,089 (0.12)	706	Common year round.
Baleen whales (Mysticeti)						
North Atlantic right whale (*Eubalaena glacialis*).	W North Atlantic	E; Y	458 (0; 455; n/a)	* 535 (0.45)	1.4	Year round in continental shelf and slope waters, occur seasonally to forage.
Humpback whale [7] (*Megaptera novaeangliae*).	Gulf of Maine	-; N	823 (0.42; 239; n/a)	* 1,637 (0.07)	3.7	Common year round.
Fin whale [6] (*Balaenoptera physalus).*	W North Atlantic	E; Y	3,522 (0.27; 1,234; n/a)	4,633 (0.08)	2.5	Year round in continental shelf and slope waters, occur seasonally to forage.
Sei whale (*Balaenoptera borealis*).	Nova Scotia	E; Y	357 (0.52; 236; n/a)	* 717 (0.30)	0.5	Year round in continental shelf and slope waters, occur seasonally to forage.
Minke whale [6] (*Balaenoptera acutorostrata*).	Canadian East Coast	-; N	20,741 (0.3; 1,425; n/a)	* 2,112 (0.05)	162	Year round in continental shelf and slope waters, occur seasonally to forage.
Earless seals (Phocidae)						
Gray seal [8] (*Halichoerus grypus*).	W North Atlantic	-; N	27,131 (0.10; 25,908; n/a)		1,554	Rare.
Harbor seal (*Phoca vitulina*)	W North Atlantic	-; N	75,834 (0.15; 66,884; 2012)		2,006	Common year round.

[1] 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 (see footnote 3) 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] Stock abundance as reported in NMFS marine mammal stock assessment reports except where otherwise noted. NMFSs abundance reports available online at: *www.nmfs.noaa.gov/pr/sars.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable. For certain stocks, abundance estimates are actual counts of animals and there is no associated CV. The most recent abundance survey that is reflected in the abundance estimate is presented; there may be more recent surveys that have not yet been incorporated into the estimate. All values presented here are from the 2017 draft Atlantic SARs.

[3] This information represents species- or guild-specific abundance predicted by recent habitat-based cetacean density models (Roberts *et al.,* 2016). These models provide the best available scientific information regarding predicted density patterns of cetaceans in the U.S. Atlantic Ocean, and we provide the corresponding abundance predictions as a point of reference. Total abundance estimates were produced by computing the mean density of all pixels in the modeled area and multiplying by its area. For those species marked with an asterisk, the available information supported development of either two or four seasonal models; each model has an associated abundance prediction. Here, we report the maximum predicted abundance.

[4] Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP).

[5] Abundance estimates are in some cases reported for a guild or group of species when those species are difficult to differentiate at sea. Similarly, the habitat-based cetacean density models produced by Roberts *et al.* (2016) are based in part on available observational data which, in some cases, is limited to genus or guild in terms of taxonomic definition. Roberts *et al.* (2016) produced density models to genus level for *Globicephala* spp. and produced a density model for bottlenose dolphins that does not differentiate between offshore and coastal stocks.

[6] Abundance as reported in the 2007 Canadian Trans-North Atlantic Sighting Survey (TNASS), which provided full coverage of the Atlantic Canadian coast (Lawson and Gosselin, 2009). Abundance estimates from TNASS were corrected for perception and availability bias, when possible. In general, where the TNASS survey effort provided superior coverage of a stock's range (as compared with NOAA shipboard survey effort), the resulting abundance estimate is considered more accurate than the current NMFS abundance estimate (derived from survey effort with inferior coverage of the stock range). NMFS stock abundance estimate for the common dolphin is 70,184. NMFS stock abundance estimate for the fin whale is 1,618.

[7] 2017 U.S. Atlantic draft SAR for the Gulf of Maine feeding population lists a current abundance estimate of 335 individuals; this estimate was revised from the previous estimate of 823 individuals. However, the newer estimate is based on a single aerial line-transect survey in the Gulf of Maine. The 2017 U.S. Atlantic draft SAR notes that that previous estimate was based on a minimum number alive calculation which is generally more accurate than one derived from line-transect survey (Hayes *et al.,* 2017), and that the abundance estimate was revised solely because the previous estimate was greater than 8 years old. Therefore, the previous estimate of 823 is more accurate, and we note that even that estimate is defined on the basis of feeding location alone (*i.e.,* Gulf of Maine).

[8] NMFS stock abundance estimate applies to U.S. population only, actual stock abundance is approximately 505,000.

Four marine mammal species that are listed under the Endangered Species Act (ESA) may be present in the survey area and are included in the take request: The North Atlantic right whale, fin whale, sei whale, and sperm whale.

Below is a description of the species that are both common in the survey area south of Rhode Island and Massachusetts that have the highest likelihood of occurring, at least seasonally, in the survey area and are thus are expected to potentially be taken by the proposed activities. Though other marine mammal species are known to occur in the Northwest Atlantic Ocean, the temporal and/or spatial occurrence of several of these species is such that take of these species is not expected to occur, and they are therefore not discussed further beyond the explanation provided here. Take of these species is not anticipated either because they have very low densities in the project area (*e.g.,* blue whale, Clymene dolphin, pantropical spotted dolphin, striped dolphin, spinner dolphin, killer whale, false killer whale, pygmy killer whale, short-finned pilot whale), or, are known to occur further offshore than the project area (*e.g.,* beaked whales, rough toothed dolphin, Kogia *spp.*). For the majority of species potentially present in the specific geographic region, NMFS has designated only a single generic stock (*e.g.,* ''western North Atlantic'') for management purposes. This includes the ''Canadian east coast'' stock of minke whales, which includes all minke whales found in U.S. waters. For humpback and sei whales, NMFS defines stocks on the basis of feeding locations, *i.e.,* Gulf of Maine and Nova Scotia, respectively. However, our reference to humpback whales and sei whales in this document refers to any individuals of the species that are found in the specific geographic region.

North Atlantic Right Whale

The North Atlantic right whale ranges from the calving grounds in the southeastern United States to feeding grounds in New England waters and into Canadian waters (Waring *et al.,* 2016). Surveys have demonstrated the existence of seven areas where North Atlantic right whales congregate seasonally, including north and east of the proposed survey area in Georges Bank, off Cape Cod, and in Massachusetts Bay (Waring *et al.,* 2016). In the late fall months (*e.g.* October), right whales are generally thought to depart from the feeding grounds in the North Atlantic and move south to their calving grounds off Florida. However, recent research indicates our understanding of their movement patterns remains incomplete (Davis *et al.* 2017). A review of passive acoustic monitoring data from 2004 to 2014 throughout the western North Atlantic Ocean demonstrated nearly continuous year-round right whale presence across their entire habitat range, including in locations previously thought of as migratory corridors, suggesting that not all of the population undergoes a consistent annual migration (Davis *et al.* 2017). Acoustic monitoring data from 2004 to 2014 indicated that the number of North Atlantic right whale vocalizations detected in the proposed survey area were relatively constant throughout the year, with the exception of August through October when detected vocalizations showed an apparent decline (Davis *et al.* 2017). North Atlantic right whales are expected to be present in the proposed survey area during the proposed survey, especially during the summer months, with numbers possibly lower in the fall.

The western North Atlantic population demonstrated overall growth of 2.8 percent per year between 1990 to 2010, despite a decline in 1993 and no growth between 1997 and 2000 (Pace *et al.* 2017). However, since 2010 the population has been in decline, with a 99.99 percent probability of a decline of just under 1 percent per year (Pace *et al.* 2017). Between 1990 and 2015, calving rates varied substantially, with low calving rates coinciding with all three periods of decline or no growth (Pace *et al.* 2017). On average, North Atlantic right whale calving rates are estimated to be roughly half that of southern right whales (*Eubalaena australis*) (Pace *et al.* 2017), which are increasing in abundance (NMFS 2015). In 2018, no new North Atlantic right whale calves were documented in their calving grounds; this represented the first time since annual NOAA aerial surveys began in 1989 that no new right whale calves were observed.

Data indicates that the number of adult females fell from 200 in 2010 to 186 in 2015 while males fell from 283 to 272 in the same time frame (Pace *et al.,* 2017). In addition, elevated North Atlantic right whale mortalities have occurred since June 7, 2017. A total of 18 confirmed dead stranded whales (12 in Canada; 6 in the United States), with an additional 5 live whale entanglements in Canada, have been documented to date. This event has been declared an Unusual Mortality Event (UME), with human interactions (*i.e.,* fishery-related entanglements and vessel strikes) identified as the most likely cause. More information is available online at: *http://www.nmfs.noaa.gov/pr/health/mmume/2017northatlanticrightwhaleume.html.*

The proposed survey area is part of an important migratory area for North Atlantic right whales; this important

migratory area is comprised of the waters of the continental shelf offshore the East Coast of the United States and extends from Florida through Massachusetts. NMFS' regulations at 50 CFR part 224.105 designated nearshore waters of the Mid-Atlantic Bight as Mid-Atlantic U.S. Seasonal Management Areas (SMA) for right whales in 2008. SMAs were developed to reduce the threat of collisions between ships and right whales around their migratory route and calving grounds. A portion of one SMA, which occurs off Block Island, Rhode Island, overlaps spatially with a section of the proposed survey area. The SMA which occurs off Block Island is active from November 1 through April 30 of each year.

Humpback Whale

Humpback whales are found worldwide in all oceans. Humpback whales were listed as endangered under the Endangered Species Conservation Act (ESCA) in June 1970. In 1973, the ESA replaced the ESCA, and humpbacks continued to be listed as endangered. NMFS recently evaluated the status of the species, and on September 8, 2016, NMFS divided the species into 14 distinct population segments (DPS), removed the current species-level listing, and in its place listed four DPSs as endangered and one DPS as threatened (81 FR 62259; September 8, 2016). The remaining nine DPSs were not listed. The West Indies DPS, which is not listed under the ESA, is the only DPS of humpback whale that is expected to occur in the survey area. The best estimate of population abundance for the West Indies DPS is 12,312 individuals, as described in the NMFS Status Review of the Humpback Whale under the Endangered Species Act (Bettridge *et al.,* 2015).

In New England waters, feeding is the principal activity of humpback whales, and their distribution in this region has been largely correlated to abundance of prey species, although behavior and bathymetry are factors influencing foraging strategy (Payne *et al.* 1986, 1990). Humpback whales are frequently piscivorous when in New England waters, feeding on herring (*Clupea harengus*), sand lance (*Ammodytes* spp.), and other small fishes, as well as euphausiids in the northern Gulf of Maine (Paquet *et al.* 1997). During winter, the majority of humpback whales from North Atlantic feeding areas (including the Gulf of Maine) mate and calve in the West Indies, where spatial and genetic mixing among feeding groups occurs, though significant numbers of animals are found in mid- and high-latitude regions at this time and some individuals have been sighted repeatedly within the same winter season, indicating that not all humpback whales migrate south every winter (Waring *et al.,* 2016).

Since January 2016, elevated humpback whale mortalities have occurred along the Atlantic coast from Maine through North Carolina. Partial or full necropsy examinations have been conducted on approximately half of the 62 known cases. A portion of the whales have shown evidence of pre-mortem vessel strike; however, this finding is not consistent across all of the whales examined so more research is needed. NOAA is consulting with researchers that are conducting studies on the humpback whale populations, and these efforts may provide information on changes in whale distribution and habitat use that could provide additional insight into how these vessel interactions occurred. Three previous UMEs involving humpback whales have occurred since 2000, in 2003, 2005, and 2006. More information is available at *www.nmfs.noaa.gov/pr/health/mmume/2017humpbackatlanticume.html.*

Fin Whale

Fin whales are common in waters of the U. S. Atlantic Exclusive Economic Zone (EEZ), principally from Cape Hatteras northward (Waring *et al.,* 2016). Fin whales are present north of 35-degree latitude in every season and are broadly distributed throughout the western North Atlantic for most of the year, though densities vary seasonally (Waring *et al.,* 2016). Fin whales are found in small groups of up to five individuals (Brueggeman *et al.,* 1987). The main threats to fin whales are fishery interactions and vessel collisions (Waring *et al.,* 2016). The proposed survey area would overlap spatially and temporally with a biologically important feeding area for fin whales. The important fin whale feeding area occurs from March through October and stretches from an area south of Montauk Point to south of Martha's Vineyard.

Sei Whale

The Nova Scotia stock of sei whales can be found in deeper waters of the continental shelf edge waters of the northeastern United States and northeastward to south of Newfoundland. The southern portion of the stock's range during spring and summer includes the Gulf of Maine and Georges Bank. Spring is the period of greatest abundance in U.S. waters, with sightings concentrated along the eastern margin of Georges Bank and into the Northeast Channel area, and along the southwestern edge of Georges Bank in the area of Hydrographer Canyon (Waring *et al.,* 2015). Sei whales occur in shallower waters to feed. Sei whales are listed as engendered under the ESA and the Nova Scotia stock is considered strategic and depleted under the MMPA.

Minke Whale

Minke whales can be found in temperate, tropical, and high-latitude waters. The Canadian East Coast stock can be found in the area from the western half of the Davis Strait (45 °W) to the Gulf of Mexico (Waring *et al.,* 2016). This species generally occupies waters less than 100 m deep on the continental shelf. There appears to be a strong seasonal component to minke whale distribution in which spring to fall are times of relatively widespread and common occurrence, and when the whales are most abundant in New England waters, while during winter the species appears to be largely absent (Waring *et al.,* 2016).

Sperm Whale

The distribution of the sperm whale in the U.S. EEZ occurs on the continental shelf edge, over the continental slope, and into mid-ocean regions (Waring *et al.,* 2014). The basic social unit of the sperm whale appears to be the mixed school of adult females plus their calves and some juveniles of both sexes, normally numbering 20–40 animals in all. There is evidence that some social bonds persist for many years (Christal *et al.,* 1998). This species forms stable social groups, site fidelity, and latitudinal range limitations in groups of females and juveniles (Whitehead, 2002). In summer, the distribution of sperm whales includes the area east and north of Georges Bank and into the Northeast Channel region, as well as the continental shelf (inshore of the 100-m isobath) south of New England. In the fall, sperm whale occurrence south of New England on the continental shelf is at its highest level, and there remains a continental shelf edge occurrence in the mid-Atlantic bight. In winter, sperm whales are concentrated east and northeast of Cape Hatteras.

Long-Finned Pilot Whale

Long-finned pilot whales are found from North Carolina and north to Iceland, Greenland and the Barents Sea (Waring *et al.,* 2016). In U.S. Atlantic waters the species is distributed principally along the continental shelf edge off the northeastern U.S. coast in winter and early spring and in late spring, pilot whales move onto Georges Bank and into the Gulf of Maine and more northern waters and remain in

these areas through late autumn (Waring *et al.,* 2016). Long-finned pilot whales are not listed under the ESA. The Western North Atlantic stock is considered strategic under the MMPA.

Atlantic White-Sided Dolphin

White-sided dolphins are found in temperate and sub-polar waters of the North Atlantic, primarily in continental shelf waters to the 100-m depth contour from central West Greenland to North Carolina (Waring *et al.,* 2016). The Gulf of Maine stock is most common in continental shelf waters from Hudson Canyon to Georges Bank, and in the Gulf of Maine and lower Bay of Fundy. Sighting data indicate seasonal shifts in distribution (Northridge *et al.,* 1997). During January to May, low numbers of white-sided dolphins are found from Georges Bank to Jeffreys Ledge (off New Hampshire), with even lower numbers south of Georges Bank, as documented by a few strandings collected on beaches of Virginia to South Carolina. From June through September, large numbers of white-sided dolphins are found from Georges Bank to the lower Bay of Fundy. From October to December, white-sided dolphins occur at intermediate densities from southern Georges Bank to southern Gulf of Maine (Payne and Heinemann 1990). Sightings south of Georges Bank, particularly around Hudson Canyon, occur year round but at low densities.

Atlantic Spotted Dolphin

Atlantic spotted dolphins are found in tropical and warm temperate waters ranging from southern New England, south to Gulf of Mexico and the Caribbean to Venezuela (Waring *et al.,* 2014). This stock regularly occurs in continental shelf waters south of Cape Hatteras and in continental shelf edge and continental slope waters north of this region (Waring *et al.,* 2014). There are two forms of this species, with the larger ecotype inhabiting the continental shelf and is usually found inside or near the 200 m isobaths (Waring *et al.,* 2014). Atlantic spotted dolphins are not listed under the ESA and the stock is not considered depleted or strategic under the MMPA.

Common Dolphin

The short-beaked common dolphin is found world-wide in temperate to subtropical seas. In the North Atlantic, short-beaked common dolphins are commonly found over the continental shelf between the 100-m and 2,000-m isobaths and over prominent underwater topography and east to the mid-Atlantic Ridge (Waring *et al.,* 2016). Only the western North Atlantic stock may be present in the Lease Area.

Bottlenose Dolphin

There are two distinct bottlenose dolphin ecotypes in the western North Atlantic: the coastal and offshore forms (Waring *et al.,* 2016). The offshore form is distributed primarily along the outer continental shelf and continental slope in the Northwest Atlantic Ocean from Georges Bank to the Florida Keys and is the only type that may be present in the survey area as the survey area is north of the northern extent of the range of the Western North Atlantic Northern Migratory Coastal Stock.

Harbor Porpoise

In the Lease Area, only the Gulf of Maine/Bay of Fundy stock may be present. This stock is found in U.S. and Canadian Atlantic waters and is concentrated in the northern Gulf of Maine and southern Bay of Fundy region, generally in waters less than 150 m deep (Waring *et al.,* 2016). They are seen from the coastline to deep waters (>1800 m; Westgate *et al.* 1998), although the majority of the population is found over the continental shelf (Waring *et al.,* 2016). The main threat to the species is interactions with fisheries, with documented take in the U.S. northeast sink gillnet, mid-Atlantic gillnet, and northeast bottom trawl fisheries and in the Canadian herring weir fisheries (Waring *et al.,* 2016).

Harbor Seal

The harbor seal is found in all nearshore waters of the North Atlantic and North Pacific Oceans and adjoining seas above about 30° N (Burns, 2009). In the western North Atlantic, harbor seals are distributed from the eastern Canadian Arctic and Greenland south to southern New England and New York, and occasionally to the Carolinas (Waring *et al.,* 2016). Haulout and pupping sites are located off Manomet, MA and the Isles of Shoals, ME, but generally do not occur in areas in southern New England (Waring *et al.,* 2016).

Gray Seal

There are three major populations of gray seals found in the world; eastern Canada (western North Atlantic stock), northwestern Europe and the Baltic Sea. Gray seals in the survey area belong to the western North Atlantic stock. The range for this stock is thought to be from New Jersey to Labrador. Current population trends show that gray seal abundance is likely increasing in the U.S. Atlantic EEZ (Waring *et al.,* 2016). Although the rate of increase is unknown, surveys conducted since their arrival in the 1980s indicate a steady increase in abundance in both Maine and Massachusetts (Waring *et al.,* 2016). It is believed that recolonization by Canadian gray seals is the source of the U.S. population (Waring *et al.,* 2016).

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 (2016) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (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 Hertz (Hz) and 35 kilohertz (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; and

- Pinnipeds in water; Phocidae (true seals): Generalized hearing is estimated to occur between approximately 50 Hz to 86 kH.

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

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Fourteen marine mammal species (twelve cetacean and two pinniped (both phocid species) have the reasonable potential to co-occur with the proposed survey activities (see Table 2). Of the cetacean species that may be present, five are classified as low-frequency cetaceans (*i.e.,* all mysticete species), six are classified as mid-frequency cetaceans (*i.e.,* all delphinid species and the sperm whale), and one is classified as a high-frequency cetacean (*i.e.,* harbor porpoise).

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.

Background on Sound

Sound is a physical phenomenon consisting of minute vibrations that travel through a medium, such as air or water, and is generally characterized by several variables. Frequency describes the sound's pitch and is measured in Hz or kHz, while sound level describes the sound's intensity and is measured in dB. Sound level increases or decreases exponentially with each dB of change. The logarithmic nature of the scale means that each 10-dB increase is a 10-fold increase in acoustic power (and a 20-dB increase is then a 100-fold increase in power). A 10-fold increase in acoustic power does not mean that the sound is perceived as being 10 times louder, however. Sound levels are compared to a reference sound pressure (micro-Pascal) to identify the medium. For air and water, these reference pressures are ''re: 20 micro Pascals (μPa)'' and ''re: 1 μPa,'' respectively. 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 (Urick 1975). 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. 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 rather than by peak pressures.

When sound travels (propagates) from its source, its loudness decreases as the distance traveled by the sound increases. Thus, the loudness of a sound at its source is higher than the loudness of that same sound one km away. Acousticians often refer to the loudness of a sound at its source (typically referenced to one meter from the source) as the source level and the loudness of sound elsewhere as the received level (*i.e.,* typically the receiver). For example, a humpback whale 3 km from a device that has a source level of 230 dB may only be exposed to sound that is 160 dB loud, depending on how the sound travels through water (*e.g.,* spherical spreading (6 dB reduction with doubling of distance) was used in this example). As a result, it is important to understand the difference between source levels and received levels when discussing the loudness of sound in the ocean or its impacts on the marine environment.

As sound travels from a source, its propagation in water is influenced by various physical characteristics, including water temperature, depth, salinity, and surface and bottom properties that cause refraction, reflection, absorption, and scattering of sound waves. Oceans are not homogeneous and the contribution of each of these individual factors is extremely complex and interrelated. The physical characteristics that determine the sound's speed through the water will change with depth, season, geographic location, and with time of day (as a result, in actual active sonar operations, crews will measure oceanic conditions, such as sea water temperature and depth, to calibrate models that determine the path the sonar signal will take as it travels through the ocean and how strong the sound signal will be at a given range along a particular transmission path). As sound travels through the ocean, the intensity associated with the wavefront diminishes, or attenuates. This decrease in intensity is referred to as propagation loss, also commonly called transmission loss.

Acoustic Impacts

Geophysical surveys may temporarily impact marine mammals in the area due to elevated in-water sound levels. Marine mammals are continually exposed to many sources of sound. Naturally occurring sounds such as lightning, rain, sub-sea earthquakes, and biological sounds (*e.g.,* snapping shrimp, whale songs) are widespread throughout the world's oceans. Marine mammals produce sounds in various contexts and use sound for various biological functions including, but not limited to: (1) Social interactions; (2) foraging; (3) orientation; and (4) predator detection. Interference with producing or receiving these sounds may result in adverse impacts. Audible distance, or received levels of sound depend on the nature of the sound source, ambient noise conditions, and the sensitivity of the receptor to the sound (Richardson *et al.,* 1995). Type and significance of marine mammal reactions to sound are likely dependent on a variety of factors including, but not limited to, (1) the behavioral state of the animal (*e.g.,* feeding, traveling, etc.); (2) frequency of the sound; (3) distance between the animal and the source; and (4) the level of the sound relative to ambient conditions (Southall *et al.,* 2007).

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Current data indicate that not all marine mammal species have equal hearing capabilities (Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008).

Animals are less sensitive to sounds at the outer edges of their functional hearing range and are more sensitive to a range of frequencies within the middle of their functional hearing range.

Hearing Impairment

Marine mammals may experience temporary or permanent hearing

impairment when exposed to loud sounds. Hearing impairment is classified by temporary threshold shift (TTS) and permanent threshold shift (PTS). PTS is considered auditory injury (Southall *et al.,* 2007) and occurs in a specific frequency range and amount. Irreparable damage to the inner or outer cochlear hair cells may cause PTS; however, other mechanisms are also involved, such as exceeding the elastic limits of certain tissues and membranes in the middle and inner ears and resultant changes in the chemical composition of the inner ear fluids (Southall *et al.,* 2007). There are no empirical data for onset of PTS in any marine mammal; therefore, PTS-onset must be estimated from TTS-onset measurements and from the rate of TTS growth with increasing exposure levels above the level eliciting TTS-onset. PTS is presumed to be likely if the hearing threshold is reduced by ≥40 dB (that is, 40 dB of TTS).

Temporary Threshold Shift (TTS)

TTS is the mildest form of hearing impairment that can occur during exposure to a loud sound (Kryter 1985). While experiencing TTS, the hearing threshold rises and a sound must be stronger in order to be heard. At least in terrestrial mammals, TTS can last from minutes or hours to (in cases of strong TTS) days, can be limited to a particular frequency range, and can occur to varying degrees (*i.e.,* a loss of a certain number of dBs of sensitivity). For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the noise ends.

Marine mammal hearing plays a critical role in communication with conspecifics and in 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 takes place during a time when the animals is traveling through the open ocean, 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 if it were in the same frequency band as the necessary vocalizations and of a severity that it impeded communication. The fact that animals exposed to levels and durations of sound that would be expected to result in this physiological response would also be expected to have behavioral responses of a comparatively more severe or sustained nature is also notable and potentially of more importance than the simple existence of a TTS.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale (*Delphinapterus leucas*), harbor porpoise, and Yangtze finless porpoise (*Neophocaena phocaenoides*)) and three species of pinnipeds (northern elephant seal (*Mirounga angustirostris*), harbor seal, and California sea lion (*Zalophus californianus*)) 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 and 2010; Nachtigall *et al.,* 2004; Kastak *et al.,* 2005; Lucke *et al.,* 2009; Mooney *et al.,* 2009; Popov *et al.,* 2011; Finneran and Schlundt, 2010). 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. However, even for these animals, which are better able to hear higher frequencies and may be more sensitive to higher frequencies, exposures on the order of approximately 170 dB RMS or higher for brief transient signals are likely required for even temporary (recoverable) changes in hearing sensitivity that would likely not be categorized as physiologically damaging (Lucke *et al.,* 2009). 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).

Scientific literature highlights the inherent complexity of predicting TTS onset in marine mammals, as well as the importance of considering exposure duration when assessing potential impacts (Mooney *et al.,* 2009a, 2009b; Kastak *et al.,* 2007). Generally, with sound exposures of equal energy, quieter sounds (lower sound pressure levels (SPL)) of longer duration were found to induce TTS onset more than louder sounds (higher SPL) of shorter duration (more similar to sub-bottom profilers). For intermittent sounds, less threshold shift will occur than from a continuous exposure with the same energy (some recovery will occur between intermittent exposures) (Kryter *et al.,* 1966; Ward 1997). For sound exposures at or somewhat above the TTS-onset threshold, hearing sensitivity recovers rapidly after exposure to the sound ends; intermittent exposures recover faster in comparison with continuous exposures of the same duration (Finneran *et al.,* 2010). NMFS considers TTS as Level B harassment that is mediated by physiological effects on the auditory system.

Animals in the Lease Area during the HRG survey are unlikely to incur TTS hearing impairment due to the characteristics of the sound sources, which include low source levels (208 to 221 dB re 1 μPa-m) and generally very short pulses and duration of the sound. Even for high-frequency cetacean species (*e.g.,* harbor porpoises), which may have increased sensitivity to TTS (Lucke *et al.,* 2009; Kastelein *et al.,* 2012b), individuals would have to make a very close approach and also remain very close to vessels operating these sources in order to receive multiple exposures at relatively high levels, as would be necessary to cause TTS. Intermittent exposures—as would occur due to the brief, transient signals produced by these sources—require a higher cumulative SEL to induce TTS than would continuous exposures of the same duration (*i.e.,* intermittent exposure results in lower levels of TTS) (Mooney *et al.,* 2009a; Finneran *et al.,* 2010). Moreover, most marine mammals would more likely avoid a loud sound source rather than swim in such close proximity as to result in TTS. Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when a sub-bottom profiler emits a pulse is small—because if the animal was in the area, it would have to pass the transducer at close range in order to be subjected to sound levels that could cause TTS and would likely exhibit avoidance behavior to the area near the transducer rather than swim through at such a close range. Further, the restricted beam shape of the majority of the geophysical survey equipment planned for use (Table 1) makes it unlikely that an animal would be exposed more than briefly during the passage of the vessel.

Masking

Masking is the obscuring of sounds of interest to an animal by other sounds, typically at similar frequencies. Marine mammals are highly dependent on sound, and their ability to recognize sound signals amid other sound is important in communication and

detection of both predators and prey (Tyack 2000). Background ambient sound may interfere with or mask the ability of an animal to detect a sound signal even when that signal is above its absolute hearing threshold. Even in the absence of anthropogenic sound, the marine environment is often loud. Natural ambient sound includes contributions from wind, waves, precipitation, other animals, and (at frequencies above 30 kHz) thermal sound resulting from molecular agitation (Richardson *et al.,* 1995).

Background sound may also include anthropogenic sound, and masking of natural sounds can result when human activities produce high levels of background sound. Conversely, if the background level of underwater sound is high (*e.g.,* on a day with strong wind and high waves), an anthropogenic sound source would not be detectable as far away as would be possible under quieter conditions and would itself be masked. Ambient sound is highly variable on continental shelves (Myrberg 1978; Desharnais *et al.,* 1999). This results in a high degree of variability in the range at which marine mammals can detect anthropogenic sounds.

Although masking is a phenomenon which may occur naturally, the introduction of loud anthropogenic sounds into the marine environment at frequencies important to marine mammals increases the severity and frequency of occurrence of masking. For example, if a baleen whale is exposed to continuous low-frequency sound from an industrial source, this would reduce the size of the area around that whale within which it can hear the calls of another whale. The components of background noise that are similar in frequency to the signal in question primarily determine the degree of masking of that signal. In general, little is known about the degree to which marine mammals rely upon detection of sounds from conspecifics, predators, prey, or other natural sources. In the absence of specific information about the importance of detecting these natural sounds, it is not possible to predict the impact of masking on marine mammals (Richardson *et al.,* 1995). In general, masking effects are expected to be less severe when sounds are transient than when they are continuous. Masking is typically of greater concern for those marine mammals that utilize low-frequency communications, such as baleen whales, because of how far low-frequency sounds propagate.

Marine mammal communications would not likely be masked appreciably by the sub-bottom profiler signals given the directionality of the signals (for most geophysical survey equipment types planned for use (Table 1)) and the brief period when an individual mammal is likely to be within its beam.

Non-Auditory Physical Effects (Stress)

Classic stress responses begin when an animal's central nervous system perceives a potential threat to its homeostasis. That perception triggers stress responses regardless of whether a stimulus actually threatens the animal; the mere perception of a threat is sufficient to trigger a stress response (Moberg 2000; Seyle 1950). Once an animal's central nervous system perceives a threat, it mounts a biological response or defense that consists of a combination of the four general biological defense responses: Behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses.

In the case of many stressors, an animal's first and sometimes most economical (in terms of biotic costs) response is behavioral avoidance of the potential stressor or avoidance of continued exposure to a stressor. An animal's second line of defense to stressors involves the sympathetic part of the autonomic nervous system and the classical ''fight or flight'' response which includes the cardiovascular system, the gastrointestinal system, the exocrine glands, and the adrenal medulla to produce changes in heart rate, blood pressure, and gastrointestinal activity that humans commonly associate with ''stress.'' These responses have a relatively short duration and may or may not have significant long-term effect on an animal's welfare.

An animal's third line of defense to stressors involves its neuroendocrine systems; the system that has received the most study has been the hypothalamus-pituitary-adrenal system (also known as the HPA axis in mammals). Unlike stress responses associated with the autonomic nervous system, virtually all neuro-endocrine 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 (Moberg 1987; Rivier 1995), altered metabolism (Elasser *et al.,* 2000), reduced immune competence (Blecha 2000), and behavioral disturbance. Increases in the circulation of glucocorticosteroids (cortisol, corticosterone, and aldosterone in marine mammals; see Romano *et al.,* 2004) have been equated with stress for many years.

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and distress is the biotic 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 a risk to the animal's welfare. 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 biotic function, which impairs those functions that experience the diversion. For example, when mounting a stress response diverts energy away from growth in young animals, those animals may experience stunted growth. When mounting a stress response diverts energy from a fetus, an animal's reproductive success and its fitness will suffer. In these cases, the animals will have entered a pre-pathological or pathological state which is called ''distress'' (Seyle 1950) or ''allostatic loading'' (McEwen and Wingfield 2003). This pathological state will last until the animal replenishes its biotic reserves sufficient to restore normal function. Note that these examples involved a long-term (days or weeks) stress response exposure to stimuli.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses have also been documented fairly well through controlled experiments; because this physiology exists in every vertebrate that has been studied, it is not surprising that stress responses and their costs have been documented in both laboratory and free-living animals (for examples see, Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005; Reneerkens *et al.,* 2002; Thompson and Hamer, 2000). Information has also been collected on the physiological responses of marine mammals to exposure to anthropogenic sounds (Fair and Becker 2000; Romano *et al.,* 2002). 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.

Studies of other marine animals and terrestrial animals would also lead us to expect some marine mammals to experience physiological stress responses and, perhaps, physiological responses that would be classified as ''distress'' upon exposure to high frequency, mid-frequency and low-

frequency sounds. For example, Jansen (1998) reported on the relationship between acoustic exposures and physiological responses that are indicative of stress responses in humans (for example, elevated respiration and increased heart rates). Jones (1998) reported on reductions in human performance when faced with acute, repetitive exposures to acoustic disturbance. Trimper *et al.* (1998) reported on the physiological stress responses of osprey to low-level aircraft noise while Krausman *et al.* (2004) reported on the auditory and physiology stress responses of endangered Sonoran pronghorn to military overflights. Smith *et al.* (2004a, 2004b), for example, identified noise-induced physiological transient stress responses in hearing-specialist fish (*i.e.,* goldfish) that accompanied short- and long-term hearing losses. Welch and Welch (1970) reported physiological and behavioral stress responses that accompanied damage to the inner ears of fish and several mammals.

Hearing is one of the primary senses marine mammals use to gather information about their environment and to communicate with conspecifics. Although empirical information on the relationship between sensory impairment (TTS, PTS, and acoustic masking) on marine mammals remains limited, it seems reasonable to assume that reducing an animal's ability to gather information about its environment and to communicate with other members of its species would be stressful for animals that use hearing as their primary sensory mechanism. Therefore, we assume that acoustic exposures sufficient to trigger onset PTS or TTS would be accompanied by physiological stress responses because terrestrial animals exhibit those responses under similar conditions (NRC 2003). More importantly, marine mammals might experience stress responses at received levels lower than those necessary to trigger onset TTS. Based on empirical studies of the time required to recover from stress responses (Moberg 2000), we also assume that stress responses are likely to persist beyond the time interval required for animals to recover from TTS and might result in pathological and pre-pathological states that would be as significant as behavioral responses to TTS.

In general, there are few data on the potential for strong, anthropogenic underwater sounds to cause non-auditory physical effects in marine mammals. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007). There is no definitive evidence that any of these effects occur even for marine mammals in close proximity to an anthropogenic sound source. In addition, marine mammals that show behavioral avoidance of survey vessels and related sound sources are unlikely to incur non-auditory impairment or other physical effects. NMFS does not expect that the generally short-term, intermittent, and transitory HRG and geotechnical activities would create conditions of long-term, continuous noise and chronic acoustic exposure leading to long-term physiological stress responses in marine mammals.

Behavioral Disturbance

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 shown 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, pulsed 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, l*et al*one 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 vary 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, 2005b, 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 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.,* 2007b). 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 as a result 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.

Marine mammals are likely to avoid the HRG survey activity, especially the naturally shy harbor porpoise, while the harbor seals might be attracted to them out of curiosity. However, because the sub-bottom profilers and other HRG survey equipment operate from a moving vessel, and the maximum radius to the Level B harassment threshold is relatively small, the area and time that this equipment would be affecting a given location is very small. Further, once an area has been surveyed, it is not likely that it will be surveyed again, thereby reducing the likelihood of repeated HRG-related impacts within the survey area.

We have also considered the potential for severe behavioral responses such as stranding and associated indirect injury or mortality from DWW's use of HRG survey equipment, on the basis of a 2008 mass stranding of approximately 100 melon-headed whales in a Madagascar lagoon system. An investigation of the event indicated that use of a high-frequency mapping system (12-kHz multibeam echosounder) was the most plausible and likely initial behavioral trigger of the event, while providing the caveat that there is no unequivocal and easily identifiable single cause (Southall *et al.,* 2013). The investigatory panel's conclusion was

based on (1) very close temporal and spatial association and directed movement of the survey with the stranding event; (2) the unusual nature of such an event coupled with previously documented apparent behavioral sensitivity of the species to other sound types (Southall *et al.,* 2006; Brownell *et al.,* 2009); and (3) the fact that all other possible factors considered were determined to be unlikely causes. Specifically, regarding survey patterns prior to the event and in relation to bathymetry, the vessel transited in a north-south direction on the shelf break parallel to the shore, ensonifying large areas of deep-water habitat prior to operating intermittently in a concentrated area offshore from the stranding site; this may have trapped the animals between the sound source and the shore, thus driving them towards the lagoon system. The investigatory panel systematically excluded or deemed highly unlikely nearly all potential reasons for these animals leaving their typical pelagic habitat for an area extremely atypical for the species (*i.e.,* a shallow lagoon system). Notably, this was the first time that such a system has been associated with a stranding event. The panel also noted several site- and situation-specific secondary factors that may have contributed to the avoidance responses that led to the eventual entrapment and mortality of the whales. Specifically, shoreward-directed surface currents and elevated chlorophyll levels in the area preceding the event may have played a role (Southall *et al.,* 2013). The report also notes that prior use of a similar system in the general area may have sensitized the animals and also concluded that, for odontocete cetaceans that hear well in higher frequency ranges where ambient noise is typically quite low, high-power active sonars operating in this range may be more easily audible and have potential effects over larger areas than low frequency systems that have more typically been considered in terms of anthropogenic noise impacts. It is, however, important to note that the relatively lower output frequency, higher output power, and complex nature of the system implicated in this event, in context of the other factors noted here, likely produced a fairly unusual set of circumstances that indicate that such events would likely remain rare and are not necessarily relevant to use of lower-power, higher-frequency systems more commonly used for HRG survey applications. The risk of similar events recurring may be very low, given the extensive use of active acoustic systems used for scientific and navigational purposes worldwide on a daily basis and the lack of direct evidence of such responses previously reported.

Tolerance

Numerous studies have shown that underwater sounds from industrial activities are often readily detectable by marine mammals in the water at distances of many km. However, other studies have shown that marine mammals at distances more than a few km away often show no apparent response to industrial activities of various types (Miller *et al.,* 2005). This is often true even in cases when the sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of that mammal group. Although various baleen whales, toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to underwater sound from sources such as airgun pulses or vessels under some conditions, at other times, mammals of all three types have shown no overt reactions (*e.g.,* Malme *et al.,* 1986; Richardson *et al.,* 1995; Madsen and Mohl 2000; Croll *et al.,* 2001; Jacobs and Terhune 2002; Madsen *et al.,* 2002; Miller *et al.,* 2005). In general, pinnipeds seem to be more tolerant of exposure to some types of underwater sound than are baleen whales. Richardson *et al.* (1995) found that vessel sound does not seem to affect pinnipeds that are already in the water. Richardson *et al.* (1995) went on to explain that seals on haul-outs sometimes respond strongly to the presence of vessels and at other times appear to show considerable tolerance of vessels, and Brueggeman *et al.* (1992) observed ringed seals (*Pusa hispida*) hauled out on ice pans displaying short-term escape reactions when a ship approached within 0.16–0.31 miles (0.25–0.5 km). Due to the relatively high vessel traffic in the Lease Area it is possible that marine mammals are habituated to noise (*e.g.,* DP thrusters) from project vessels in the area.

Vessel Strike

Ship strikes of marine mammals can cause major wounds, which may lead to the death of the animal. An animal at the surface could be struck directly by a vessel, a surfacing animal could hit the bottom of a vessel, or a vessel's propeller could injure an animal just below the surface. The severity of injuries typically depends on the size and speed of the vessel (Knowlton and Kraus 2001; Laist *et al.,* 2001; Vanderlaan and Taggart 2007).

The most vulnerable marine mammals are those that spend extended periods of time at the surface in order to restore oxygen levels within their tissues after deep dives (*e.g.,* the sperm whale). In addition, some baleen whales, such as the North Atlantic right whale, seem generally unresponsive to vessel sound, making them more susceptible to vessel collisions (Nowacek *et al.,* 2004). These species are primarily large, slow moving whales. Smaller marine mammals (*e.g.,* bottlenose dolphin) move quickly through the water column and are often seen riding the bow wave of large ships. Marine mammal responses to vessels may include avoidance and changes in dive pattern (NRC 2003).

An examination of all known ship strikes from all shipping sources (civilian and military) indicates vessel speed is a principal factor in whether a vessel strike results in death (Knowlton and Kraus 2001; Laist *et al.,* 2001; Jensen and Silber 2003; Vanderlaan and Taggart 2007). In assessing records with known vessel speeds, Laist *et al.* (2001) found a direct relationship between the occurrence of a whale strike and the speed of the vessel involved in the collision. The authors concluded that most deaths occurred when a vessel was traveling in excess of 24.1 km/h (14.9 mph; 13 knots (kn)). Given the slow vessel speeds and predictable course necessary for data acquisition, ship strike is unlikely to occur during the geophysical and geotechnical surveys. Marine mammals would be able to easily avoid the survey vessel due to the slow vessel speed. Further, DWW would implement measures (*e.g.,* protected species monitoring, vessel speed restrictions and separation distances; see *Proposed Mitigation*) set forth in the BOEM lease to reduce the risk of a vessel strike to marine mammal species in the survey area.

Marine Mammal Habitat

The HRG survey equipment will not contact the seafloor and does not represent a source of pollution. We are not aware of any available literature on impacts to marine mammal prey from sound produced by HRG survey equipment. However, as the HRG survey equipment introduces noise to the marine environment, there is the potential for it to result in avoidance of the area around the HRG survey activities on the part of marine mammal prey. Any avoidance of the area on the part of marine mammal prey would be expected to be short term and temporary.

Because of the temporary nature of the disturbance, and the availability of similar habitat and resources (*e.g.,* prey

species) in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations. Impacts on marine mammal habitat from the proposed activities will be temporary, insignificant, and discountable.

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, 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, as use of the HRG equipment has the potential to result in disruption of behavioral patterns for individual marine mammals. NMFS has determined take by Level A harassment is not an expected outcome of the proposed activity and thus we do not propose to authorize the take of any marine mammals by Level A harassment. This is discussed in greater detail below. As described previously, no mortality or serious injury is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated for this project.

Described in the most basic way, 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. Below, we describe these components in more detail and present the proposed take estimate.

Acoustic Thresholds

NMFS uses 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—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the sound source (*e.g.,* frequency, predictability, duty cycle); the environment (*e.g.,* bathymetry); and the receiving animals (hearing, motivation, experience, demography, behavioral context); therefore can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.* 2012). NMFS uses a generalized acoustic threshold based on received level to estimate the onset of Level B (behavioral) harassment. NMFS predicts that marine mammals may be behaviorally harassed when exposed to underwater anthropogenic noise above received levels 160 dB re 1 μPa (RMS) for non-explosive impulsive (*e.g.,* seismic HRG equipment) or intermittent (*e.g.,* scientific sonar) sources. DWW's proposed activity includes the use of impulsive sources. Therefore, the 160 dB re 1 μPa (RMS) criteria is applicable for analysis of Level B harassment.

Level A Harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (NMFS 2016) 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 Technical Guidance identifies the received levels, or thresholds, above which individual marine mammals are predicted to experience changes in their hearing sensitivity for all underwater anthropogenic sound sources, reflects the best available science, and better predicts the potential for auditory injury than does NMFS' historical criteria.

These thresholds were developed by compiling and synthesizing the best available science and soliciting input multiple times from both the public and peer reviewers to inform the final product, and are provided in Table 3 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.* As described above, DWW's proposed activity includes the use of intermittent and impulsive sources.

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT IN MARINE MAMMALS

Hearing group	PTS onset thresholds	
	Impulsive *	Non-impulsive
Low-Frequency (LF) Cetaceans	$L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	$L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	$L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	$L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	$L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	$L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	$L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	$L_{E,PW,24h}$: 201 dB.

Note: *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 (Lpk) has a reference value of 1 μPa, and cumulative sound exposure level (LE) has a reference value of 1μPa2s. 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.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into estimating the area ensonified above the acoustic thresholds.

The proposed survey would entail the use of HRG survey equipment. The distance to the isopleth corresponding to the threshold for Level B harassment was calculated for all HRG survey equipment with the potential to result in harassment of marine mammals using the spherical transmission loss (TL) equation: TL = $20\log_{10}\gamma$. Results of modeling indicated that, of the HRG survey equipment planned for use that has the potential to result in harassment of marine mammals, the AA Dura-Spark would be expected to produce sound that would propagate the furthest in the water (Table 4); therefore, for the purposes of the take calculation, it was assumed the AA Dura-Spark would be active during the entirety of the survey. Thus the distance to the isopleth corresponding to the threshold for Level B harassment for the AA Dura-Spark (estimated at 447 m; Table 4) was used as the basis of the Level B take calculation for all marine mammals.

TABLE 4—MODELED RADIAL DISTANCES FROM HRG SURVEY EQUIPMENT TO ISOPLETHS CORRESPONDING TO LEVEL B HARASSMENT THRESHOLD

HRG system	Radial distance (m) to Level B harassment threshold (160 dB re 1 μPa)
TB Chirp	70.79
EdgeTech Chirp	6.31
AA Boomer	5.62
AA S-Boom	141.25
Bubble Gun	63.1
800J Spark	141.25
AA Dura Spark	446.69

Predicted distances to Level A harassment isopleths, which vary based on marine mammal functional hearing groups (Table 5), were also calculated. The updated acoustic thresholds for impulsive sounds (such as HRG survey equipment) contained in the Technical Guidance (NMFS, 2016) were presented as dual metric acoustic thresholds using both cumulative sound exposure level (SEL_{cum}) and peak sound pressure level metrics. As dual metrics, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the two metrics is exceeded (*i.e.,* metric resulting in the largest isopleth).

The SEL_{cum} metric considers both level and duration of exposure, as well as auditory weighting functions by marine mammal hearing group. In recognition of the fact that calculating Level A harassment ensonified areas could be more technically challenging to predict due to the duration component and the use of weighting functions in the new SEL_{cum} thresholds, NMFS developed an optional User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to facilitate the estimation of take numbers. DWW used the NMFS optional User Spreadsheet to calculate distances to Level A harassment isopleths based on SEL_{cum}. To calculate distances to the Level A harassment isopleths based on peak pressure, the spherical spreading loss model was used (similar to the method used to calculate Level B isopleths as described above).

Modeling of distances to isopleths corresponding to Level A harassment was performed for all types of HRG equipment planned for use with the potential to result in harassment of marine mammals. Of the HRG equipment types modeled, the AA Dura Spark resulted in the largest distances to isopleths corresponding to Level A harassment for all marine mammal functional hearing groups; therefore, to be conservative, the isopleths modeled for the AA Dura Spark were used to estimate potential Level A take. Based on a conservative assumption that the AA Dura Spark would be operated at 1,000 joules during the survey, a peak source level of 223 dB re 1µPa was used for modeling Level A harassment isopleths based on peak pressure (Crocker & Fratantonio, 2016). Inputs to the NMFS optional User Spreadsheet for the AA Dura Spark are shown in Table 5. Modeled distances to isopleths corresponding to Level A harassment thresholds for the AA Dura Spark are shown in Table 6 (modeled distances to Level A harassment isopleths for all other types of HRG equipment planned for use are shown in Table 6 of the IHA application). As described above, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the two metrics is exceeded (*i.e.,* metric resulting in the largest isopleth).

TABLE 5—INPUTS TO THE NMFS OPTIONAL USER SPREADSHEET FOR THE AA DURA SPARK

Source Level (RMS SPL) [1]	213 dB re 1μPa.
Source Level (peak) [1]	223 dB re 1μPa.
Weighting Factor Adjustment (kHz) [1].	3.2.
Source Velocity (meters/second)	2.07.
Pulse Duration (seconds)	0.0021.
1/Repetition rate (seconds)	2.42.
Duty Cycle	0.00.

[1] Derived from Crocker & Fratantonio (2016), based on operation at 1,000 joules.

TABLE 6—MODELED RADIAL DISTANCES TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT THRESHOLDS

Functional hearing group (Level A harassment thresholds)	Radial distance (m) to Level A harassment threshold (SEL_{cum})	Radial distance (m) to Level A harassment threshold (Peak SPL_{flat})
Low frequency cetaceans ($L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB)	1.3	1.6
Mid frequency cetaceans ($L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB)	0.0	0.0
High frequency cetaceans ($L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB)	8.6	11.2
Phocid Pinnipeds (Underwater) ($L_{pk,flat}$: 218 dB; $L_{E,HF,24h}$: 185 dB)	0.7	1.8

Due to the small estimated distances to Level A harassment thresholds for all marine mammal functional hearing groups, based on both SEL_{cum} and peak SPL (Table 6), and in consideration of the proposed mitigation measures (see the *Proposed Mitigation* section for more detail), NMFS has determined that the likelihood of Level A take of marine mammals occurring as a result of the proposed survey is so low as to be discountable.

We note that because of some of the assumptions included in the methods used, isopleths produced may be overestimates to some degree. Most of the acoustic sources proposed for use in DWW's survey (including the AA Dura-Spark) do not radiate sound equally in all directions but were designed instead to focus acoustic energy directly toward the sea floor. Therefore, the acoustic energy produced by these sources is not received equally in all directions around the source but is instead concentrated along some narrower plane depending on the beamwidth of the source. However, the calculated distances to isopleths do not account for this directionality of the sound source and are therefore conservative. Two types of geophysical survey equipment planned for use in the proposed survey are omni-directional (Table 1), however the modeled distances to isopleths corresponding to the Level B harassment threshold for these sources are smaller than that for the Dura Spark (Table 1), and the Dura Spark was used to conservatively estimate take for the duration of the survey. For mobile sources, such as the proposed survey, the User Spreadsheet predicts the closest distance at which a stationary animal would not incur PTS if the sound source traveled by the animal in a straight line at a constant speed.

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.

The best available scientific information was considered in calculating marine mammal exposure estimates (the basis for estimating take). For cetacean species, densities calculated by Roberts *et al.* (2016) were used. The density data presented by Roberts *et al.* (2016) incorporates aerial and shipboard line-transect survey data from NMFS and from other organizations collected over the period 1992–2014. Roberts *et al.* (2016) modeled density from 8 physiographic and 16 dynamic oceanographic and biological covariates, and controlled for the influence of sea state, group size, availability bias, and perception bias on the probability of making a sighting. NMFS considers the models produced by Roberts *et al.* (2016) to be the best available source of data regarding cetacean densities for this project. More information, including the model results and supplementary information for each model, is available online at: *seamap.env.duke.edu/models/Duke-EC-GOM-2015/.*

For the purposes of the take calculations, density data from Roberts *et al.* (2016) were mapped using a geographic information system (GIS), using density data for the months June through December. Mean density per month for each species within the survey area was calculated by selecting 13 random raster cells selected from 100 km² raster cells that were inside, or adjacent to, the RI–MA WEA (see Figure 1 in the IHA application). Estimates provided by the models are based on a grid cell size of 100 km²; therefore, model grid cell values were then divided by 100 to determine animals per square km.

Systematic, offshore, at-sea survey data for pinnipeds are more limited than those for cetaceans. The best available information concerning pinniped densities in the proposed survey area is the U.S. Navy's Operating Area (OPAREA) Density Estimates (NODEs) (DoN, 2007). These density models utilized vessel-based and aerial survey data collected by NMFS from 1998–2005 during broad-scale abundance studies. Modeling methodology is detailed in DoN (2007). For the purposes of the take calculations, NODEs Density Estimates (DoN, 2007) as reported for the summer and fall seasons were used to estimate harbor seal and gray seal densities.

Take Calculation and Estimation

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

In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in harassment, radial distances to predicted isopleths corresponding to harassment thresholds are calculated, as described above. Those distances are then used to calculate the area(s) around the HRG survey equipment predicted to be ensonified to sound levels that exceed harassment thresholds. The area estimated to be ensonified to relevant thresholds in a single day of the survey is then calculated, based on areas predicted to be ensonified around the HRG survey equipment and the estimated trackline distance traveled per day by the survey vessel. DWW estimates a maximum daily track line distance of 110 km per day during HRG surveys. Based on the maximum estimated distance to the Level B harassment threshold of 447 m (Table 4) and the maximum estimated daily track line distance of 110 km, an area of 98.9 km² would be ensonified to the Level B harassment threshold per day during HRG surveys.

The number of marine mammals expected to be incidentally taken per day is then calculated by estimating the number of each species predicted to occur within the daily ensonified area, using estimated marine mammal densities as described above. Estimated numbers of each species taken per day are then multiplied by the number of survey days (*i.e.,* 200), and the product is then rounded, to generate an estimate of the total number of each species expected to be taken over the duration of the survey (Table 7).

The applicant estimated a total of 11 takes by Level A harassment of harbor porpoises, 5 takes by Level A harassment of harbor seals, and 7 takes by Level A harassment of gray seals would occur, in the absence of mitigation. However, as described above, due to the very small estimated distances to Level A harassment thresholds (Table 6), and in consideration of the proposed mitigation measures, the likelihood of the proposed survey resulting in take in the form of Level A harassment is considered so low as to be discountable; therefore, we do not propose to authorize take of any marine mammals by Level A harassment. Although there are no exclusion zones (EZs) proposed for pinnipeds, the estimated distance to the isopleth corresponding to the Level A harassment threshold for pinnipeds is less than 2 m (Table 6); therefore, we determined the likelihood of an animal being taken within this proximity of the survey equipment to be so low as to be discountable. Proposed take numbers are shown in Table 7.

TABLE 7—TOTAL NUMBERS OF POTENTIAL INCIDENTAL TAKE OF MARINE MAMMALS PROPOSED FOR AUTHORIZATION AND PROPOSED TAKES AS A PERCENTAGE OF POPULATION

Species	Density (#/100 km^2)	Proposed Level A takes	Estimated Level B takes	Proposed Level B takes	Total Proposed takes	Total proposed takes as a percentage of population [1]
North Atlantic right whale	0.01706	0	3	3	3	0.6
Humpback whale	0.14439	0	29	29	29	1.8
Fin whale [2]	0.21353	0	42	42	42	1.2
Sei whale [3]	0.005	0	1	2	2	0.3
Minke whale	0.04745	0	9	9	9	<0.1
Sperm whale	0.00665	0	1	1	1	<0.1
Long-finned pilot whale [3]	0.15364	0	30	32	32	0.2
Bottlenose dolphin	1.60936	0	318	318	318	0.3
Atlantic Spotted dolphin [3]	0.00886	0	2	50	50	0.1
Common dolphin [2]	4.59986	0	910	910	910	0.5
Atlantic white-sided dolphin	1.8036	0	357	357	357	1.0
Harbor porpoise [4]	2.53125	0	501	501	501	1.1
Harbor seal	6.49533	0	1,285	1,285	1,285	1.7
Gray seal	9.41067	0	1,861	1,861	1,861	6.9

[1] Estimates of total proposed takes as a percentage of population are based on marine mammal abundance estimates provided by Roberts *et al.* (2016), when available, except where noted otherwise, to maintain consistency with density estimates which are derived from data provided by Roberts *et al.* (2016). In cases where abundances are not provided by Roberts *et al.* (2016), total proposed takes as a percentage of population are based on abundance estimates in the NMFS Atlantic SARs (Hayes *et al.,* 2018).

[2] Estimates of total proposed takes as a percentage of population are based on marine mammal abundance estimates as reported in the 2007 TNASS (Lawson and Gosselin, 2009) (Table 2). Abundance estimates from TNASS were corrected for perception and availability bias, when possible. In general, where the TNASS survey effort provided superior coverage of a stock's range (as compared with NOAA shipboard survey effort), the resulting abundance estimate is considered more accurate than abundance estimates based on NMFS surveys.

[3] The proposed number of authorized takes (Level B harassment only) for these species has been increased from the estimated take to mean group size. Source for sei whale group size estimate is: Schilling *et al.* (1992). Source for long-finned pilot whale group size estimate is: Augusto *et al.* (2017). Source for Atlantic spotted dolphin group size estimate is: Jefferson *et al.* (2008).

[4] The density estimate in the IHA application is incorrectly shown as 0.0225781 animals/km2. The correct density estimate is reflected in Table 7.

Species with Take Estimates Less than Mean Group Size: Using the approach described above to estimate take, the take estimates for the sei whale, long-finned pilot whale and Atlantic spotted dolphin were less than the average group sizes estimated for these species (Table 6). However, information on the social structures and life histories of these species indicates these species are often encountered in groups. The results of take calculations support the likelihood that the proposed survey is expected to encounter and to incidentally take these species, and we believe it is likely that these species may be encountered in groups. Therefore it is reasonable to conservatively assume that one group of each of these species will be taken during the proposed survey. We propose to authorize the take of the average group size for these species and stocks to account for the possibility that the proposed survey encounters a group of any of these species or stocks (Table 7). Note that the take estimate for the sperm whale was not increased to average group size because, based on water depths in the proposed survey area (16 to 28 m (52 to 92 ft)), it is very unlikely that groups of sperm whales, which tend to prefer deeper depths, would be encountered by the proposed survey.

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 relative cost and impact on operations.

Proposed Mitigation Measures

With NMFS' input during the application process, and as per the BOEM Lease, DWW is proposing the following mitigation measures during the proposed marine site characterization surveys.

Marine Mammal Exclusion and Watch Zones

Marine mammal exclusion zones (EZ) will be established around the HRG survey equipment and monitored by protected species observers (PSO) during HRG surveys as follows:

- 500 m EZ for North Atlantic right whales;
- 200 m EZ for all other ESA-listed cetaceans (including fin whale, sei whale and sperm whale); and

• 25 m EZ for harbor porpoises.

The applicant proposed a 500 m EZ for North Atlantic right whales and 200 m EZ for all other marine mammal species; however, for non-ESA-listed marine mammals, based on estimated distances to isopleths corresponding with Level A harassment thresholds (Table 5), we determined EZs for species other than those described above were not warranted. In addition to the EZs described above, PSOs will visually monitor and record the presence of all marine mammals within 500 m.

Visual Monitoring

As per the BOEM lease, visual and acoustic monitoring of the established exclusion and monitoring zones will be performed by four qualified and NMFS-approved PSOs. It would be the responsibility of the Lead PSO on duty to communicate the presence of marine mammals as well as to communicate and enforce the action(s) that are necessary to ensure mitigation and monitoring requirements are implemented as appropriate. PSOs would be equipped with binoculars and would estimate distances to marine mammals located in proximity to the vessel and/or exclusion zone using range finders. Reticulated binoculars would also be available to PSOs for use as appropriate based on conditions and visibility to support the siting and monitoring of marine species. Position data will be recorded using hand-held or vessel global positioning system (GPS) units for each sighting. Observations will take place from the highest available vantage point on the survey vessel. During surveys conducted at night, night-vision equipment with infrared light-emitting diodes spotlights and/or infrared video monitoring will be available for PSO use, and passive acoustic monitoring (PAM; described below) will be used (as required per the BOEM lease).

Pre-Clearance of the Exclusion Zone

Prior to initiating HRG survey activities, DWW would implement a 30-minute pre-clearance period. During this period, the PSOs would ensure that no marine mammals are observed within 200 m of the survey equipment (500 m in the case of North Atlantic right whales). Survey equipment would not start up until this 200 m zone (or, 500 m zone in the case of North Atlantic right whales) is clear of marine mammals for at least 30 minutes. This pre-clearance requirement would include small delphinoids that approach the vessel (*e.g.,* bow ride). PSOs would also continue to monitor the zone for 30 minutes after survey equipment is shut down or survey activity has concluded.

Passive Acoustic Monitoring

As proposed by the applicant and required by the BOEM lease, PAM will be used to support monitoring during night time operations to provide for optimal acquisition of species detections at night. The PAM system will consist of an array of hydrophones with both broadband (sampling mid-range frequencies of 2 kHz to 200 kHz) and at least one low-frequency hydrophone (sampling range frequencies of 75 Hz to 30 kHz). The PAM operator(s) will monitor acoustic signals in real time both aurally (using headphones) and visually (via sound analysis software). PAM operators will communicate nighttime detections to the lead PSO on duty who will ensure the implementation of the appropriate mitigation measure. However, PAM detection alone would not trigger a requirement that any mitigation action be taken upon acoustic detection of marine mammals.

Ramp-Up of Survey Equipment

As proposed by the applicant, where technically feasible, a ramp-up procedure would be used for geophysical survey equipment capable of adjusting energy levels at the start or re-start of survey activities. The ramp-up procedure would be used at the beginning of HRG survey activities in order to provide additional protection to marine mammals near the survey area by allowing them to detect the presence of the survey and vacate the area prior to the commencement of survey equipment use at full energy. Ramp-up of the survey equipment would not begin until the relevant EZ has been cleared by the PSOs, as described above. Systems will be initiated at their lowest power output and will be incrementally increased to full power. If any marine mammals are detected within the EZ prior to or during the ramp-up, HRG equipment will be shut down (as described below).

Shutdown Procedures

As required in the BOEM lease, if a marine mammal is observed within or approaching the relevant EZ (as described above) an immediate shutdown of the survey equipment is required. Subsequent restart of the survey equipment may only occur after the animal(s) has either been observed exiting the relevant EZ or until an additional time period has elapsed with no further sighting of the animal (*e.g.,* 15 minutes for harbor porpoise and 30 minutes for North Atlantic right whale, fin whale, sei whale and sperm whale).

As required in the BOEM lease, if the HRG equipment shuts down for reasons other than mitigation (*i.e.,* mechanical or electronic failure) resulting in the cessation of the survey equipment for a period greater than 20 minutes, a 30 minute pre-clearance period (as described above) would precede the restart of the HRG survey equipment. If the pause is less than less than 20 minutes, the equipment may be restarted as soon as practicable at its full operational level only if visual surveys were continued diligently throughout the silent period and the EZs remained clear of marine mammals during that entire period. If visual surveys were not continued diligently during the pause of 20 minutes or less, a 30-minute pre-clearance period (as described above) would precede the re-start of the HRG survey equipment. Following a shutdown, HRG survey equipment may be restarted following pre-clearance of the zones as described above.

If a species for which authorization has not been granted, or, a species for which authorization has been granted but the authorized number of takes have been met, approaches or is observed within the area encompassing the Level B harassment isopleth (450 m), shutdown would occur.

Vessel Strike Avoidance

Vessel strike avoidance measures will include, but are not limited to, the following, as required in the BOEM lease, except under circumstances when complying with these requirements would put the safety of the vessel or crew at risk:

• All vessel operators and crew will maintain vigilant watch for cetaceans and pinnipeds, and slow down or stop their vessel to avoid striking these protected species;

• All vessel operators will comply with 10 knot (18.5 km/hr) or less speed restrictions in any SMA and DMA per NOAA guidance;

• All vessel operators will reduce vessel speed to 10 knots (18.5 km/hr) or less when any large whale, any mother/calf pairs, large assemblages of non-delphinoid cetaceans are observed near (within 100 m (330 ft)) an underway vessel;

• All survey vessels will maintain a separation distance of 500 m (1640 ft) or greater from any sighted North Atlantic right whale;

• If underway, vessels must steer a course away from any sighted North Atlantic right whale at 10 knots (18.5 km/hr) or less until the 500 m (1640 ft) minimum separation distance has been

established. If a North Atlantic right whale is sighted in a vessel's path, or within 100 m (330 ft) to an underway vessel, the underway vessel must reduce speed and shift the engine to neutral. Engines will not be engaged until the North Atlantic right whale has moved outside of the vessel's path and beyond 100 m. If stationary, the vessel must not engage engines until the North Atlantic right whale has moved beyond 100 m;

- All vessels will maintain a separation distance of 100 m (330 ft) or greater from any sighted non-delphinoid cetacean. If sighted, the vessel underway must reduce speed and shift the engine to neutral, and must not engage the engines until the non-delphinoid cetacean has moved outside of the vessel's path and beyond 100 m. If a survey vessel is stationary, the vessel will not engage engines until the non-delphinoid cetacean has moved out of the vessel's path and beyond 100 m;
- All vessels will maintain a separation distance of 50 m (164 ft) or greater from any sighted delphinoid cetacean. Any vessel underway remain parallel to a sighted delphinoid cetacean's course whenever possible, and avoid excessive speed or abrupt changes in direction. Any vessel underway reduces vessel speed to 10 knots (18.5 km/hr) or less when pods (including mother/calf pairs) or large assemblages of delphinoid cetaceans are observed. Vessels may not adjust course and speed until the delphinoid cetaceans have moved beyond 50 m and/or the abeam of the underway vessel;
- All vessels will maintain a separation distance of 50 m (164 ft) or greater from any sighted pinniped; and
- All vessels underway will not divert or alter course in order to approach any whale, delphinoid cetacean, or pinniped. Any vessel underway will avoid excessive speed or abrupt changes in direction to avoid injury to the sighted cetacean or pinniped.

DWW will ensure that vessel operators and crew maintain a vigilant watch for cetaceans and pinnipeds by slowing down or stopping the vessel to avoid striking marine mammals. Project-specific training will be conducted for all vessel crew prior to the start of the site characterization survey activities. Confirmation of the training and understanding of the requirements will be documented on a training course log sheet. Signing the log sheet will certify that the crew members understand and will comply with the necessary requirements throughout the survey activities.

Seasonal Operating Requirements

As described above, the northern section of the proposed survey area partially overlaps with a portion of a North Atlantic right whale SMA which occurs east of Long Island, New York, and south of Massachusetts and Rhode Island. This SMA is active from November 1 through April 30 of each year. Survey vessels that are >65 ft in length would be required to adhere to the mandatory vessel speed restrictions (<10 kn) when operating within the SMA during times when the SMA is active. In addition, between watch shifts, members of the monitoring team would consult NMFS' North Atlantic right whale reporting systems for the presence of North Atlantic right whales throughout survey operations. Members of the monitoring team would monitor the NMFS North Atlantic right whale reporting systems for the establishment of a Dynamic Management Area (DMA). If NMFS should establish a DMA in the survey area, within 24 hours of the establishment of the DMA DWW would coordinate with NMFS to shut down and/or alter the survey activities as needed to avoid right whales to the extent possible.

The proposed mitigation measures are designed to avoid the already low potential for injury in addition to some Level B harassment, and to minimize the potential for vessel strikes. There are no known marine mammal rookeries or mating grounds in the survey area that would otherwise potentially warrant increased mitigation measures for marine mammals or their habitat (or both). The proposed survey would occur in an area that has been identified as a biologically important area for migration for North Atlantic right whales. However, given the small spatial extent of the survey area relative to the substantially larger spatial extent of the right whale migratory area, the survey is not expected to appreciably reduce migratory habitat nor to negatively impact the migration of North Atlantic right whales, thus mitigation to address the proposed survey's occurrence in North Atlantic right whale migratory habitat is not warranted. The proposed survey area would partially overlap spatially with a biologically important feeding area for fin whales. However, the fin whale feeding area is sufficiently large (2,933 km^2), and the acoustic footprint of the proposed survey is sufficiently small (<100 km^2 estimated to be ensonified to the Level B harassment threshold per day), that the survey is not expected to appreciably reduce fin whale feeding habitat nor to negatively impact the feeding of fin whales, thus mitigation to address the proposed survey's occurrence in fin whale feeding habitat is not warranted. Further, we believe the proposed mitigation measures are practicable for the applicant to implement.

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

Proposed Monitoring and Reporting

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

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

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

marine mammals; or (2) populations, species, or stocks;

- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Proposed Monitoring Measures

As described above, visual monitoring of the EZs and monitoring zone will be performed by qualified and NMFS-approved PSOs. Observer qualifications would include completion of a PSO training course and documented field experience on a marine mammal observation vessel and/or aerial surveys. As proposed by the applicant and required by BOEM, an observer team comprising a minimum of four NMFS-approved PSOs and a minimum of two certified PAM operator(s), operating in shifts, will be employed by DWW during the proposed surveys. PSOs and PAM operators will work in shifts such that no one monitor will work more than 4 consecutive hours without a 2 hour break or longer than 12 hours during any 24-hour period. During daylight hours the PSOs will rotate in shifts of one on and three off, while during nighttime operations PSOs will work in pairs. The PAM operators will also be on call as necessary during daytime operations should visual observations become impaired. Each PSO will monitor 360 degrees of the field of vision. DWW will provide résumés of all proposed PSOs and PAM operators (including alternates) to NMFS for review and approval at least 45 days prior to the start of survey operations.

Also as described above, PSOs will be equipped with binoculars and have the ability to estimate distances to marine mammals located in proximity to the vessel and/or exclusion zone using range finders. Reticulated binoculars will also be available to PSOs for use as appropriate based on conditions and visibility to support the sighting and monitoring of marine species. During night operations, PAM and night-vision equipment with infrared light-emitting diode spotlights and/or infrared video monitoring will be used to increase the ability to detect marine mammals. Position data will be recorded using hand-held or vessel global positioning system (GPS) units for each sighting. Observations will take place from the highest available vantage point on the survey vessel. General 360-degree scanning will occur during the monitoring periods, and target scanning by the PSO will occur when alerted of a marine mammal presence.

Data on all PAM/PSO observations will be recorded based on standard PSO collection requirements. This will include dates, times, and locations of survey operations; time of observation, location and weather; details of marine mammal sightings (*e.g.,* species, numbers, behavior); and details of any observed taking (*e.g.,* behavioral disturbances or injury/mortality).

Proposed Reporting Measures

Within 90 days after completion of survey activities, a final technical report will be provided to NMFS that fully documents the methods and monitoring protocols, summarizes the data recorded during monitoring, summarizes the number of marine mammals estimated to have been taken during survey activities (by species, when known), summarizes the mitigation actions taken during surveys (including what type of mitigation and the species and number of animals that prompted the mitigation action, when known), and provides an interpretation of the results and effectiveness of all mitigation and monitoring. Any recommendations made by NMFS must be addressed in the final report prior to acceptance by NMFS.

In addition to the final technical report, DWW will provide the reports described below as necessary during survey activities. In the unanticipated event that DWW's survey activities lead to an injury (Level A harassment) or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement) of a marine mammal, DWW would immediately cease the specified activities and report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources and the NMFS Greater Atlantic Stranding Coordinator. The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the event. NMFS would work with DWW to minimize reoccurrence of such an event in the future. DWW would not resume activities until notified by NMFS.

In the event that DWW discovers an injured or dead marine mammal and determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition), DWW would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources and the NMFS Greater Atlantic Stranding Coordinator. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with DWW to determine if modifications in the activities are appropriate.

In the event that DWW discovers an injured or dead marine mammal and 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), DWW would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, and the NMFS Greater Atlantic Regional Stranding Coordinator, within 24 hours of the discovery. DWW would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS. DWW may continue its operations under such a case.

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. 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).

To avoid repetition, our analysis applies to all the species listed in Table 7, given that NMFS expects the anticipated effects of the proposed survey to be similar in nature.

NMFS does not anticipate that serious injury or mortality would occur as a result of DWW's proposed survey, even in the absence of proposed mitigation. Thus the proposed authorization does not authorize any serious injury or mortality. As discussed in the *Potential Effects* section, non-auditory physical effects and vessel strike are not expected to occur.

We expect that all potential takes would be in the form of short-term Level B behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity were occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007).

Potential impacts to marine mammal habitat were discussed previously in this document (see *Potential Effects of the Specified Activity on Marine Mammals and their Habitat*). Marine mammal habitat may be impacted by elevated sound levels, but these impacts would be temporary. In addition to being temporary and short in overall duration, the acoustic footprint of the proposed survey is small relative to the overall distribution of the animals in the area and their use of the area. Feeding behavior is not likely to be significantly impacted. Prey species are mobile and are broadly distributed throughout the project area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the temporary nature of the disturbance and the availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

There are no rookeries or mating grounds known to be biologically important to marine mammals within the proposed survey area. As described above, the proposed survey area would overlap spatially and temporally with a biologically important feeding area for fin whales. The important fin whale feeding area occurs from March through October and stretches from an area south of Montauk Point to south of Martha's Vineyard. However, the fin whale feeding area is sufficiently large (2,933 km^2), and the acoustic footprint of the proposed survey is sufficiently small (<100 km^2 estimated to be ensonified to the Level B harassment threshold per day), that fin whale feeding habitat would not be reduced appreciably. Any fin whales temporarily displaced from the proposed survey area would be expected to have sufficient remaining feeding habitat available to them, and would not be prevented from feeding in other areas within the biologically important feeding habitat. In addition, any displacement of fin whales from the survey area would be expected to be temporary in nature. Therefore, we do not expect fin whale feeding to be negatively impacted by the proposed survey. There are no feeding areas known to be biologically important to marine mammals within the proposed project area with the exception of the aforementioned feeding area for fin whales. There is no designated critical habitat for any ESA-listed marine mammals in the proposed survey area.

The proposed survey area is within a biologically important migratory area for North Atlantic right whales (effective March–April and November–December) that extends from Massachusetts to Florida (LaBrecque, *et al.,* 2015). Off the south coast of Massachusetts and Rhode Island, this biologically important migratory area extends from the coast to beyond the shelf break. Due to the fact that that the proposed survey is temporary and short in overall duration, and the fact that the spatial acoustic footprint of the proposed survey is very small relative to the spatial extent of the available migratory habitat in the area, right whale migration is not expected to be impacted by the proposed survey.

The proposed mitigation measures are expected to reduce the number and/or severity of takes by (1) giving animals the opportunity to move away from the sound source before HRG survey equipment reaches full energy; (2) preventing animals from being exposed to sound levels that may otherwise result in injury. Additional vessel strike avoidance requirements will further mitigate potential impacts to marine mammals during vessel transit to and within the survey area.

NMFS concludes that exposures to marine mammal species and stocks due to DWW's proposed survey would result in only short-term (temporary and short in duration) effects to individuals exposed. Marine mammals may temporarily avoid the immediate area, but are not expected to permanently abandon the area. Major shifts in habitat use, distribution, or foraging success are not expected. NMFS does not anticipate the proposed take estimates to impact annual rates of recruitment or survival.

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

- No mortality, serious injury, or Level A harassment is anticipated or authorized;
- The anticipated impacts of the proposed activity on marine mammals would be temporary behavioral changes due to avoidance of the area around the survey vessel;
- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the proposed survey to avoid exposure to sounds from the activity;
- The proposed project area does not contain areas of significance for mating or calving;
- Effects on species that serve as prey species for marine mammals from the proposed survey would be temporary and would not be expected to reduce the availability of prey or to affect marine mammal feeding;
- The proposed mitigation measures, including visual and acoustic monitoring, exclusion zones, and shutdown measures, are expected to minimize potential impacts to marine mammals.

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

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, 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.

The numbers of marine mammals that we propose for authorization to be taken, for all species and stocks, would be considered small relative to the relevant stocks or populations (less than 7 percent of each species and stocks). See Table 7. Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

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

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the NMFS Greater Atlantic Regional Fisheries Office (GARFO), whenever we propose to authorize take for endangered or threatened species.

The NMFS Office of Protected Resources is proposing to authorize the incidental take of four species of marine mammals which are listed under the ESA: The North Atlantic right, fin, sei, and sperm whale. BOEM consulted with NMFS GARFO under section 7 of the ESA on commercial wind lease issuance and site assessment activities on the Atlantic Outer Continental Shelf in Massachusetts, Rhode Island, New York and New Jersey Wind Energy Areas. NMFS GARFO issued a Biological Opinion concluding that these activities may adversely affect but are not likely to jeopardize the continued existence of the North Atlantic right, fin, and sperm whale. The Biological Opinion can be found online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable.* NMFS will conclude the ESA section 7 consultation prior to reaching a determination regarding the proposed issuance of the authorization. If the IHA is issued, the Biological Opinion may be amended to include an incidental take statement for these marine mammal species, as appropriate.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to DWW for conducting marine site assessment surveys offshore Massachusetts and Rhode Island and along potential submarine cable routes from the date of issuance for a period of one year, 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 IHA is valid for a period of one year from the date of issuance.

2. This IHA is valid only for marine site characterization survey activity, as specified in the IHA application, in the Atlantic Ocean.

3. General Conditions

(a) A copy of this IHA must be in the possession of DWW, the vessel operator and other relevant personnel, the lead PSO, and any other relevant designees of DWW operating under the authority of this IHA.

(b) The species authorized for taking are listed in Table 6. The taking, by Level B harassment only, is limited to the species and numbers listed in Table 6. Any taking of species not listed in Table 6, or exceeding the authorized amounts listed in Table 6, is prohibited and may result in the modification, suspension, or revocation of this IHA.

(c) The taking by injury, serious injury or death of any species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

(d) DWW shall ensure that the vessel operator and other relevant vessel personnel are briefed on all responsibilities, communication procedures, marine mammal monitoring protocols, operational procedures, and IHA requirements prior to the start of survey activity, and when relevant new personnel join the survey operations.

4. Mitigation Requirements—the holder of this Authorization is required to implement the following mitigation measures:

(a) DWW shall use at least four (4) NMFS-approved protected species observers (PSOs) during HRG surveys. The PSOs must have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements. PSO resumes shall be provided to NMFS for approval prior to commencement of the survey.

(b) Visual monitoring must begin no less than 30 minutes prior to initiation of survey equipment and must continue until 30 minutes after use of survey equipment ceases.

(c) Exclusion Zones—PSOs shall establish and monitor marine mammal Exclusion Zones and Watch Zone. Exclusion Zones are as follows:

(i) 500 m Exclusion Zone for North Atlantic right whales;

(ii) 200 m Exclusion Zone for fin whales, sei whales, and sperm whales; and

(iii) 25 m Exclusion Zone for harbor porpoises.

(d) Watch Zone—PSOs shall monitor a marine mammal Watch Zone that shall encompass an area 500 m from the survey equipment. PSOs shall document and record the behavior of all marine mammals observed within the Watch Zone.

(e) Shutdown requirements—If a marine mammal is observed within, entering, or approaching the relevant Exclusion Zones as described under 4(c) while geophysical survey equipment is operational, the geophysical survey equipment must be immediately shut down.

(i) Any PSO on duty has the authority to call for shutdown of survey equipment. When there is certainty regarding the need for mitigation action, the relevant PSO(s) must call for such action immediately.

(ii) When a shutdown is called for by a PSO, the shutdown must occur and any dispute resolved only following shutdown.

(iii) Upon implementation of a shutdown, survey equipment may be reactivated when all marine mammals have been confirmed by visual observation to have exited the relevant Exclusion Zone or an additional time period has elapsed with no further sighting of the animal that triggered the shutdown (15 minutes for harbor porpoise and 30 minutes for North Atlantic right whales, fin whales, sei whales, and sperm whales).

(iv) If geophysical equipment shuts down for reasons other than mitigation (*i.e.,* mechanical or electronic failure) resulting in the cessation of the survey equipment for a period of less than 20 minutes, the equipment may be restarted as soon as practicable if visual surveys were continued diligently throughout the silent period and the relevant Exclusion Zones are confirmed by PSOs to have remained clear of marine mammals during the entire 20-minute period. If visual surveys were not continued diligently during the pause of 20 minutes or less, a 30-minute pre-clearance period shall precede the restart of the geophysical survey equipment as described in 4(f). If the period of shutdown for reasons other than mitigation is greater than 20 minutes, a pre-clearance period shall precede the restart of the geophysical survey equipment as described in 4(f).

(v) If a species for which authorization has not been granted, or, a species for which authorization has been granted but the authorized number of takes have been met, approaches or is observed within 450 m of the survey equipment, shutdown must occur.

(f) Pre-clearance observation—30 minutes of pre-clearance observation shall be conducted prior to initiation of geophysical survey equipment. Geophysical survey equipment shall not be initiated if marine mammals are observed within 200 m of the survey equipment (500 m for North Atlantic right whales) during the pre-clearance period. If a marine mammal is observed within 200 m of geophysical survey equipment (500 m for North Atlantic right whales) during the pre-clearance period, initiation of the survey equipment will be delayed until the marine mammal(s) departs the 200 m zone (500 m for North Atlantic right whales).

(g) Ramp-up—when technically feasible, survey equipment shall be ramped up at the start or re-start of survey activities. Ramp-up will begin with the power of the smallest acoustic equipment at its lowest practical power output appropriate for the survey. When technically feasible the power will then be gradually turned up and other acoustic sources added in way such that the source level would increase gradually.

(h) Vessel Strike Avoidance—Vessel operator and crew must maintain a vigilant watch for all marine mammals and slow down or stop the vessel or alter course, as appropriate, to avoid striking any marine mammal, unless such action represents a human safety concern. Survey vessel crew members responsible for navigation duties shall receive site-specific training on marine mammal sighting/reporting and vessel strike avoidance measures. Vessel strike avoidance measures shall include the following, except under circumstances when complying with these requirements would put the safety of the vessel or crew at risk:

(i) The vessel operator and crew shall maintain vigilant watch for cetaceans and pinnipeds, and slow down or stop the vessel to avoid striking marine mammals;

(ii) The vessel operator shall reduce vessel speed to 10 knots (18.5 km/hr) or less when any large whale, any mother/calf pairs, whale or dolphin pods, or larger assemblages of non-delphinoid cetaceans are observed near (within 100 m (330 ft)) an underway vessel;

(iii) The survey vessel shall maintain a separation distance of 500 m (1,640 ft) or greater from any sighted North Atlantic right whale;

(iv) If underway, the vessel must steer a course away from any sighted North Atlantic right whale at 10 knots (18.5 km/hr) or less until the 500 m (1,640 ft) minimum separation distance has been established. If a North Atlantic right whale is sighted in a vessel's path, or within 100 m (330 ft) to an underway vessel, the underway vessel must reduce speed and shift the engine to neutral. Engines will not be engaged until the North Atlantic right whale has moved outside of the vessel's path and beyond 100 m. If stationary, the vessel must not engage engines until the North Atlantic right whale has moved beyond 100 m;

(v) The vessel shall maintain a separation distance of 100 m (330 ft) or greater from any sighted non-delphinoid cetacean. If sighted, the vessel underway must reduce speed and shift the engine to neutral and must not engage the engines until the non-delphinoid cetacean has moved outside of the vessel's path and beyond 100 m. If a survey vessel is stationary, the vessel will not engage engines until the non-delphinoid cetacean has moved out of the vessel's path and beyond 100 m;

(vi) The vessel shall maintain a separation distance of 50 m (164 ft) or greater from any sighted delphinoid cetacean. Any vessel underway remain parallel to a sighted delphinoid cetacean's course whenever possible and avoid excessive speed or abrupt changes in direction. Any vessel underway reduces vessel speed to 10 knots (18.5 km/hr) or less when pods (including mother/calf pairs) or large assemblages of delphinoid cetaceans are observed. Vessels may not adjust course and speed until the delphinoid cetaceans have moved beyond 50 m and/or the abeam of the underway vessel;

(vii) All vessels shall maintain a separation distance of 50 m (164 ft) or greater from any sighted pinniped; and

(viii) All vessels underway shall not divert or alter course in order to approach any whale, delphinoid cetacean, or pinniped. Any vessel underway will avoid excessive speed or abrupt changes in direction to avoid injury to the sighted cetacean or pinniped.

(ix) The vessel operator shall comply with 10 knot (18.5 km/hr) or less speed restrictions in any Seasonal Management Area per NMFS guidance.

(x) If NMFS should establish a Dynamic Management Area (DMA) in the area of the survey, within 24 hours of the establishment of the DMA, DWW shall contact the NMFS Office of Protected Resources to determine whether survey location and/or activities should be altered to avoid North Atlantic right whales.

5. Monitoring Requirements—The Holder of this Authorization is required to conduct marine mammal visual monitoring and passive acoustic monitoring (PAM) during geophysical survey activity. Monitoring shall be conducted in accordance with the following requirements:

(a) A minimum of four NMFS-approved PSOs and a minimum of two certified (PAM) operator(s), operating in shifts, shall be employed by DWW during geophysical surveys.

(b) Observations shall take place from the highest available vantage point on the survey vessel. General 360-degree scanning shall occur during the monitoring periods, and target scanning by PSOs will occur when alerted of a marine mammal presence.

(c) PSOs shall be equipped with binoculars and have the ability to estimate distances to marine mammals located in proximity to the vessel and/or Exclusion Zones using range finders. Reticulated binoculars will also be available to PSOs for use as appropriate based on conditions and visibility to support the sighting and monitoring of marine species.

(d) PAM shall be used during nighttime geophysical survey

operations. The PAM system shall consist of an array of hydrophones with both broadband (sampling mid-range frequencies of 2 kHz to 200 kHz) and at least one low-frequency hydrophone (sampling range frequencies of 75 Hz to 30 kHz). PAM operators shall communicate detections or vocalizations to the Lead PSO on duty who shall ensure the implementation of the appropriate mitigation measure.

(e) During night surveys, night-vision equipment with infrared light-emitting diode spotlights and/or infrared video monitoring shall be used in addition to PAM. Specifications for night-vision equipment shall be provided to NMFS for review and acceptance prior to start of surveys.

(f) PSOs and PAM operators shall work in shifts such that no one monitor will work more than 4 consecutive hours without a 2 hour break or longer than 12 hours during any 24-hour period. During daylight hours the PSOs shall rotate in shifts of 1 on and 3 off, and while during nighttime operations PSOs shall work in pairs.

(g) PAM operators shall also be on call as necessary during daytime operations should visual observations become impaired.

(h) Position data shall be recorded using hand-held or vessel global positioning system (GPS) units for each sighting.

(i) A briefing shall be conducted between survey supervisors and crews, PSOs, and DWW to establish responsibilities of each party, define chains of command, discuss communication procedures, provide an overview of monitoring purposes, and review operational procedures.

(j) DWW shall provide resumes of all proposed PSOs and PAM operators (including alternates) to NMFS for review and approval at least 45 days prior to the start of survey operations.

(k) PSO Qualifications shall include completion of a PSO training course and documented field experience on a marine mammal observation vessel and/or aerial surveys.

(a) Data on all PAM/PSO observations shall be recorded based on standard PSO collection requirements. PSOs must use standardized data forms, whether hard copy or electronic. The following information shall be reported:

(i) PSO names and affiliations.

(ii) Dates of departures and returns to port with port name.

(iii) Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort.

(iv) Vessel location (latitude/longitude) when survey effort begins and ends; vessel location at beginning and end of visual PSO duty shifts.

(v) Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change.

(vi) Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including wind speed and direction, Beaufort sea state, Beaufort wind force, swell height, weather conditions, cloud cover, sun glare, and overall visibility to the horizon.

(vii) Factors that may be contributing to impaired observations during each PSO shift change or as needed as environmental conditions change (*e.g.,* vessel traffic, equipment malfunctions).

(viii) Survey activity information, such as acoustic source power output while in operation, number and volume of airguns operating in the array, tow depth of the array, and any other notes of significance (*i.e.,* pre-ramp-up survey, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, etc.).

(ix) If a marine mammal is sighted, the following information should be recorded:

(A) Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);

(B) PSO who sighted the animal;

(C) Time of sighting;

(D) Vessel location at time of sighting;

(E) Water depth;

(F) Direction of vessel's travel (compass direction);

(G) Direction of animal's travel relative to the vessel;

(H) Pace of the animal;

(I) Estimated distance to the animal and its heading relative to vessel at initial sighting;

(J) Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified); also note the composition of the group if there is a mix of species;

(K) Estimated number of animals (high/low/best);

(L) Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);

(M) Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);

(N) Detailed behavior observations (*e.g.,* number of blows, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);

(O) Animal's closest point of approach and/or closest distance from the center point of the acoustic source;

(P) Platform activity at time of sighting (*e.g.,* deploying, recovering, testing, data acquisition, other); and

(Q) Description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown, ramp-up, speed or course alteration, etc.) and time and location of the action.

6. Reporting—a technical report shall be provided to NMFS within 90 days after completion of survey activities that fully documents the methods and monitoring protocols, summarizes the data recorded during monitoring, estimates the number of marine mammals that may have been taken during survey activities, describes the effectiveness of the various mitigation techniques (*i.e.* visual observations during day and night compared to PAM detections/operations) and provides an interpretation of the results and effectiveness of all monitoring tasks. Any recommendations made by NMFS shall be addressed in the final report prior to acceptance by NMFS.

(a) Reporting injured or dead marine mammals:

(i) In the event that the specified activity clearly causes the take of a marine mammal in a manner not prohibited by this IHA (if issued), such as serious injury or mortality, DWW shall immediately cease the specified activities and immediately report the incident to the NMFS Office of Protected Resources and the NMFS Greater Atlantic Stranding Coordinator. The report must include the following information:

(A) Time, date, and location (latitude/longitude) of the incident;

(B) Vessel's speed during and leading up to the incident;

(C) Description of the incident;

(D) Status of all sound source use in the 24 hours preceding the incident;

(E) Water depth;

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

(G) Description of all marine mammal observations in the 24 hours preceding the incident;

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

(I) Fate of the animal(s); and

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

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with DWW to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA

compliance. DWW may not resume their activities until notified by NMFS.

(ii) In the event that DWW discovers an injured or dead marine mammal, and the lead PSO 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), DWW shall immediately report the incident to the NMFS Office of Protected Resources and the NMFS Greater Atlantic Stranding Coordinator. The report must include the same information identified in condition 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with DWW to determine whether additional mitigation measures or modifications to the activities are appropriate.

(iii) In the event that DWW discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the specified activities (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), DWW shall report the incident to the NMFS Office of Protected Resources and the NMFS Greater Atlantic Stranding Coordinator within 24 hours of the discovery. DWW shall provide photographs or video footage or other documentation of the 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 draft authorization, and any other aspect of this Notice of Proposed IHA for the proposed marine site characterization surveys. 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 one-year renewal 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 renewal would allow 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.

(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: April 30, 2018.

Donna S. Wieting,

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

[FR Doc. 2018–09481 Filed 5–3–18; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products to the Procurement List that will be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities, and deletes products and services previously furnished by such agencies.

DATES: Comments must be received on or before: June 04, 2018.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products listed below from the nonprofit agency employing persons who are blind or have other severe disabilities.

The following products are proposed for addition to the Procurement List for production by the nonprofit agency listed:

Products

NSN—Product Name:

2540–00–248–4603—Blade, Windshield Wiper, HMMW Vehicle, 18″L

2540–01–262–7708—Blade, Windshield Wiper, HMMW Vehicle, 20″L

2540–01–271–8026—Blade, Windshield Wiper, HMMW Vehicle, 16″L

2540–01–377–3125—Arm, Windshield Wiper, HMMW Vehicle, 20″L

2540–01–454–0415—Blade, Refill, Windshield Wiper, HMMW Vehicle, 20 ½″L

Mandatory Source of Supply: Center for the Blind and Visually Impaired, Atlanta, GA

Mandatory for: 100% of the requirement of the Department of Defense

Contracting Activity: DLA Land and Maritime

Deletions

The following products and services are proposed for deletion from the Procurement List:

Products

NSN(s)—Product Name(s):

8415–00–NSH–0687—Pants, Level 1, PCU, Army, Brown, M

Mandatory Source of Supply: Southeastern Kentucky Rehabilitation Industries, Inc., Corbin, KY

Contracting Activity: W6QK ACC–APG NATICK

NSN(s)—Product Name(s):

8415–01–519–7444—Pants, Level 1, PCU, Army, Brown, M

Mandatory Source of Supply: Southeastern Kentucky Rehabilitation Industries, Inc., Corbin, KY

Contracting Activity: W6QK ACC–APG NATICK

Services

Service Type: Switchboard Operation Service

Mandatory for: 4th Communication Squadron: 1695 Wright Brothers Avenue Seymour Johnson AFB, NC

Mandatory Source of Supply: Coastal Enterprises of Jacksonville, Inc., Jacksonville, NC

Contracting Activity: DEPT OF THE AIR FORCE, FA4809 4TH CONS SQDN CC
Service Type: Janitorial/Custodial Service
Mandatory for: Indiana Air National Guard, 181st Fighter Wing: Hulman Regional Airport, 800 South Petercheff, Terre Haute, IN
Mandatory Source of Supply: Child-Adult Resource Services, Inc., Rockville, IN
Contracting Activity: DEPT OF THE AIR FORCE, FA7014 AFDW PK
Service Type: Custodial Service
Mandatory for: David W. Dyer Federal Building—Courthouse, 300 NE First Ave., Miami, FL
Mandatory Source of Supply: Goodwill Industries of South Florida, Inc., Miami, FL
Contracting Activity: PUBLIC BUILDINGS SERVICE, ACQUISITION DIVISION/ SERVICES BRANCH
Service Type: Janitorial/Custodial Service
Mandatory for: 183rd Fighter Wing Air National Guard Capitol Airport, 3101 J. David Jones Parkway, Springfield, IL
Mandatory Source of Supply: United Cerebral Palsy of the Land of Lincoln, Springfield, IL
Contracting Activity: DEPT OF THE ARMY, W7M6 USPFO ACTIVITY IL ARNG
Service Type: Laundry Service, Mandatory for: Air National Guard-Sioux City, 2920 Headquarters Avenue, Sioux City, IA
Mandatory Source of Supply: Genesis Development, Jefferson, IA
Contracting Activity: DEPT OF THE AIR FORCE, FA7014 AFDW PK
Service Type: Food Service
Mandatory for: Volk Field Air National Guard, 100 Independence Drive, Camp Douglas, WI
Mandatory Source of Supply: Challenge Unlimited, Inc., Alton, IL
Contracting Activity: DEPT OF THE AIR FORCE, FA7014 AFDW PK
Service Type: Grounds Maintenance Service
Mandatory for: 130th Airlift Squadron, 1679 Coonskin Dr., Unit #36, Charleston, WV
Mandatory Source of Supply: Goodwill Industries of Kanawha Valley, Charleston, WV
Contracting Activity: DEPT OF THE ARMY, W7N7 USPFO ACTIVITY WV ARNG
Service Type: Grounds Maintenance Service
Mandatory for: Admiral Bakerfield Army Reserve Center, San Diego, CA
Mandatory Source of Supply: Job Options, Inc., San Diego, CA
Contracting Activity: DEPT OF THE NAVY, U S FLEET FORCES COMMAND

Amy Jensen,

Director, Business Operations.

[FR Doc. 2018–09529 Filed 5–3–18; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Correction.

SUMMARY: This Notice is to correct the Contracting Activity for NSN 2540–00–587–2532, Tarpaulin, Green, 12'' × 17'' and NSN 2540–01–330–8062, Tarpaulin, Tan, 12″ × 17″. The correct Contracting Activity is Defense Logistics Agency Land and Maritime and not Defense Commissary Agency.

DATES: *Comments must be received on or before:* May 20, 2018.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

Amy Jensen,

Director, Business Operations.

[FR Doc. 2018–09530 Filed 5–3–18; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Joint Notice of Availability for the Draft Matagorda Ship Channel Project Integrated Feasibility Report and Environmental Impact Statement

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers, Galveston District (USACE) announces the release of the Draft Integrated Feasibility Report and Environmental Impact Statement (DIFR–EIS) for the Tentatively Selected Plan of the Matagorda Ship Channel Improvement Project, Calhoun and Matagorda Counties, TX. The DIFR–EIS documents the existing condition of environmental resources in and around areas considered for development, and potential impacts on those resources as a result of implementing the alternatives.

DATES: The Galveston District will hold a public meeting for the DIFR–EIS on May 15, 2018 from 6:00–8:00 p.m. USACE will accept written public comments on the DIFR–EIS from May 7, 2018 to June 21, 2018. Comments on the DIFR–EIS must be postmarked by June 21, 2018.

ADDRESSES: The Public Meeting will be held at the Bauer Exhibit Building, 186 Henry Barber Way, County Road 101, Port Lavaca, TX 77979.

FOR FURTHER INFORMATION CONTACT: Questions and comments regarding the proposed draft EIS should be addressed to USACE, Galveston District, Attn: Dr. Harmon Brown, Environmental Compliance Branch, Regional Planning and Environmental Center, P.O. Box 1229, Galveston, TX 77553–1229; (409) 766–3837; *harmon.brown@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

Authority: The lead agency for this proposed action is USACE. This study has been prepared under the authority of Section 216 of the 1970 Flood Control Act (Pub. L. 91–611), as amended. The non-Federal sponsor is the Calhoun Port Authority.

Background: This DIFR–EIS was prepared as required by the National Environmental Policy Act (NEPA) to present an evaluation of potential impacts associated with the Matagorda Ship Channel (MSC) Project Tentatively Selected Plan (TSP). The USACE and the non-Federal sponsor for the study, the Calhoun Port Authority, have conducted this study and prepared the DIFR–EIS. The purpose of this project is to reduce transportation costs and increase operational efficiencies of maritime commerce movement through the Port. The majority of deep-draft ships using the MSC have design drafts in excess of the operating depth of the channel. By expanding channel dimensions, cargo vessels could reduce or eliminate light loading measures, and larger cargo vessels could begin calling on the Port and adjacent facilities.

The need for changes to the MSC is derived from an analysis of current and projected vessel transits, cargo tonnage, and capacity at existing and proposed terminal facilities. This need is becoming more critical given increasing levels of maritime traffic, increasing vessel size, and the desire of Port users to capture transportation efficiencies. By expanding channel dimensions, cargo vessels could reduce or eliminate light loading measures, and larger cargo vessels, unable to transit the existing channel configuration, could begin calling on the Port and adjacent facilities.

The 26-mile MSC is located 125 miles southwest of Galveston, Texas and 80 miles northeast of Corpus Christi, Texas. The northern reach of the MSC is located in Calhoun County and the southern reach and Entrance Channel are in Matagorda County. The MSC is comprised of an Entrance Channel about

four miles long from the Gulf through a man-made cut across Matagorda Peninsula, with dual jetties at the entrance from the Gulf. The Gulf Intracoastal Waterway (GIWW) intersects the channel approximately 2.5 miles north of the cut through Matagorda Peninsula. The bay-side channel is about 22 miles long across Matagorda and Lavaca Bays to Point Comfort with a turning basin at Point Comfort.

Offshore (Entrance Channel), the channel has a 300 foot (ft) bottom width, 10 (Horizontal): 1(Vertical) (H:V) side-slopes, and is maintained at a depth of 40 ft Mean Low Low Water (MLLW) plus three feet of advance maintenance depth and two feet of allowable over-depth. Through Matagorda Peninsula, the MSC is authorized to a depth of 38 ft MLLW, with a 300 ft bottom width. Generally, in Matagorda and Lavaca Bays, the channel has a 200 ft wide bottom width with 3H:1V side-slopes and is authorized to a project depth of 38 ft, plus two feet of advance maintenance depth and an additional two feet of allowable over-depth outside the advance maintenance dredging prism. The primary turning basin is maintained to a depth of 38 ft MLLW, and is 1,000 ft by 1,000 ft. Adjacent to the primary turning basin, there is also a 1,279 ft extension that is from the turning basin limit and runs along both the north and south sides of the Calhoun Port Authority pier. Mean natural water depth in Matagorda Bay is approximately 13 ft, while depth in the adjacent bays ranges from seven to eight feet.

Recommended Plan: The TSP entails deepening the channel to 47 ft MLLW, widening the entrance channel to 600 ft and the main channel to 350 ft. The size of the turning basin would be increased to 1,200 ft.

A final decision will be made following the reviews and higher-level coordination within the USACE to select a plan for feasibility-level design and recommendation for implementation. The decision will be documented in the Final Integrated Feasibility Report (FIFR)–EIS. A supplemental DIFR–EIS would not likely be produced unless there are substantial design changes that significantly alter environmental impacts. Coordination with the natural resource agencies will continue throughout the study process.

Project Impacts and Environmental Compliance: The recommended plan would result in the loss of approximately 19 acres of wetlands and 133 acres of oyster reef. Impacts would be fully compensated with the restoration of estuarine emergent marsh and oyster reef in the amount determined during final feasibility planning. Conservation measures identified by the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) will be considered during this process. The proposed project is not expected to adversely affect federally listed threatened or endangered species.

The impact analysis determined there would be only minor impacts to soils and waterbottoms, water quality, turbidity, protected wildlife species (*i.e.,* marine mammals, and migratory birds), benthic organisms, commercial and recreational fisheries, essential fish habitat, coastal barrier resources, air quality, and noise. No impacts to floodplains and flood control, salinity levels, protected/managed lands, or historic and cultural resources are anticipated. No impacts to minority or low-income populations are expected, and the proposed project would provide a long-term economic benefit to the shipping industry by improving efficiency and safety of commercial traffic in the Matagorda Ship Channel.

Solicitation of Comments: The USACE is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Comments will be used in preparation of the FIFR–EIS.

Document Availability: Compact disc copies of the DIFR–EIS are available for viewing at the following libraries:

Matagorda Branch Library, 800 Fisher St., Matagorda, TX 74457.

Calhoun County Public Library, 200 West Mahan St., Port Lavaca, TX 77979.

The document can also be viewed and downloaded from the Galveston District website: *http://www.swg.usace.army.mil/Business-With-Us/Planning-Environmental-Branch/Documents-for-Public-Review/.*

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2018–09480 Filed 5–3–18; 8:45 am]

BILLING CODE 3710–KF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2018–ICCD–0054]

Agency Information Collection Activities; Comment Request; Fast Response Survey System (FRSS) 109: Teachers' Use of Technology for School and Homework Assignments

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 3, 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–0054. 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, 400 Maryland Avenue SW, LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela, 202–245–7377 or email *NCES.Information.Collections@ed.gov.*

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: Fast Response Survey System (FRSS) 109: Teachers' Use of Technology for School and Homework Assignments.

OMB Control Number: 1850–0857.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 9,500.

Total Estimated Number of Annual Burden Hours: 3,523.

Abstract: The Fast Response Survey System (FRSS) 109 survey on teachers' use of technology for school and homework assignments in public schools is conducted by the National Center for Education Statistics (NCES) as part of the IES response to the request in the Every Student Succeeds Act of 2015 (ESSA, 20 U.S.C. 6301 *et seq.*) to provide information about the educational impact of access to digital learning resources (DLRs) outside of the classroom. The expanding use of technology affects the lives of students both inside and outside the classroom. For this reason, the role of technology in education is an increasingly important area of research. While access to technology can provide valuable learning opportunities to students, technology by itself does not guarantee successful outcomes. Schools and teachers play an important role in successfully integrating technology into teaching and learning. Findings from the FRSS 109 study will provide insight on the types and availability of DLRs outside of the classroom, and will contribute to IES legislatively mandated report on the educational impact of access to DLRs outside the classroom. To provide the needed data, FRSS 109 will collect nationally representative data from public school teachers about their use of DLRs for teaching, and how their knowledge and beliefs about their students' access to DLRs outside the classroom affect the assignments they give. The survey will focus on information that can best be provided by teachers from their perspective and direct interaction with students. FRSS 109 will provide national statistics on: (1) Teachers' knowledge and beliefs about students' access to technology for doing school assignments outside of school; (2) Barriers and challenges teachers believe their students face in using technology for class assignments outside of school; and (3) Computers that the district or school may make available to students for use outside of class time. The request for FRSS 109 preliminary activities, including securing research approval from special contact school districts beginning in April 2018, notifying superintendents of districts with sampled schools about the survey, and obtaining teacher lists from sampled schools beginning in August 2018, was approved in March 2018, with the latest change request approved in April 2018 (1850–0857 v.2–4). This request is to conduct the FRSS 109 data collection.

Dated: May 1, 2018.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–09502 Filed 5–3–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2018–ICCD–0022]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and approval; Comment Request; Reaffirmation Agreement

AGENCY: Department of Education (ED), Federal Student Aid (FSA).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before June 4, 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–0022. 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, 400 Maryland Avenue SW, LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

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: Reaffirmation Agreement.

OMB Control Number: 1845–0133.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households; Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 13,156.

Total Estimated Number of Annual Burden Hours: 1,578.

Abstract: The HEA provides for a maximum amount that a borrower can receive per year and in total. If a borrower receives more than one of these maximum amounts, the borrower

is rendered ineligible for further Title IV aid (including Federal Pell Grants, Federal Supplemental Educational Opportunity Grants, Federal Work-Study, and Teacher Education Assistance for Higher Education (TEACH) Grants) unless the borrower repays the excess amount or agreed to repay the excess amount according to the terms and conditions of the promissory note that the borrower signed. Agreeing to repay the excess amount according to the terms and conditions of the promissory note that the borrower signed is called ''reaffirmation'', which is the subject of this collection.

Dated: May 1, 2018.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–09494 Filed 5–3–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2018–ICCD–0005]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Impact Study of Federally-Funded Magnet Schools

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 June 4, 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–0005. 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, 400 Maryland Avenue SW, LBJ, Room 216–32, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Lauren Angelo, 202–245–7474.

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: Impact Study of Federally-Funded Magnet Schools.

OMB Control Number: 1850–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 101.

Total Estimated Number of Annual Burden Hours: 53.

Abstract: This Office of Management and Budget (OMB) package requests clearance for data collection activities to support a rigorous Impact Study of Federally-Funded Magnet Schools. The Institute of Education Sciences (IES) at the U.S. Department of Education (ED) has contracted with Mathematica Policy Research and its subcontractor, Social Policy Research Associates (SPR), to conduct this evaluation (ED–IES–17–C–0066). The evaluation includes an initial feasibility assessment, to determine whether an impact study can be conducted appropriately. First, the study team will interview fiscal year (FY) 2016 and 2017 Magnet Schools Assistance Program (MSAP) grantee districts and schools to gather detailed information on student recruitment and admissions policies and practices, paying particular attention to the use of randomized lotteries for student admissions. The feasibility phase will result in a brief describing how MSAP-funded schools recruit and select students for admission, a topic of interest to the program office. Second, if a sufficient number of students are being admitted to these schools through lotteries, the impact study will collect survey data from principals and district administrative records on admissions lotteries and student progress. The study would use these data to estimate the impacts of magnet schools on student achievement and diversity and to describe whether particular features of magnet schools are associated with greater success.

Dated: May 1, 2018.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–09477 Filed 5–3–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2018–OSERS–0026]

Request for Information on the Future Direction of the Rehabilitation Training Program

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Request for information.

SUMMARY: The U.S. Department of Education (Department) is requesting input on the portfolio of grants supported under the Rehabilitation Training Program, specifically those supported under the Rehabilitation Long-Term Training, Rehabilitation Short-Term Training, and Innovative Rehabilitation Training authorities to determine whether the activities funded under the Rehabilitation Training Program are aligned with the goals of the Department and the needs of State vocational rehabilitation (VR) agencies. We will use the information gathered in response to this request for information (RFI) to determine whether any changes are needed in designing and implementing grant activities under this program, including the specific mix of activities supported each year.

DATES: We must receive your submission on or before July 3, 2018.

ADDRESSES: Submit your response to this RFI through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept submissions by fax or by email. To ensure that we do not receive duplicate copies, please submit your comments only one time. In addition, please include the Docket ID and the term ''Future Direction of the Rehabilitation Training Program'' at the top of your comments.

Federal eRulemaking Portal: Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the ''Help'' tab.

Postal Mail, Commercial Delivery, or Hand Delivery: If you mail or deliver your comments, address them to Mary F. Lovley, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, Attention: Future Direction of Rehabilitation Training Program, U.S. Department of Education, 400 Maryland Avenue SW, Potomac Center Plaza, Room 5057, Washington, DC 20202–2800.

Privacy Note: The Department's policy for comments received from members of the public (including comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at: *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available on the internet.

This is a request for information only. This RFI is not a request for proposals (RFP) or a promise to issue an RFP or a notice inviting applications (NIA). Please note that the Rehabilitation Services Administration (RSA) is not soliciting input related to the technical assistance (TA) activities funded under the Rehabilitation Training Program. RSA intends to request input on TA funding opportunities and activities in the future. This RFI does not commit the Department to contract for any supply or service whatsoever. Further, we are not seeking proposals and will not accept unsolicited proposals. The Department will not pay for any information or administrative costs that you may incur in responding to this RFI.

The documents and information submitted in response to this RFI become the property of the U.S. Government and will not be returned.

FOR FURTHER INFORMATION CONTACT: Mary F. Lovley, U.S. Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, 400 Maryland Avenue SW, Potomac Center Plaza, Room 5057, Washington, DC 20202–2800. Telephone: (202) 245–7423.

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: The Rehabilitation Training Program is authorized by title III of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by the Workforce Innovation and Opportunity Act (WIOA), and is administered by RSA of the Office of Special Education and Rehabilitative Services.

Through this RFI, we are seeking input on four areas:

(1) The preparation of VR program professionals through the Rehabilitation Long-Term Training program;

(2) The training of VR professionals through the Short-Term Training program;

(3) The need for investments in the development of innovative VR training programs; and

(4) How the Rehabilitation Long-Term Training, the Rehabilitation Short-Term Training, and the Innovative Rehabilitation Training programs can better support the implementation of the Rehabilitation Act, as amended by WIOA.

Context for Responses

We are interested in responses that contain data, specific examples and other relevant documentation to assist us in determining whether the discretionary grants funded under the Rehabilitation Training Program (specifically the Rehabilitation Long-Term Training, the Rehabilitation Short-Term Training, and the Innovative Rehabilitation Training programs) are aligned with the goals of the Department and the needs of State VR agencies. The Department wants to ensure Federal resources are efficiently and effectively targeted to best support State VR agency needs, including the requirements under the Rehabilitation Act, as amended by WIOA.

WIOA amended the Rehabilitation Act by making large-scale changes to the work of State VR agencies and VR counselors that required intensive capacity-building focused on both infrastructure and human capital. We are interested in how we can best support States in meeting the requirements of the law relating to pre-employment transition services, competitive integrated employment, and comprehensive systems of personnel development (CSPD). To that end, we are re-evaluating how RSA can best direct the limited resources of the program to meet the critical needs of State VR agencies. We are not seeking letters of support in a particular targeted area. Rather, it is our expectation that respondents will consider the questions RSA has developed in the context of their responses. A response to each question is not required.

We are seeking responses from a knowledgeable and diverse range of individuals, including, but not limited to, the following—

(1) State VR agency staff, including directors, supervisors, and counselors;

(2) Current or former project directors or principal investigators of grants funded under the Rehabilitation Training Program (specifically the Rehabilitation Long-Term Training, the Rehabilitation Short-Term Training, and the Innovative Rehabilitation Training programs);

(3) Current and former scholars funded under the Rehabilitation Long-Term Training program; and

(4) Consumers of VR services.

The questions in this RFI focus on the Department's training programs that prepare VR professionals. Responses will assist us in designing priorities for grants funded under the Rehabilitation Training Program (specifically the Rehabilitation Long-Term Training, the Rehabilitation Short-Term Training, and the Innovative Rehabilitation Training programs) that—

(1) Reflect current knowledge and skills needed by VR professionals;

(2) Effectively link the employment needs of individuals with disabilities with current workforce demands;

(3) Demonstrate cost-effective practices used by State VR professionals; and

(4) Address personnel shortages in the field of VR counseling through training.

I. Rehabilitation Long-Term Training Program

Background

The Rehabilitation Long-Term Training program, authorized by Section 302 of the Rehabilitation Act and the program regulations at 34 CFR part 381, provides financial assistance for projects that provide: (1) Basic or advanced training leading to an academic degree in one of the areas outlined below; (2)

a specified series of courses or program of study leading to the award of a certificate in one of the areas outlined below; or (3) support for medical residents enrolled in residency training programs in the specialty of physical medicine and rehabilitation. The Rehabilitation Long-Term Training program is designed to provide academic training that leads to an academic degree or academic certificate in areas of personnel shortages identified by the Secretary and published in a notice in the **Federal Register**. These areas may include—

(1) Assisting and supporting individuals with disabilities pursuing self-employment, business ownership, and telecommuting;

(2) VR counseling;

(3) Rehabilitation technology, including training on its use, applications, and benefits;

(4) Rehabilitation medicine;

(5) Rehabilitation nursing;

(6) Rehabilitation social work;

(7) Rehabilitation psychiatry;

(8) Rehabilitation psychology;

(9) Rehabilitation dentistry;

(10) Physical therapy;

(11) Occupational therapy;

(12) Speech pathology and audiology;

(13) Physical education;

(14) Therapeutic recreation;

(15) Community rehabilitation program personnel;

(16) Prosthetics and orthotics;

(17) Rehabilitation of individuals who are blind or visually impaired, including rehabilitation teaching and orientation and mobility;

(18) Rehabilitation of individuals who are deaf or hard of hearing;

(19) Rehabilitation of individuals who are mentally ill;

(20) Undergraduate education in the rehabilitation services;

(21) Independent living;

(22) Client assistance;

(23) Administration of community rehabilitation programs;

(24) Rehabilitation administration;

(25) Vocational evaluation and work adjustment;

(26) Services to individuals with specific disabilities or specific impediments to rehabilitation, including individuals who are members of populations that are unserved or underserved by programs under the Rehabilitation Act;

(27) Job development and job placement services to individuals with disabilities;

(28) Supported employment services and customized employment services for individuals with the most significant disabilities;

(29) Specialized services for individuals with significant disabilities; and

(30) Other fields contributing to the rehabilitation of individuals with disabilities.

The Rehabilitation Long-Term Training program regulations at 34 CFR 386.31 require that 65 percent of the total cost of the project be used for scholarships. Section 302 of the Rehabilitation Act requires individuals who receive a scholarship either to (1) work two years in a nonprofit rehabilitation agency or related agency or in a State rehabilitation agency or related agency for every year of assistance or (2) repay all or part of any scholarship received, plus interest, if the individual does not fulfill these requirements.

Under the priorities used for the current grant cycle (78 FR 66271 and 79 FR 42680), grantees must build close relationships with State VR agencies, promote careers in VR, identify potential employers who would meet the trainees' payback requirements, and ensure that data on the employment of scholars are accurate. Scholars in the program must complete an internship in a State VR agency or a related agency as a requirement for completion of a program leading to a master's degree. The internship must be in a State VR agency unless the VR agency does not directly perform work related to the scholar's course of study or an applicant can provide sufficient justification that it is not feasible for all scholars receiving scholarships to complete an internship in a State VR agency.

The Department currently supports 106 academic training grants awarded to colleges and universities with graduate and certificate programs in the field of VR. Some grants support more than one degree or certificate. The breakdown of the degree programs offered by the recipients of the 106 grants is as follows:

Areas	Number of grantees	Number of cert. programs	Number of masters programs
Rehabilitation Counseling (84.129B)	73	0	73
Vocational Evaluation (84.129F)	2	1	1
Rehabilitation of Individuals with Mental Illnesses (84.129H)	12	0	12
Rehabilitation of Individuals Who Are Blind or Who Have Low Vision (84.129P)	9	2	8
Rehabilitation of Individuals Who Are Deaf or Hard of Hearing (84.129Q)	3	0	4
Grants to Assist VR Agency Staff to Meet CSPD Requirements (84.129W)	7	1	6

Questions

1.1. In your State or local area, what are the current and projected employment opportunities in the field of VR counseling and related specialty areas, and what are the degree and/or certificate requirements for these employment opportunities (*e.g.,* bachelor's, masters, or doctoral degree)?

1.2. The Department currently provides funding in six of the possible 30 specialty areas. What are your recommendations for the specialty areas that the Department should support, given the changes in the Rehabilitation Act, as amended by WIOA, and the current needs of the State VR agencies?

1.3. Should the Department fund bachelor-level programs, and, if so, should they be general VR counselor programs, areas other than VR counseling, or a combination of the two? Please explain.

1.4. How do VR counseling degree or certificate programs ensure that they are adequately preparing VR counselors to meet skill demands now and in the future? How have VR counseling degree or certificate programs changed to address the requirements of the Rehabilitation Act, as amended by WIOA (*e.g.,* requirements for pre-employment transition services, emphasis on competitive integrated employment, etc.)?

1.5. How do colleges and universities ensure that VR counselor programs remain current and effective in meeting State VR agencies' CSPD requirements?

1.6. How can the Department increase the percentage of scholars who (a) complete a VR counseling program, (b) obtain qualifying employment after completing the program, and (c) obtain employment in State VR agencies?

1.7. Do the curricula used by VR counseling programs reflect the emerging trends and evidence-based practices in VR?

1.8. Currently, the Department provides colleges and universities with 5 year grants of up to $200,000 annually for VR counseling programs and grants of up to $150,000 annually for the other specialty areas. Are these funding levels appropriate? If not, what funding levels would be appropriate?

1.9. Colleges and universities vary in the amount of scholarship funds they provide to scholars both within a single institution and across institutions. Should colleges and universities award scholarships that are consistently more substantial to fewer scholars rather than smaller amounts to a greater number of scholars? Would this approach increase overall outcomes in terms of successful completion of the VR counseling program and in obtaining qualified employment?

1.10. What do you anticipate will be the cost of scholar support in the next 5 to 10 years? Based on this cost, approximately how many scholars could be adequately served with a $750,000 grant (*i.e.,* $150,000 each year for five years) and $1,000,000 grant (*i.e.,* $200,000 each year for five years)?

1.11. What percentage of your college or university's VR counseling degree seekers receive a scholarship through this program?

1.12. What is the effect of the requirement that scholars complete an internship in a State VR agency or related agency as part of their program? How has the requirement for internships at State VR agencies or related agencies affected the scholars' ability to obtain qualifying employment? Should these internships be required? Are there other avenues for scholars to gain experience? Is there another method to ensure scholars receive experience beyond the practicum?

1.13. Do State VR agencies have the capacity to support internships for the number of scholars who need to complete them? If not, is there a sufficient number of related agencies (*i.e.,* an American Indian rehabilitation program; or a Federal, State, or local agency, nonprofit organization, or a professional corporation or practice group that provide services to individuals with disabilities under an agreement or other arrangement with a designated State agency in the area of specialty for which training is provided) to provide internship experiences?

1.14. How has the merger of the Council on Rehabilitation Education (CORE) with the Council of Accreditation of Counseling and Related Educational Programs (CACREP) affected Long-Term Training grantees? Is there anything in the current Long-Term Training grant program that is in conflict with the CACREP requirements?

1.15. How have the changes in WIOA related to CSPD benefited or hurt Long-Term Training grantees? Are there any new Long-Term Training needs as a result of these changes?

1.16. RSA supported a much larger number of masters level Long-Term Training grants in recent years than in the past. Are the VR masters degree programs able to find enough qualified scholars?

1.17. Are there sufficient vacancies for scholars to find employment in the State VR agencies, or in agencies that have agreements with the State VR agencies, especially for States that have multiple Long-Term Training awards?

II. Rehabilitation Short-Term Training Program

Background

The Rehabilitation Short-Term Training program, authorized by section 302 of the Rehabilitation Act and the program regulations at 34 CFR part 390, supports special seminars, institutes, workshops, and other short-term courses in technical matters relating to vocational, medical, social, and psychological rehabilitation programs; independent living service programs; and the Client Assistance Program. These projects are evaluated based on their relevance to the State-Federal VR programs and whether they improve the skills and competencies of personnel engaged in the administration or delivery of rehabilitation services and meet the training needs of States.

The Department currently funds one Client Assistance Program training and technical assistance grantee at $200,000 each year for five years.

We are seeking information about whether the existing Short-Term Training resources are meeting State needs to implement the requirements in WIOA.

Questions

2.1. Should the Department direct more resources to Short-Term Training?

2.2. Have the existing Short-Term Training resources met State VR agency needs? If not, how could existing resources be better leveraged or additional resources be used to meet needs?

2.3. What Short-Term Training areas are the greatest needs for State VR agencies, especially given the changes in WIOA?

2.4. How can this program better support State VR agencies as they implement their CSPD?

2.5. How can the Short-Term Training program address the need for no-cost preparation for VR professionals?

III. Innovative Rehabilitation Training Program

Background

The Innovative Rehabilitation Training program, authorized by section 302 of the Rehabilitation Act and the program regulations at 34 CFR part 387, is designed to—

(a) Develop new types of training programs for VR personnel and demonstrate the effectiveness of these new types of training programs for VR personnel in improving the delivery of VR services to individuals with disabilities;

(b) Develop new and improved methods for training VR personnel so that there may be a more effective delivery of VR services to individuals with disabilities by designated State VR agencies and designated State VR units or other public or nonprofit VR service agencies or organizations;

(c) Develop new innovative training programs for VR professionals and paraprofessionals that provide instruction on the evolving 21st-century labor force and the needs of individuals with disabilities so they can more effectively provide VR services to individuals with disabilities; and

(d) Investigate the efficacy of new curricula to address system change resulting from implementation of the requirements in WIOA.

The Department does not currently fund any grants under this program.

We are seeking information about whether new types of training programs for VR personnel, new and improved methods of training VR personnel, or new innovative training programs for VR professionals and paraprofessionals are needed.

Questions

3.1. Should the Department fund grants under this authority?

3.2 What topical areas would best support State VR agencies' implementation of the requirements in WIOA?

3.3 In recent years, a number of VR counseling programs have closed, including programs that had Long-Term Training grant funding. Is there a more innovative way to deliver VR counselor programs? If so, please describe.

3.4 What type of innovative training projects might be supported to develop a new training curriculum to address system changes resulting from implementation of the requirements in WIOA?

3.5 What type of innovative training project might be supported to prepare VR professionals and paraprofessionals to have a 21st-century understanding of the evolving labor force and the needs of individuals with disabilities?

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 program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C. 6771.

Dated: April 30, 2018.

Johnny W. Collett,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2018–09429 Filed 5–3–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–142–000]

Louisiana Public Service Commission v. System Energy Resources, Inc. and Entergy Services, Inc.; Notice of Complaint

Take notice that on April 27, 2018, pursuant sections 206, 306, and 309 of the Federal Power Act [1] and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure,[2] Louisiana Public Service Commission (Complainant) filed a formal complaint against System Energy Resources, Inc., and Entergy Services, Inc. (collectively, Respondents) alleging that Respondents' return on equity is unjustly and unreasonably excessive, its capital structure is unjustly and unreasonably rich with equity, and its depreciation rates are excessive, all as more fully explained in the complaint.

Complainant certify that copies of the complaint were served on contacts for Respondents.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondents' answer and all interventions, or protests must be filed on or before the comment date. The Respondents' answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for electronic review in the Commission's Public Reference Room in Washington, DC There is an eSubscription link on the 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 May 17, 2018.

Dated: April 27, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–09453 Filed 5–3–18; 8:45 am]

BILLING CODE 6717–01–P

[1] 16 U.S.C. 824(e), 825(e), and 825(h).

[2] 18 CFR 385.206.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–8436–000]

Kipp, Mary E.; Notice of Filing

Take notice that on April 27, 2018, Mary E. Kipp filed an application for authorization to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 18 U.S.C. 825d(f), and section 45.8 of the Federal Energy Regulatory Commission's (Commission) Regulations, 18 CFR 45.8.

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. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the 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 May 18, 2018.

Dated: April 27, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–09454 Filed 5–3–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD18–10–000]

Distributed Energy Resources—Technical Considerations for the Bulk Power System; Notice Inviting Post-Technical Conference Comments

On April 10 and April 11, 2018, Federal Energy Regulatory Commission (Commission) staff convened a technical conference to discuss the participation of distributed energy resource (DER) aggregations in Regional Transmission Organization (RTO) and Independent System Operator (ISO) markets and to more broadly discuss the potential effects of DERs on the bulk power system.

All interested persons are invited to file post-technical conference comments on the topics relating to the potential effects of DERs on the bulk power system as discussed during the technical conference, including the questions listed in the Supplemental Notices issued in this proceeding on March 29, 2018 and April 9, 2018. In addition, Commission staff is interested in comments on several follow-up topics and questions. Commenters need not respond to all topics or questions asked. Attached to this notice are the *topics and questions related to Panels 4 and 5* from the two previous notices, as well as Commission staff's follow-up questions related to those panels. *Please file comments relating to these areas in Docket No. AD18–10–000.*

A notice inviting post-technical conference comments on *the topics and questions concerning the Commission's DER aggregation proposal related to Panels 1, 2, 3, 6, and 7* is being concurrently issued in Docket No. RM18–9–000. *Please separately file comments relating to Panels 1, 2, 3, 6, and 7 in Docket No. RM18–9–000.*

Commenters may reference material previously filed in this docket but are encouraged to avoid repetition or replication of previous material. In addition, commenters are encouraged, when possible, to provide examples in support of their answers. Comments must be submitted on or before 60 days from the date of this notice.

For further information about this notice, please contact:

Technical Information

Louise Nutter, Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8175, *louise.nutter@ferc.gov.*

Joe Baumann, Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8373, *joseph.baumann@ferc.gov.*

Dated: April 27, 2018.

Kimberly D. Bose,

Secretary.

Post-Technical Conference Questions for Comment

AD18–10–000

Collection and Availability of Data on DER Installations (Panel 4)

To plan and operate the bulk power system, it is important for transmission planners, transmission operators, and distribution utilities to collect and share validated data across the transmission-distribution interface. In September 2017, the North American Electric Reliability Corporation (NERC) published a Reliability Guideline on DER modeling (Guideline) that specified the minimum DER information needed by transmission planners and planning coordinators to assist in modeling and conducting assessments.[1] The Guideline references the importance of static data (such as the capacity, technical capabilities, and location of a DER installation) for the entities involved in the planning of the bulk power system. The following questions focus on understanding the need for bulk power system planners and operators to have access to accurate data to plan and operate the bulk power system, explore the types of data that are needed, and assess the current state of DER data collection. The following questions also address regional DER penetration levels and any potential effects of inaccurate long-term DER forecasting. The Commission Staff DER Technical Report,[2] issued on February 15, 2018, provides a common foundation for the topics raised in this panel.

Comments are requested on the following topics and questions that were included in previous supplemental notices:

1. What type of information do bulk power system planners and operators need regarding DER installations within their footprint to plan and operate the bulk power system? Would it be sufficient for distribution utilities to provide aggregate information about the penetration of DERs below certain points on the transmission-distribution interface? If greater granularity is needed, what level of detail would be sufficient? Is validation of the submitted data possible using data available?

2. What, if any, data on DER installations is currently collected, and by whom is it collected? Do procedures and appropriate agreements exist to share this data with affected bulk power system entities (*i.e.,* those entities responsible for the reliable operation of the bulk power system or for modeling and planning for a reliable bulk power system)? Is there variation by entity or region?

3. At various DER penetration levels, what planning and operations impacts do you observe? Do balancing authorities with significant growth in DERs experience the need to address bulk power system reliability and operational considerations at certain DER penetration levels? What are they? Is the MW level of DER penetration the most important factor in whether DERs cause planning and operational impacts, or do certain characteristics of installed DERs affect the system operator's analysis? Is there a threshold that could trigger a need for distribution utilities to share information on DERs with the bulk power system operator, such as the point at which DER penetration causes bulk power system reliability and operational impacts, or some other, lower, level of penetration? How could the answer to these questions vary on a regional basis, and what factors may contribute to this variance?

4. How are long-term projections for DER penetrations developed? Are these projections currently included in related forecasting efforts? Do system operators study the potential effects of future DER growth to assess changing infrastructure and planning needs at different penetration levels?

5. What are the effects on the bulk power system if long-term forecasts of DER growth are inaccurate? Are these effects within current planning horizons? Are changes in the expected growth of DERs incorporated into ongoing planning efforts? Can these uncertainties be treated similarly to other uncertainties in the planning process?

6. How are DERs incorporated into production cost modeling studies? Do current tools allow for assessment of forecasting variations and their effects?

7. Noting that participation in the RTO/ISO markets by DER aggregators may provide more information to the RTOs/ISOs about DERs than would otherwise be available, should any specific information about DER aggregations or the individual DERs in

[1] *See* NERC Distributed Energy Resource Modeling Reliability Guideline, at 5 (Sept. 2017), *available at http://www.nerc.com/comm/PC_Reliability_Guidelines_DL/Reliability_Guideline_-_DER_Modeling_Parameters_-_2017-08-18_-_FINAL.pdf.*

[2] The report is available at *https://www.ferc.gov/legal/staff-reports/2018/der-report.pdf.*

them be required from aggregators to ensure proper planning and operation of the bulk power system?

8. Do the RTOs/ISOs need any directly metered data about the operations of DER aggregations to ensure proper planning and operation of the bulk power system?

Based on the discussion at the April 10–11 Technical Conference, comments are also requested on the following additional questions:

9. What can DERs offer to support or enhance bulk power system reliability? How can these benefits be quantified? Are these opportunities unique to DERs?

10. With the recently approved IEEE 1547–2018 Standard, what coordination or collaboration is needed to leverage the Standard's technical requirements (*e.g.,* ride-through settings, communication capabilities) in a manner that supports bulk power system reliability?

11. Is a formal development of a grid architecture that includes distribution and transmission systems necessary to facilitate planning efforts to incorporate DERs?

12. What specific real-time DER data is needed to manage bulk power system reliability? Why is that data needed? Is there a specific penetration-level of DERs above which real-time data is needed? Without real-time DER data to ensure visibility of DER installations, what, if any, potential challenges and mitigating actions exist for RTOs/ISOs and transmission operators (*e.g.,* the potential need to procure additional contingency reserves)? Please give examples.

13. What challenges exist for DER developers and owners to provide DER real-time data? Please give examples.

Incorporating DERs in Modeling, Planning, and Operations Studies (Panel 5)

Bulk power system planners and operators must select methods to feasibly model DERs at the bulk power system level with sufficient granularity to ensure accurate results. The chosen methodology for grouping DERs at the bulk power system level could affect planners' ability to predict system behavior following events, or to identify a need for different operating procedures under changing system conditions. Further, the operation of DERs can affect both bulk power systems and distribution facilities in unintended ways, suggesting that new tools to model the transmission and distribution interface may be needed. Staff is also aware of ongoing work in this area, for example efforts at NERC, national labs, and other groups, to evaluate options for studies in these areas, which could also inform future work. The following questions focus on the incorporation of DERs into different types of planning and operational studies, including options for modeling DERs and the methodology for the inclusion of DERs in larger regional models. The Commission Staff DER Technical Report, issued on February 15, 2018, provides a common foundation for the topics raised in this panel.

Comments are requested on the following topics and questions that were included in previous supplemental notices:

1. What are current and best practices for modeling DERs in different types of planning, operations, and production cost studies? Are options available for modeling the interactions between the transmission and distribution systems?

2. To what extent are capabilities and performance of DERs currently modeled? Do current modeling tools provide features needed to model these capabilities?

3. What methods, such as net load, composite load models, detailed models or others, are currently used in power flow and dynamic models to represent groups of DERs at the bulk power system level? Would more detailed models of DERs at the bulk power system level provide better visibility and enable more accurate assessment of their impacts on system conditions? Does the appropriate method for grouping DERs vary by penetration level?

4. Do current contingency studies include the outage of DER facilities, and if they are considered, how is the contingency size chosen? At what penetration levels or under what system conditions could including DER outages be beneficial? Are DERs accounted for in calculations for Under Frequency Load Shedding and related studies?

5. What methods are used to calculate capacity needed for balancing supply and demand with large amount of solar DER (ramping and frequency control) and determining which resources can provide an appropriate response?

Based on the discussion at the April 10–11 Technical Conference, comments are also requested on the following additional questions:

6. For planning efforts, how are model parameters determined and incorporated into existing models using currently available data on DER capabilities? What types of validation techniques are used for the data in these models and how often are they applied?

7. Given the discussion on interactions between distribution and transmission operators, are further requirements for distributed controls, interoperability and/or cybersecurity protections being evaluated? Would advanced techniques and methods to simulate real-time systems, distributed controls and demand response or additional risk-based planning methods, forecasting techniques and data analytics provide a benefit in this area? Which of these methods would provide the most value to operators and why?

[FR Doc. 2018–09450 Filed 5–3–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM18–9–000]

Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Independent System Operators; Notice Inviting Post-Technical Conference Comments

On April 10 and April 11, 2018, Federal Energy Regulatory Commission (Commission) staff convened a technical conference to discuss the participation of distributed energy resource (DER) aggregations in Regional Transmission Organization (RTO) and Independent System Operator (ISO) markets and to more broadly discuss the potential effects of DERs on the bulk power system.

All interested persons are invited to file post-technical conference comments on the topics concerning the Commission's DER aggregation proposal discussed during the technical conference, including the questions listed in the Supplemental Notices issued in this proceeding on March 29, 2018 and April 9, 2018. In addition, Commission staff is interested in comments on several follow-up topics and questions. Commenters need not respond to all topics or questions asked. Attached to this notice are the *DER aggregation topics and questions related to Panels 1, 2, 3, 6, and 7* from the two previous notices, as well as Commission staff's follow-up questions related to those panels. *Please file comments relating to these issues in Docket No. RM18–9–000.*

A notice inviting post-technical conference comments on *the topics and questions relating to the potential effects of DERs on the bulk power system related to Panels 4 and 5* is being concurrently issued in Docket No. AD18–10–000. *Please separately file*

comments relating to Panels 4 and 5 in Docket No. AD18–10–000.

Commenters may reference material previously filed in this docket but are encouraged to avoid repetition or replication of previous material. In addition, commenters are encouraged, when possible, to provide examples in support of their answers. Comments must be submitted on or before 60 days from the date of this notice and should not exceed 30 pages.

For further information about this Notice, please contact:

Technical Information

David Kathan, Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6404, *david.kathan@ferc.gov*.

Legal Information

Karin Herzfeld, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8459, *karin.herzfeld@ferc.gov*.

Dated: April 27, 2018.

Kimberly D. Bose,

Secretary.

Post-Technical Conference Questions for Comment

RM18-9-00

Economic Dispatch, Pricing, and Settlement of DER Aggregations (Panel 1)

In the Commission's Notice of Proposed Rulemaking on Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators (NOPR), the Commission proposed to require each RTO/ISO to revise its tariff to remove barriers to the participation of DER aggregations in its markets by, among other measures, establishing locational requirements for DER aggregations that are as geographically broad as technically feasible.[1] The NOPR also addressed the use of distribution factors[2] and bidding parameters[3] for DER aggregations. In consideration of comments received in response to the NOPR, the Commission seeks additional information about how DER aggregations could locate across more than one pricing node. The Commission would also like additional information about bidding parameters or other potential mechanisms needed to represent the physical and operational characteristics of DER aggregations in RTO/ISO markets.

Comments are requested on the following topics and questions that were included in previous supplemental notices:

1. Acknowledging that some RTOs/ISOs already allow aggregations across multiple pricing nodes, what approaches are available to ensure that the dispatch of a multi-node DER aggregation does not exacerbate a transmission constraint?

2. Because transmission constraints change over time, would the ability of a multi-node DER aggregation to participate in an RTO/ISO market need to be revisited as system topology changes?

3. Do multi-node DER aggregations present any special considerations for the reliability of the transmission system that do not arise from other market participants? How could these concerns be resolved?

4. What types of modifications would need to be made to the modeling and dispatch software, communications platforms, and automation tools necessary to enable reliable and efficient system dispatch for multi-node DER aggregations? How long would it take for these changes to be implemented?

5. If the Commission requires the RTOs/ISOs to allow multi-node DER aggregations to participate in their markets, how should a DER aggregation located across multiple pricing nodes be settled for the services that it provides? One approach to settling a multi-node DER aggregation could be to pay it the weighted average locational marginal price (LMP) across the nodes at which it is located. What are the advantages and disadvantages of this approach? Are there other approaches that should be considered?

6. The NOPR considered the use of ''distribution factors'' to account for the expected response of DER aggregations from multiple nodes. Are there other characteristics of DER aggregations that may not be accommodated by existing bidding parameters in the RTOs/ISOs? If so, what are they? Would new bidding parameters be necessary? If so, what are they?

Based on the discussion at the April 10–11 Technical Conference, comments are also requested on the following additional questions:

7. During the technical conference, several panelists indicated that there has been limited interest in using CAISO's DER provider model (DERP). Please explain why DER aggregators have not used that model to date, what other approaches, if any, that DERs are using to access the CAISO and other RTO/ISO markets, and whether those alternative approaches provide adequate RTO/ISO market access for both behind-the-meter and front-of-meter DERs.

8. During the technical conference, some panelists noted that for multi-node aggregations (a) there is a need to accurately represent the capabilities of DER aggregations at each node that they are located, and (b) more accurate representation at each node of a multi-node aggregation begins to make the aggregation look like a single-node resource. Some of the benefits discussed of multi-node aggregation included allowing an aggregation of DERs to provide more reliable services to the market and reducing transaction costs as a market participant, among others. Conversely, there was a discussion of the market operator's need to accurately represent the capabilities of the aggregation at individual nodes. Please comment on the benefits of being able to aggregate across multiple nodes versus the market operator's need to accurately represent the capabilities of the aggregation at individual nodes. If multi-node resources present risks or challenges to the system, what are they? Can they be overcome? How?

9. During the panel discussion, CAISO mentioned that it allows multi-node aggregations within a defined set of nodes that have been deemed to have sufficiently little congestion across the nodes. Other panelists expressed a preference for single node aggregations. Are there methods to identify sets of nodes within which aggregation could be allowed that would balance concerns with multi-node aggregations against the benefits of multi-node aggregations. For instance, are there ways to group nodes associated with load centers that would facilitate aggregation while not threatening reliability and undermining the benefits of nodal pricing?

10. Would reducing the minimum size requirement for DER aggregations to participate in the RTO/ISO markets (for example, to 100 kW as proposed in the NYISO DER Roadmap) help alleviate some of the concerns about requiring DER aggregations to be located only at a single pricing node? Or, would locating at a single node inhibit the development of DER aggregations

[1] NOPR, FERC Stats. & Regs. ¶ 32,718 at P 139.

[2] The Commission proposed to require each RTO/ISO to revise its tariff to include the requirement that DER aggregators (1) provide default distribution factors when they register their DER aggregation and (2) update those distribution factors if necessary when they submit offers to sell or bids to buy into the organized wholesale electric markets. *Id.* P 143.

[3] The Commission sought comment on whether bidding parameters in addition to those already incorporated into existing participation models may be necessary to adequately characterize the physical or operational characteristics of DER aggregations. *Id.* P 144.

regardless of the minimum size requirement?

11. How are the concerns about constraints on the transmission system different for multi-node demand response aggregations versus multi-node DER aggregations?

12. During the technical conference, some panelists raised questions regarding potential tradeoffs between establishing rules for DER aggregations now in anticipation of a high DER future, and the potential technology and market efficiency costs of requiring nodal aggregation or other measures to manage the potential effects of DER aggregations before it is necessary. What are these tradeoffs? Do they change over time? Does the penetration of DERs affect how to assess the tradeoffs? Does the penetration of DERs affect the appropriate locational requirements for DER aggregations?

Discussion of Operational Implications of DER Aggregation With State and Local Regulators (Panel 2)

Comments are requested on state and local regulator concerns about the operational effects that DER participation in the wholesale market could have on facilities they regulate. Please respond to the following topics and questions that were included in previous supplemental notices:

1. What are the potential positive or negative operational impacts (e.g., safety, reliability, and dispatch) that DER participation in the wholesale market could have on facilities regulated by state and local authorities? How should the costs associated with monitoring and addressing such potential impacts on the distribution grid caused by the NOPR proposal be addressed, and fairly allocated? Are existing retail rate structures able to allocate costs to DER aggregations that utilize the distribution systems, and if not, what modifications or coordination are feasible?

2. Do state and local authorities have operational concerns with a DER aggregation participating in both wholesale and retail markets? If so, what, if any, coordination protocols between states or local regulators and regional markets would be required to facilitate DER aggregations' participation in both retail and wholesale markets? Could the use of appropriate metering and telemetry address the ability to distinguish between markets and services, and prevent double compensation for the same services? What is the role of state and local regulators in monitoring and regulating the potential for such double compensation? How should regional flexibility be accommodated?

3. What entities should be included in the coordination processes used to facilitate the participation of DER aggregations in RTO/ISO markets? Should state and local regulatory authorities play an active role in these coordination processes? Is there a need to modify existing RTO/ISO protocols or develop new protocols to accommodate state participation in this coordination? What should be the role of state and local regulators in the NOPR's proposed distribution utility review of DER aggregation registrations?

4. Does the proposed use of market participation agreements address state and local regulator concerns about the role of distribution utilities in the coordination and registration of DERs in aggregations? Are the proposed provisions in the market participation agreements that require that DER aggregators attest that they are compliant with the tariffs and operation procedures of distribution utilities and state and local regulators sufficient to address such concerns?

5. What are the proper protections and policies to ensure that DER aggregations participating in wholesale markets will not negatively affect efficient outcomes in the distribution system?

Based on the discussion at the April 10–11 Technical Conference, comments are also requested on the following additional question:

6. During the technical conference, some panelists noted interest in a limited opt-out provision which would allow states to require DERs to choose participation in either the RTO/ISO market or retail compensation programs, but not both. How would such a limited opt-out be implemented? What are the benefits and drawbacks of such an approach?

Participation of DERs in RTO/ISO Markets (Panel 3)

DERs can both sell services into the RTO/ISO markets and participate in retail compensation programs. To ensure that that there is no duplication of compensation for the same service, in the NOPR the Commission proposed that individual DERs participating in one or more retail compensation programs, such as net metering or another RTO/ISO market participation program, will not be eligible to participate in the RTO/ISO markets as part of a DER aggregation.[4] In consideration of comments received in response to the NOPR, the Commission seeks additional information about potential solutions to challenges associated with DER aggregations that provide multiple services, including ways to avoid duplication of compensation for their services in the RTO/ISO markets, potential ways for the RTOs/ISOs to place appropriate restrictions on the services they can provide, and procedures to ensure that DERs are not accounted for in ways that affect efficient outcomes in the RTO/ISO markets.

Comments are requested on the following topics and questions that were included in previous supplemental notices:

1. Given the variety of wholesale and retail services, is it possible to universally characterize a set of wholesale and retail services as the "same service"? If so, how could the Commission prohibit a DER from providing the same service to the wholesale market as it provides in a retail compensation program?

2. In Order No. 719, the Commission stated that "[a]n RTO or ISO may place appropriate restrictions on any customer's participation in an [aggregation of retail customers]-aggregated demand response bid to avoid counting the same demand response resource more than once."[5] How have the RTOs/ISOs effectuated this requirement or otherwise ensured that demand response participating in their markets is not being double counted? What would be the advantages and disadvantages of taking this approach for DER aggregations instead of the approach proposed in the NOPR for preventing double compensation for the same service?

3. What other options besides the NOPR's proposed limits on dual participation exist to address issues associated with the participation of DERs or DER aggregations in one or more retail compensation programs or another wholesale market participation program at the same time as it participates in a wholesale DER aggregation? Is there a way to coordinate DER participation in multiple markets or compensation programs? Is a possible solution having a targeted prohibition, such as the limitation placed on net-metered resources in CAISO?[6] Are there other means?

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[4] *Id.* P 134.

[5] *Wholesale Competition in Regions with Organized Electric Markets,* Order No. 719, FERC Stats. & Regs. ¶ 31,281, at P 158 (2008), *order on reh'g,* Order No. 719–A, FERC Stats. & Regs. ¶ 31,292 (2009), *order on reh'g,* Order No. 719–B, 129 FERC ¶ 61,252 (2009).

[6] *See* CAISO Tariff, § 4.17.3(d).

Coordination of DER Aggregations Participating in RTO/ISO Markets (Panel 6)

In the NOPR, the Commission proposed to require each RTO/ISO to revise its tariff to provide for coordination among itself, a DER aggregator, and the relevant distribution utility or utilities when a DER aggregator registers a new DER aggregation or modifies an existing DER aggregation.[7] The Commission proposed that this coordination would provide the relevant distribution utility or utilities with the opportunity to review the list of individual resources that are located on their distribution system that enroll in a DER aggregation before those resources may participate in RTO/ISO electric markets. In consideration of comments received in response to the NOPR, the Commission seeks additional information on the potential ways for RTOs/ISOs, distribution utilities, retail regulatory authorities, and DER aggregators to coordinate the integration of a DER aggregation into the RTO/ISO markets. In addition, because the use of grid architecture[8] can help identify the relationships among the entities involved in coordinating the integration of DER aggregations, the Commission is also interested in comments about potential architectural designs for the initial coordination processes from the point of view of the RTO/ISO markets.

Comments are requested on the following topics and questions that were included in previous supplemental notices:

1. If the Commission adopts its proposal to require the RTO/ISO to allow a distribution utility to review the list of individual resources that are located on their distribution system that enroll in a DER aggregation before those resources may participate in RTO/ISO electric markets, is it appropriate for distribution utilities to have a role in determining when the individual DERs may begin participation? Should the RTO/ISO tariff provide the distribution utility with the ability to provide either binding or non-binding input to the RTO/ISO? Should the RTO/ISO provide the distribution utility with a specific period of time in which to consult before DERs may begin participation? Should the Commission require the RTO/ISO to receive explicit consent from the distribution utility before a DER is included in a DER aggregation? Are there other approaches to coordinate with the distribution utility? What are the advantages and disadvantages of these approaches?

2. Are new processes and protocols needed to ensure coordination among DER aggregators, distribution utilities, and RTOs/ISOs during registration of a new DER aggregations? How can the Commission ensure that any new processes and protocols occur in a way that provides adequate transparency to the interested parties and also occurs on a timely basis?

3. Should there be a coordination agreement in place prior to the participation of DER aggregation in RTO/ISO markets? Who should be parties to this coordination agreement? How would the coordination agreement be enforced?

4. What is the best approach for involving retail regulatory authorities in the registration of DER aggregations in the RTO/ISO markets?

5. What types of grid architecture could support the integration of DER aggregations into the RTO/ISO markets? Knowing that a variety of grid architectures are being explored in various regions, does it make sense for the Commission to consider specific architectural requirements for RTOs/ISOs for the effective integration and coordination of DER aggregations?

Based on the discussion at the April 10–11 Technical Conference, comments are also requested on the following additional questions:

6. During the technical conference, several panelists expressed the need for criteria to evaluate the ability of an individual DER to participate in a DER aggregation. What specific criteria should distribution utilities use to evaluate the ability of a DER to participate in an aggregation, and who should set these criteria?

7. During the technical conference, several panelists expressed the need for criteria to evaluate the ability of a DER aggregation to participate in the RTO/ISO markets. What specific criteria should distribution utilities use to evaluate the ability of a DER aggregation to participate in the RTO/ISO markets, and who should set these criteria?

8. Some panelists suggested that the state and RTO/ISO interconnection processes could provide the means to evaluate the ability of a DER to participate in an RTO/ISO market. To the extent that RTOs/ISOs currently have a process that applies to the interconnection of DERs to Commission-jurisdictional transmission and distribution facilities, please explain the process and criteria evaluated, including referencing any relevant tariff or business practice manual provisions.

9. During the technical conference, panelists highlighted the importance of coordination procedures and frameworks. Should coordination frameworks for DER aggregation, particularly between RTOs/ISOs and distribution utilities, be required or encouraged to be developed between the appropriate entities?

10. During the technical conference, some panelists commented on the importance of specifying roles with regard to DER aggregation. What should be the specific roles and responsibilities for distribution utilities, DER aggregators, retail regulators, and RTOs/ISOs associated with the participation of DER aggregators in RTO/ISO markets? Should the Commission specify these roles?

11. During the technical conference, several panelists discussed the need to know the attributes of DERs on their distribution system. Please describe, where applicable, what types of static and dynamic information is currently being provided about aggregated or individual DERs to distribution utilities and to RTOs/ISOs. Is there additional static information about aggregated DERs or the individual DERs in those aggregations that distribution utilities need that would not be made available during the interconnection process? What, if any, dynamic information would the distribution utility need from the RTO/ISO in real time regarding DER aggregations that are participating in the RTO/ISO markets, or the individual DERs in those aggregations? How would the distribution utility use this static or dynamic information?

12. As more DERs are added to the distribution system, the system may become more variable due to the output of certain variable resources such as wind and solar PV, and the operation of self-scheduled resources such as batteries and electric vehicles. Given this anticipated volatility at the distribution level, would the participation of aggregations of these DERs in the RTO/ISO markets further increase or decrease system variability?

13. Do the safety and reliability concerns discussed at the technical conference exist on distribution systems with high DER penetration regardless of whether those resources are participating in the RTO/ISO markets? What current standards, procedures, or other measures are used to manage the safety and reliability of a distribution

[7] NOPR, FERC Stats. & Regs. ¶ 32,718 at P 154.

[8] As an aid to thinking about the electric power grid, Pacific Northwest National Laboratory and others have coined the term ''grid architecture,'' which they define as the application of network theory and control theory to a conceptual model of the electric power grid that defines its structure, behavior, and essential limits. *See, e.g., https://gridarchitecture.pnnl.gov/.* Expanding upon this concept, some researchers have begun discussing different types of ''grid architecture,'' which presumably differ in structure, behavior or essential limits from current norms.

system with high DER penetration where those resources do not participate in the RTO/ISO markets? Would these measures also help manage the safety and reliability of a distribution system where these resources do participate in the RTO/ISO markets? Would additional safety and reliability measures be necessary if DERs participate in the RTO/ISO markets, or would the current safeguards against backflows, islanding, or other concerns adequately ensure safety and reliability? If additional measures are necessary, what are they?

Ongoing Operational Coordination (Panel 7)

In the NOPR, the Commission acknowledged that ongoing coordination between the RTO/ISO, a DER aggregator, and the relevant distribution utility or utilities may be necessary to ensure that the DER aggregator is dispatching individual resources in a DER aggregation consistent with the limitations of the distribution system.[9] The Commission proposed that each RTO/ISO revise its tariff to establish a process for ongoing coordination, including operational coordination, among itself, the DER aggregator, and the distribution utility to maximize the availability of the DER aggregation consistent with the safe and reliable operation of the distribution system. To help effectuate this proposal, the Commission also proposed to require each RTO/ISO to revise its tariff to require the DER aggregator to report to the RTO/ISO any changes to its offered quantity and related distribution factors that result from distribution line faults or outages. The Commission also sought comment on the level of detail necessary in the RTO/ISO tariffs to establish a framework for ongoing coordination between the RTO/ISO, a DER aggregator, and the relevant distribution utility or utilities.

Comments are requested on the following topics and questions that were included in previous supplemental notices:

1. What real-time data acquisition and communication technologies are currently in use to provide bulk power system operators with visibility into the distribution system? Are they adequate to convey the information necessary for transmission and distribution operators to assess distribution system conditions in real time? Are new systems or approaches needed? Does DER aggregation require separate or additional capabilities and infrastructure for communication and control?

2. What processes/protocols do distribution utilities, transmission operators, and DERs or DER aggregators use to coordinate with each other? Are these processes/protocols capable of providing needed real-time communications and coordination? What new processes, resources, and efforts will be required to achieve effective real-time coordination?

3. What are the minimum set of specific RTO/ISO operational protocols, performance standards, and market rules that should be adopted now to ensure operational coordination for DER aggregation participating in the RTO/ISO markets? What additional protocols may be important for the future? Should the Commission adopt more prescriptive requirements with respect to coordination than those proposed in the NOPR? If so, what should the Commission require?

4. Should distribution utilities be able to override RTO/ISO decisions regarding day-ahead and real-time dispatch of DER aggregations to resolve local distribution reliability issues? If so, should DER aggregations nonetheless be subject to non-deliverability penalties under such circumstances?

5. Is it possible for DERs or DER aggregations participating in the RTO/ISO markets to also be used to improve distribution system operations and reliability? If so, please provide examples of how this could be accomplished.

6. Can real-time dispatch of aggregated DERs address distribution constraints? If not, can tools be developed to accomplish this?

7. Should individual DERs be required to have communications capabilities to comply with control center obligations? What level of communications security should be employed for these communications?

8. How might recent and expected technical advancements be used to enhance the coordination of DER aggregations, for example, integrating Energy Management Systems (EMS) and Distribution Management Systems (DMS) for efficient operational coordination?

[9] NOPR, FERC Stats. & Regs. ¶ 32,718 at P 155.

[FR Doc. 2018–09455 Filed 5–3–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–138–000]

Midcontinent Independent System Operator, Inc., ALLETE, Inc., Montana-Dakota Utilities Co., Northern Indiana Public Service Company, Otter Tail Power Company, Southern Indiana Gas & Electric Company; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On April 27, 2018, the Commission issued an order in Docket No. EL18–138–000 pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether the transmission formula rate templates of ALLETE, Inc., Montana-Dakota Utilities Co., Northern Indiana Public Service Company, Otter Tail Power Company, and Southern Indiana Gas & Electric Company under Attachment O of the Midcontinent Independent System Operator, Inc. Open Access Transmission, Energy and Operating Reserve Markets Tariff may be unjust, unreasonable, or unduly discriminatory or preferential. *Midcontinent Independent System Operator, Inc., et al.,* 163 FERC 61, 061 (2018).

The refund effective date in Docket Nos. EL18–138–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket Nos. EL18–138–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2017), within 21 days of the date of issuance of the order.

Dated: April 27, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–09452 Filed 5–3–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI18–4–000]

Cole Rhoten; Notice of Declaration of Intention and Soliciting Comments, Protests, and Motions To Intervene

April 30, 2018.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI18–4–000.

c. *Date Filed:* March 19, 2018.

d. *Applicant:* Cole Rhoten.

e. *Name of Project:* Port William Dam Hydroelectric Project.

f. *Location:* The proposed Port William Dam Hydroelectric Project would be located on Anderson Fork Creek, near the Village of Port William, in Clinton County, Ohio.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b) (2012).

h. *Applicant Contact:* Cole Rhoten, 677 Milford Hills Drive, Milford, OH 45150, telephone: (317) 945–3936; email: *C.Rhoten@outlook.com.*

i. *FERC Contact:* Any questions on this notice should be addressed to Jennifer Polardino, (202) 502–6437, or email: *Jennifer.Polardino@ferc.gov.*

j. Deadline for filing comments, protests, and motions to intervene is: 30 days from the issuance date of this notice by the Commission.

The Commission strongly encourages electronic filing. Please file comments, protests, and motions to intervene 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 DI18–4–000.

k. *Description of Project:* The proposed run-of-river Port William Dam Hydroelectric Project would consist of: (1) The existing Port William Dam; (2) a new penstock; (3) a cross-flow turbine generating unit with a generating capacity of 15–80 kilowatts; (4) a transmission line connecting the generating unit to Columbus Southern Power Company's electric distribution system; and (5) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the project would affect the interests of interstate or foreign commerce. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) would be located on a non-navigable stream over which Congress has Commerce Clause jurisdiction and would be constructed or enlarged after 1935.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. 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 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above and in the Commission's Public Reference Room located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 502–8371.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *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.

o. *Filing and Service of Responsive Documents:* All filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', and ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any Motion to Intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–09484 Filed 5–3–18; 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: PR18–43–000.

Applicants: NorthWestern Corporation.

Description: Tariff filing per 284.123(b),(e)/: Revised Rate Schedules for Transportation & Storage Service (D2016.9.68 Phase 2) to be effective 4/1/2018.

Filed Date: 4/27/18.

Accession Number: 201804275005.

Comments/Protests Due: 5 p.m. ET 5/27/18.

Docket Numbers: RP18–599–000.

Applicants: Trailblazer Pipeline Company LLC.

Description: Annual Incidental Purchases and Sales Report of Trailblazer Pipeline Company LLC.

Filed Date: 3/27/18.

Accession Number: 20180327–5203.

Comments Due: 5 p.m. ET 5/4/18.

Docket Numbers: RP18–743–000.

Applicants: Discovery Gas Transmission LLC.

Description: Imbalance Cash-out Report for 2017 Activity for Discovery Gas Transmission LLC.

Filed Date: 4/25/18.

Accession Number: 20180425–5261.

Comments Due: 5 p.m. ET 5/7/18.

Docket Numbers: RP18–464–001.

Applicants: Nautilus Pipeline Company, L.L.C.
Description: Compliance filing Nautilus LINK Integration Compliance Filing to be effective 5/1/2018.
Filed Date: 4/26/18.
Accession Number: 20180426–5169.
Comments Due: 5 p.m. ET 5/8/18.

Docket Numbers: RP18–744–000.
Applicants: Dominion Energy Transmission, Inc.
Description: § 4(d) Rate Filing: DETI—April 26, 2018 Negotiated Rate Agreements to be effective 5/1/2018.
Filed Date: 4/26/18.
Accession Number: 20180426–5158.
Comments Due: 5 p.m. ET 5/8/18.

Docket Numbers: RP18–745–000.
Applicants: Garden Banks Gas Pipeline, LLC.
Description: § 4(d) Rate Filing: PAL Service Modifications to be effective 6/1/2018.
Filed Date: 4/26/18.
Accession Number: 20180426–5177.
Comments Due: 5 p.m. ET 5/8/18.

Docket Numbers: RP18–746–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (APS May 2018) to be effective 5/1/2018.
Filed Date: 4/26/18.
Accession Number: 20180426–5219.
Comments Due: 5 p.m. ET 5/8/18.

Docket Numbers: RP18–747–000.
Applicants: EQT Energy, LLC.
Description: Petition of EQT Energy, LLC For Temporary Waiver under RP18–747.
Filed Date: 4/26/18.
Accession Number: 20180426–5242.
Comments Due: 5 p.m. ET 5/8/18.

Docket Numbers: RP18–748–000.
Applicants: Bluewater Gas Storage, LLC.
Description: § 4(d) Rate Filing: Revisions to Pro Forma Service Agreements to be effective 4/30/2018.
Filed Date: 4/27/18.
Accession Number: 20180427–5245.
Comments Due: 5 p.m. ET 5/9/18.

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: April 30, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–09504 Filed 5–3–18; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–534–001; ER18–537–001; ER18–536–001; ER18–538–001; ER18–533–001; ER18–535–001; ER12–1436–014; ER18–280–003; ER13–1793–011; ER10–2329–011.
Applicants: Montpelier Generating Station, LLC, Monument Generating Station, LLC, O.H. Hutchings CT, LLC, Sidney, LLC, Tait Electric Generating Station, LLC, Yankee Street, LLC, Eagle Point Power Generation LLC, Lee County Generating Station, LLC, Hazle Spindle, LLC, Vineland Energy LLC.
Description: Notice of Change in Status for the Rockland PJM MBR Sellers.
Filed Date: 4/25/18.
Accession Number: 20180425–5348.
Comments Due: 5 p.m. ET 5/16/18.

Docket Numbers: ER18–1449–000.
Applicants: GASNA 6P, LLC.
Description: § 205(d) Rate Filing: GASNA 6P, LLC MBR Tariff Supplement to be effective 3/15/2018.
Filed Date: 4/27/18.
Accession Number: 20180427–5001.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ER18–1450–000.
Applicants: GASNA 36P, LLC
Description: § 205(d) Rate Filing: GASNA 36P, LLC MBR Tariff Supplement to be effective 3/15/2018.
Filed Date: 4/27/18.
Accession Number: 20180427–5003.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ER18–1451–000.
Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.
Description: § 205(d) Rate Filing: Interconnection Agreement: NMPC and Village of Ilion SA 2416 to be effective 3/28/2018.
Filed Date: 4/27/18.
Accession Number: 20180427–5049.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ER18–1452–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1637R3 Kansas Electric Power Cooperative, Inc. NITSA and NOA to be effective 4/1/2018.
Filed Date: 4/27/18.
Accession Number: 20180427–5055.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ER18–1453–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to 7 ISAs & 1 WMPA RE: AES Ohio Assignment to be effective 10/5/2007.
Filed Date: 4/27/18.
Accession Number: 20180427–5064.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ER18–1454–000.
Applicants: Golden Spread Electric Cooperative, Inc.
Description: Compliance filing: OATT Order No. 842 Compliance to be effective 5/15/2018.
Filed Date: 4/27/18.
Accession Number: 20180427–5075.
Comments Due: 5 p.m. ET 5/18/18.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES18–30–000.
Applicants: Mississippi Power Company.
Description: Application of Mississippi Power Company for Authorization to Issue Securities under Section 204 of the Federal Power Act.
Filed Date: 4/26/18.
Accession Number: 20180426–5243.
Comments Due: 5 p.m. ET 5/17/18.

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: April 27, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–09457 Filed 5–3–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2538–008; ER14–1317–007; ER17–2074–001.
Applicants: Burney Forest Products, A Joint Venture, Panoche Energy Center, LLC, Sunshine Gas Producers, LLC.
Description: Supplement to March 8, 2018 Notice of Non-Material Change in Status of Burney Forest Products, A Joint Venture, et al.
Filed Date: 4/26/18.
Accession Number: 20180426–5272.
Comments Due: 5 p.m. ET 5/17/18.

Docket Numbers: ER18–975–001.
Applicants: Arizona Public Service Company.
Description: Tariff Amendment: Amended Revisions to OATT Formula Transmission Rate to be effective 5/7/2018.
Filed Date: 4/27/18.
Accession Number: 20180427–5198.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ER18–1456–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1910R11 Southwestern Public Service Company NITSA NOA to be effective 4/1/2018.
Filed Date: 4/27/18.
Accession Number: 20180427–5094.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ER18–1457–000.
Applicants: Tucson Electric Power Company.
Description: § 205(d) Rate Filing: Concurrence to APS RS No. 152 to be effective 5/1/2018.
Filed Date: 4/27/18.
Accession Number: 20180427–5132.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ER18–1458–000.
Applicants: Duke Energy Florida, LLC.
Description: § 205(d) Rate Filing: Joint OATT Real Power Losses (DEF) 2018 Update to be effective 5/1/2018.
Filed Date: 4/27/18.
Accession Number: 20180427–5133.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ER18–1459–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: Amended IFA Cabazon Wind Partners, LLC to be effective 5/1/2018.
Filed Date: 4/27/18.
Accession Number: 20180427–5137.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ER18–1460–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: Amendment No. 1 to the Lathrop Irrigation District 60 kV IA (SA 298) to be effective 5/1/2018.
Filed Date: 4/27/18.
Accession Number: 20180427–5169.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ER18–1461–000.
Applicants: Alabama Power Company
Description: § 205(d) Rate Filing: SP Sandhills Solar (Taylor Co Solar Facility I—143 MW) LGIA Amendment Filing to be effective 4/1/2018.
Filed Date: 4/27/18.
Accession Number: 20180427–5212.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ER18–1462–000.
Applicants: Alabama Power Company.
Description: § 205(d) Rate Filing: Twiggs County Solar (Twiggs Solar) LGIA Filing to be effective 4/13/2018.
Filed Date: 4/27/18.
Accession Number: 20180427–5213.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ER18–1463–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3435 Magnet Wind Farm GIA to be effective 4/13/2018.
Filed Date: 4/27/18.
Accession Number: 20180427–5214.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ER18–1464–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2018–04–27_Tariff revisions regarding Sub-Regional Power Balance to be effective 6/27/2018.
Filed Date: 4/27/18.
Accession Number: 20180427–5243.
Comments Due: 5 p.m. ET 5/18/18.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES18–31–000.
Applicants: AEP Generating Company.
Description: Application under Section 204 of the Federal Power Act for Authorization to Issue Securities of AEP Generating Company.
Filed Date: 4/27/18.
Accession Number: 20180427–5185.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ES18–32–000.
Applicants: Southwestern Electric Power Company.
Description: Application under Section 204 of the Federal Power Act for Authorization to Issue Securities of Southwestern Electric Power Company.
Filed Date: 4/27/18.
Accession Number: 20180427–5186.
Comments Due: 5 p.m. ET 5/18/18.

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: April 27, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–09451 Filed 5–3–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[DocketNo. ER18–1455–000]

Southern Power Company; Notice Shortening Comment Period

On April 25, 2018, Southern Power Company (Southern) filed a petition for waiver and request for shortened comment period and expedited action (Petition) in the above-referenced proceeding. Included in Southern's Petition was a request to shorten the date for filing comments to the Petition.

Upon consideration, notice is hereby given that the date for filing comments to Southern's request is shortened to and including May 1, 2018.

Dated: April 30, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–09485 Filed 5–3–18; 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 exempt wholesale generator filings:

Docket Numbers: EG18–78–000.
Applicants: Pine River Wind Energy LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Pine River Wind Energy LLC.
Filed Date: 4/30/18.
Accession Number: 20180430–5131.
Comments Due: 5 p.m. ET 5/21/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2651–004.
Applicants: Lockhart Power Company.
Description: Amendment to June 29, 2017 Updated Market Power Analysis for the Southeast Region of Lockhart Power Company.
Filed Date: 4/27/18.
Accession Number: 20180427–5290.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ER12–1946–009; ER10–1333–009; ER10–2566–008 ER13–2322–004; ER15–190–006; ER17–543–003.
Applicants: Duke Energy Beckjord, LLC, Duke Energy Carolinas, LLC, Duke Energy Commercial Enterprises, Inc., Duke Energy Progress, Inc., Duke Energy Renewable Services, LLC, Duke Energy SAM, LLC.
Description: Notice of Change in Status of the Duke MBR Sellers.
Filed Date: 4/27/18.
Accession Number: 20180427–5287.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ER15–2013–007; ER15–2020–005.
Applicants: Talen Energy Marketing, LLC, Talen Montana, LLC.
Description: Notice of Change in Status and Request for Confidential Treatment of Talen Energy Marketing, LLC, et al.
Filed Date: 4/27/18.
Accession Number: 20180427–5364.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ER18–1122–000.
Applicants: Ameren Illinois Company.
Description: Motion to Intervene and Formal Challenge of the Southwestern Electric Cooperative, Inc.
Filed Date: 4/16/18.
Accession Number: 20180416–5138.
Comments Due: 5 p.m. ET 5/7/18.

Docket Numbers: ER18–1464–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Tariff Amendment: 2018–04–30_Amendment to the Sub-Regional Power Balance Constraints filing to be effective 6/27/2018.
Filed Date: 4/30/18.
Accession Number: 20180430–5282.
Comments Due: 5 p.m. ET 5/21/18.

Docket Numbers: ER18–1465–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: Lathrop Irrigation District Replacement IA and TFA (SA 366) to be effective 5/1/2018.
Filed Date: 4/30/18.
Accession Number: 20180430–5001.
Comments Due: 5 p.m. ET 5/21/18.

Docket Numbers: ER18–1466–000.
Applicants: Tucson Electric Power Company.
Description: § 205(d) Rate Filing: Concurrence to APS RS No. 290 to be effective 4/11/2018.
Filed Date: 4/30/18.
Accession Number: 20180430–5002.
Comments Due: 5 p.m. ET 5/21/18.

Docket Numbers: ER18–1467–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2827R3 Kansas Power Pool & Westar Meter Agent Agreement to be effective 4/1/2018.
Filed Date: 4/30/18.
Accession Number: 20180430–5074.
Comments Due: 5 p.m. ET 5/21/18.

Docket Numbers: ER18–1468–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2198R24 Kansas Power Pool NITSA NOA to be effective 4/1/2018.
Filed Date: 4/30/18.
Accession Number: 20180430–5082.
Comments Due: 5 p.m. ET 5/21/18.

Docket Numbers: ER18–1469–000.
Applicants: Tampa Electric Company.
Description: § 205(d) Rate Filing: Emergency Interchange Service Schedule A&B–2018 (Bundled) to be effective 5/1/2018.
Filed Date: 4/30/18.
Accession Number: 20180430–5084.
Comments Due: 5 p.m. ET 5/21/18.

Docket Numbers: ER18–1470–000.
Applicants: Pine River Wind Energy LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 6/30/2018.
Filed Date: 4/30/18.
Accession Number: 20180430–5085.
Comments Due: 5 p.m. ET 5/21/18.

Docket Numbers: ER18–1470–001.
Applicants: Pine River Wind Energy LLC.
Description: Tariff Amendment: Supplement to Application for Market-Based Rate Authorization to be effective 6/30/2018.
Filed Date: 4/30/18.
Accession Number: 20180430–5113.
Comments Due: 5 p.m. ET 5/21/18.

Docket Numbers: ER18–1471–000.
Applicants: ACT Commodities, Inc.
Description: Baseline eTariff Filing: ACT Commodities MBR Application to be effective 5/1/2018.
Filed Date: 4/30/18.
Accession Number: 20180430–5086.
Comments Due: 5 p.m. ET 5/21/18.

Docket Numbers: ER18–1472–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2018–04–30_Termination of SA 3035 OTP-Dakota Range I & II E&P (J436 J437) to be effective 5/1/2018.
Filed Date: 4/30/18.
Accession Number: 20180430–5151.
Comments Due: 5 p.m. ET 5/21/18.

Docket Numbers: ER18–1473–000.
Applicants: Pioneer Trail Wind Farm, LLC.
Description: Baseline eTariff Filing: Rate Schedule Reactive Power Compensation to be effective 6/29/2018.
Filed Date: 4/30/18.
Accession Number: 20180430–5188.
Comments Due: 5 p.m. ET 5/21/18.

Docket Numbers: ER18–1474–000.
Applicants: California Power Exchange Corporation.
Description: § 205(d) Rate Filing: Rate Filing for Rate Period 33 to be effective 7/1/2018.
Filed Date: 4/30/18.
Accession Number: 20180430–5226.
Comments Due: 5 p.m. ET 5/21/18.

Docket Numbers: ER18–1476–000.
Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: MAIT submits Original ECSA, Service Agreement No. 4930 with Penelec to be effective 7/1/2018.
Filed Date: 4/30/18.
Accession Number: 20180430–5249.
Comments Due: 5 p.m. ET 5/21/18.

Docket Numbers: ER18–1477–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2018–04–30_SA 2988 MidAmerican-MidAmerican 1st Rev GIA (J500) to be effective 4/16/2018.
Filed Date: 4/30/18.
Accession Number: 20180430–5278.
Comments Due: 5 p.m. ET 5/21/18.

Docket Numbers: ER18–1478–000.

Applicants: NTE Ohio, LLC.
Description: § 205(d) Rate Filing: Normal 2018 to be effective 4/1/2018.
Filed Date: 4/30/18.
Accession Number: 20180430–5289.
Comments Due: 5 p.m. ET 5/21/18.

Docket Numbers: ER18–1479–000.
Applicants: AEP Ohio Transmission Company, Inc.
Description: Baseline eTariff Filing: Rate Schedules and Service Agreements Baseline to be effective 4/30/2018.
Filed Date: 4/30/18.
Accession Number: 20180430–5296.
Comments Due: 5 p.m. ET 5/21/18.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES18–24–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Clarification to March 26, 2018 Application of Midcontinent Independent System Operator, Inc. under Section 204 of the Federal Power Act for Authorization to Issue Securities.
Filed Date: 4/27/18.
Accession Number: 20180427–5351.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ES18–33–000.
Applicants: Southwest Power Pool, Inc.
Description: Application under Section 204 of the Federal Power Act for Authorization to Issue Securities of Southwest Power Pool, Inc.
Filed Date: 4/27/18.
Accession Number: 20180427–5279.
Comments Due: 5 p.m. ET 5/18/18.

Docket Numbers: ES18–34–000.
Applicants: PJM Interconnection, L.L.C.
Description: Application of PJM Interconnection, L.L.C. under Section 204 of the Federal Power Act for an Order Authorizing the Issuance of Securities.
Filed Date: 4/27/18.
Accession Number: 20180427–5348.
Comments Due: 5 p.m. ET 5/18/18.

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: April 30, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–09503 Filed 5–3–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2701–059]

Erie Boulevard Hydropower, L.P.; Notice of Intent To File License Application, Filing of Pre-Application Document (Pad), Commencement of Pre-Filing Process, and Scoping; Request for Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Pre-filing Process.

b. *Project No.:* 2701–059.

c. *Dated Filed:* February 28, 2018.

d. *Submitted By:* Erie Boulevard Hydropower, L.P. (Erie).

e. *Name of Project:* West Canada Creek Hydroelectric Project.

f. *Location:* On West Canada Creek, a tributary of the Mohawk River, in the counties of Oneida and Herkimer, New York. The project does not occupy federal lands.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Potential Applicant Contact:* Steven Murphy, Director, Licensing, Brookfield Renewable, 33 West 1st Street South, Fulton, NY 13069, (315) 598–6130, *steven.murphy@brookfieldrenewable.com.*

i. *FERC Contact:* Nicholas Ettema at (202) 502–6565 or email at *nicholas.ettema@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC 61,076 (2001).

k. *With this notice, we are initiating informal consultation with:* (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402, and (b) the State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Erie as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. On February 28, 2018, Erie filed with the Commission a Pre-Application Document (PAD; including a proposed process plan and schedule), pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website (*http://www.ferc.gov*), using the eLibrary link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and Commission's staff Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application must be filed with the Commission.

The Commission strongly encourages electronic filing. Please file all documents 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.* 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–2701–059.

All filings with the Commission must bear the appropriate heading: Comments on Pre-Application Document, Study Requests, Comments on Scoping Document 1, Request for Cooperating Agency Status, or Communications to and from Commission Staff. Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by June 29, 2018.

p. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and location of these meetings are as follows:

Evening Scoping Meeting

Date: Wednesday, May 30, 2018.
Time: 7:00 p.m.
Location: Town of Trenton Municipal Center, 8520 Old Poland Road, Barneveld, New York 13304.
Phone: (315) 896–2664.

Daytime Scoping Meeting

Date: Thursday, May 31, 2018.
Time: 10:00 a.m.
Location: Town of Trenton Municipal Center, 8520 Old Poland Road, Barneveld, New York 13304.
Phone: (315) 896–2664.

SD1, which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the web at *http://www.ferc.gov,* using the eLibrary link. Follow the directions for accessing information in paragraph n. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Environmental Site Review

The applicant and Commission staff will conduct an environmental site review of the project on Wednesday, May 30, 2018, starting at 10:00 a.m. All participants should meet at the Prospect Boat Launch, located on State Route 365 approximately ⅔ mile east of Prospect, NY 13435. To attend the environmental site review, please RSVP via email to *steven.murphy@brookfieldrenewable.com* on or before May 23, 2018. Persons not providing an RSVP by May 23, 2018, will not be allowed on the environmental site review.

Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the appropriateness of any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item n. of this document.

Meeting Procedures

The meetings will be recorded by a stenographer and will be placed in the public record of the project.

Dated: April 30, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–09486 Filed 5–3–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9977–51–ORD]

Environmental Laboratory Advisory Board (ELAB) Membership

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice soliciting nominations for membership.

SUMMARY: The U.S. Environmental Protection Agency's (EPA) invites nominations from a diverse range of qualified candidates to be considered for appointment to its Environmental Laboratory Advisory Board (ELAB). The ELAB is a multi-stakeholder federal advisory committee that provides independent advice and recommendations to the EPA Administrator and the Science Advisor about cross-cutting issues related to enhancing EPA's measurement programs, and facilitating the operation and expansion of national environmental accreditation.

This notice solicits nominations to fill seven–eight (7–8) new vacancies. To maintain diverse representation, nominees will be selected from the following stakeholder work force sectors:

- Academia
- Business and industry
- Environmental laboratory commercial, municipal, small, other
- Environmental laboratory suppliers of services
- State and local Government agencies
- Tribal governments and indigenous groups
- Trade associations

Within these sectors, EPA is seeking nominees with knowledge in methods development; measurements; monitoring and regulatory programs; quality systems; and environmental accreditation. In an effort to obtain nominations of diverse candidates, the agency encourages nominations of women and men of all racial and ethnic groups. All nominations will be fully considered.

Any interested person or organization may nominate qualified persons to be considered for appointment to this advisory committee. Individuals may also self-nominate. Nominees should possess the following qualifications:

- Demonstrated experience with environmental measurement programs and environmental laboratory accreditation;
- Demonstrated experience developing organization level strategy on methods development and validation or quality systems approaches;
- Willingness to commit time to the committee, and demonstrated ability to work constructively and effectively on committees;
- Excellent interpersonal, oral, and written communication and consensus-building skills; and
- Ability to serve a 2-year appointment and volunteer approximately 5–7 hours per month to support the Board's activities.

How to Submit Nominations: Nominations can be submitted in electronic format (preferred) to Dr. Thomas O'Farrell, Designated Federal Officer, US EPA, MC 8105R, 1200 Pennsylvania Ave. NW, Washington DC 20460, or email to *ofarrell.thomas@epa.gov* and should be received by June 1, 2018 for October 2018 appointment. To be considered, all nomination packages should include:

- Current contact information for the nominee, including the nominee's name, organization (and position within that organization), current business address, email address, and daytime telephone number.
- Brief statement describing the nominee's interest in serving on the ELAB.
- Resume describing the professional and educational qualifications of the nominee, including a list of relevant activities, and any current or previous service on advisory committees.
- Letter(s) of recommendation from a third party supporting the nomination.

For further questions regarding this notice, please contact Thomas O'Farrell at (202)-564–8451 or *ofarrell.thomas@epa.gov.*

Dated: April 24, 2018.

Jennifer Orme-Zavaleta,

EPA Science Advisor.

[FR Doc. 2018–09321 Filed 5–3–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2018–0003; FRL–9977–41–OAR]

Protection of Stratospheric Ozone: Notice of Data Availability; Information Concerning HCFC–123 and HCFC–124 Production, Consumption, and Use

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability.

SUMMARY: Today's notice announces the availability of *The U.S. Phaseout of HCFCs: Projected Servicing Demand in the U.S. Air Conditioning, Refrigeration, and Fire Suppression Sectors (2020–2030).* The draft document is an update to reports EPA has issued in the past, such as *The U.S. Phaseout of HCFCs: Projected Servicing Needs in the U.S. Air Conditioning, Refrigeration, and Fire Suppression Sectors Updated for 2015 to 2025,* most recently issued in 2014. This document contains information that revises estimates of potential future market demand for HCFC–123 and HCFC–124 based on current uses in air-conditioning, refrigeration, and fire suppression equipment and considers the availability of recovered HCFCs. This information may be relevant to an upcoming rulemaking regarding allowances for consumption and production of HCFC–123 and HCFC–124 for the 2020–2029 regulatory period. Comments submitted in response to today's Notice of Data Availability (NODA) may be used as the Agency prepares for that rulemaking.

DATES: Comments must be submitted on or before June 18, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2018–0003, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Katherine Sleasman, Stratospheric Protection Division, (6205T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–7716; fax number: (202) 343–2362; email address: *sleasman.katherine@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This notice announces the availability of data and analysis relevant to the production, consumption, and use of HCFC–123 and HCFC–124. This notice of data availability may be of interest to:

- Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing entities (NAICS code 333415)
- Air-Conditioning Equipment and Supplies Merchant Wholesalers (NAICS code 423620)
- Fire Extinguisher Chemical Preparations Manufacturing (NAICS code 325998)
- Industrial Gas Manufacturing (NAICS code 325120)
- Materials Recovery Facilities (NAICS code 562920)
- Other Aircraft Parts and Auxiliary Equipment Manufacturing (NAICS code 336413)
- Other Chemical and Allied Production Merchant Wholesalers (NAICS code 424690)
- Plumbing, Heating, and Air-Conditioning Contractors (NAICS code 238220)
- Portable Fire Extinguishers Manufacturing (NAICS code 339999)

This list is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in this notice.

II. What data are available?

EPA is announcing the availability of a draft report, *The U.S. Phaseout of HCFCs: Projected Servicing Demand in the U.S. Air Conditioning, Refrigeration and Fire Suppression Sectors (2020–2030),* in docket EPA–HQ–OAR–2018–0003. The information gathered and presented in the report concerns the end-uses in air conditioning and refrigeration as well as fire suppression sectors that currently use HCFC–123 and HCFC–124. Readers should note that EPA will only consider comments about the information presented in *The U.S. Phaseout of HCFCs: Projected Servicing Demand in the U.S. Air Conditioning, Refrigeration, and Fire Suppression Sectors (2020–2030)* and is not soliciting comments on any other topic.

A. How does this relate to the HCFC phaseout schedule?

Section 605 of the Clean Air Act addresses the production, consumption, use, and introduction into interstate commerce of class II controlled substances (listed HCFCs) within the United States. Sections 605 and 606 taken together constitute the primary source of authority for the domestic implementation of U.S. obligations to phase out HCFCs under the *Montreal Protocol on Substances that Deplete the Ozone Layer* (Montreal Protocol). EPA regulations issued under sections 605 and 606 appear at 40 CFR part 82 Subpart A. Those regulations reflect the agreed Montreal Protocol HCFC phaseout schedule. One element of that phaseout schedule is a commitment to phase out HCFC production and consumption by January 1, 2020, other than production and consumption during the years 2020–2029 for the servicing of air-conditioning and refrigeration equipment existing on January 1, 2020, in an amount up to 0.5% of baseline annually. *See* Montreal Protocol Article 2F. Consistent with that schedule, Subpart A prohibits most production and import of HCFCs as of January 1, 2020, while preserving the possibility of limited production and import of certain HCFCs for the servicing of air-conditioning and refrigeration equipment manufactured before that date. *See* 40 CFR 82.16.

Subpart A prohibits the production and import of class II controlled substances without allowances. 40 CFR 82.15(a), (b). EPA has issued rules allocating HCFC production and consumption allowances for specified regulatory periods. In 2014, EPA issued a rule titled ''Adjustments to the Allowance System for Controlling HCFC Production, Import and Export, 2015–2019'' (79 FR 64254), which allocated chemical-specific production and consumption allowances for each year of the 2015–2019 regulatory period. Information concerning the production, consumption, and use of HCFC–123 and HCFC–124 may be relevant to a rulemaking to address the HCFC phaseout in 2020 and beyond. Prior to use of the information in the draft report to support a proposed rule, EPA is providing the public with an opportunity to review and comment on that information.

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

EPA is seeking comment on the accuracy of the data and analysis presented in the draft report. Based on feedback, EPA intends to revise the report and release an updated version at the same time the agency issues a proposed rule governing the 2020–2029 regulatory period.

You may find the following suggestions helpful for preparing your comments: Explain your views as clearly as possible; describe any assumptions that you used; provide any technical information or data you used that support your views; provide specific examples to illustrate your concerns; offer alternatives; and make sure to submit your comments by the comment period deadline identified. Please provide any published studies or raw data supporting your position. As noted previously, CBI should not be submitted through *www.regulations.gov.* Please work with the person listed in the **FOR FURTHER INFORMATION CONTACT** section if submitting a comment containing CBI.

Dated: April 30, 2018.

Sarah Dunham,

Director, Office of Atmospheric Programs.

[FR Doc. 2018–09557 Filed 5–3–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9039–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7156 or *https://www2.epa.gov/nepa/.*

Weekly receipt of Environmental Impact Statements, Filed 04/23/2018 Through 04/27/2018, Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-nepa-public/action/eis/search.*

EIS No. 20180073, Draft, NASA, VA, NASA WFF Site-wide Programmatic Environmental Impact Statement, Comment Period Ends: 06/18/2018, Contact: Shari A. Miller 757–824–2327.

EIS No. 20180074, Draft, NPS, CA, Saline Valley Warm Springs Management Plan and Draft EIS, Comment Period Ends: 07/02/2018, Contact: Kelly Daigle 303–987–6897.

EIS No. 20180075, Final, BR, CA, Pure Water San Diego Program, North City Project, Review Period Ends: 06/04/2018, Contact: Doug McPherson 951–695–5310.

EIS No. 20180076, Draft Supplement, TVA, KY, Shawnee Fossil Plant Coal Combustion Residual Management, Comment Period Ends: 06/18/2018, Contact: Ashley Pilakowski 865–632–2256.

EIS No. 20180077, Final, NPS, WA, Olympic National Park Mountain Goat Management Plan, Review Period Ends: 06/04/2018, Contact: Christina Miller 360–565–3004.

EIS No. 20180078, Draft, FHWA, TX, Oakhill Parkway, Comment Period Ends: 06/18/2018, Contact: Carlos Swonke 512–416–2734.

EIS No. 20180079, Draft, USFS, AK, Prince of Wales Landscape Level Analysis Project, Comment Period Ends: 06/18/2018, Contact: Delilah Brigham 907–828–3232.

EIS No. 20180080, Draft, BLM, WY, Wyoming Greater Sage-Grouse Draft Resource Management Plan Amendment and Environmental Impact Statement, Comment Period Ends: 08/02/2018, Contact: Jennifer Fleuret 307–775–6329.

EIS No. 20180081, Draft, BLM, UT, Utah Greater Sage-Grouse Draft Resource Management Plan Amendment and Environmental Impact Statement, Comment Period Ends: 08/02/2018, Contact: Quincy Bahr 801–539–4122.

EIS No. 20180082, Draft, BLM, OR, Oregon Greater Sage-Grouse Draft Resource Management Plan Amendment and Environmental Impact Statement, Comment Period Ends: 08/02/2018, Contact: Jim Regan-Vienop 503–808–6062.

EIS No. 20180083, Draft, BLM, ID, Idaho Greater Sage-Grouse Draft Resource Management Plan Amendment and Environmental Impact Statement, Comment Period Ends: 08/02/2018, Contact: Jonathan Beck 208–373–3841.

EIS No. 20180084, Draft, BLM, CO, Northwest Colorado Greater Sage-Grouse Draft Resource Management Plan Amendment and Environmental Impact Statement, Comment Period Ends: 08/02/2018, Contact: Bridget Clayton 970–244–3045.

EIS No. 20180085, Draft, BLM, NV, Nevada and Northeastern California Greater Sage-Grouse Draft Resource Management Plan Amendment and Environmental Impact Statement, Comment Period Ends: 08/02/2018, Contact: Matt Magaletti 775–861–6472.

Dated: April 30, 2018.

Kelly Knight,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2018–09463 Filed 5–3–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0999]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before June 4, 2018.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the Title as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of Commission ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the Commission's submission to OMB will be displayed.

OMB Control No.: 3060–0999.

Title: Hearing Aid Compatibility Status Report and Section 20.19, Hearing Aid-Compatible Mobile Handsets (Hearing Aid Compatibility Act).

Form Number: FCC Form 655.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 934 respondents; 934 responses.

Estimated Time per Response: 13 hours per response (average).

Frequency of Response: On occasion and annual reporting requirements and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. Sections 151, 154(i), 157, 160, 201, 202, 208, 214, 301, 303, 308, 309(j), 310 and 610 of the Communications Act of 1934, as amended.

Total Annual Burden: 12,140 hours.

Total Annual Cost: No costs.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Information requested in the reports may include confidential information. However, covered entities are allowed to request that such materials submitted to the Commission be withheld from public inspection.

Needs and Uses: The Commission will submit this information collection as a revision to the Office of Management and Budget (OMB) after this 60-day comment period to obtain the full three-year clearance for the collection. The revision is necessary to implement the final rules promulgated in the 2015 Fourth Report and Order, FCC 15–155 (Fourth Report and Order), which expanded the scope of the rules due to a shift from Commercial Mobile Radio Services (CMRS) to digital mobile service. We estimate that there will be a small increase in the number of respondents/responses, total annual burden hours, and total annual cost from the previously approved estimates.

The collection is necessary to implement certain disclosure requirements that are part of the Commission's wireless hearing aid compatibility rule. In a Report and Order in WT Docket No. 01–309, FCC 03–168, adopted and released in September 2003, implementing a mandate under the Hearing Aid Compatibility Act of 1988, the Commission required digital wireless phone manufacturers and service providers to make certain digital wireless phones capable of effective use with hearing aids, label certain phones they sold with information about their compatibility with hearing aids, and report to the Commission (at first every six months, then on an annual basis) on the numbers and types of hearing aid-compatible phones they were producing or offering to the public. These reporting requirements were subsequently amended on several occasions, and the existing, OMB-approved collection under this OMB control number includes these modifications.

On November 19, 2015, the Commission adopted final rules in a Fourth Report and Order, FCC 15–155 (Fourth Report and Order), that, among other changes, expanded the scope of the Commission's hearing aid compatibility provisions to cover handsets used with any digital terrestrial mobile service that enables two-way real-time voice communications among members of the public or a substantial portion of the public, including through the use of pre-installed software applications. Prior to 2018, the hearing aid compatibility provisions were limited only to handsets used with two-way switched voice or data services classified as Commercial Mobile Radio Service, and only to the extent they were provided over networks meeting certain architectural requirements that enable frequency reuse and seamless handoff. As a result of the Fourth Report and Order, beginning January 1, 2018, all device manufacturers and Tier I carriers that offer handsets falling under the expanded scope of covered handsets are required to comply with the Commission's hearing aid compatibility

provisions, including annual reporting requirements on FCC Form 655. For other service providers that are not Tier I carriers, the expanded scope of the Commission's hearing aid compatibility provisions applies beginning April 1, 2018.

Following release of the Fourth Report and Order, the Commission is required to amend the FCC Form 655 to reflect the newly expanded scope of handsets covered by the hearing aid compatibility provisions, as well as to capture information regarding existing disclosure requirements clarified by the Commission in the Fourth Report and Order. As a consequence of the Fourth Report and Order, FCC Form 655 filing and other requirements will apply to those newly-covered handsets offered by device manufacturers and service providers that have already been reporting annually on their compliance with the Commission's hearing aid compatibility provisions, as well to any device manufacturers and service providers that were previously exempt because they did not offer any covered handsets or services prior to 2018.

As a result, the Commission is requesting a revision of this collection in order to implement the final rules promulgated in the Fourth Report and Order, which expanded the scope of the rules due to a shift from Commercial Mobile Radio Services (CMRS) to digital mobile service. We estimate that the expanded scope will increase the potential number of respondents subject to this collection and correspondingly increase the responses and burden hours. The minor language changes to the instructions to FCC Form 655 and to the form itself clarifying this expanded scope will help the Commission compile data and monitor compliance with the current version of the hearing aid compatibility rules while making more complete and accessible information available to consumers.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2018–09514 Filed 5–3–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0636]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before June 4, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page <*http://www.reginfo.gov/public/do/PRAMain*>, (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection.

Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0636.

Title: Sections 2.906, 2.909, 2.1071, 2.1075, 2.1077 and 15.37, Equipment Authorizations—Declaration of Conformity.

Form No.: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 6,000 respondents; 12,000 responses.

Estimated Time Per Response: 9.5 hours (average).

Frequency of Response: One-time reporting requirement, recordkeeping requirement and third party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154(i), 301, 302, 303(e), 303(r), 304 and 307.

Total Annual Burden: 114,000 hours.

Total Annual Cost: $24,000,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: No assurances of confidentiality are provided to respondents.

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (OMB) after this 60-day comment period in order to obtain the full three-year clearance from them.

In 1996, the Declaration of Conformity (DoC) procedure was established in a Report and Order, FCC 96–208, *In the Matter of Amendment of Parts 2 and 15 of the Commission's Rules to Deregulate the Equipment Authorization Requirements for Digital Devices.*

(a) The Declaration of Conformity equipment authorization procedure, 47 CFR 2.1071, requires that a manufacturers or equipment supplier test a product to ensure compliance with technical standards that limit radio frequency emissions.

(b) Additionally, the manufacturer or supplier must also include a DoC (with the standards) in the literature furnished with the equipment, and the equipment manufacturer or supplier must also make this statement of conformity and supporting technical data available to the FCC, at the Commission's request.

(c) The DoC procedure represents a simplified filing and reporting procedure for authorizing equipment for marketing.

(d) Finally, testing and documentation of compliance are needed to control potential interference to radio communications. The data gathering are necessary for investigating complaints of harmful interference or for verifying the manufacturer's compliance with the Commission's rules.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2018–09513 Filed 5–3–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 4, 2018.

A. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Mountain Pacific Bancorp, Inc.;* to become a bank holding company by acquiring 100 percent of Mountain Pacific Bank, both of Everett, Washington.

Board of Governors of the Federal Reserve System, May 1, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018–09519 Filed 5–3–18; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 18, 2018.

A. *Federal Reserve Bank of Kansas City* (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Jennifer T. Ostenson, Longmont, Colorado, Robert C. Hummel II and Patricia Hummel, Leawood, Kansas, and Carole T. Hummel as trustee of the Carole T. Hummel Revocable Trust of Fort Collins, Colorado;* to be approved as members of the Hummel family group, and to retain shares of First Southwest Bancorporation, Inc. and thereby retain shares of First Southwest Bank both of Alamosa, Colorado.

Board of Governors of the Federal Reserve System, May 1, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018–09518 Filed 5–3–18; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 18, 2018.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23219. Comments can also be sent electronically to *Comments.applications@rich.frb.org:*

1. *Virginia National Bankshares Corporation, Charlottesville, Virginia;* to engage through a newly-formed

nonbank subsidiary, Masonry Capital Management, LLC, Charlottesville, Virginia in financial and investment advisory activities and private placement services pursuant to section 225.28(b)(6)(i) and 225.28(b)(7)(iii) of Regulation Y.

Board of Governors of the Federal Reserve System, May 1, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018–09517 Filed 5–3–18; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

[File No. 172 3025]

BLU Products, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 30, 2018.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''BLU Products, Inc.'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/bluproductsconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''BLU Products, Inc.'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Jah-Juin Ho (202–326–3463) and Ryan Mehm (202–326–2918), Bureau of Consumer Protection, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for April 30, 2018), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before May 30, 2018. Write ''BLU Products, Inc.'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission website, at *https://www.ftc.gov/policy/public-comments.*

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/bluproductsconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that website.

If you prefer to file your comment on paper, write ''BLU Products, Inc.'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC website at *https://www.ftc.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before May 30, 2018. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to

final approval, an agreement containing a consent order from BLU Products, Inc. (''BLU'') and individual Respondent Samuel Ohev-Zion (collectively, ''Respondents'').

The proposed consent order (''proposed order'') has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission again will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

BLU is a mobile device manufacturer that sells smartphone and other mobile devices to consumers through retailers such as Amazon, Walmart, and Best Buy. Samuel Ohev-Zion is an owner and the President and CEO of BLU. Individually or in concert with others, Mr. Ohev-Zion controlled or had authority to control, or participated in the acts and practices alleged in the proposed complaint.

Respondents purchase the smartphones they sell to consumers from Original Device Manufacturers (''ODMs''). ODMs manufacture and customize mobile devices branded with the BLU name based on instructions provided by Respondents. As part of this process, since at least 2015, in order to provide firmware updating services, BLU has licensed software from ADUPS Technology Co., LTD (''ADUPS'') and directed ODMs to preinstall this software on Respondents' mobile devices.

ADUPS is a China-based company that offers advertising, data mining, and firmware over-the-air (''FOTA'') update services to mobile and Internet of Things connected devices. FOTA updates allow device manufacturers to issue security patches or operating system upgrades to devices over wireless and cellular networks.

Until at least November 2016 the ADUPS software on BLU devices transmitted personal information about consumers to ADUPS' servers without consumers' knowledge and consent, including the full contents of text messages, real-time cellular tower location data, call and text message logs with full telephone numbers, contact lists, and a list of applications used and installed on each device. ADUPS software collected and transmitted consumers' text messages to its servers every 72 hours. ADUPS software also collected consumers' location data in real-time and transmitted this data back to its servers every 24 hours.

The Commission's proposed two-count complaint alleges that Respondents violated Section 5(a) of the Federal Trade Commission Act. The first count alleges that Respondents deceived consumers about BLU's data collection and sharing practices by falsely representing in BLU's privacy policy that they limit the disclosure of users' information to third-party service providers only to the extent necessary to perform their services or functions on behalf of BLU and not for other purposes. Contrary to the privacy policy, personal information from BLU devices sold by Respondents was transmitted to ADUPS that was not needed to perform its services or functions on behalf of BLU, including FOTA updates.

The second count alleges that Respondents deceived consumers about BLU's data security practices by falsely representing that they implemented appropriate physical, electronic, and managerial security procedures to protect the personal information provided by consumers. The proposed complaint alleges that Respondents did not implement appropriate physical, electronic and managerial security procedures. For example, the proposed complaint alleges that Respondents failed to implement appropriate security procedures to oversee the security practices of their service providers, such as by: (1) Failing to perform adequate due diligence in the selection and retention of service providers; (2) failing to adopt and implement written data security standards, policies, procedures or practices that apply to the oversight of their service providers; (3) failing to contractually require their service providers to adopt and implement data security standards, policies, procedures or practices; and (4) failing to adequately assess the privacy and security risks of third-party software, such as ADUPS.

The proposed order contains provisions designed to prevent Respondents from engaging in the same or similar acts or practices in the future.

Part I of the proposed order prohibits Respondents from misrepresenting: (1) The extent to which they collect, use, share, or disclose any personal information; (2) the extent to which consumers may exercise control over the collection, use, or disclosure of personal information; and (3) the extent to which the implement physical, electronic, and managerial security procedures to protect personal information.

Part II of the proposed order requires Respondents to establish and implement, and thereafter maintain, a comprehensive security program that is reasonably designed to: (1) Address security risks related to the development and management of new and existing covered devices, and (2) protect the security, confidentiality, and integrity of personal information. The program must be fully documented in writing and must contain administrative, technical, and physical safeguards appropriate to Respondents' size and complexity, the nature and scope of Respondents' activities, and the sensitivity of the covered device's function or the personal information.

Part III of the proposed order requires Respondents to obtain an assessment and report from a qualified, objective, independent third-party professional covering the first one hundred eighty (180) days after issuance of the order and each 2-year period thereafter for 20 years after issuance of the order. Each assessment must, among other things: (1) Set forth the administrative, technical, and physical safeguards that Respondents have implemented during the reporting period; (2) explain how such safeguards are appropriate to Respondents' size and complexity, the nature and scope of Respondents' activities, and the sensitivity of the covered device's function or the personal information; (3) explain how the safeguards implemented meet or exceed the protections required by Part II of the proposed order; and (4) certify that Respondents' security program is operating with sufficient effectiveness to provide reasonable assurance that the security of covered devices and the privacy, security, confidentiality, and integrity of personal information is protected.

Part IV of the proposed order requires Respondents, prior to collecting or disclosing any covered information, to: (A) Clearly and conspicuously disclose to the consumer, separate and apart from ''privacy policy,'' ''terms of use'' page, or similar document, (1) the categories of covered information that Respondents collect, use, or share, (2) the identity of any third parties that receive any covered information, and (3) all purposes for Respondents' collection, use, or sharing of covered information; and (B) obtain the consumer's affirmative express consent.

Parts V through IX of the proposed order are reporting and compliance provisions. Part V requires acknowledgment of the order and dissemination of the order now and in the future to persons with supervisory responsibilities and all employees, agents, and representatives who participate in conducted relating to the subject matter of the order. Part VI

ensures notification to the FTC of changes in corporate status and mandates that Respondents submit an initial compliance report to the FTC. Part VII requires Respondents to retain documents relating to its compliance with the order for a five (5) year period. Part VIII mandates that Respondents make available to the FTC information or subsequent compliance reports, as requested. Part IX is a provision ''sunsetting'' the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2018–09545 Filed 5–3–18; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 181 0017]

Amneal Holdings, LLC, and Impax Laboratories, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 29, 2018.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''In the Matter of Amneal Holdings, LLC, and Impax Laboratories, Inc.; File No. 181 0017'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/amnealimpaxdivest* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''In the Matter of Amneal Holdings, LLC, and Impax Laboratories, Inc.; File No. 181 0017'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Kari Wallace (202–326–3085), Bureau of Competition, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent orders to divest and providing for other relief to resolve the allegations in the complaint, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for April 27, 2018), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before May 29, 2018. Write ''In the Matter of Amneal Holdings, LLC, and Impax Laboratories, Inc.; File No. 181 0017'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission website, at *https://www.ftc.gov/policy/public-comments.*

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/amnealimpaxdivest* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that website.

If you prefer to file your comment on paper, write ''In the Matter of Amneal Holdings, LLC, and Impax Laboratories, Inc.; File No. 181 0017'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC. 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC website at *https://www.ftc.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act

and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before May 29, 2018. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Agreement Containing Consent Orders To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from Amneal Holdings, LLC, Amneal Pharmaceuticals LLC (collectively, ''Amneal''), Impax Laboratories, Inc., and Impax Laboratories, LLC (collectively, ''Impax'') that is designed to remedy the anticompetitive effects resulting from Amneal's acquisition of equity interests of Impax. Under the terms of the proposed Consent Agreement, the parties are required to divest all of Impax's rights and assets related to the following seven products to ANI Pharmaceuticals, Inc. (''ANI''): Generic desipramine hydrochloride tablets; generic felbamate tablets; generic aspirin and dipyridamole extended release (''ER'') capsules; generic diclofenac sodium and misoprostol delayed release (''DR'') tablets; generic ezetimibe and simvastatin immediate release (''IR'') tablets; generic erythromycin tablets; and generic methylphenidate hydrochloride ER tablets. Pursuant to the Consent Agreement, the parties also are required to divest all of Impax's rights and assets related to generic azelastine nasal spray and generic olopatadine hydrochloride nasal spray to Perrigo Company plc (''Perrigo''), and to divest all of Impax's rights and assets related to generic fluocinonide-E cream to G&W Laboratories (''G&W'').

The proposed Consent Agreement has been placed on the public record for thirty days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again evaluate the proposed Consent Agreement, along with the comments received, to make a final decision as to whether it should withdraw from the proposed Consent Agreement, modify it, or make final the Decision and Order (''Order'').

Pursuant to agreements dated October 17, 2017, Amneal proposes to acquire the equity interests of Impax in a series of transactions valued at approximately $1.45 billion (the ''Proposed Acquisition''). The Commission alleges in its Complaint that the Proposed Acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by lessening current competition in the following three U.S. markets: (1) Generic desipramine hydrochloride tablets; (2) generic ezetimibe and simvastatin IR tablets; and (3) generic felbamate tablets. The Commission also alleges that the Proposed Acquisition would violate the aforementioned statutes by lessening future competition in the following seven U.S. markets: (1) Generic aspirin and dipyridamole ER capsules; (2) generic azelastine nasal spray; (3) generic diclofenac sodium and misoprostol DR tablets; (4) generic erythromycin tablets; (5) generic fluocinonide-E cream; (6) generic methylphenidate hydrochloride ER tablets; and (7) generic olopatadine hydrochloride nasal spray. The proposed Consent Agreement will remedy the alleged violations by preserving the competition that otherwise would be eliminated by the Proposed Acquisition.

I. The Products and Structure of the Markets

In human pharmaceutical markets, price generally decreases as the number of generic competitors increases. Prices continue to decrease incrementally with the entry of the second, third, fourth, and even fifth generic oral pharmaceutical competitor. Accordingly, the reduction in the number of suppliers within each relevant market has a direct and substantial effect on pricing.

The Proposed Acquisition would reduce current competition in the markets for three products: (1) Generic desipramine hydrochloride tablets; (2) generic ezetimibe and simvastatin IR tablets; and (3) generic felbamate tablets.

Desipramine hydrochloride, a tricyclic antidepressant, is sold by only three companies, other than Amneal and Impax, in the United States: Heritage Pharmaceuticals, Inc., Sandoz (a subsidiary of Novartis AG), and Teva Pharmaceutical Industries Ltd. (''Teva'').

Ezetimibe and simvastatin is used to improve cholesterol and lower triglycerides. Only four companies currently sell generic ezetimibe and simvastatin IR tablets in the United States: Amneal, Impax, Dr. Reddy's Laboratories, and Teva.

Felbamate is an anticonvulsant used in the treatment of epilepsy. For generic felbamate tablets, Alvogen, and Wallace Pharmaceuticals, Inc. (''Wallace'') are the only two companies in addition to Amneal and Impax that sell the product in the United States.

The Proposed Acquisition also would reduce future competition in seven markets in which Amneal or Impax is a current competitor and the other is likely to enter the market: (1) Generic aspirin and dipyridamole ER capsules; (2) generic azelastine nasal spray; (3) generic diclofenac sodium and misoprostol DR tablets; (4) generic erythromycin tablets; (5) generic fluocinonide-E cream; (6) generic methylphenidate hydrochloride ER tablets; and (7) generic olopatadine hydrochloride nasal spray.

Aspirin and dipyridamole is an antiplatelet therapy used to reduce the risk of stroke. Amneal is the only company currently selling generic aspirin and dipyridamole ER capsules in the United States, and Impax is one of only a limited number of suppliers capable of entering the market in the near future.

Azelastine nasal spray is used to treat seasonal allergies. Impax partners with Perrigo to sell generic azelastine nasal spray. In addition, Wallace and Apotex Inc. also sell the product. Amneal, one of a limited number of suppliers capable of entering the market for generic azelastine nasal spray in the near future, already has tentative approval from the United States Food and Drug Administration (''FDA'').

Diclofenac sodium and misoprostol is used to provide pain relief while minimizing gastrointestinal side effects. Four companies—Amneal, Teva, Sandoz, and Exela Pharma Sciences LLC (''Exela'')—have approved ANDAs to sell generic diclofenac sodium and misoprostol DR tablets in the United States. In addition, Greenstone LLC, a Pfizer subsidiary, sells an authorized generic version. Sandoz does not sell its product directly to customers and supplies only to a private labeler. The Exela product, marketed by both Eagle Pharmaceuticals, Inc. and Dash Pharmaceuticals LLC, has limited sales. Impax, partnered with Micro Labs Limited, is one of only a few suppliers capable of entering the market for generic diclofenac sodium and misoprostol DR tablets in the near future.

Erythromycin is an antibiotic that had only one supplier, Arbor Pharmaceuticals, LLC, before the FDA approved Amneal's ANDA for generic erythromycin tablets in March of 2018. Amneal is the only supplier of generic erythromycin tablets in the United States. Impax is one of only a few

suppliers capable of entering the market for generic erythromycin in the near future.

Fluocinonide-E cream, a topical corticosteroid used to reduce swelling, redness, itching, and allergic reactions, is sold in generic form by Impax, Alvogen, Sun Pharmaceutical Industries Ltd., and Teva in the United States. Amneal is one of very few suppliers capable of entering the market for generic fluocinonide-E cream in the near future.

Methylphenidate hydrochloride is a central nervous system stimulant used to treat attention-deficit disorder and attention-deficit/hyperactivity disorder. Only four companies currently sell generic methylphenidate hydrochloride ER tablets in the United States: Amneal, Mylan N.V., Teva, and Trigen Labs. Impax is one of only a limited number of suppliers capable of entering the market for generic methylphenidate hydrochloride ER tablets in the near future.

Olopatadine hydrochloride nasal spray is used to treat seasonal allergies. Generic olopatadine hydrochloride nasal spray is sold in the United States by Sandoz, Apotex, and Impax partnered with Perrigo. Amneal is one of very few suppliers capable of entering the market in the near future.

II. Entry

Entry into the ten markets at issue would not be timely, likely, or sufficient in magnitude, character, and scope to deter or counteract the anticompetitive effects of the Proposed Acquisition. The combination of drug development times and regulatory requirements, including approval by the FDA, is costly and lengthy.

III. Competitive Effects

The Proposed Acquisition likely would cause significant anticompetitive harm to consumers by eliminating current competition between Amneal and Impax in the markets for generic desipramine hydrochloride tablets, generic ezetimibe and simvastatin IR tablets, and generic felbamate tablets. Generic desipramine hydrochloride tablets, generic ezetimibe and simvastatin IR tablets, and generic felbamate tablets are commodity products, and prices typically are inversely correlated with the number of competitors in each market. As the number of suppliers offering a therapeutically equivalent drug increases, the price for that drug generally decreases due to the direct competition between the existing suppliers and each additional supplier. Customers also raise concerns about their ability to source product at a competitive price if one supplier experiences manufacturing difficulties when there are fewer competitors in the market. The Proposed Acquisition would combine two of the only five companies selling generic desipramine hydrochloride tablets, and would combine two of the only four companies selling generic ezetimibe and simvastatin IR tablets and generic felbamate tablets, likely resulting in higher prices.

But for the proposed Consent Agreement, the Proposed Acquisition also is likely to delay the introduction of beneficial competition, and subsequent price decreases, by eliminating future competition in seven markets in which either Amneal or Impax is a current competitor and the other is likely to enter. Multiple customers expressed concerns about the effect of the proposed merger on the market for generic aspirin and dipyridamole ER capsules, in which Amneal is the only current generic competitor and Impax is approved to enter. Impax is one of only three competitors providing generic azelastine nasal spray, and the imminent entry of Amneal likely would allow customers to negotiate more competitive prices and secure adequate supply. Impax is one of very few well-positioned entrants in the market for generic diclofenac sodium and misoprostol DR tablets, in which Amneal is one of four current competitors, and customers note that they would benefit from additional entry to negotiate pricing. Amneal is the only generic erythromycin tablet competitor, and Impax is one of a limited number of companies with products in development that upon entry would allow customers to negotiate lower prices. Amneal is the only foreseeable entrant in the market for generic fluocinonide-E cream, in which Impax is one of only three competitors. In the market for generic methylphenidate hydrochloride ER tablets, Amneal is one of four current competitors and Impax is one of few potential entrants. Finally, Amneal is one of only a few entrants poised to enter the market for generic olopatadine hydrochloride nasal spray, in which Impax is one of only three current competitors. Absent a remedy, the Proposed Acquisition likely would cause U.S. consumers to pay higher prices for the aforementioned generic products.

IV. The Consent Agreement

As the Commission explained in its remedy review, *The FTC's Merger Remedies 2006–2012: A Report of the Bureaus of Competition and Economics* (hereafter ''*The FTC Merger Remedies Study*'') [1], products made at third-party manufacturing sites are easier to divest and involve less risk than the technology transfer from in-house manufacturing to a new facility, and thus help ensure the success of divestitures. As a result, in most cases, if one of the products is developed or manufactured by a third party, the Commission will require divestiture of that product.

Additionally, in mergers involving complex pharmaceutical products that are difficult to manufacture, the Commission generally will require the divestiture of an on-market product over a pipeline product to place the greater risk on the merging parties rather than the public, with exceptions for compelling and fact-specific reasons. When such compelling, fact-specific reasons exist, ''The goal of a divestiture is to put the product development effort (including any pending regulatory filings) in the hands of a new firm with the same ability and incentive to bring the pipeline product to market.'' [2]

The proposed Consent Agreement conforms to this approach and remedies the competitive concerns raised by the Proposed Acquisition in the generic azelastine nasal spray and generic olopatadine hydrochloride nasal spray markets by requiring Impax to return any rights and assets it has to its partner and ANDA-owner for these products, Perrigo. The proposed Consent Agreement remedies the competitive concerns raised by the Proposed Acquisition in the generic fluocinonide-E cream market by requiring Impax to return any rights and assets it has to its partner and ANDA-owner for this product, G&W. The parties must accomplish these divestitures no later than ten days after they consummate the Proposed Acquisition.

The proposed Consent Agreement remedies the competitive concerns raised by the Proposed Acquisition in seven of the markets at issue by requiring Impax to divest all of its rights and assets related to those products to ANI. ANI is a pharmaceutical corporation that develops, manufacturers, sells, and distributes solid oral, liquid, and topical pharmaceutical products in the United States. ANI's track record in developing

[1] *See The FTC's Merger Remedies 2006–2012: A Report of the Bureaus of Competition and Economics* (Jan. 2017) at 36–37, *https://www.ftc.gov/system/files/documents/reports/ftcs-merger-remedies-2006-2012-report-bureaus-competition-economics/p143100_ftc_merger_remedies_2006-2012.pdf.*

[2] *See The FTC's Merger Remedies Study* at 31.

and bringing to market pipeline products suggests that the divested products will be placed in the hands of a firm with the same ability and incentive to bring the products to market. As explained below, the Consent Agreement helps make that outcome more likely.

For two of the products that both Amneal and Impax currently market, generic desipramine hydrochloride tablets and felbamate tablets, Impax will assign its contract manufacturing agreements to ANI. For the third currently-marketed product, Amneal will supply ANI with generic ezetimibe and simvastatin IR tablets for two years with the option to extend for two additional years.

In four overlap markets in which Amneal has an on-market product and Impax has a product in development, Impax will divest its rights and assets to ANI rather than requiring Amneal to divest its on-market, in-house manufactured products. Each of these product markets has specific facts that warrant the divestiture of the Impax rights and assets rather than the Amneal product. Of note, three products—generic aspirin and dipyridamole ER capsules, generic methylphenidate hydrochloride ER tablets, and generic diclofenac sodium and misoprostol DR tablets—are more complicated to manufacture because they have extended or delayed release characteristics.

For generic aspirin and dipyridamole ER capsules, Amneal is the only manufacturer with a product on the market. Amneal manufactures this product in-house. Impax received FDA approval for its ANDA in 2017 and had expected to use a third-party manufacturer to launch its product. That manufacturer experienced some manufacturing difficulties and Impax had begun the process of developing the means to produce the product at its own facilities. With the divestiture, ANI will finalize the manufacturing process and expects to have the Impax drug on the market soon. Nevertheless, should ANI be unable to market its own version of this product by October 1, 2019, ANI has the option to source generic aspirin and dipyridamole ER capsules from Amneal until ANI obtains the necessary regulatory approvals or through March 1, 2021, whichever date is earlier. This ensures that ANI will be able to market a competing product near the time Impax likely would have had the product on market, and provides the incentive for ANI to manufacture and market its own product. An alternative divestiture of the Amneal product would involve more risk and could jeopardize the only generic product on the market.

The FDA approved Amneal's ANDA for generic methylphenidate hydrochloride ER tablets in February 2018. Impax also has an approved ANDA. Impax's product is contract manufactured, but the contract manufacturer needs to resolve manufacturing issues before it can resume manufacturing the product. It will be less risky for Impax to assign its manufacturing contract to ANI than to affect a technology transfer from Amneal for this complex product, and it will put the product in ANI's hands, which has the same ability and incentive as Impax to bring methylphenidate hydrochloride ER tablets to market. Thus, the proposed Order requires the divestiture of Impax's rights and assets to ANI.

For generic diclofenac sodium and misoprostol DR tablets, Amneal has an on-market in-house manufactured product, and Impax is partnered with Micro Labs to commercialize a competing product. Impax holds only marketing rights to the product; Micro Labs is responsible for development and manufacturing. Impax will transfer its marketing agreement with Micro Labs to ANI, and Micro Labs will manufacture the product for ANI for the current contract term.

For erythromycin tablets, Amneal launched its product in March 2018, and only one other competitor, Arbor Pharmaceuticals, is currently selling erythromycin tablets. Amneal manufactures the erythromycin tablets in-house. Impax is one of a few companies developing the product, and once approved, it plans to outsource the manufacturing. Here, the easier-to-divest product is the Impax drug in development. Thus, Commission staff considers it prudent to leave the in-house Amneal-manufactured product with the merged firm, an ongoing and viable competitor to Arbor. Further, Impax will transfer all of its assets related to its development of erythromycin tablets to ANI, which has the same ability and incentive to bring a competing third erythromycin tablet to market.

The proposed Order also requires Amneal to provide transitional services to ANI, Perrigo, and G&W to assist them in establishing their manufacturing capabilities and securing all of the necessary FDA approvals. These transitional services include technical assistance to manufacture the ten products at issue in substantially the same manner and quality employed or achieved by Impax. It also includes advice and training from knowledgeable employees of the parties. Under the proposed Consent Agreement, the Commission also will appoint an Interim Monitor.

The Commission's goal in evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the Proposed Acquisition. If the Commission determines that ANI, Perrigo, and/or G&W are not acceptable acquirers, or that the manner of the divestitures is not acceptable, the proposed Order requires the parties to unwind the sale of rights to ANI, Perrigo, and/or G&W and then divest the affected products to a Commission-approved acquirer within six months of the date the Order becomes final. The proposed Order further allows the Commission to appoint a trustee in the event the parties fail to divest the products as required.

The purpose of this analysis is to facilitate public comment on the proposed Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Order or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2018–09546 Filed 5–3–18; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Health Statistics (BSC, NCHS)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC), announces the following meeting for the Board of Scientific Counselors, National Center for Health Statistics (BSC, NCHS). This meeting is open to the public; however, visitors must be processed in accordance with established federal policies and procedures. For foreign nationals or non-U.S. citizens, pre-approval is required (please contact Gwen Mustaf, 301–458–4500, *glm4@cdc.gov,* or Charles Rothwell, (301) 458–4500, *cjr4@cdc.gov* at least 10 days in advance for requirements). All visitors are required to present a valid form of

picture identification issued by a state, federal or international government. As required by the Federal Property Management Regulations, all persons entering in or on Federal controlled property and their packages, briefcases, and other containers in their immediate possession are subject to being x-rayed and inspected. Federal law prohibits the knowing possession or the causing to be present of firearms, explosives and other dangerous weapons and illegal substances. The meeting room accommodates approximately 78 people.

DATES: The meeting will be held on June 19, 2018, 11:00 a.m.–5:30 p.m., EDT, and June 20, 2018, 8:30 a.m.–1:00 p.m., EDT.

ADDRESSES: NCHS Headquarters, 3311 Toledo Road, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Charles J. Rothwell, Director, NCHS/CDC, 3311 Toledo Road, Room 2627, Hyattsville, Maryland 20782, telephone (301) 458–4500, email *cjr4@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: This committee is charged with providing advice and making recommendations to the Secretary, Department of Health and Human Services; the Director, CDC; and the Director, NCHS, regarding the scientific and technical program goals and objectives, strategies, and priorities of NCHS.

Matters to be Considered: Day One meeting agenda includes: Welcome remarks by NCHS leadership; update on Selected NCHS OPIOID Related Projects; update on Health, United States 2017 and Beyond; Day Two meeting agenda includes: Update on Visualizing the National Health Interview Survey Early Release Program: A New Online Dynamic Report; and an update on National Health and Nutrition Examination Survey 2013: The Future is Now. Requests to make oral presentations should be submitted in writing to the contact person listed below. All requests must contain the name, address, telephone number, and organizational affiliation of the presenter. Written comments should not exceed five single-spaced typed pages in length and must be received by June 4, 2018. Agenda items are subject to change as priorities dictate.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2018–09473 Filed 5–3–18; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2018–0024; Docket Number NIOSH–302]

Draft—National Occupational Research Agenda for Respiratory Health; Extension of Comment Period

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice and extension of comment period.

SUMMARY: On March 15, 2018 the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), published a notice in the **Federal Register** [83 FR 11537] announcing the availability of a draft NORA Agenda entitled National Occupational Research Agenda for Respiratory Health for public comment. Written comments were to be received by May 14, 2018. In response to a request from an interested party, NIOSH is extending the public comment period to July 13, 2018.

FOR FURTHER INFORMATION CONTACT: Emily Novicki *NORACoordinator@cdc.gov*), National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Mailstop E–20, 1600 Clifton Road NE, Atlanta, GA 30329, phone (404) 498–2581 (not a toll free number).

ADDRESSES: You may submit comments, identified by CDC–2018–0024 and Docket Number NIOSH–302, by either of the following two methods:

- *Federal eRulemaking Portal: http://www.regulations.gov* Follow the instructions for submitting comments.
- *Mail:* National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226–1998.

Dated: April 25, 2018.

Frank J. Hearl,

Chief of Staff, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2018–09442 Filed 5–3–18; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—Funding Opportunity Announcement (FOA), PAR 16–098, Cooperative Research Agreements to the World Trade Center Health Program (U01).

Date: June 25, 2018.

Times: 1:00 p.m.–4:00 p.m. EDT.

Place: Teleconference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Nina Turner, Ph.D., Scientific Review Officer, CDC/NIOSH, 1095 Willowdale Road, Mailstop G905, Morgantown, West Virginia 26505, Telephone: (304) 285–5975.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2018–09475 Filed 5–3–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Interagency Committee on Smoking and Health (ICSH)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Interagency Committee on Smoking and Health (ICSH). This meeting is open to the public, limited only by seats available. The meeting room accommodates approximately 80 people. The public is also welcome to join the audio portion of the meeting:

Telephone: (800) 779–6170 Participant Passcode: 8694592. There are 50 lines available for this meeting.

DATES: The meeting will be held on June 14, 2018, 9:00 a.m. to 4:00 p.m., EDT.

ADDRESSES: The Wink Hotel, New Hampshire Ballroom, 1143 New Hampshire Avenue NW, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Monica Swann, MBA, Management Analyst, National Center for Chronic Disease Prevention and Health Promotion, CDC, 395 E. Street SW, Washington, DC 20024, telephone (202) 245–0552, email *zqe0@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: The Interagency Committee on Smoking and Health shall provide advice and guidance to the Secretary, Department of Health and Human Services (HHS), regarding: (a) Coordination of research, educational programs, and other activities within the Department that relate to the effect of smoking on human health and on coordination of these activities, with similar activities of other Federal and private agencies; and (b) establishment and maintenance of liaisons with appropriate private entities, other Federal agencies, and State and local public agencies, regarding activities relating to the effect of cigarette smoking on human health.

Matters to be Considered: The agenda will include discussions on the history and context of the intersection of tobacco use and behavioral health populations including those suffering from mental illness and/or substance abuse disorders. There will be presentations on the impact of tobacco use on these populations as well as the tobacco control interventions that can mitigate this impact, including innovative approaches for prevention and cessation. Agenda items are subject to change as priorities dictate.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2018–09474 Filed 5–3–18; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9109–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—January Through March 2018

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This quarterly notice lists CMS manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published from January through March 2018, relating to the Medicare and Medicaid programs and other programs administered by CMS.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may need specific information and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing contact persons to answer general questions concerning each of the addenda published in this notice.

Addenda	Contact	Phone Number
I CMS Manual Instructions	Ismael Torres	(410) 786-1864
II Regulation Documents Published in the **Federal Register**	Terri Plumb	(410) 786-4481
III CMS Rulings	Tiffany Lafferty	(410)786-7548
IV Medicare National Coverage Determinations	Wanda Belle, MPA	(410) 786-7491
V FDA-Approved Category B IDEs	John Manlove	(410) 786-6877
VI Collections of Information	William Parham	(410) 786-4669
VII Medicare –Approved Carotid Stent Facilities	Sarah Fulton, MHS	(410) 786-2749
VIII American College of Cardiology-National Cardiovascular Data Registry Sites	Sarah Fulton, MHS	(410) 786-2749
IX Medicare's Active Coverage-Related Guidance Documents	JoAnna Baldwin, MS	(410) 786-7205
X One-time Notices Regarding National Coverage Provisions	JoAnna Baldwin, MS	(410) 786-7205
XI National Oncologic Positron Emission Tomography Registry Sites	Stuart Caplan, RN, MAS	(410) 786-8564
XII Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities	Linda Gousis, JD	(410) 786-8616
XIII Medicare-Approved Lung Volume Reduction Surgery Facilities	Sarah Fulton, MHS	(410) 786-2749
XIV Medicare-Approved Bariatric Surgery Facilities	Sarah Fulton, MHS	(410) 786-2749
XV Fluorodeoxyglucose Positron Emission Tomography for Dementia Trials	Stuart Caplan, RN, MAS	(410) 786-8564
All Other Information	Annette Brewer	(410) 786-6580

I. Background

The Centers for Medicare & Medicaid Services (CMS) is responsible for administering the Medicare and Medicaid programs and coordination and oversight of private health insurance. Administration and oversight of these programs involves the following: (1) Furnishing information to

Medicare and Medicaid beneficiaries, health care providers, and the public; and (2) maintaining effective communications with CMS regional offices, state governments, state Medicaid agencies, state survey agencies, various providers of health care, all Medicare contractors that process claims and pay bills, National Association of Insurance Commissioners (NAIC), health insurers, and other stakeholders. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act) and Public Health Service Act. We also issue various manuals, memoranda, and statements necessary to administer and oversee the programs efficiently.

Section 1871(c) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**.

II. Format for the Quarterly Issuance Notices

This quarterly notice provides only the specific updates that have occurred in the 3-month period along with a hyperlink to the full listing that is available on the CMS website or the appropriate data registries that are used as our resources. This is the most current up-to-date information and will be available earlier than we publish our quarterly notice. We believe the website list provides more timely access for beneficiaries, providers, and suppliers. We also believe the website offers a more convenient tool for the public to find the full list of qualified providers for these specific services and offers more flexibility and ''real time'' accessibility. In addition, many of the websites have listservs; that is, the public can subscribe and receive immediate notification of any updates to the website. These listservs avoid the need to check the website, as notification of updates is automatic and sent to the subscriber as they occur. If assessing a website proves to be difficult, the contact person listed can provide information.

III. How to Use the Notice

This notice is organized into 15 addenda so that a reader may access the subjects published during the quarter covered by the notice to determine whether any are of particular interest. We expect this notice to be used in concert with previously published notices. Those unfamiliar with a description of our Medicare manuals should view the manuals at *http://www.cms.gov/manuals.*

Dated: April 30, 2018.

Olen D. Clybourn,

Deputy Director, Office of Strategic Operations and Regulatory Affairs.

BILLING CODE 4120–01–P

Publication Dates for the Previous Four Quarterly Notices

We publish this notice at the end of each quarter reflecting information released by CMS during the previous quarter. The publication dates of the previous four Quarterly Listing of Program Issuances notices are: May 5, 2017 (82 FR 21241), August 4, 2017 (82 FR 36404), October 27, 2017 (82 FR 49819) and January 26, 2018 (83 FR 3716). We are providing only the specific updates that have occurred in the 3-month period along with a hyperlink to the website to access this information and a contact person for questions or additional information.

Addendum I: Medicare and Medicaid Manual Instructions (January through March 2018)

The CMS Manual System is used by CMS program components, partners, providers, contractors, Medicare Advantage organizations, and State Survey Agencies to administer CMS programs. It offers day-to-day operating instructions, policies, and procedures based on statutes and regulations, guidelines, models, and directives. In 2003, we transformed the CMS Program Manuals into a web user-friendly presentation and renamed it the CMS Online Manual System.

How to Obtain Manuals

The Internet-only Manuals (IOMs) are a replica of the Agency's official record copy. Paper-based manuals are CMS manuals that were officially released in hardcopy. The majority of these manuals were transferred into the Internet-only manual (IOM) or retired. Pub 15-1, Pub 15-2 and Pub 45 are exceptions to this rule and are still active paper-based manuals. The remaining paper-based manuals are for reference purposes only. If you notice policy contained in the paper-based manuals that was not transferred to the IOM, send a message via the CMS Feedback tool.

Those wishing to subscribe to old versions of CMS manuals should contact the National Technical Information Service, Department of Commerce, 5301 Shawnee Road, Alexandria, VA 22312 Telephone (703-605-6050). You can download copies of the listed material free of charge at: http://cms.gov/manuals.

How to Review Transmittals or Program Memoranda

Those wishing to review transmittals and program memoranda can access this information at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL. This information is available at http://www.gpo.gov/libraries/

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most federal government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library. CMS publication and transmittal numbers are shown in the listing entitled Medicare and Medicaid Manual Instructions. To help FDLs locate the materials, use the CMS publication and transmittal numbers. For example, to find the manual for Healthcare Common Procedure Coding System (HCPCS) Codes Subject to and Excluded from Clinical Laboratory Improvement Amendments (CLIA) Edits, use (CMS-Pub. 100-04) Transmittal No. 3949.

Addendum I lists a unique CMS transmittal number for each instruction in our manuals or program memoranda and its subject number. A transmittal may consist of a single or multiple instruction(s). Often, it is necessary to use information in a transmittal in conjunction with information currently in the manual. For the purposes of this quarterly notice, we list only the specific updates to the list of manual instructions that have occurred in the 3-month period. This information is available on our website at www.cms.gov/Manuals.

Transmittal Number	Manual/Subject/Publication Number
Medicare General Information (CMS-Pub. 100-01)	
112	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
113	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
114	Internet Only Manual Updates to Pub. 100-01, 100-02 and 100-04 to Correct Errors and Omissions (SNF) (2018)
Medicare Benefit Policy (CMS-Pub. 100-02)	
239	Rural Health Clinic (RHC) and Federally Qualified Health Center (FQHC) Medicare Benefit Policy Manual Chapter 13 Update
240	Internet Only Manual (IOM) Update to Pub. 100-02, Chapter 11 - End Stage Renal Disease (ESRD), Section 100
241	New "K" Code for Therapeutic Shoe Inserts Therapeutic Shoes for Individual with Diabetes
242	Internet Only Manual Updates to Pub. 100-01, 100-02 and 100-04 to Correct Errors and Omissions (SNF) (2018)

Medicare National Coverage Determination (CMS-Pub. 100-03)	
204	Supervised Exercise Therapy (SET) for Symptomatic Peripheral Artery Disease (PAD)
205	Supervised Exercise Therapy (SET) for Symptomatic Peripheral Artery Disease (PAD)
Medicare Claims Processing (CMS-Pub. 100-04)	
3945	New Waived Tests
3946	File Conversions Related to the Spanish Translation of the Healthcare Common Procedure Coding System (HCPCS) Descriptions
3947	April 2018 Quarterly Average Sales Price (ASP) Medicare Part B Drug Pricing Files and Revisions to Prior Quarterly Pricing Files
3948	Ensuring Correct Processing of Home Health Disaster Related Claims and Claims for Denial No Payment Billing
3949	Healthcare Common Procedure Coding System (HCPCS) Codes Subject to and Excluded from Clinical Laboratory Improvement Amendments (CLIA) Edits
3950	2018 Durable Medical Equipment Prosthetics, Orthotics, and Supplies Healthcare Common Procedure Coding System (HCPCS) Code Jurisdiction List
3951	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
3952	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
3953	Revisions to the Claims Processing for Grandfathered Oxygen Claims that Span Competitive Bidding Rounds Change in Suppliers for Oxygen and Oxygen Equipment
3954	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
3955	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
3956	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
3957	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
3958	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
3959	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
3960	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
3961	Editing Update for Mammography Services MSN Messages Remittance Advice Messages
3962	Modifications to the National Coordination of Benefits Agreement (COBA) Crossover Process Line-Item Modifiers Related to Reporting of Non-covered Charges When Covered and Non-covered Services Are on the Same Outpatient Claim
3963	Quarterly Update to the National Correct Coding Initiative (NCCI) Procedure-to-Procedure (PTP) Edits, Version 24.1, Effective April 1, 2018
3964	Issued to a specific audience, not posted to Internet/Intranet due to a
	Confidentiality of Instruction
3965	Reinstating the Qualified Medicare Beneficiary Indicator in the Medicare Fee-For-Service Claims Processing System from CR 9911
3966	Quarterly Healthcare Common Procedure Coding System (HCPCS) Drug/Biological Code Changes - April 2018 Update
3967	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
3968	Consumer Friendly Spanish Descriptors for the Current Procedural Terminology (CPT) / Level 1 Healthcare Common Procedure Coding System (HCPCS) Codes and a Correction to the Part A Spanish Medicare Summary Notices (MSNs)
3969	Supervised Exercise Therapy (SET) for Symptomatic Peripheral Artery Disease (PAD)
3970	Removal of Contractor Reporting Requirements for the Physician Scarcity Area (PSA), the Health Professional Shortage Area Surgical Incentive Payment Program (HSIP) and the Primary Care Payment Incentive Program (PCIP) Quarterly Reports Reporting
3971	E/M Service Documentation Provided by Students (Manual Update) Evaluation and Management (E/M) Services
3972	Update to the Federally Qualified Health Center (FQHC) Prospective Payment System (PPS) for Calendar Year (CY) 2018 - Recurring File Update
3973	Quarterly Update for Clinical Laboratory Fee Schedule and Laboratory Services Subject to Reasonable Charge Payment
3974	Diagnosis Code Update for Add-on Payments for Blood Clotting Factor Payment for Blood Clotting Factor Administered to Hemophilia Inpatients Administered to Hemophilia Inpatients
3975	Healthcare Common Procedure Coding System (HCPCS) Codes Subject to and Excluded from Clinical Laboratory Improvement Amendments (CLIA) Edits
3976	Quarterly Update to the Medicare Physician Fee Schedule Database (MPFSDB) - April 2018 Update
3977	Healthcare Provider Taxonomy Codes (HPTCs) April 2018 Code Set Update
3978	Common Edits and Enhancements Modules (CEM) Code Set Update
3979	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
3980	Remittance Advice Remark Code (RARC), Claims Adjustment Reason Code (CARC), Medicare Remit Easy Print (MREP) and PC Print Update
3981	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
3982	Update to the Federally Qualified Health Center (FQHC) Prospective Payment System (PPS) for Calendar Year (CY) 2018 - Recurring File Update
3983	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
3984	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
3985	Instructions for Downloading the Medicare ZIP Code File for July 2018
3986	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
3987	Indian Health Services (IHS) Hospital Payment Rates for Calendar Year 2018

3988	April 2018 Update of the Hospital Outpatient Prospective Payment System (OPPS)
3989	April 2018 Integrated Outpatient Code Editor (I/OCE) Specifications Version 19.1
3990	Diagnosis Code Update for Add-on Payments for Blood Clotting Factor Administered to Hemophilia Inpatients
3991	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
3992	Supervised Exercise Therapy (SET) for Symptomatic Peripheral Artery Disease (PAD) General Billing Requirements Coding Requirements for SET Special Billing Requirements for Professional Claims Special Billing Requirements for Institutional Claims Common Working File (CWF) Requirements Applicable Medicare Summary Notice (MSN), Remittance Advice Remark Codes (RARC) and Claim Adjustment Reason Code (CARC) Messaging
3993	Reinstating the Qualified Medicare Beneficiary Indicator in the Medicare Fee-For-Service Claims Processing System from CR 9911 Qualified Medicare Beneficiary (QMB) Program
3994	April Quarterly Update for 2018 Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Fee Schedule
3995	Correction to Pub. 100-04, Chapter 5
3996	April 2018 Update of the Ambulatory Surgical Center (ASC) Payment System
3997	Quarterly Healthcare Common Procedure Coding System (HCPCS) Drug/Biological Code Changes - April 2018 Update
3998	File Conversions Related to the Spanish Translation of the Healthcare Common Procedure Coding System (HCPCS) Descriptions
3999	Quarterly Update for Clinical Laboratory Fee Schedule and Laboratory Services Subject to Reasonable Charge Payment
4000	Internet Only Manual Update to Pub 100-04, Chapter 16, Section 40.8 –Date of Service Policy Date of Service (DOS) for Clinical Laboratory and Pathology Specimens
4001	Internet Only Manual Updates to Pub. 100-01, 100-02 and 100-04 to Correct Errors and Omissions (SNF) (2018) Charges to Hold a Bed During SNF Absence Consolidated Billing Requirement for SNFs Furnishing Services that are Subject to SNF Consolidated Billing Under an "Arrangement" With an Outside Entity Other Excluded Services Beyond the Scope of a SNF Part A Benefit Dialysis and Dialysis Related Services to a Beneficiary With ESRD Other Services Excluded from SNF PPS and Consolidated Billing Ambulance Services Same Day Transfer Situations that Require a Discharge or Leave of Absence Determine Utilization on Day of Discharge, Death, or Day Beginning a Leave of Absence Leave of Absence Coverage Table for DME Claims
	Application of Limitation on Liability to SNF and Hospital Claims for Services Furnished in Noncertified or Inappropriately Certified Beds Determining Liability for Services Furnished in a Noncertified SNF or Hospital Bed
4002	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
4003	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
4004	April Quarterly Update for 2018 Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Fee Schedule
4005	April 2018 Update of the Hospital Outpatient Prospective Payment System (OPPS)
4006	April 2018 Integrated Outpatient Code Editor (I/OCE) Specifications Version 19.1
4007	Consumer Friendly Spanish Descriptors for the Current Procedural Terminology (CPT) / Level 1 Healthcare Common Procedure Coding System (HCPCS) Codes and a Correction to the Part A Spanish Medicare Summary Notices (MSNs)
4008	Consumer Friendly Spanish Descriptors for the Current Procedural Terminology (CPT) / Level 1 Healthcare Common Procedure Coding System (HCPCS) Codes and a Correction to the Part A Spanish Medicare Summary Notices (MSNs)
4009	Update to the Internet Only Manual (IOM) Publication 100-04 - Medicare Claims Processing Manual, Chapter 27 - Contractor Instructions for Common Working File (CWF) General Information About the Common Working File (CWF) System Common Working File (CWF) Operations Communication between Host and MAC's Jurisdiction Sector Records received by the CWF Hosts Beneficiary Data Streamlining (BDS) Claims Adjustments/Cancels to Posted Claims Claim Maintenance Records Records received from the CWF Hosts BDS Basic Reply Claims Basic Reply Accepted (as is) for Payment Adjusted and Then Accepted for Payment Cancel/Void Claim Accepted Rejected Not in Host's File (NIF) Disposition Code 50 (Not in File) Disposition Code 51 (True Not in File on CMS Batch System) Disposition Code 52 (Beneficiary Record at Another) Disposition Code 53 (Record in CMS Alpha Match) Disposition Code 54 (Matched to Cross-referenced) Disposition Code 55 (Personal Characteristic Mismatch) Disposition Code 56 (MBI/HICN Mismatch) Claim Maintenance Records Basic Reply Unsolicited Response/Informational Unsolicited Response (UR/IUR) Reviewing the Beneficiary and Claim(s) Information

	Online Health Insurance Master Record (HIMR) Display CWF Provider Queries - Online Eligibility Information for Medicare Part A Providers Online Reporting (ORPT) System Display Requesting Assistance in Resolving CWF Utilization Problems Social Security Administration (SSA) Involvement Critical Case Procedure - Establishing Entitlement Referral of Critical Cases to the Regional Office Requesting or Providing Assistance to Resolve CWF Rejects Format for Requesting Assistance From Another A/B MAC or DME MAC on CWF Edits Paying Claims Outside of CWF Requesting to Pay Claims Outside of CWF Procedures for Paying Claims Outside of CWF Contractor Monthly Reports of Claims Paid Outside of CWF MAC Procedure Process Flow of a Change Request Handling Emergency Problems and Problems With Recent CWF Releases Distribution of "CWF Change Control" Reports Channels of Communication Schedule of CWF Software Releases Disposition Codes Error Codes Beneficiary Other Insurance Information (HUBO) Maintenance Transaction Error Codes Consolidated Claims Crossover Process Claims Crossover Disposition and Coordination of Benefits Agreement By-Pass Indicators Special Mass Adjustment and Other Adjustment Crossover Requirements Coordination of Benefits Agreement (COBA) Medigap Claim-Based Crossover Process Inclusion and Exclusion of Specified Categories of Adjustment Claims for Coordination of Benefits Agreement (COBA) Crossover Purposes Health Insurance Portability and Accountability Act (HIPAA) 5010 and National Council for Prescription Drug Programs (NCPDP) D.0 Crossover Requirements
4010	Revisions to Medicare Claims Processing Manual for End Stage Renal Disease
Medicare Secondary Payer (CMS-Pub. 100-05)	
	None
Medicare Financial Management (CMS-Pub. 100-06)	
297	Notice of New Interest Rate for Medicare Overpayments and Underpayments -2nd Qtr Notification for FY 2018
298	Removal of Contractor Reporting Requirements for the Physician Scarcity Area (PSA), the Health Professional Shortage Area Surgical Incentive Payment Program (HSIP) and the Primary Care Payment Incentive Program (PCIP) Quarterly Reports
299	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
300	The Fiscal Year 2018 Updates for the Centers for Medicare and Medicaid Services (CMS) Internet Only Manual (IOM) 100-06 The Medicare Financial Management Manual, Chapter 7 - Internal Control Requirements Federal Managers' Financial Integrity Act of 1982 (FMFIA) Control Activities CMS Contractor Internal Control Review Process and Timeline Risk Assessment Risk Analysis Chart Internal Control Objectives CMS Contractor Control Objectives Policies and Procedures Testing Methods Documentation and Working Papers Certification Package for Internal Controls (CPIC) Requirements OMB Circular A-123 Appendix A: Internal Controls Over Financial Reporting (ICOFR) Certification Statement CPIC- Report of Material Weaknesses CPIC - Report of Internal Control Deficiencies Material Weaknesses Identified During the Reporting Period Statement on Standards for Attestation Engagements (SSAE) Number 18, (SSAE 18) Reporting on Controls at Service Providers Submission, Review, and Approval of Corrective Action Plans Corrective Action Plan (CAP) Reports CMS Finding Numbers Initial CAP Report Quarterly CAP Report CMS CAP Report Template List of CMS Contractor Control Objectives List of Commonly Used Acronyms
301	The Fiscal Year 2018 Updates for the Centers for Medicare and Medicaid Services (CMS) Internet Only Manual (IOM) 100-06 The Medicare Financial Management Manual, Chapter 7 - Internal Control Requirements
302	Removal of Contractor Reporting Requirements for the Physician Scarcity Area (PSA), the Health Professional Shortage Area Surgical Incentive Payment Program (HSIP) and the Primary Care Payment Incentive Program (PCIP) Quarterly Reports
Medicare State Operations Manual (CMS-Pub. 100-07)	
177	Revisions to State Operations Manual (SOM) Appendix G, Guidance for Surveyors: Rural Health Clinics
Medicare Program Integrity (CMS-Pub. 100-08)	
763	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
764	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
765	Medicare Diabetes Prevention Program (MDPP) Enrollment Process Definitions Licenses, Certifications, and Recognition Correspondence Address and E-mail Addresses Practice and Administrative Location Information Section 4 of the Form CMS-20134

	Owning and Managing Organizations Delegated Officials Submission of Paper and Internet-based PECOS Certification Statements Form CMS-855A, Form CMS-855B, and Form CMS-20134 Signatories Supporting Documents Supporting Documents for MDPP Suppliers - Recognition Status Timeliness and Accuracy Standards Standards for Initial and Revalidation Applications Form CMS-855 and Form CMS-20134 Applications That Require a Site Visit Form CMS-855 and Form CMS-20134 Applications That Do Not Require a Site Visit Paper Applications - Accuracy Web-Based Applications - Timeliness Web-Based Applications That Require a Site Visit Web-Based Applications That Do Not Require a Site Visit Web-Based Applications - Accuracy Standards for Changes of Information Paper Applications - Timeliness Paper Applications - Accuracy Web-Based Applications - Timeliness Web-Based Applications - Accuracy General Timeliness Principles Application Review and Verification Activities Receipt/Review of Paper Applications Verification of Data/Processing Alternatives Processing Alternatives – Form CMS-20134 Paper Applications Receiving Missing/Clarifying Data/Documentation Paper Applications Internet-Based PECOS Applications Documentation Special Program Integrity Procedures Special Procedures for MDPP Suppliers Special Processing Guidelines for Form CMS-855A, Form CMS-855B, Form CMS-855I, and Form CMS-20134 Applications Returns Rejections Denials Approval of Medicare Diabetes Prevention Program (MDPP) Suppliers Changes of Information - General Procedures Changes of Information and Complete Form CMS-855 and Form CMS-20134 Applications Incomplete or Unverifiable Changes of Information Voluntary Terminations Electronic Funds Transfers (EFT) Existing or Delinquent Overpayments Non-CMS-855 and Non-CMS-20134 Enrollment Activities Contractor Communications Internet-based PECOS Applications Effective Date for MDPP Suppliers Application Fees Background Scope of Site Visit
	Changes of Information and Ownership Reactivations Site Verifications Provider Enrollment Inquiries Release of Information File Maintenance Model Revalidation Letters Model Revalidation Pend Letter Model Revalidation Deactivation Letter Model Revalidation Past-Due Group Member Letter Model Deactivation Letter due to Inactive Provider/Supplier Letter Model Return Revalidation Letter Model Approval Letter Denial Letter Guidance Denial Example #6 – MDPP Standards Not Met – Ineligible Coach Revocation Letter Guidance Revocation Example #3 – MDPP supplier Use of an Ineligible Coach Model Documentation Request Letter Reactivations - Deactivation for Reasons Other Than Non-Submission of a Claim Reactivations - Deactivation for Non-Submission of a Claim Reactivations– Miscellaneous Policies Revocations Other Identified Revocations
766	External Reporting Requirements Responsibility After Workload Transition Late Documentation Received by the CERT Review Contractor Administrative Relief to Damaged Areas from a Disaster
767	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
768	Post-Payment Review Timeliness Requirements
769	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
770	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
771	Clarification of Instructions Regarding the Intensive Level of Rehabilitation Therapy Services Requirements Medical Review of Inpatient Rehabilitation Facility (IRF) Services Reviewing for Intensive Level of Rehabilitation Therapy Services Requirements
772	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
773	Form CMS-855O Processing Guide
774	Comprehensive Error Rate Testing (CERT) Program Dispute Process Disputing a CERT Decision
775	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
776	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
777	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
778	Updates to Payment Suspension Notice

779	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
780	Update to Exhibit 16 - Model Payment Suspension Letters in Pub. 100-08 Payment Suspension Termination Notice
781	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
782	Update to Chapter 15 of Publication 100-08 - Medicare Enrollment Deactivation Policies Model Deactivation Letter Deactivation Revalidation Lists Mailing Revalidation Letters Large Group Revalidation Coordination
783	Proof of Delivery Exceptions for Immunosuppressant Drugs Paid Under the Durable Medical Equipment (DME) Benefit Exceptions
784	Reviewing for Adverse Legal Actions (ALA) Final Adverse Action Reviewing for Adverse Legal Actions
Medicare Contractor Beneficiary and Provider Communications (CMS-Pub. 100-09)	
	None
Medicare Quality Improvement Organization (CMS- Pub. 100-10)	
	None
Medicare End Stage Renal Disease Network Organizations (CMS Pub 100-14)	
	None
Medicaid Program Integrity Disease Network Organizations (CMS Pub 100-15)	
	None
Medicare Managed Care (CMS-Pub. 100-16)	
	None
Medicare Business Partners Systems Security (CMS-Pub. 100-17)	
	None
Demonstrations (CMS-Pub. 100-19)	
190	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
191	Update to CR9341 Oncology Care Model (OCM) Restricted Care Management Code List
192	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
One Time Notification (CMS-Pub. 100-20)	
1996	Analyze Common Working File (CWF) System and Identify Layouts with Minimum FILLER Areas Available
1997	Enhancement to the Recovery Audit Contractor (RAC) Mass Adjustment Input File
1998	HIGLAS Enhancement Required for Implementation of Overpayment based Denials
1999	Implementation of the Transitional Drug Add-On Payment Adjustment
2000	MCS Proof of Concept to Convert Existing MCSDT Window to Utilize API Technology
2001	Issued to a specific audience, not posted to Internet/ Intranet due to Sensitivity of Instruction
2002	Issued to a specific audience, not posted to Internet/ Intranet due to Sensitivity of Instruction
2003	Issued to a specific audience, not posted to Internet/ Intranet due to Sensitivity of Instruction
2004	Issued to a specific audience, not posted to Internet/ Intranet due to Sensitivity of Instruction
2005	ICD-10 and Other Coding Revisions to National Coverage Determinations (NCDs)
2006	Monthly Status Report (MSR) Excel Data Template Updates and Implementation of MAC/CMS Data Exchange (MDX) Portal System
2007	Issued to a specific audience, not posted to Internet/ Intranet due to Sensitivity of Instruction
2008	Shared System Enhancement 2015: Identify Inactive Medicare Demonstration Projects Within the Common Working File (CWF)
2009	Issued to a specific audience, not posted to Internet/ Intranet due to Sensitivity of Instruction
2010	Analysis Only: Procedures to Handle Foreign (non US) Addresses
2011	Shared System Enhancement 2015: Identify Inactive Medicare Demonstration Codes 46, 48, and 49 within the Fiscal Intermediary Shared System (FISS)
2012	Analysis of Reject Responses for Prior Authorization/Pre-Claim Review Requests (PA/PCR) via the Electronic Submission of Medical Documentation (esMD) System and Usage of Standardized Review Reason Codes and Statements
2013	Global Surgical Days for Critical Access Hospital (CAH) Method II
2014	Identifying Prior Hospice Days When Calculating Hospice Routine Home Care Payments After a Transfer
2015	Updates to the Common Working File (CWF) to Allow Entry Code 9 Durable Medical Equipment (DME) Claims to Process Correctly
2016	Part B Detail Line Expansion – VMS
2017	Updates to Common Working File (CWF) Edits for Acute Kidney Injury (AKI) Claims
2018	Shared System Enhancement 2014: Implementation of Fiscal Intermediary Shared System (FISS) Obsolete Core Reports - Phase 2
2019	Redesign of Flu Vaccines in Fiscal Intermediary Shared System (FISS)
2020	Issued to a specific audience, not posted to Internet/ Intranet due to Sensitivity of Instruction
2021	Shared System Enhancement 2014: Implementation of Fiscal Intermediary Shared System (FISS) Obsolete Financial Reports - Phase 2
2022	Modifications to the National Coordination of Benefits Agreement (COBA) Crossover Process
2023	Issued to a specific audience, not posted to Internet/ Intranet due to Sensitivity of Instruction
2024	Issued to a specific audience, not posted to Internet/ Intranet due to Sensitivity of Instruction
2025	Shared System Enhancement 2014: Implementation of Fiscal Intermediary Shared System (FISS) Obsolete On-Request Jobs - Phase 1
2026	Part B Detail Line Expansion - Multi-Carrier System (MCS) Phase 8
2027	Issued to a specific audience, not posted to Internet/ Intranet due to Sensitivity of Instruction

2028	Shared System Enhancement 2014: Implementation of Fiscal Intermediary Shared System (FISS) Obsolete Financial Reports - Phase 3
2029	Implementation of Automating First Claim Review in Serial Claims for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS)
2030	Shared System Enhancement 2014: Implementation of Fiscal Intermediary Shared System (FISS) Obsolete Core Reports - Phase 3
2031	Modifications to the Implementation of the Paperwork (PWK) Segment of the Electronic Submission of Medical Documentation (esMD) System
2032	Provider Enrollment, Chain, and Ownership System (PECOS) Extract Changes for Multi-Carrier System (MCS) - Analysis Only
2033	ICD-10 and Other Coding Revisions to National Coverage Determinations (NCDs)
2034	Identifying and Eliminating Discrepancies in Shared System Enrollment Data and Provider Enrollment Chain and Ownership System (PECOS) Data
2035	Targeted Probe and Educate Metrics Deliverables Update and Glossary
2036	Targeted Probe and Educate Metrics Deliverables Update and Glossary
2037	Issued to a specific audience, not posted to Internet/ Intranet due to Sensitivity of Instruction
2038	Issued to a specific audience, not posted to Internet/ Intranet due to Sensitivity of Instruction
2039	ICD-10 and Other Coding Revisions to National Coverage Determinations (NCDs)
2040	Appropriate Use Criteria for Advanced Diagnostic Imaging – Voluntary Participation and Reporting Period - Claims Processing Requirements – HCPCS Modifier QQ
2041	Redesign of Flu Vaccines in Fiscal Intermediary Shared System (FISS)
2042	Adjustments to Qualified Medicare Beneficiary (QMB) Claims Processed Under CR 9911
2043	The Supplemental Security Income (SSI)/Medicare Beneficiary Data for Fiscal Year 2016 for Inpatient Prospective Payment System (IPPS) Hospitals, Inpatient Rehabilitation Facilities (IRFs), and Long Term Care Hospitals (LTCH)
2044	National Correct Coding Initiative (NCCI) Add-on Codes for Non-Outpatient Prospective Payment System (OPPS) Institutional Providers Implementation
2045	Identifying and Eliminating Discrepancies in Shared System Enrollment Data and Provider Enrollment Chain and Ownership System (PECOS) Data
2046	Issued to a specific audience, not posted to Internet/ Intranet due to Sensitivity of Instruction
2047	Claims Processing Actions to Implement Certain Provisions of the Bipartisan Budget Act of 2018
2048	Fiscal Intermediary Shared System (FISS) Internal Crosswalk Modification
2049	National Supplier Clearinghouse (NSC) Numbers Shortage for Walgreen TIN
Medicare Quality Reporting Incentive Programs (CMS- Pub. 100-22)	
70	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
71	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
72	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction

Information Security Acceptable Risk Safeguards (CMS-Pub. 100-25)	
	None

Addendum II: Regulation Documents Published in the Federal Register (January through March 2018)

Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. To purchase individual copies or subscribe to the **Federal Register,** contact GPO at www.gpo.gov/fdsys. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is available as an online database through GPO Access. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) through the present date and can be accessed at http://www.gpoaccess.gov/fr/index.html. The following website http://www.archives.gov/federal-register/ provides information on how to access electronic editions, printed editions, and reference copies.

This information is available on our website at: http://www.cms.gov/quarterlyproviderupdates/downloads/Regs-1Q18QPU.pdf

For questions or additional information, contact Terri Plumb (410-786-4481).

Addendum III: CMS Rulings (January through March 2018)

CMS Rulings are decisions of the Administrator that serve as precedent final opinions and orders and statements of policy and interpretation. They provide clarification and interpretation of complex or ambiguous provisions of the law or regulations relating to Medicare, Medicaid, Utilization and Quality Control Peer Review, private health insurance, and related matters.

The rulings can be accessed at http://www.cms.gov/Regulations-and-Guidance/Guidance/Rulings. For questions or additional information, contact Tiffany Lafferty (410-786-7548).

Addendum IV: Medicare National Coverage Determinations (January through March 2018)

Addendum IV includes completed national coverage determinations (NCDs), or reconsiderations of completed NCDs, from the

quarter covered by this notice. Completed decisions are identified by the section of the NCD Manual (NCDM) in which the decision appears, the title, the date the publication was issued, and the effective date of the decision. An NCD is a determination by the Secretary for whether or not a particular item or service is covered nationally under the Medicare Program (title XVIII of the Act), but does not include a determination of the code, if any, that is assigned to a particular covered item or service, or payment determination for a particular covered item or service. The entries below include information concerning completed decisions, as well as sections on program and decision memoranda, which also announce decisions or, in some cases, explain why it was not appropriate to issue an NCD. Information on completed decisions as well as pending decisions has also been posted on the CMS website. For the purposes of this quarterly notice, we are providing only the specific updates that have occurred in the 3-month period. This information is available at: www.cms.gov/medicare-coverage-database/. For questions or additional information, contact Wanda Belle, MPA (410-786-7491).

Title	NCDM Section	Transmittal Number	Issue Date	Effective Date
Supervised Exercise Therapy (SET) for Symptomatic Peripheral Artery	NCD 20.35	204	02/02/2018	05/25/2017

Addendum V: FDA-Approved Category B Investigational Device Exemptions (IDEs) (January through March 2018)

Addendum V includes listings of the FDA-approved investigational device exemption (IDE) numbers that the FDA assigns. The listings are organized according to the categories to which the devices are assigned (that is, Category A or Category B), and identified by the IDE number. For the purposes of this quarterly notice, we list only the specific updates to the Category B IDEs as of the ending date of the period covered by this notice and a contact person for questions or additional information. For questions or additional information, contact John Manlove (410-786-6877).

Under the Food, Drug, and Cosmetic Act (21 U.S.C. 360c) devices fall into one of three classes. To assist CMS under this categorization process, the FDA assigns one of two categories to each FDA-approved investigational device exemption (IDE). Category A refers to experimental IDEs, and Category B refers to non-experimental IDEs. To obtain more information about the classes or categories, please refer to the notice published in the April 21, 1997 **Federal Register** (62 FR 19328).

IDE	Device	Start Date
BB17905	CardiAMP CSCell Separator (BioCardia), Autologous Bone Marrow Mononuclear Cells, Administered via Helix Transendocardial Catheter	01/26/2018
BB17984	Transpose RT System	03/09/2018
BB17991	Safety and Efficacy of Injection of Adipose-Derived Regenerative Cells (ADRCs)	03/09/2018
G150104	MAGFORCE USA,INC	02/09/2018
G170052	XACT Device	01/26/2018
G170203	Phil Embolic System	01/17/2018
G170265	DVisc40 OVD	02/15/2018
G170301	eCoin (Electroceutical Coin)	03/08//2018
G170304	e-OPRA Implant System	01/17/2018
G170309	Boston Scientific Precision Spectra Spinal Cord Stimulator and CoverEdge 32 or X32 Surgical Leads	01/17/2018
G170312	Centralized Lung Evaluation System	01/26/2018
G170315	Model name: Mercury	01/26/2018
G180004	Tigertriever; Tigertriever 17	02/04/2018
G180005	Effectiveness of Repetitive Transcranial Stimulation (rTMS) for the Improvement of Memory in Older Adults with Traumatic Brain injury (TBI)	02/17/2018
G180007	Optune (NovoTTF 200A)	02/17/2018
G180011	Inpatient Safety and Feasibility Evaluation of the Zone-MPC Control Algorithm Integrated into the APS APP	02/15/2018
G180015	enVista Multifocal (Trifocal) Intraocular Lens	02/24/2018
G180017	RxSight Light Adjustable Lens (RxLAL); Light Delivery Device; Insesrtion Device - Cartridge; Insertion Device - Injector Handle	02/28/2018
G180018	Optune - NovoTTF-200A System	02/28/2018
G180020	V-Wave Interatrial Shunt System	03/02/2018
G180021	RADIESSE (+) Lidocaine 1.5cc	03/07/2018
G180023	QuantiFERON-CMV	03/09/2018
G180026	e-OPRA Implant System	03/04/2018
G180027	aerFree (cNEP) AMS device	03/28/2018
G180030	Atom 0.5 Continuous Glucose Monitoring System, G6 Orion Continuous Glucose Monitoring System	03/16/2018
G180031	The Novo TTF-200A System	03/18/2018
G180034	Water Jet Model ERBEJET 2 System with HybridAPC Probe	03/22/2018
G180035	Obalon Balloon System with Navigation and Touch	03/23/2018
G180037	BreathID MCS	03/27/2018
G180041	Optilume Drug Coated Balloon (DCB) Catheter	03/30/2018
G180044	Next-Generation TECNIS Symfony Extended Range of Vision IOL	03/30/2018

Addendum VI: Approval Numbers for Collections of Information (January through March 2018)

All approval numbers are available to the public at Reginfo.gov. Under the review process, approved information collection requests are assigned OMB control numbers. A single control number may apply to several related information collections. This information is available at www.reginfo.gov/public/do/PRAMain. For questions or additional information, contact William Parham (410-786-4669).

Addendum VII: Medicare-Approved Carotid Stent Facilities, (January through March 2018)

Addendum VII includes listings of Medicare-approved carotid stent facilities. All facilities listed meet CMS standards for performing carotid artery stenting for high risk patients. On March 17, 2005, we issued our decision memorandum on carotid artery stenting. We determined that carotid artery stenting with embolic protection is reasonable and necessary only if performed in facilities that have been determined to be competent in performing the evaluation, procedure, and follow-up necessary to ensure optimal patient outcomes. We have created a list of minimum standards for facilities modeled in part on professional society statements on competency. All facilities must at least meet our standards in order to receive coverage for carotid artery stenting for high risk patients. For the purposes of this quarterly notice, we are providing only the specific updates that have occurred in the 3-month period. This information is available at: http://www.cms.gov/MedicareApprovedFacilitie/CASF/list.asp#TopOfPage For questions or additional information, contact Sarah Fulton, MHS (410-786-2749).

Facility	Provider Number	Effective Date	State
The following facilities are new listings for this quarter.			
Aultman Hospital 2600 Sixth Street S.W. Canton, OH 44710	1356376131	01/03/2018	OH
Lake Charles Memorial Hospital 1701 Oak Park Boulevard Lake Charles, LA 70601	1972549855	01/23/2018	LA
Saint Thomas Midtown Hospital 2000 Church Street Nashville, TN 37236	440113	02/08/2018	TN
West Hills Hospital & Medical Center 7300 Medical Center Drive West Hills, CA 91307	1023065729	03/20/2018	CA
The following facilities have editorial changes (in bold).			
FROM: Franciscan St. Anthony Health – Michigan City **TO: Franciscan Health Michigan City** 301 West Homer Street Michigan City, IN 46360	**171005194**	07/06/2006	IN
FROM: Franciscan Physicians Hospital **TO: Franciscan Health Munster** 701 Superior Avenue Munster, IN 46321	**1427493246**	12/03/2008	IN
FROM: Mercy Health Center **TO: Mercy Hospital Oklahoma City** 4300 W. Memorial Rd Oklahoma City, OK 73120	370013	04/12/2005	OK
FROM: Baptist Hospital East **TO: Baptist Health Louisville** 4000 Kresge Way Louisville, KY 40207	180130	06/14/2005	KY
FROM: Tenet Health System **TO:Amisub of South Carolina, Inc.** 222 South Herlong Avenue Rock Hill, SC 29732 D/B/A Piedmont Medical Center	420002	06/14/2005	SC
FROM: St. Elizabeth Medical Center South Unit **TO: St. Elizabeth Healthcare Edgewood** 1 Medical Village Drive Edgewood, KY 41017	180035	04/26/2005	KY
FROM: St. Elizabeth Florence **TO: St. Elizabeth Healthcare Florence** 4900 Houston Road Florence, KY 41042	180045	11/03/2005	KY
FROM: United Hospital System, Inc. **TO: Froedtert South Inc.** 6308 Eighth Avenue Kenosha, WI 53143-5082 **Dba Kenosha Medical Center and St. Catherine's Medical Center**	520021	12/21/2007	WI

Addendum VIII:
American College of Cardiology's National Cardiovascular Data Registry Sites (January through March 2018)

Addendum VIII includes a list of the American College of Cardiology's National Cardiovascular Data Registry Sites. We cover implantable cardioverter defibrillators (ICDs) for certain clinical indications, as long as information about the procedures is reported to a central registry. Detailed descriptions of the covered indications are available in the NCD. In January 2005, CMS established the ICD Abstraction Tool through the Quality Network Exchange (QNet) as a temporary data collection mechanism. On October 27, 2005, CMS announced that the American College of Cardiology's National Cardiovascular Data Registry (ACC-NCDR) ICD Registry satisfies the data reporting requirements in the NCD. Hospitals needed to transition to the ACC-NCDR ICD Registry by April 2006.

Effective January 27, 2005, to obtain reimbursement, Medicare NCD policy requires that providers implanting ICDs for primary prevention clinical indications (that is, patients without a history of cardiac arrest or spontaneous arrhythmia) report data on each primary prevention ICD procedure. Details of the clinical indications that are covered by Medicare and their respective data reporting requirements are available in the Medicare NCD Manual, which is on the CMS website at http://www.cms.hhs.gov/Manuals/IOM/itemdetail.asp?filterType=none&filterByDID=99&sortByDID=1&sortOrder=ascending&itemID=CMS014961

A provider can use either of two mechanisms to satisfy the data reporting requirement. Patients may be enrolled either in an Investigational Device Exemption trial studying ICDs as identified by the FDA or in the ACC-NCDR ICD registry. Therefore, for a beneficiary to receive a Medicare-covered ICD implantation for primary prevention, the beneficiary must receive the scan in a facility that participates in the ACC-NCDR ICD registry. The entire list of facilities that participate in the ACC-NCDR ICD registry can be found at www.ncdr.com/webncdr/common

For the purposes of this quarterly notice, we are providing only the specific updates that have occurred in the 3-month period. This information is available by accessing our website and clicking on the link for the

American College of Cardiology's National Cardiovascular Data Registry at: www.ncdr.com/webncdr/common. For questions or additional information, contact Sarah Fulton, MHS (410-786-2749).

Facility	City	State
The following facilities are new listings for this quarter.		
Wayne Memorial Hospital	Honesdale	PA
Colquitt Regional Medical Center	Moultrie	GA
Roger Williams Medical Center	Providence	RI
Pinnacle Healthcare, LLC	Crown Point	IN
Peter Munk Cardiac Centre	Toronto	ON
Mount Sinai Hospital	Chicago	IL
WellStar North Fulton Hospital	Roswell	GA
Arcadia Outpatient Surgery Center, LP	Arcadia	CA
St. Francis Medical Center	Colorado Springs	CO
Avita Ontario Hospital	Ontario	OH
J.C. Blair Memorial Hospital	Huntingdon	PA
Providence Medford Medical Center	Medford	OR
Tristar Horizon Medical Center	Dickson	TN

Addendum IX: Active CMS Coverage-Related Guidance Documents (January through March 2018)

CMS issued a guidance document on November 20, 2014 titled "Guidance for the Public, Industry, and CMS Staff: Coverage with Evidence Development Document". Although CMS has several policy vehicles relating to evidence development activities including the investigational device exemption (IDE), the clinical trial policy, national coverage determinations and local coverage determinations, this guidance document is principally intended to help the public understand CMS's implementation of coverage with evidence development (CED) through the national coverage determination process. The document is available at http://www.cms.gov/medicare-coverage-database/details/medicare-coverage-document-details.aspx?MCDId=27. There are no additional Active CMS Coverage-Related Guidance Documents for the 3-month period. For questions or additional information, contact JoAnna Baldwin, MS (410-786-7205).

Addendum X:
List of Special One-Time Notices Regarding National Coverage Provisions (January through March 2018)

There were no special one-time notices regarding national coverage provisions published in the 3-month period. This information is available at www.cms.hhs.gov/coverage. For questions or additional information, contact JoAnna Baldwin, MS (410-786 7205).

Addendum XI: National Oncologic PET Registry (NOPR) (January through March 2018)

Addendum XI includes a listing of National Oncologic Positron Emission Tomography Registry (NOPR) sites. We cover positron emission tomography (PET) scans for particular oncologic indications when they are performed in a facility that participates in the NOPR.

In January 2005, we issued our decision memorandum on **positron emission tomography** (PET) scans, which stated that CMS would cover PET scans for particular oncologic indications, as long as they were performed in the context of a clinical study. We have since recognized the National Oncologic PET Registry as one of these clinical studies. Therefore, in order for a beneficiary to receive a Medicare-covered PET scan, the beneficiary must receive the scan in a facility that participates in the registry. There were no additions, deletions, or editorial changes to the listing of National Oncologic Positron Emission Tomography Registry (NOPR) in the 3-month period. This information is available at http://www.cms.gov/MedicareApprovedFacilitie/NOPR/list.asp#TopOfPage. For questions or additional information, contact Stuart Caplan, RN, MAS (410-786-8564).

Addendum XII: Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities (January through March 2018)

Addendum XII includes a listing of Medicare-approved facilities that receive coverage for ventricular assist devices (VADs) used as destination therapy. All facilities were required to meet our standards in order to receive coverage for VADs implanted as destination therapy. On October 1, 2003, we issued our decision memorandum on VADs for the clinical indication of destination therapy. We determined that VADs used as destination therapy are reasonable and necessary only if performed in facilities that have been determined to have the experience and infrastructure to ensure optimal patient outcomes. We established facility standards and an application process. All facilities were required to meet our standards in order to receive coverage for VADs implanted as destination therapy.

For the purposes of this quarterly notice, we are providing only the specific updates to the list of Medicare-approved facilities that meet our standards that have occurred in the 3-month period. This information is available at http://www.cms.gov/MedicareApprovedFacilitie/VAD/list.asp#TopOfPage. For questions or additional information, contact Linda Gousis, JD, (410-786-8616).

Facility	Provider Number	Date Approved	State
The following facilities are new listings for this quarter.			
CJW Medical Center – Johnston Willis Hospital 1401 Johnston Willis Dr. Richmond, VA 23225 Other Information: DNV-GL #252385-2017-VAD	490112	12/19/2017	VA
Wellstar Kennestone Hospital 677 Church Street Marietta, GA 30060 Other Information: Joint Commission # 6711	110035	11/08/2017	GA
The following facilities have editorial changes (in bold).			
FROM: Methodist Specialty and Transplant Hospital TO: Methodist Hospital 7700 Floyd Curl Drive San Antonio, TX 78229 Other Information: Joint Commission # 9219	450388	**08/09/2017**	TX
Barnes-Jewish Hospital **1 Barnes Jewish Hospital Plaza Saint Louis, MO 63110 Other Information: Joint Commission # 8387**	260032	**11/11/2017**	MO
Riverside Methodist Hospital 3535 Olentangy River Road Columbus, OH 43214 **Other Information: Joint Commission # 7030**	360006	**08/30/2017**	OH
Lehigh Valley Hospital 1200 S. Cedar Crest Boulevard Allentown, PA 18105 **Other Information: Joint Commission # 4880**	390133	**12/13/2017**	PA

Facility	Provider Number	Date Approved	State
FROM: Christiana Care – Christiana Hospital **TO: Christiana Hospital** 4755 Ogletown-Stanton Road Newark, DE 19718 **Other Information:** **Joint Commission # 6237**	08-0001	**10/25/2017**	DE
University of California San Diego Medical **200 West Arbor Drive** **San Diego, CA 92103** **Other Information:** **Joint Commission # 10071**	050025	**10/18/2017**	CA
FROM: University of Chicago Hospitals and Health System **TO: University of Chicago Medical Center** 5841 South Maryland Avenue Chicago, IL 60637 **Other Information:** **Joint Commission # 7315**	140088	**10/25/2017**	IL
Keck Hospital of USC 1500 San Pablo Street Los Angeles, CA 90033 **Other Information:** **Joint Commission # 5033**	050696	**10/21/2017**	CA
FROM: Sutter Memorial Hospital **TO: Sutter Medical Center** **2825 Capitol Avenue** **Sacramento, CA 95816** **Other Information:** **Joint Commission # 2902**	050108	**11/08/2017**	CA
FROM: CJW Medical Center – Johnston Willis Hospital **TO: CJW Medical Center – Chippenham Hospital** **7101 Jahnke Road** **Richmond, VA 23225** **Other Information:** **DNV-GL #252385-2017-VAD**	490112	**12/19/2017**	VA
New York-Presbyterian/Weill Cornell Medical Center 525 East 68th Street New York, NY, 10065 **Other Information:** **Joint Commission # 5838**	33-0101	**10/26/2017**	NY
FROM: St Luke's Medical Center TO: Aurora St. Luke's Medical Center of Aurora Health Care Metro, Inc. 2900 W Oklahoma Avenue Milwaukee, WI 53215 **Other Information:** **Joint Commission # 7675**	520138	**11/15/2017**	WI
FROM: University of Kentucky Health Care - Chandler Hospital **TO: University of Kentucky Hospital/ UK Albert B. Chandler Hospital** 800 Rose Street Lexington, KY 40536 **Other Information:** **Joint Commission # 7760**	180067/1518911338	**12/06/2017**	KY
FROM: Jackson Memorial Hospital, University of Miami **TO: Jackson Memorial Hospital** 1611 NW 12th Avenue Miami, FL 33136 **Other Information:** **Joint Commission # 6850**	100022	**12/09/2017**	FL
Westchester Medical Center 100 Woods Road Valhalla, NY 10595 **Other Information:** **Joint Commission # 2518**	330234	**12/20/2017**	NY

Facility	Provider Number	Date Approved	State
FROM: Morristown Memorial Hospital **TO: Morristown Medical Center** 100 Madison Avenue Morristown, NJ 07960 **Other Information:** **Joint Commission # 5958**	310015	**12/13/2017**	NJ
FROM: Ochsner Clinic Foundation TO: Ochsner Medical Center 1514 Jefferson Highway New Orleans, LA 70121 **Other Information:** **Joint Commission # 8777**	190036	**12/13/2017**	LA
FROM: Scott & White Memorial Hospital **TO: Scott & White Medical Center** 2401 South 31st Street Temple, TX 76508 **Other Information:** **Joint Commission # 9241**	450054	**12/20/2017**	TX
University of Washington Medical Center 1959 NE Pacific Street Seattle, WA 98195 **Other Information:** **Joint Commission # 9626**	500008	**12/06/2017**	WA
Mayo Clinic Hospital-Rochester **1216 2nd St SW** **Rochester, MN 55902** **Other Information:** **Joint Commission # 8181**	240010	**03/24/2018**	MN
University of Texas Medical 301 University Boulevard Galveston, TX 77555 **Other Information:** **Joint Commission # 9058**	450018	**01/31/2018**	TX

Addendum XIII: Lung Volume Reduction Surgery (LVRS) (January through March 2018)

Addendum XIII includes a listing of Medicare-approved facilities that are eligible to receive coverage for lung volume reduction surgery. Until May 17, 2007, facilities that participated in the National Emphysema Treatment Trial were also eligible to receive coverage. The following three types of facilities are eligible for reimbursement for Lung Volume Reduction Surgery (LVRS):

- National Emphysema Treatment Trial (NETT) approved (Beginning 05/07/2007, these will no longer automatically qualify and can qualify only with the other programs);
- Credentialed by the Joint Commission (formerly, the Joint Commision on Accreditation of Healthcare Organizations (JCAHO)) under their Disease Specific Certification Program for LVRS; and
- Medicare approved for lung transplants.

Only the first two types are in the list. There were editorial updates to the listing of facilities for lung volume reduction surgery published in the 3-month period. This information is available at www.cms.gov/MedicareApprovedFacilitie/LVRS/list.asp#TopOfPage. For questions or additional information, contact Sarah Fulton, MHS (410-786-2749).

Facility	Provider Number	Date Approved	State
The following facilities have editorial changes (in bold).			
FROM: The Ohio State University Hospital **TO: Ohio State University Hospitals** 410 West Tenth Avenue, DN 168 Columbus, OH 43210 **Other Information:** **Joint Commission # 7029**	36-0085	**10/29/2016**	OH
FROM: Temple University Hospital **TO: Temple University Hospital, Inc.** 3401 North Broad Street Philadelphia, PA 19140 **Other Information:** **Joint Commission # 6152**	39-0027	**03/25/2017**	PA

Facility	Provider Number	Date Approved	State
Memorial Medical Center 701 North First Street Springfield, IL 62781-0001 **Other Information:** **Joint Commission # 7431**	14-0148	**05/06/2017**	IL

Addendum XIV: Medicare-Approved Bariatric Surgery Facilities (January through March 2018)

Addendum XIV includes a listing of Medicare-approved facilities that meet minimum standards for facilities modeled in part on professional society statements on competency. All facilities must meet our standards in order to receive coverage for bariatric surgery procedures. On February 21, 2006, we issued our decision memorandum on bariatric surgery procedures. We determined that bariatric surgical procedures are reasonable and necessary for Medicare beneficiaries who have a body-mass index (BMI) greater than or equal to 35, have at least one co-morbidity related to obesity and have been previously unsuccessful with medical treatment for obesity. This decision also stipulated that covered bariatric surgery procedures are reasonable and necessary only when performed at facilities that are: (1) certified by the American College of Surgeons (ACS) as a Level 1 Bariatric Surgery Center (program standards and requirements in effect on February 15, 2006); or (2) certified by the American Society for Bariatric Surgery (ASBS) as a Bariatric Surgery Center of Excellence (BSCOE) (program standards and requirements in effect on February 15, 2006).

There were no additions, deletions, or editorial changes to Medicare-approved facilities that meet CMS's minimum facility standards for bariatric surgery that have been certified by ACS and/or ASMBS in the 3-month period. This information is available at www.cms.gov/MedicareApprovedFacilitie/BSF/list.asp#TopOfPage. For questions or additional information, contact Sarah Fulton, MHS (410-786-2749).

Addendum XV: FDG-PET for Dementia and Neurodegenerative Diseases Clinical Trials (January through March 2018)

There were no FDG-PET for Dementia and Neurodegenerative Diseases Clinical Trials published in the 3-month period.

This information is available on our website at www.cms.gov/MedicareApprovedFacilitie/PETDT/list.asp#TopOfPage. For questions or additional information, contact Stuart Caplan, RN, MAS (410-786-8564).

[FR Doc. 2018–09430 Filed 5–3–18; 8:45 a.m.]
BILLING CODE 4120–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1707–N]

Medicare Program: Announcement of the Advisory Panel on Hospital Outpatient Payment (the Panel) Meeting on August 20–21, 2018

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (DHHS).

ACTION: Notice.

SUMMARY: This notice announces the annual meeting of the Advisory Panel on Hospital Outpatient Payment (the Panel) for 2018. The purpose of the Panel is to advise the Secretary of Department of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services concerning the clinical integrity of the Ambulatory Payment Classification groups and their associated weights as well as hospital outpatient therapeutic services supervision issues. The advice provided by the Panel will be considered as we prepare the annual updates for the hospital outpatient prospective payment system.

DATES:

Meeting Dates: Monday, August 20, 2018, 9:30 a.m. to 5 p.m. EDT through Tuesday, August 21, 2018, 9:30 a.m. to 1 p.m. EDT.

The times listed in this notice are Eastern Daylight Time (EDT) and are approximate times. Consequently, the meetings may last longer or be shorter than the times listed in this notice, but will not begin before the posted times:

Meeting Information Updates: The actual meeting hours and days will be posted in the agenda. As information and updates regarding the onsite, webcast, and teleconference meeting and the agenda become available, they will be posted to our website at: *http://cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups.html.*

Deadline for Presentations and Comments: Presentations or comments and form CMS–20017, (located at *https://www.cms.gov/Medicare/CMS-Forms/CMS-Forms/downloads/cms20017.pdf*) must be received by 5 p.m. EDT, Monday, July 23, 2018. Presentations and comments that are not received by the due date and time will be considered late and will not be included on the agenda. In commenting, refer to file code CMS–1707–N.

Meeting Registration Timeframe: Monday, June 25, 2018, through Monday, July 30, 2018 at 5 p.m. EDT.

Participants planning to attend this meeting in person must register online, during the specified timeframe at: *https://www.cms.gov/apps/events/default.asp.* On this web page, double click the ''Upcoming Events'' hyperlink, and then double click the ''HOP Panel'' event title link and enter the required information. Include any requests for special accommodations.

Note: Participants who do not plan to attend the meeting in person should not register. No registration is required for participants who plan to participate in the meeting via webcast or teleconference.

Because of staff and resource limitations, we cannot accept comments and presentations by facsimile (FAX) transmission.

Deadline for Requesting Special Accommodations: Monday, July 30, 2018 at 5 p.m. EDT.

ADDRESSES:

Meeting Location, Webcast, and Teleconference.

The meeting will be held in the Auditorium at the CMS Single Site campus, 7500 Security Boulevard, Baltimore, MD 21244. Alternately, the public may either view this meeting via a webcast or listen by teleconference. During the scheduled meeting, webcasting is accessible online at: *http://cms.gov/live.* Teleconference dial-in information will appear on the final meeting agenda, which will be posted on our website when available at: *http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups.html.*

News Media. Press inquiries are handled through the CMS Press Office at (202) 690–6145.

Advisory Committees' Information Lines. The phone number for the CMS Federal Advisory Committee Hotline is (410) 786–3985.

Websites. For additional information on the Panel, including the Panel charter, and updates to the Panel's activities, we refer readers to view our website at: *http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups.html.*

Information about the Panel and its membership in the Federal Advisory Committee Act database are also located at: *http://facadatabase.gov/.*

Registration: The meeting is open to the public; but attendance is limited to the space available and registration is required. Priority will be given to those who pre-register and attendance may be limited based on the number of registrants and the space available.

Persons wishing to attend this meeting, which is located on federal property, must register by following the instructions in the **DATES** section of this notice under ''Meeting Registration Timeframe''. A confirmation email will be sent to the registrants shortly after completing the registration process.

FOR FURTHER INFORMATION CONTACT:
Elise Barringer, Designated Federal Official (DFO), 410–786–9222, email at *APCPanel@cms.hhs.gov.* Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail Stop: C4–04–25, Baltimore, MD 21244–1850.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Department of Health and Human Services (DHHS) is required by section 1833(t)(9)(A) of the Social Security Act (the Act) and is allowed by section 222 of the Public Health Service Act (PHS Act) to consult with an expert outside panel, such as the Advisory Panel on Hospital Outpatient Payment (the Panel), regarding the clinical integrity of the Ambulatory Payment Classification (APC) groups and relative payment weights. The Panel is governed by the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), as amended (5 U.S.C. Appendix 2), to set forth standards for the formation and use of advisory panels. We consider the technical advice provided by the Panel as we prepare the proposed and final rules to update the Hospital Outpatient Prospective Payment System (OPPS) for the following calendar year.

II. Meeting Agenda

The agenda for the August 20 through August 21, 2018 Panel meeting will provide for discussion and comment on the following topics as designated in the Panel's Charter:

- Addressing whether procedures within an APC group are similar both clinically and in terms of resource use.
- Evaluating APC group structure.
- Reviewing the packaging of OPPS services and costs, including the methodology and the impact on APC groups and payment.
- Removing procedures from the inpatient-only list for payment under the OPPS.
- Using single and multiple procedure claims data for Center for Medicare & Medicaid's (CMS') determination of APC group weights.

• Addressing other technical issues concerning APC group structure.

• Recommending the appropriate supervision level (general, direct, or personal) for individual hospital outpatient therapeutic services.

The Agenda will be posted on our website at: *https://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups.html* approximately 1 week before the meeting.

III. Presentations

The subject matter of any presentation and comment matter must be within the scope of the Panel designated in the Charter. Any presentations or comments outside of the scope of this Panel will be returned or requested for amendment. Unrelated topics include, but are not limited to, the conversion factor, charge compression, revisions to the cost report, pass-through payments, correct coding, new technology applications (including supporting information/documentation), provider payment adjustments, supervision of hospital outpatient diagnostic services, and the types of practitioners that are permitted to supervise hospital outpatient services. The Panel may not recommend that services be designated as nonsurgical extended duration therapeutic services.

The Panel may use data collected or developed by entities and organizations other than DHHS and CMS in conducting its review. We recommend organizations submit data for CMS staff and the Panel's review.

All presentations are limited to 5 minutes, regardless of the number of individuals or organizations represented by a single presentation. Presenters may use their 5 minutes to represent either 1 or more agenda items.

Section 508 Compliance

For this meeting, we are aiming to have all presentations and comments available on our website. Materials on our website must be Section 508 compliant to ensure access to federal employees and members of the public with and without disabilities. We encourage presenters and commenters to reference the guidance on making documents Section 508 compliant as they draft their submissions, and, whenever possible, to submit their presentations and comments in a 508 compliant form. Such guidance is available at: *http://www.cms.gov/Research-Statistics-Data-and-Systems/CMS-Information-Technology/Section508/508-Compliant-doc.html.* We will review presentations and comments for 508 compliance and place compliant materials on our website. As resources permit, we will also convert non-compliant submissions to 508 compliant forms and offer assistance to submitters who wish to make their submissions 508 compliant. All non-508 compliant presentations and comments will be shared with the public onsite and through the webcast and made available to the public upon request.

Those wishing to access such materials should contact the DFO (the DFO's address, email, and phone number are provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice).

In order to consider presentations and/or comments, we will need to receive the following:

1. *An email* copy of the presentation or comments sent to the DFO mailbox, *APCPanel@cms.hhs.gov* or, if unable to submit by email, a hard copy sent to the DFO at the address noted in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

2. Form *CMS–20017* with complete contact information that includes name, address, phone number, and email addresses for all presenters and commenters and a contact person that can answer any questions, and provide revisions that are requested, for the presentation. Presenters and commenters must clearly explain the actions that they are requesting CMS to take in the appropriate section of the form. A presenter's or commenter's relationship with the organization that they represent must also be clearly listed.

• The form is now available through the CMS Forms website at: *https://www.cms.gov/Medicare/CMS-Forms/CMS-Forms/downloads/cms20017.pdf.*

• We encourage presenters to make efforts to ensure that their presentations and comments are 508 compliant.

IV. Oral Comments

In addition to formal oral presentations (limited to 5 minutes total per presentation), there will be an opportunity during the meeting for public oral comments (limited to 1 minute for each individual) and a total of 3 minutes per organization.

V. Panel Recommendations and Discussions

The Panel's recommendations at any Panel meeting generally are not final until they have been reviewed and approved by the Panel on the last day of the meeting, before the final adjournment. These recommendations will be posted to our website after the meeting.

VI. Security, Building, and Parking Guidelines

The meeting is open to the public, but attendance is limited to the space available. Persons wishing to attend this meeting must register by contacting the DFO at the address listed in the **ADDRESSES** section of this notice or by telephone at the number listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by the date specified in the **DATES** section of this notice.

This meeting will be held in a Federal government building; therefore, Federal security measures are applicable. We recommend that confirmed registrants arrive reasonably early, but no earlier than 45 minutes prior to the start of the meeting, to allow additional time to clear security. Security measures include the following:

• Presentation of government-issued photographic identification to the Federal Protective Service or Guard Service personnel.

• Inspection of vehicle's interior and exterior (this includes engine and trunk inspection) at the entrance to the grounds. Parking permits and instructions will be issued after the vehicle inspection.

• Inspection, via metal detector or other applicable means of all persons brought entering the building. We note that all items brought into CMS, whether personal or for the purpose of presentation or to support a presentation, are subject to inspection. We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set-up, safety, or timely arrival of any personal belongings or items used for presentation or to support a presentation.

Note: Individuals who are not registered in advance will not be permitted to enter the building and will be unable to attend the meeting. The public may not enter the building earlier than 45 minutes prior to the convening of the meeting.

All visitors must be escorted in areas other than the lower and first floor levels in the Central Building.

VII. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping, or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: April 23, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2018–09532 Filed 5–3–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2011–N–0075; FDA–2011–N–0015; FDA–2011–N–0076; FDA–2017–N–0932; FDA–2016–N–4487; FDA–2014–N–0345; FDA–2013–N–0523; FDA–2017–N–2428; FDA–2008–N–0312; and FDA–2014–N–1072]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approvals; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration is correcting a notice entitled ''Agency Information Collection Activities; Announcement of Office of Management and Budget Approvals'' that appeared in the **Federal Register** of April 9, 2018. The document announced a list of information collections that have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. The document was published with an incorrect docket number. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Lisa Granger, Office of Policy and Planning, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 3330, Silver Spring, MD 20993–0002, 301–796–9115.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Tuesday, April 9, 2018 (83 FR 15152), in FR Doc. 2018–07147, on page 15152, the following correction is made:

1. On page 15152, in the second column, in the first line of the list of docket numbers, ''FDA–2014–N–0075'' is corrected to read ''FDA–2011–N–0075.''

Dated: April 30, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–09437 Filed 5–3–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–1534]

Sun Pharmaceutical Industries, Ltd.; Withdrawal of Approval of Three Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is withdrawing approval of three abbreviated new drug applications (ANDAs) held by Sun Pharmaceutical Industries, Ltd., c/o Sun Pharmaceutical Industries, Inc. (Sun Pharmaceutical). These drug products are no longer marketed, and Sun Pharmaceutical has requested that the approval of the applications be withdrawn.

DATES: Approval is withdrawn as of June 4, 2018.

FOR FURTHER INFORMATION CONTACT: Trang Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1671, Silver Spring, MD 20993–0002, 240–402–7945, *Trang.Tran@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Sun Pharmaceutical has informed FDA that these drug products are no longer marketed and requested that FDA withdraw approval of the applications. Sun Pharmaceutical has also waived its opportunity for a hearing and requested withdrawal of approval under a Consent Decree of Permanent Injunction (Decree) entered in *United States* v. *Ranbaxy Laboratories, Ltd. et al.,* JFM 12–250 (D. Md.) on January 26, 2012. The Decree specifies that Sun Pharmaceutical must never submit another application to FDA for these withdrawn drugs and must never transfer these ANDAs to a third party.

Application No.	Drug	Applicant
ANDA 065174	Clarithromycin Tablets USP, 250 milligrams (mg) and 500 mg.	Sun Pharmaceutical Industries, Ltd., c/o Sun Pharmaceutical Industries, Inc., 2 Independence Way, Princeton, NJ 08540.
ANDA 065382	Clarithromycin for Oral Suspension USP, 125 mg/5 milliliters (mL) and 250 mg/5 mL.	Do.
ANDA 075747	Ciprofloxacin Tablets USP, Equivalent to (EQ) 250 mg base, EQ 500 mg base, and EQ 750 mg base.	Do.

Therefore, approval of the applications listed in the above table, and all amendments and supplements thereto, is hereby withdrawn as of June 4, 2018. Introduction or delivery for introduction into interstate commerce of products without approved new drug applications violates section 301(a) and (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(a) and (d)).

Dated: May 1, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–09533 Filed 5–3–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–1564]

Ferndale Laboratories, Inc., et al.; Withdrawal of Approval of Nine Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is withdrawing approval of nine abbreviated new drug applications (ANDAs) from multiple applicants. The holders of the applications notified the Agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

DATES: Approval is withdrawn as of June 4, 2018.

FOR FURTHER INFORMATION CONTACT: Trang Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1671, Silver Spring, MD 20993–0002, 240–402–7945, *Trang.Tran@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The holders of the applications listed in the table have informed FDA that these drug products are no longer marketed and

have requested that FDA withdraw approval of the applications under the process described in § 314.150(c) (21 CFR 314.150(c)). The applicants have also, by their requests, waived their opportunity for a hearing. Withdrawal of approval of an application or abbreviated application under § 314.150(c) is without prejudice to refiling.

Application No.	Drug	Applicant
ANDA 040259	Hydrocortisone Acetate Cream USP, 2.5%	Ferndale Laboratories, Inc., 780 West Eight Mile Rd., Ferndale, MI 48220.
ANDA 040457	Pyridostigmine Bromide Tablets USP, 60 milligrams (mg)	Impax Laboratories, Inc., 30831 Huntwood Ave., Hayward, CA 94544.
ANDA 061806	Cloxapen (cloxacillin sodium) Capsules, Equivalent to (EQ) 250 mg base and EQ 500 mg base.	GlaxoSmithKline, LLC, 5 Crescent Dr., Philadelphia, PA 19112.
ANDA 065453	Vancomycin Hydrochloride (HCl) Capsules USP, EQ 125 mg base and EQ 250 mg base.	Fresenius Kabi USA, LLC, Three Corporate Dr., Lake Zurich, IL 60047.
ANDA 075836	Calcitriol Injection, 1 microgram (mcg)/milliliter (mL) and 2 mcg/mL.	Do.
ANDA 075916	Rimantadine HCl Tablets USP, 100 mg	Impax Laboratories, Inc.
ANDA 076731	Glyburide and Metformin HCl Tablets USP, 1.25 mg/250 mg, 2.5 mg/500 mg, and 5 mg/500 mg.	Do.
ANDA 076889	Fluconazole in Sodium Chloride 0.9% Injection, 200 mg/100 mL and 400 mg/200 mL.	Mylan Laboratories, Ltd., c/o Mylan Pharmaceuticals, Inc., 781 Chestnut Ridge Rd., P.O. Box 4310, Morgantown, WV 26504.
ANDA 088572	Pediatric LTA Kit (lidocaine HCl) Solution, 2%	Abbott Laboratories, One Abbott Park Rd., Abbott Park, IL 60064.

Therefore, approval of the applications listed in the table, and all amendments and supplements thereto, is hereby withdrawn as of June 4, 2018. Introduction or delivery for introduction into interstate commerce of products without approved new drug applications violates section 301(a) and (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(a) and (d)). Drug products that are listed in the table that are in inventory on June 4, 2018 may continue to be dispensed until the inventories have been depleted or the drug products have reached their expiration dates or otherwise become violative, whichever occurs first.

Dated: May 1, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–09534 Filed 5–3–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Office of Tribal Self-Governance; Negotiation Cooperative Agreement; Correction of Due Date

AGENCY: Indian Health Service, HHS.

ACTION: Notice; Correction of due date.

SUMMARY: The Indian Health Service published a notice in the **Federal Register** (FR) on April 17, 2018, for the Negotiation Cooperative Agreement, Funding Announcement Number: HHS–2018–IHS–TSGN–0001. The Application Due Date has been modified.

FOR FURTHER INFORMATION CONTACT: Paul Gettys, Grant Systems Coordinator, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–2114; or the Division of Grants Management main line (301) 443–5204, or Fax: (301)–594–0899.

Correction

In the FR notice of April 17, 2018, (FR 2018–07941), the correction is:

Key Dates:

Under the heading *Key Dates,* the *Application Due Date* should read as:

- *Application Due Date:* June 18, 2018

The other dates in the *Key Dates* section remain as originally published.

Dated: April 27, 2018.

Michael D. Weahkee,

RADM, Assistant Surgeon General, U.S. Public Health Service, Acting Director, Indian Health Service.

[FR Doc. 2018–09506 Filed 5–3–18; 8:45 am]

BILLING CODE 4160–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Planning Cooperative Agreement; Correction of Due Date

AGENCY: Office of Tribal Self-Governance, Indian Health Service, HHS.

ACTION: Notice; correction of due date.

SUMMARY: The Indian Health Service published a notice in the **Federal Register** on April 17, 2018, for the Planning Cooperative Agreement, Funding Announcement Number: HHS–2018–IHS–TSGP–0001. The Application Due Date has been modified.

FOR FURTHER INFORMATION CONTACT: Paul Gettys, Grant Systems Coordinator, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–2114; or the Division of Grants Management main line (301) 443–5204, or Fax: (301) 594–0899.

Correction

In the FR notice of April 17, 2018, (FR 83 FR 16885), the correction is:

Key Dates:

Under the heading *Key Dates,* the *Application Due Date* should read as:

- *Application Due Date:* June 18, 2018

The other dates in the *Key Dates* section remain as originally published.

Dated: April 27, 2018.

Michael D. Weahkee,

Assistant Surgeon General, U.S. Public Health Service, Acting Director, Indian Health Service.

[FR Doc. 2018–09507 Filed 5–3–18; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; AD Data Analysis.

Date: June 4, 2018.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Nijaguna Prasad, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue,Gateway Building, Suite 2W200, Bethesda, MD 20892, 301–496–9667, *nijaguna.prasad@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: April 30, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–09426 Filed 5–3–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Immuno-Oncology Translation Network.

Date: May 31–June 1, 2018.

Time: 8:00 p.m. to 12:00 p.m.

Agenda: To review and evaluate grant application.

Place: Canopy by Hilton Washington DC Bethesda North, 940 Rose Avenue, North Bethesda, MD 20852.

Contact Person: Eun Ah Cho, Ph.D., Scientific Review Officer, Special Review Branch Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W104, Bethesda, MD 20892–9750, 240–276–6342, *choe@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Research Specialist Award (R50).

Date: June 7, 2018.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W242, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Zhiqiang Zou, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W242, Bethesda, MD 20892–9750, 240–276–6372, *zouzhiq@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–5: Clinical and Translational R21 and Omnibus R03.

Date: June 8, 2018.

Time: 7:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Jennifer C. Schiltz, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W122, Bethesda, MD 20892–9750, 240–276–5864, *jennifer.schiltz@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Utilizing the Prostate, Lung, Colorectal, and Ovarian Cancer (PLCO) Biospecimens Resources (U01).

Date: June 11, 2018.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W248, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Anita T. Tandle, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W248, Bethesda, MD 20892–9750, 240–276–5007, *tandlea@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI U01 Small Cell Lung Cancer Consortium.

Date: June 11, 2018.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W618, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Mukesh Kumar, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W618, Bethesda, MD 20892–9750, 240–276–6611, *mukesh.kumar3@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Clincal R01 Review.

Date: June 13, 2018.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W122, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Sanita Bharti, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W122, Bethesda, MD 20892–9750, 240–276–5909, *sanitab@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 1, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–09552 Filed 5–3–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, 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: Population Sciences and Epidemiology Integrated Review Group; Kidney, Nutrition, Obesity and Diabetes Study Section.

Date: May 31–June 1, 2018.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.

Contact Person: Fungai Chanetsa, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–408–9436, *fungai.chanetsa@nih.hhs.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Improvement of Animal Models for Stem Cell-Based Regenerative Medicine.

Date: June 1, 2018.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Rass M Shayiq, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, *shayiqr@csr.nih.gov*.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Biomedical Computing and Health Informatics Study Section.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Xin Yuan, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, Bethesda, MD 20892, 301–827–7245, *yuanx4@csr.nih.gov*.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review; Group Bioengineering, Technology and Surgical Sciences Study Section.

Date: June 4–5, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Fairmont Hotel San Francisco, 950 Mason Street, San Francisco, CA 94108.

Contact Person: Khalid Masood, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, 301–435–2392, *masoodk@csr.nih.gov*.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Social Psychology, Personality and Interpersonal Processes Study Section.

Date: June 4–5, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Royal Sonesta Harbor Court Baltimore, 550 Light Street, Baltimore, MD 21202.

Contact Person: Marc Boulay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, (301) 300–6541, *boulaymg@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Chronic Dysfunction and Integrative Neurodegeneration Study Section.

Date: June 4–5, 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: Alexei Kondratyev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–435–1785, *kondratyevad@csr.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Motor Function, Speech and Rehabilitation Study Section.

Date: June 4–5, 2018.

Time: 8:00 a.m. to 5:00 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: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, 301–402–4411, *tianbi@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: May 1, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–09551 Filed 5–3–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Charter Renewal

In accordance with Title 41 of the U.S. Code of Federal Regulations, Section 102–3.65(a), notice is hereby given that the Charter for the National Cancer Institute Clinical Trials and Translational Research Advisory Committee was renewed for an additional two-year period on April 14, 2018.

It is determined that the National Cancer Institute Clinical Trials and Translational Research Advisory Committee is in the public interest in connection with the performance of duties imposed on the National Cancer Institute and National Institutes of Health by law, and that these duties can best be performed through the advice and counsel of this group.

Inquiries may be directed to Claire Harris, Acting Director, Office of Federal Advisory Committee Policy, Office of the Director, National Institutes of Health, 6701 Democracy Boulevard, Suite 1000, Bethesda, Maryland 20892 (Mail Stop Code 4875), *harriscl@nih.gov* or Telephone (301) 496–2123.

Dated: April 30, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–09424 Filed 5–3–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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: National Institute of General Medical Sciences Special Emphasis Panel; NIGMS SCORE Behavioral Science Review.

Date: June 25, 2018.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Suite 3AN12, 45 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Brian R. Pike, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892, 301–594–3907, *pikebr@mail.nih.gov*.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Review of Centers of Biomedical Research Excellence (COBRE) (P20) Applications.

Date: July 10–11, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW, Washington, DC 20037.

Contact Person: Lee Warren Slice, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institutes of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20814, 301–435–0807, *slicelw@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: April 30, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–09428 Filed 5–3–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings of the NHLBI 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; BioLINCC Coordinating Center.

Date: May 29, 2018.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Tony L Creazzo, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892, 301–827–7913, *CreazzoT@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Institutional Training Mechanisms.

Date: May 31, 2018.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Giuseppe Pintucci, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, 301–827–7696, *PintucciG@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 1, 2018.

Michelle D. Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–09553 Filed 5–3–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; 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 Eye 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 Eye Council.

Date: June 14, 2018.

Open: 8:30 a.m. to 1:00 p.m.

Agenda: Following opening remarks by the Director, NEI, there will be presentations by the staff of the Institute and discussions concerning Institute programs.

Place: NIH, National Eye Institute, 5635 Fishers Lane, Terrace Level Conference Rooms, Rockville, MD 20852.

Closed: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, National Eye Institute, 5635 Fishers Lane, Terrace Level Conference Rooms, Rockville, MD 20852.

Contact Person: Paul A. Sheehy, Ph.D., Director, Division of Extramural Affairs, National Eye Institute, National Institutes of Health, 5635 Fishers Lane, Suite 12300, Bethesda, MD 20892, 301–451–2020, *ps32h@nih.gov.*

Information is also available on the Institute's/Center's home page: *www.nei.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: April 30, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–09425 Filed 5–3–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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: NIGMS Initial Review Group; Training and Workforce Development Subcommittee—C, Review of PREP and IMSD Applications.

Date: June 18–19, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Kimpton Hotel Palomar, 2121 P. Street NW, Washington, DC 20037.

Contact Person: Lee Warren Slice, Ph.D., Scientific Review Officer, Office of Scientific

Review, National Institutes of General Medical Sciences,National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20814, 301–435–0807, *slicelw@mail.nih.gov.*

Name of Committee: NIGMS Initial Review Group; Training and Workforce Development Subcommittee—D, Review of PREP and IMSD Applications.

Date: June 21–22, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7400 Waverly, Bethesda, MD 20814.

Contact Person: Tracy Koretsky, Ph.D., Scientific Review Officer, National Institute of General Medical Sciences, National Institutes of Health,45 Center Drive, MSC 6200, Room 3AN12F, Bethesda, MD 20892, 301 594 2886, *tracy.koretsky@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: *April 30, 2018.*

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–09427 Filed 5–3–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Mental Health Client/ Participant Outcome Measures

(OMB No. 0930–0285)—Revision

SAMHSA is requesting approval to add 13 questions to its existing Adult Client-level Instrument, and five questions to its Child/Caregiver Client-level Instrument for Center for Mental Health Services (CMHS) grantees. These additional questions are related to specific outcomes for each grant program. Grantees will be required to answer no more than four of the new questions per CMHS grant awarded, in addition to existing questions. Currently, the information collected from these instruments is entered and stored in SAMHSA's Performance Accountability and Reporting System, which is a real-time, performance management system that captures information on the substance abuse treatment and mental health services delivered in the United States. Continued approval of this information collection will allow SAMHSA to continue to meet Government Performance and Results Modernization Act of 2010 (GPRMA) reporting requirements that quantify the effects and accomplishments of its discretionary grant programs, which are consistent with OMB guidance.

SAMHSA and its Centers will use the data collected for annual reporting required by required by GPRMA and to describe and understand changes in outcomes from baseline, to follow-up, to discharge. SAMHSA's report for each fiscal year will include actual results of performance monitoring for the three preceding fiscal years. Information collected through this request will allow SAMHSA to report on the results of these performance outcomes as well as be consistent with SAMHSA-specific performance domains, and to assess the accountability and performance of its discretionary and formula grant programs. The additional information collected through this request will allow SAMHSA to improve its ability to assess the impact of its programs on key outcomes of interest and to gather vital diagnostic information about clients served by CMHS discretionary grant programs.

Changes have been made to add a total of 13 questions to its existing Adult Client-level Instrument, and five questions to its Child/Caregiver Client-level Instrument. The 13 questions that have been added to the Adult Instrument are:

1. Behavioral Health Diagnoses—Please indicate patient's current behavioral health diagnoses using the International Classification of Diseases, 10th revision, Clinical Modification (ICD–10–CM) codes listed below: (Select from list of Substance Use Disorder Diagnoses and Mental Health Diagnoses).

2. [For client] In the past 30 days, how often have you taken all of your psychiatric medication(s) as prescribed to you? (Always, Usually, Sometimes, Rarely, Never).

3. [For grantee] In the past 30 days, how compliant has the client been with their treatment? (Not compliant, Minimally compliant, Moderately compliant, Highly compliant, Fully compliant).

4. [For grantee] Did the client screen positive for a mental health or co-occurring disorder?

a. Mental health disorder (Client screened positive, Client screened negative, Client was not screened).

b. Co-occurring disorder (Client screened positive, Client screened negative, Client was not screened).

i. If client screened positive, was the client referred to the following types of services?

1. Mental health services (Yes/No).

2. Co-occurring services (Yes/No).

ii. If client was referred to services, did they receive the following services?

1. Mental health services (Yes/No/ Don't know).

2. Co-occurring services (Yes/No/ Don't know).

5. [For client] Please indicate the degree to which you agree or disagree with the following statement: Receiving community-based services through the [insert grantee name] program has helped me to avoid further contact with the police and the criminal justice system. (Strongly agree to Strongly disagree).

6. [For client] In the past 30 days, how many times have you:

a. Been to the emergency room for a physical health care problem?

b. Been hospitalized for a physical health care problem? (Report number of nights hospitalized).

7. [For grantee at follow-up and discharge] Please indicate which type of funding source(s) was (were) used to pay for the services provided to this client since their last interview.

8. [For client] Did the [insert grantee name] help you obtain any of the following benefits?

9. [For client] Did the program provide the following: (Asked of client at Follow-up).

a. HIV test? (Yes/No).

i. If yes, what was the result? (Positive/Negative/Indeterminate/Don't know).

ii. If result was positive, were you connected to treatment services? (Yes/No).

b. Hepatitis B (HBV) test? (Yes/No).

i. If yes, what was the result? (Positive/Negative/Indeterminate/Don't know).

ii. If result was positive, were you connected to treatment services? (Yes/No).

c. Hepatitis C (HCV) test? (Yes/No).

i. If yes, what was the result? (Positive/Negative/Indeterminate/Don't know).

ii. If result was positive, were you connected to treatment services? (Yes/No).

10. [For client if HIV status is positive]:

a. Did you receive a referral from [grantee] to medical care?

b. Have you been prescribed an antiretroviral medication (ART)?

i. For clients who report being prescribed an ART: In the past 30 days, how often have you taken your ART as prescribed to you? (Always, Usually, Sometimes, Rarely, Never).

11. [For Promoting Integration of Primary and Behavioral Health Care grantees only] Skip to Primary and Behavioral Health Care Integration Section H, which captures information on blood pressure, BMI, waist circumference, breath CO for smoking, glucose, cholesterol levels, and triglycerides for adults.

12. [For client] Did the services you received from the program assist you in obtaining employment?

13. [For client] Did the services you received from the program assist you in maintaining employment?

The five questions that have been added to the Child/Caregiver Instrument are:

1. Behavioral Health Diagnoses—Please indicate patient's current behavioral health diagnoses using the International Classification of Diseases, 10th revision, Clinical Modification (ICD–10–CM) codes listed below: (Select from list of Substance Use Disorder Diagnoses and Mental Health Diagnoses).

2. [For client] In the past 30 days:

a. How many times have you thought about killing yourself?

b. How many times did you attempt to kill yourself?

3. [For grantee at follow-up and discharge] Please indicate which type of funding source(s) was (were) used to pay for the services provided to this client since their last interview.

4. [For client] Please indicate your agreement with the following items: (Strongly disagree—Strongly agree): As a result of treatment and services received, my (my child's) trauma and/or loss experiences were identified and addressed.

5. [For client] Please indicate your agreement with the following items: (Strongly disagree—Strongly agree): As a result of treatment and services received for trauma and/or loss experiences, my (my child's) problem behaviors/symptoms have decreased.

Individual grantees will only be required to respond to a subset of these additional questions, with no grantee completing more than four new questions per CMHS grant awarded. Questions will be selected by SAMHSA based on the specific goals and characteristics of the grant program.

SAMHSA is also seeking approval to increase the frequency of reporting for certain physical health indictors, from annually to semi-annually. This data is currently being reported by Primary and Behavioral Health Care Integration (PBHCI) grantees in Section H of the Adult Services Instrument. Additionally, SAMHSA is requesting approval to extend the collection of these indicators to Promoting Integration of Primary and Behavioral Health Care (PIPBHC) grantees, who will also report the data on a semi-annual basis.

TABLE1—ESTIMATES OF ANNUALIZED HOUR BURDEN

SAMHSA tool	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
Adult client-level baseline interview	41,121	1	41,121	0.67	27,551
Adult client-level 6-month reassessment interview [1]	27,140	1	27,140	0.67	18,184
Adult client-level discharge interview [2]	12,336	1	12,336	0.67	8,265
Child/Caregiver client-level baseline interview	12,681	1	12,681	0.67	8,496
Child/Caregiver client-level 6-month reassessment interview [1]	8,369	1	8,369	0.67	5,607
Child/Caregiver client-level discharge interview [2]	3,804	1	3,804	0.67	2,549
PBHCI/PIPBHC Section H Form Only Baseline	14,800	1	14,800	.25	3,700
PBHCI/PIPBHC Section H Form Only Follow-Up [3]	10,952	1	10,952	.25	2,738
PBHCI/PIPBHC Section H Form Only Discharge [4]	7,696	1	7,696	.25	1,924
Subtotal	53,802		138,899		79,014
Infrastructure development, prevention, and mental health promotion quarterly record abstraction [5]	982	4.0	3,928	2.0	7,856
Total	54,784		142,827		86,870

[1] It is estimated that 30% of baseline clients will complete this interview.
[2] It is estimated that 66% of baseline clients will complete this interview.
[3] It is estimated that 74% of baseline clients will complete this interview.
[4] It is estimated that 52% of baseline clients will complete this interview.
[5] Grantees are required to report this information as a condition of their grant.
No attrition is estimated.

Send comments to Summer King, SAMHSA Reports Clearance Officer, 5600 Fishers Lane, Room 15E57–B, Rockville, Maryland 20857, *OR* email a copy to *summer.king@samhsa.hhs.gov.* Written comments should be received by July 3, 2018.

Summer King,

Statistician.

[FR Doc. 2018–09423 Filed 5–3–18; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2018–0002; Internal Agency Docket No. FEMA–B–1759]

Proposed Flood Hazard Determinations for Marion County, Oregon and Incorporated Areas

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its notice concerning proposed flood hazard determinations, which may include the addition or modification of any Base Flood Elevation, base flood depth, Special Flood Hazard Area boundary or zone designation, or regulatory floodway (herein after referred to as proposed flood hazard determinations) on the Flood Insurance Rate Maps and, where applicable, in the supporting Flood Insurance Study reports for Marion County, Oregon and Incorporated Areas.

DATES: This withdrawal is effective May 4, 2018.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B-1759, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: On December 7, 2017, FEMA published a proposed notice at 82 FR 57778–57779, proposing flood hazard determinations for Marion County, Oregon and Incorporated Areas. FEMA is withdrawing the proposed notice.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Dated: April 3, 2018.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2018–08590 Filed 5–3–18; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0027]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Interagency Record of Request—A, G, or NATO Dependent Employment Authorization or Change/Adjustment To/From A, G, or NATO Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until June 4, 2018. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number 1615–0027 in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on February 8, 2018, at 83 FR 5642, allowing for a 60-day public comment period. USCIS did not receive any comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0041 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the 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 submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Interagency Record of Request—A, G, or NATO Dependent Employment Authorization or Change/Adjustment To/From A, G or NATO Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–566; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or households.* The data on this form is used by Department of State (DOS) to certify to USCIS eligibility of dependents of A or G principals requesting employment authorization, as well as for NATO/Headquarters, Supreme Allied Commander Transformation (NATO/HQ SACT) to certify to USCIS similar eligibility for dependents of NATO principals. DOS also uses this form to certify to USCIS that certain A, G or NATO nonimmigrants may change their status to another nonimmigrant status. USCIS, on the other hand, uses data on this form in the adjudication of change or adjustment of status applications from aliens in A, G, or NATO classifications and following any such adjudication informs DOS of the results by use of this form. The information provided on this form continues to ensure effective interagency communication among the three governmental departments—the Department of Homeland Security (DHS), DOS, and the Department of Defense (DOD)—as well as with NATO/HQ SACT. These departments and organizations utilize this form to facilitate the uniform collection and review of information necessary to determine an alien's eligibility for the requested immigration benefit. This form also ensures that the information collected is communicated among DHS, DOS, DOD, and NATO/HQ SACT regarding each other's findings or actions.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–566 is 5,800 and the estimated hour burden per response is 1.42 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 8,236 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $710,500.

Dated: May 1, 2018.

Samantha L Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–09483 Filed 5–3–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0001]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Petition for Alien Fiance(e)

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until June 4, 2018. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number 1615–0001in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on January 31, 2018, at 83 FR 4503, allowing for a 60-day public comment period. USCIS received one comment in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2006–0028 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the 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 submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Petition for Alien Fiance(e).

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–129F; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individual or households. Form I–129F must be filed with USCIS by a citizen of the United States in order to petition for an alien fiance'(e), spouse, or his/her children.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–129F is 52,135 and the estimated hour burden per response is 3.25 hours; biometrics processing 52,135 total respondents with a burden of 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 230,437 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $8,941,030.

Dated: May 1, 2018.

Samantha L Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–09498 Filed 5–3–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0057]

Agency Information Collection Activities: Revision of a Currently Approved Collection: Application for Certificate of Citizenship

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until July 3, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0057 in the body of the letter, the agency name and Docket ID USCIS–2006–0023. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2006–0023;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2006–0023 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the 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 submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Certificate of Citizenship.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–600; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form N–600 collects information from respondents who are requesting a Certificate of Citizenship because they acquired United States citizenship either by birth abroad to a U.S. citizen parent(s), adoption by a U.S. citizen parent(s) or after meeting eligibility requirements after the naturalization of a foreign born parent. This form is also used by applicants requesting a Certificate of Citizenship because they automatically became a citizen of the United States after meeting eligibility requirements for acquisition of citizenship by foreign born children. Form N–600 can also be filed by a parent or legal guardian on behalf of a minor child. The form standardizes requests for the benefit, and ensures that basic information required to assess eligibility is provided by applicants.

USCIS uses the information collected on Form N–600 to determine if a Certificate of Citizenship can be issued to the applicant. Citizenship acquisition laws have changed throughout the history of the INA and different laws apply to determine whether the applicant automatically became a U.S. citizen. However, step children cannot acquire U.S. citizenship under any provision of the INA.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N–600 is 67,000 and the estimated hour burden per response is 1.58 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 105,860 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $8,207,500.

Dated: May 1, 2018.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–09482 Filed 5–3–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0087]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Certificate of Citizenship

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until July 3, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0087 in the body of the letter, the agency name and Docket ID USCIS–2007–0019. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2007–0019;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0019 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the 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 submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Citizenship and Issuance of Certificate under Section 322.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–600K; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form N–600K is used by children who regularly reside in a foreign country to claim U.S. citizenship based on eligibility criteria met by their U.S. citizen parent(s) or grandparent(s). The form may be used by both biological and adopted children under age 18. USCIS uses information collected on this form to determine that the child has met all of the eligibility requirements for naturalization under section 322 of the Immigration and Nationality Act (INA). If determined eligible, USCIS will naturalize and issue the child a Certificate of Citizenship before the child reaches age 18.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of

respondents for the information collection N–600 is 3,000 and the estimated hour burden per response is 2.08 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 6,240 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $367,500.

Dated: May 1, 2018.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–09495 Filed 5–3–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0026]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Immigrant Petition by Alien Entrepreneur

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until July 3, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0026 in the body of the letter, the agency name and Docket ID USCIS–2007–0021. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2007–0021;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0021 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the 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 submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Immigrant Petition by Alien Entrepreneur.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–526; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses Form I–526 to determine if an alien can enter the U.S. to engage in commercial enterprise.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–526 is 11,460 and the estimated hour burden per response is 1.83 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 20,972 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $745,338.

Dated: May 1, 2018.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–09493 Filed 5–3–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2018–0014; FXIA16710900000–178–FF09A30000]

Endangered Species; Receipt of Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications to conduct certain activities with foreign endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities. The ESA also requires that we invite public comment before issuing these permits.

DATES: We must receive comments by June 4, 2018.

ADDRESSES: *Document availability:* The applications, as well as any comments and other materials that we receive, will be available for public inspection online in Docket No. FWS–HQ–IA–2018–0014 at *http://www.regulations.gov.*

Submitting Comments: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–IA–2018–0014.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2018–0014; U.S. Fish and Wildlife Service Headquarters, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

When submitting comments, please indicate the name of the applicant and the PRT# at the beginning of your comment. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see **SUPPLEMENTARY INFORMATION** for more information).

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2281 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I comment on submitted applications?

You may submit your comments and materials by one of the methods listed under *Submitting Comments* in the **ADDRESSES** section. We will not consider comments sent by email or fax, or to an address not in the **ADDRESSES** section.

Please make your requests or comments as specific as possible, confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above in **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. 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.

C. Who will see my comments?

If you submit a comment via *http://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your address, phone number, or email address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

II. Background

Under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we invite public comment on these permit applications before final action is taken.

III. Permit Applications

We invite the public to comment on applications to conduct certain activities with endangered species. With some exceptions, the ESA prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

Applicant: Safari West, Santa Rose, CA; PRT–27040C

In the **Federal Register** of 82 FR 35817, August 1, 2017, we published a notice inviting the public to comment on an application that we received from Safari West, Santa Rosa, CA for a captive-bred wildlife registration under 50 CFR 17.21(g). In that notice, two species were omitted in the notification to the public. We are inviting the public to comment on the following two species to be added to this applicant's existing registration: bontebok (*Damaliscus pygargus pygargus*) and red ruffed lemur (*Varecia variegata*) for the purpose to enhance species propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Ryan McDonald, Waxahachie, TX; PRT–82656A

The applicant requests renewal of a captive-bred wildlife registration under 50 CFR 17.21(g) for radiated tortoise (*Astrochelys radiata*), and Galapagos tortoise (*Chelonoidis nigra*) to enhance species propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Cornell University, Ithaca, NY; PRT–62281C

The applicant requests a permit to import dried blood samples from 30 captive-held Asian elephants (*Elephas maximus*) from Elephant Stay, Thailand, for scientific research. This notification is for a single import.

Multiple Trophies

The following applicants each request a permit to import sport-hunted trophies of a male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancing the propagation or survival of the species.

Applicant: Steven Collins, McKinney, TX; PRT–69195C

Applicant: David Seeno, Concord, CA; PRT–72306C

Applicant: C. Tustin, Ridley Park, PA; PRT–66701C

Applicant: Tommie Fogle, Lampasas, TX; PRT–66547C

Applicant: Rudy Nix, Barksdale, TX; PRT–74969C

Applicant: Kevin Perry, Peyton, CO; PRT–74842C

IV. Next Steps

If the Service decides to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the **Federal Register** notice announcing the permit issuance date by searching in *www.regulations.gov* under the application number listed in this document (*e.g.,* PRT–12345X).

VI. Authority

Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2018–09443 Filed 5–3–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO200000.LXSGPL000000. 18x.L11100000.PH0000]

Notice of Availability of the Nevada and Northeastern California Draft Resource Management Plan Amendment and Draft Environmental Impact Statement for Greater Sage-Grouse Conservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared the Nevada and Northeastern California Draft Resource Management Plan (RMP) Amendment and Draft Environmental Impact Statement (EIS) for the Nevada and Northeastern California Greater Sage-Grouse (GRSG) Planning Area and by this notice is announcing the opening of the comment period. BLM Nevada is soliciting comments on the entire Draft EIS, as well as the specific planning issues mentioned in this NOA, the cumulative effects analysis, and Priority Habitat Management Area decisions.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft RMP Amendment/Draft EIS within 90 days following the date the Environmental Protection Agency publishes a notice of availability of the Draft RMP Amendment/Draft EIS in the **Federal Register.** The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Nevada and Northeastern California Draft RMP Amendment/Draft EIS by any of the following methods:

• *Website: https://goo.gl/uz89cT.*
• *Mail:* BLM Nevada State Office, 1340 Financial Blvd., Reno, NV 89502.

Copies of the Nevada and Northeastern California Draft RMP Amendment/Draft EIS are available at the BLM California State Office, 2800 Cottage Way # W1623, Sacramento, CA 95825, BLM Nevada State Office at the above address, or on the project website at: *https://goo.gl/uz89cT.*

FOR FURTHER INFORMATION CONTACT: For further information contact Matthew Magaletti, BLM Nevada Sage-Grouse Lead, by telephone, 775–861–6472; at the address above; or by email, *mmagalet@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Mr. Magaletti. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with Mr. Magaletti. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Greater Sage-Grouse is a state-managed species that is dependent on sagebrush steppe ecosystems. These ecosystems are managed in partnership across the range of the Greater Sage-Grouse by federal, state, and local authorities. Efforts to conserve the species and its habitat date back to the 1950s. Over the past two decades, state wildlife agencies, federal agencies, and many others in the range of the species have been collaborating to conserve Greater Sage-Grouse and its habitats. The United States Department of the Interior (DOI) and the BLM have broad responsibilities to manage federal lands and resources for the public benefit. Nearly half of Greater Sage-Grouse habitat is managed by the BLM. The BLM is committed to being a good neighbor and investing in on-the-ground conservation activities through close collaboration with State governments, local communities, private landowners, and other stakeholders.

In September 2015, the U.S. Fish and Wildlife Service (USFWS) determined that the Greater Sage-Grouse did not warrant listing under the Endangered Species Act of 1973. The USFWS based its ''not warranted'' determination, in part, on the conservation commitments and management actions in the BLM and U.S. Forest Service (Forest Service) Greater Sage-Grouse land use plan amendments and revisions (2015 GRSG land use plan decisions), as well as on other private, state, and federal conservation efforts. Since 2015 the BLM, in discussion with partners, primarily Governors and state wildlife management agencies, recognized that several refinements and policy updates could help strengthen conservation efforts, while providing increased economic opportunity to local communities. The BLM and Department of Interior worked closely with Governors charged with managing Greater Sage-Grouse to determine whether some, none, or all of the 2015 Land Use Plans should be amended. After carefully considering the Governors input, and using its discretion and authority under FLPMA, as well as under direction from the Secretary, including Secretary's Order (SO) 3353, the BLM proposes amending the Nevada and Northeastern California Greater Sage-Grouse land use plans that address GRSG management. This action is proposed to enhance cooperation and improve alignment with the state plans or management strategies, in accordance with the BLM's multiple use and sustained yield mission. The BLM prepared the Nevada and Northeastern California Greater Sage-Grouse Draft RMP Amendment/Draft EIS to address alternatives that will build upon its commitment to conserve and restore Greater Sage-Grouse habitat, while improving collaboration and alignment with state management strategies for Greater Sage-Grouse. The BLM seeks to improve management alignment in ways that will increase management flexibility, maintain access to public resources, and promote conservation outcomes. The BLM used internal, agency, and public scoping to identify issues considered in the environmental analysis. As part of this analysis, the BLM also examined the range of alternatives evaluated in the BLM's 2015 GRSG land use plan decisions and their supporting NEPA analyses.

This Draft RMP Amendment/Draft EIS is one of six separate planning efforts that are being undertaken in response to

SO 3353, Greater Sage-Grouse Conservation and Cooperation with Western States (June 7, 2017), and in accordance with SO 3349, American Energy Independence (March 29, 2017). The Draft RMP Amendment/Draft EIS proposes to amend the RMPs for field offices on BLM lands within BLM Nevada and Northeastern California boundaries. The current management decisions for resources are described in the following resource management plans (RMPs):

- Alturas RMP (2008)
- Black Rock Desert-High Rock Canyon NCA RMP (2004)
- Carson City Consolidated RMP (2001)
- Eagle Lake RMP (2008)
- Elko RMP (1987)
- Ely RMP (2008)
- Shoshone-Eureka RMP (1986)
- Surprise RMP (2008)
- Tonopah RMP (1997)
- Wells RMP (1985)
- Winnemucca RMP (2015)

The planning area includes approximately 70.3 million acres of BLM, National Park Service, United States Forest Service, U.S. Bureau of Reclamation, State, local, and private lands located in Nevada and Northeastern California, in 17 counties: Churchill, Elko, Eureka, Humboldt, Lander, Lassen, Lincoln, Lyon, Mineral, Modoc, Nye, Pershing, Plumas, Sierra, Storey, Washoe, and White Pine. Within the decision area, the BLM administers approximately 45.4 million acres of public lands, providing approximately 20.5 million acres of GRSG habitat. Surface management decisions made as a result of this RMP Amendment/Draft EIS will apply only to BLM administered lands in the decision area.

The formal public scoping process for the Draft RMP Amendment/Draft EIS began on October 11, 2017, with the publication of a Notice of Intent in the **Federal Register** (82 FR 47248), and ended on December 1, 2017. The following public scoping meetings were held in Nevada and Northeastern California:

—Alturas, CA; November 3, 2017
—Reno, NV; November 7, 2017
—Elko, NV; November 8, 2017
—Ely, NV; November 9, 2017

The Draft RMP Amendment/Draft EIS addresses the designation of Sagebrush Focal Areas, mitigation, adjustments to habitat management area designations to reflect new information, reversing adaptive management responses when the BLM determines that resource conditions no longer warrant those responses (in addition to addressing updates to the adaptive management strategy based on best available science), allocation exception processes, seasonal timing restrictions, modifying habitat objectives when best available science is available, and through plan clarification: Modifying lek buffers, requirements for required design features, and corrections relative to land health assessments and sage grouse habitat objectives.

The Draft RMP Amendment/Draft EIS evaluates two alternatives in detail, including the No Action Alternative (Alternative A) and an action alternative (Alternative B: Management Alignment). Alternative B has been identified as BLM's Preferred Alternative for the purposes of public comment and review. Identification of this alternative, however, does not represent final agency direction, and the Proposed RMP Amendment/Final EIS may reflect changes or adjustments from information received during public comment, from new information, or from changes in BLM policies or priorities. The Proposed RMP Amendment/Final EIS may include objectives and actions described in the other analyzed alternative as well.

Alternative A would retain the current management goals, objectives, and direction specified in the current RMPs for each field office.

Please note that public comments and information submitted including names, street addresses, and email addresses of persons who submit comments will be available for public review and disclosure at the addresses provided in the **ADDRESSES** section of this notice during regular business hours (8:00 a.m. to 4:00 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2.

Michael C. Courtney,

Acting BLM Nevada State Director.

[FR Doc. 2018–09520 Filed 5–3–18; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO200000.LXSGPL000000.18x.L11100000.PH0000]

Notice of Availability of the Idaho Draft Resource Management Plan Amendment and Draft Environmental Impact Statement for Greater Sage-Grouse Conservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared the Idaho Draft Resource Management Plan (RMP) Amendment and Draft Environmental Impact Statement (EIS) for the Idaho Greater Sage-Grouse (GRSG) Planning Area, and by this notice is announcing the opening of the comment period. BLM Idaho is soliciting comments on the entire Draft EIS, as well as the specific planning issues mentioned in this NOA, and the cumulative effects analysis.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft RMP Amendment/Draft EIS within 90 days following the date the Environmental Protection Agency publishes a notice of availability of the Draft RMP Amendment/Draft EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Idaho Draft RMP Amendment/Draft EIS by any of the following methods:

- *Website: https://goo.gl/f94eKW*
- *Mail:* BLM Idaho State Office, 1387 S Vinnell Way, Boise, ID 83709
- *Fax:* 208–373–3805

Copies of the Idaho Draft RMP Amendment/Draft EIS for Greater Sage-Grouse Conservation are available in the BLM Idaho State Office at the above address.

FOR FURTHER INFORMATION CONTACT: For further information contact Jonathan Beck, Greater Sage-Grouse Implementation Coordinator, telephone (208) 373–3841; address 1387 S Vinnell Way, Boise, ID 83709; email *jmbeck@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay

Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Greater Sage-Grouse is a state-managed species that is dependent on sagebrush steppe ecosystems. These ecosystems are managed in partnership across the range of the Greater Sage-Grouse by federal, state, and local authorities. Efforts to conserve the species and its habitat date back to the 1950s. Over the past two decades, state wildlife agencies, federal agencies, and many others in the range of the species have been collaborating to conserve Greater Sage-Grouse and its habitats. The United States Department of the Interior (DOI) and the BLM have broad responsibilities to manage federal lands and resources for the public benefit. Nearly half of Greater Sage-Grouse habitat is managed by the BLM. The BLM is committed to being a good neighbor and investing in on-the-ground conservation activities through close collaboration with State governments, local communities, private landowners, and other stakeholders.

In September 2015, the U.S. Fish and Wildlife Service (USFWS) determined that the Greater Sage-Grouse did not warrant listing under the Endangered Species Act of 1973. The USFWS based its ''not warranted'' determination, in part, on the conservation commitments and management actions in the BLM and U.S. Forest Service (Forest Service) Greater Sage-Grouse land use plan amendments and revisions (2015 GRSG land use plan decisions), as well as on other private, state, and federal conservation efforts. Since 2015 the BLM, in discussion with partners, primarily Governors and state wildlife management agencies, recognized that several refinements and policy updates could help strengthen conservation efforts, while providing increased economic opportunity to local communities. The BLM and Department of Interior worked closely with Governors charged with managing Greater Sage-Grouse to determine whether some, none, or all of the 2015 Land Use Plans should be amended. After carefully considering the Governor's input, and using its discretion and authority under FLPMA, as well as under direction from the Secretary, including Secretary's Order (SO) 3353, the BLM proposes amending the Idaho Greater Sage-Grouse land use plans that address GRSG management. This action is proposed to enhance cooperation and improve alignment with the state plans or management strategies, in accordance with the BLM's multiple use and sustained yield mission. The BLM prepared the Idaho Greater Sage-Grouse Draft RMP Amendment/Draft EIS to address alternatives that will build upon its commitment to conserve and restore Greater Sage-Grouse habitat, while improving collaboration and alignment with state management strategies for Greater Sage-Grouse. The BLM seeks to improve management alignment in ways that will increase management flexibility, maintain access to public resources, and promote conservation outcomes. The BLM used internal, agency, and public scoping to identify issues considered in the environmental analysis. As part of this analysis, the BLM also examined the range of alternatives evaluated in the BLM's 2015 GRSG land use plan decisions and their supporting NEPA analyses.

This Draft RMP Amendment/Draft EIS is one of six separate planning efforts that are being undertaken in response to SO 3353, Greater Sage-Grouse Conservation and Cooperation with Western States (June 7, 2017), and in accordance with SO 3349, American Energy Independence (March 29, 2017). The Draft RMP Amendment/Draft EIS proposes to amend the RMPs for field offices on BLM lands within BLM Idaho boundaries. The current management decisions for resources are described in the following RMPs and Management Framework Plans (MFPs):

- Bennett Hills/Timmerman Hills MFP (BLM 1980)
- Big Desert MFP (BLM 1981)
- Big Lost MFP (BLM 1983)
- Bruneau MFP (BLM 1983)
- Cascade RMP (BLM 1988)
- Cassia RMP (BLM 1985)
- Challis RMP (BLM 1999)
- Craters of the Moon National Monument RMP (BLM 2006)
- Four Rivers RMP Revision
- Jarbidge RMP Revision (BLM 2015)
- Jarbidge RMP (BLM 1987)
- Kuna MFP (BLM 1983)
- Lemhi RMP (BLM 1987)
- Little Lost-Birch Creek MFP (BLM 1981)
- Magic MFP (BLM 1975)
- Medicine Lodge RMP (BLM 1981)
- Monument RMP (BLM 1985)
- Owyhee RMP (BLM 1999)
- Pocatello RMP (BLM 2012)
- Snake River Birds of Prey National Conservation Area RMP (BLM 2008)
- Sun Valley MFP (BLM 1981)
- Twin Falls MFP (BLM 1982)
- Upper Snake RMP Revision

The Idaho planning area includes approximately 39,553,628 acres of BLM, National Park Service, U.S. Forest Service, U.S. Bureau of Reclamation, State, local, and private lands in 28 counties: (Ada, Adams, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Elmore, Fremont, Gem, Gooding, Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Owyhee, Payette, Power, Twin Falls, and Washington). Within the decision area, the BLM administers approximately 11,470,301 acres of public lands, providing approximately 8,809,326 acres of GRSG habitat. Surface management decision changes proposed in this Draft RMP Amendment/Draft EIS would apply only to BLM administered lands in the decision area.

The formal public scoping process for the RMP Amendment/EIS began on October 11, 2017, with the publication of a Notice of Intent in the **Federal Register** (82 FR 47248), and ended on December 1, 2017. Meetings were held in:

—Twin Falls, Idaho; November 2, 2017
—Idaho Falls, Idaho; November 6, 2017
—Marsing, Idaho; November 7, 2017

The RMP Amendment/EIS addresses the designation of sagebrush focal areas, mitigation standards, lek buffers, disturbance and density caps, and adjustments to habitat boundaries to reflect new information. The Draft RMP Amendment/Draft EIS evaluates two alternatives in detail, including the No Action Alternative (Alternative A) and one action alternative (Management Alignment Alternative). The Management Alignment Alternative has been identified as BLM's Preferred Alternative for the purposes of public comment and review. Identification of these alternatives, however, does not represent final agency direction, and the Proposed RMP Amendment/Final EIS may reflect changes or adjustments from information received during public comment, from new information, or from changes in BLM policies or priorities. The Proposed RMP Amendments/Final EIS may include objectives and actions described in the other analyzed alternative as well. Alternative A would retain the current management goals, objectives, and direction specified in the current land use plans for each field office.

Please note that public comments and information submitted including names, street addresses, and email addresses of persons who submit comments will be available for public review at the address provided in the **ADDRESSES** section of this notice during regular business hours (8:00 a.m. to 4:00 p.m.), Monday through Friday, except

holidays. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2.

Peter J. Ditton,

Acting BLM Idaho State Director.

[FR Doc. 2018–09522 Filed 5–3–18; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO200000. LXSGPL000000. 18x. L11100000.PH0000]

Notice of Availability of the Utah Draft Resource Management Plan Amendment and Environmental Impact Statement for Greater Sage-Grouse Conservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared the Utah Draft Resource Management Plan (RMP) Amendment and Draft Environmental Impact Statement (EIS) for the Utah Greater Sage-Grouse (GRSG) Planning Area and by this notice is announcing the opening of the comment period. BLM Utah is soliciting comments on the entire Draft EIS, as well as the specific planning issues mentioned in this NOA, and the cumulative effects analysis.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft RMP Amendment/Draft EIS within 90 days following the date the Environmental Protection Agency publishes a notice of availability of the Draft RMP Amendment/Draft EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Utah GRSG Draft RMP Amendment/Draft EIS by any of the following methods:

• *Website: https://goo.gl/ywBXSn.*

• *Mail:* BLM Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, UT 84101.

Copies of the Utah GRSG Draft RMP Amendment/Draft EIS are available in the Utah State Office or on the project website at the addresses above.

FOR FURTHER INFORMATION CONTACT: For further information contact Quincy Bahr, BLM Utah Sage-Grouse Coordinator, telephone 801–539–4122; address 440 West 200 South, Suite 500, Salt Lake City, UT 84101; or by email *qfbahr@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Mr. Bahr. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with Mr. Bahr. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Greater Sage-Grouse is a state-managed species that is dependent on sagebrush steppe ecosystems. These ecosystems are managed in partnership across the range of the Greater Sage-Grouse by federal, state, and local authorities. Efforts to conserve the species and its habitat date back to the 1950s. Over the past two decades, state wildlife agencies, federal agencies, and many others in the range of the species have been collaborating to conserve Greater Sage-Grouse and its habitats. The United States Department of the Interior (DOI) and the BLM have broad responsibilities to manage federal lands and resources for the public benefit. Nearly half of Greater Sage-Grouse habitat is managed by the BLM. The BLM is committed to being a good neighbor and investing in on-the-ground conservation activities through close collaboration with State governments, local communities, private landowners, and other stakeholders.

In September 2015, the U.S. Fish and Wildlife Service (USFWS) determined that the Greater Sage-Grouse did not warrant listing under the Endangered Species Act of 1973. The USFWS based its ''not warranted'' determination, in part, on the conservation commitments and management actions in the BLM and U.S. Forest Service (Forest Service) Greater Sage-Grouse land use plan amendments and revisions (2015 GRSG land use plan decisions), as well as on other private, state, and federal conservation efforts. Since 2015 the BLM, in discussion with partners, primarily Governors and state wildlife management agencies, recognized that several refinements and policy updates could help strengthen conservation efforts, while providing increased economic opportunity to local communities. The BLM and Department of Interior worked closely with Governors charged with managing Greater Sage-Grouse to determine whether some, none, or all of the 2015 Land Use Plans should be amended. After carefully considering the Governor's input, and using its discretion and authority under FLPMA, as well as under direction from the Secretary, including Secretary's Order (SO) 3353, the BLM proposes amending the Utah Greater Sage-Grouse land use plans that address GRSG management. This action is proposed to enhance cooperation and improve alignment with the state plans or management strategies, in accordance with the BLM's multiple use and sustained yield mission. The BLM prepared the Utah GRSG Draft RMP Amendment/Draft EIS to address alternatives that will build upon its commitment to conserve and restore Greater Sage-Grouse habitat, while improving collaboration and alignment with state management strategies for Greater Sage-Grouse. The BLM seeks to improve management alignment in ways that will increase management flexibility, maintain access to public resources, and promote conservation outcomes. The BLM used internal, agency, and public scoping to identify issues considered in the environmental analysis. As part of this analysis, the BLM also examined the range of alternatives evaluated in the BLM's 2015 GRSG land use plan decisions and their supporting NEPA analyses.

This Draft RMP Amendment/Draft EIS is one of six separate planning efforts that are being undertaken in response to SO 3353, Greater Sage-Grouse Conservation and Cooperation with Western States (June 7, 2017), and in accordance with SO 3349, American Energy Independence (March 29, 2017). The Draft RMP Amendment/Draft EIS proposes to amend the RMPs for field offices on BLM lands within BLM Utah boundaries. The current management decisions for resources are described in the following resource management plans (RMPs):

- Box Elder Resource Management Plan (1986)
- Cedar/Beaver/Garfield/Antimony Resource Management Plan (1986)
- Grand Staircase-Escalante National Monument Management Plan (2000)
- House Range Resource Management Plan (1987)
- Kanab Resource Management Plan (2008)

- Park City Management Framework Plan (1975)
- Pinyon Management Framework Plan (1978)
- Pony Express Resource Management Plan (1990)
- Price Resource Management Plan (2008)
- Randolph Management Framework Plan (1980)
- Richfield Resource Management Plan (2008)
- Salt Lake District Isolated Tracts Planning Analysis (1985)
- Vernal Resource Management Plan (2008)
- Warm Springs Resource Management Plan (1987)

The planning area includes approximately 48,158,700 acres of BLM, National Park Service, U.S. Forest Service, U.S. Bureau of Reclamation, State, local, and private lands located in Utah, in 27 counties: Beaver, Box Elder, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Wayne, and Weber. Within the decision area, the BLM administers approximately 4,017,400 acres of public lands as GRSG habitat management areas. Surface management decisions made as a result of this Draft RMP Amendment/Draft EIS will apply only to BLM-administered lands in the decision area.

The formal public scoping process for the RMP Amendment/EIS began on October 11, 2017, with the publication of a Notice of Intent in the **Federal Register** (82 FR 47248), and ended on December 1, 2017. The following public meetings were held in Utah:

- Vernal, Utah; November 14, 2017
- Cedar City, Utah; November 15, 2017
- Snowville, Utah; November 16, 2017

The Draft RMP Amendment/Draft EIS addresses the designation of sagebrush focal areas; disturbance and density caps; modification of habitat objectives; changes to waivers, exceptions and modification criteria; the need for General Habitat Management Areas; exceptions to greater sage-grouse management within non-habitat portions of Priority Habitat Management Areas; lek buffers; reversing adaptive management responses when the BLM determines that resource conditions no longer warrant those responses; prioritization of mineral leasing; land disposals and exchanges; predation; burial of transmission lines; direction to consider specific alternatives during implementation planning; and clarification of existing management related to mitigation standards, adjustment of habitat boundaries to reflect new information, grazing systems and prioritization of grazing permits, water developments management in relation to water rights, travel and transportation management planning, and surface coal mining.

The Draft RMP Amendment/Draft EIS evaluates two alternatives in detail, including the No Action Alternative (Alternative A) and one action alternative (Management Alignment Alternative). The Management Alignment Alternative has been identified as BLM's Preferred Alternative for the purposes of public comment and review. Identification of this alternative, however, does not represent final agency direction, and the Proposed RMP Amendment/Final EIS may reflect changes or adjustments from information received during public comment, from new information, or from changes in BLM policies or priorities. The Proposed RMP Amendment/Final EIS may include objectives and actions described in the other analyzed alternative as well. Alternative A would retain the current management goals, objectives, and direction specified in the current RMPs for each field office.

BLM Utah is soliciting comments on the entire Draft EIS, as well as the specific planning issues mentioned in this NOA, and the cumulative effects analysis. Please note that public comments and information submitted including names, street addresses, and email addresses of persons who submit comments will be available for public review and disclosure at the address provided in the **ADDRESSES** section of this notice during regular business hours (8:00 a.m. to 4:00 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2

Edwin L. Roberson,

BLM Utah State Director.

[FR Doc. 2018–09526 Filed 5–3–18; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO200000.LXSGPL000000.18x.L11100000.PH0000]

Notice of Availability of the Oregon Draft Resource Management Plan Amendment and Environmental Impact Statement for Greater Sage-Grouse Conservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared the Oregon Draft Resource Management Plan (RMP) Amendment and Draft Environmental Impact Statement (EIS) for Greater Sage-Grouse (GRSG) Conservation for the Oregon Greater Sage-Grouse Sub-Region and by this notice is announcing the opening of the comment period. BLM Oregon is soliciting comments on the entire Draft EIS, as well as the specific planning issues mentioned in this NOA, and the cumulative effects analysis.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft RMP Amendment/Draft EIS within 90 days following the date the Environmental Protection Agency publishes a notice of availability of the Draft RMP Amendment/Draft EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Oregon Greater Sage-Grouse Draft RMP Amendment/Draft EIS by any of the following methods:

- *Website: https://goo.gl/PxkL5Q.*
- *Mail:* BLM Oregon State Office, Attn: Draft EIS for Greater Sage-Grouse Conservation, P.O. Box 2969, Portland, OR 97208.

Copies of the Oregon Draft RMP Amendment/Draft EIS are available at *https://goo.gl/PxkL5Q.*

FOR FURTHER INFORMATION CONTACT: For further information contact Jim Regan-Vienop, Planning and Environmental Coordinator, telephone 503–808–6062; address 1220 SW 3rd Ave., Suite 1305, Portland, OR 97204; email *jreganvienop@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay

Service (FRS) at 1–800–877–8339 to contact Mr. Regan-Vienop. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with Mr. Regan-Vienop. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Greater Sage-Grouse is a state-managed species that is dependent on sagebrush steppe ecosystems. These ecosystems are managed in partnership across the range of the Greater Sage-Grouse by federal, state, and local authorities. Efforts to conserve the species and its habitat date back to the 1950s. Over the past two decades, state wildlife agencies, federal agencies, and many others in the range of the species have been collaborating to conserve Greater Sage-Grouse and its habitats. The United States Department of the Interior (DOI) and the BLM have broad responsibilities to manage federal lands and resources for the public benefit. Nearly half of Greater Sage-Grouse habitat is managed by the BLM. The BLM is committed to being a good neighbor and investing in on-the-ground conservation activities through close collaboration with State governments, local communities, private landowners, and other stakeholders.

In September 2015, the U.S. Fish and Wildlife Service (USFWS) determined that the Greater Sage-Grouse did not warrant listing under the Endangered Species Act of 1973. The USFWS based its ''not warranted'' determination, in part, on the conservation commitments and management actions in the BLM and U.S. Forest Service (Forest Service) Greater Sage-Grouse land use plan amendments and revisions (2015 GRSG land use plan decisions), as well as on other private, state, and federal conservation efforts. Since 2015 the BLM, in discussion with partners, primarily Governors and state wildlife management agencies, recognized that several refinements and policy updates could help strengthen conservation efforts, while providing increased economic opportunity to local communities. The BLM and Department of Interior worked closely with Governors charged with managing Greater Sage-Grouse to determine whether some, none, or all of the 2015 Land Use Plans should be amended. After carefully considering the Governor's input, and using its discretion and authority under FLPMA, as well as under direction from the Secretary, including Secretary's Order (SO) 3353, the BLM proposes amending the Oregon Greater Sage-Grouse land use plans that address GRSG management. This action is proposed to enhance cooperation and improve alignment with the state plans or management strategies, in accordance with the BLM's multiple use and sustained yield mission. The BLM prepared the Oregon Greater Sage-Grouse Draft RMP Amendment/Draft EIS to address alternatives that will build upon its commitment to conserve and restore Greater Sage-Grouse habitat, while improving collaboration and alignment with state management strategies for Greater Sage-Grouse. The BLM seeks to improve management alignment in ways that will increase management flexibility, maintain access to public resources, and promote conservation outcomes. The BLM used internal, agency, and public scoping to identify issues considered in the environmental analysis. As part of this analysis, the BLM also examined the range of alternatives evaluated in the BLM's 2015 GRSG land use plan decisions and their supporting NEPA analyses.

This Draft RMP Amendment/Draft EIS is one of six separate planning efforts that are being undertaken in response to SO 3353, Greater Sage-Grouse Conservation and Cooperation with Western States (June 7, 2017), and in accordance with SO 3349, American Energy Independence (March 29, 2017). The Draft RMP Amendment/Draft EIS proposes to amend the RMPs for field offices on BLM lands within BLM Oregon boundaries. The current management decisions for resources are described in the following RMPs:

- Andrews (2005)
- Baker (1989)
- Brothers/La Pine (1989)
- Lakeview (2003)
- Southeastern Oregon (2002)
- Steens (2005)
- Three Rivers (1992)
- Upper Deschutes (2005)

The planning area includes approximately 60,649 acres of BLM-administered lands located in Oregon, in three counties: Harney, Lake, and Malheur. Within the decision area, the BLM administers approximately 21,959 acres of public lands, providing approximately 21,959 acres of GRSG habitat. Surface management decisions made as a result of this Draft RMP Amendment/Draft EIS will apply only to BLM-administered lands in the decision area.

The formal public scoping process for the RMP Amendment/EIS began on October 11, 2017, with the publication of a Notice of Intent in the **Federal Register** (82 FR 47248), and ended on December 1, 2017. The BLM in Oregon held one public scoping meeting in Burns, Oregon on November 7, 2017.

The Oregon RMP Amendment/EIS addresses the availability or unavailability of livestock grazing in 13 key Research Natural Areas (RNAs). RNAs are a subset type of Areas of Critical Environmental Concern. The Oregon Draft RMP Amendment/Draft EIS focuses on the issue of availability of livestock grazing within key RNAs. The Draft RMP Amendment/Draft EIS evaluates two alternatives in detail, including the No Action Alternative (Alternative A) and one action alternative (Alternative B). Alternative B has been identified as BLM's Preferred Alternative for the purposes of public comment and review. Identification of this alternative, however, does not represent final agency direction, and the Proposed RMP Amendment/Final EIS may reflect changes or adjustments from information received during public comment, from new information, or from changes in BLM policies or priorities. The Proposed RMP Amendment/Final EIS may include objectives and actions described in the other analyzed alternative as well.

Alternative A would retain the current management goals, objectives, and direction specified in the current RMPs, as amended, for each field office.

Please note that public comments and information submitted including names, street addresses, and email addresses of persons who submit comments will be available for public review and disclosure at the address provided in the **ADDRESSES** section of this notice during regular business hours (8:00 a.m. to 4:00 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personal identifying information in your comments, please be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2

Jamie E. Connell,

Oregon/Washington State Director.

[FR Doc. 2018–09525 Filed 5–3–18; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVC01000.L19200000.ET0000; LRORF1709600; MO# 4500119564]

Notice of Amended Application for Withdrawal Expansion and Opportunity for Public Meeting; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Amended Withdrawal Application for Expansion.

SUMMARY: In accordance with the Engle Act of 1958 and the Federal Land Policy and Management Act of 1976, as amended, (FLPMA), the Department of the Navy (DON) has amended its 2016 Engle Act application for withdrawal to add 92,482.45 acres of public lands and 1,001 acres of non-federally owned lands to its original application for the withdrawal and reservation by Congress of 678,670.69 acres of public lands. These lands are located near Naval Air Station (NAS) Fallon, Nevada, for the Fallon Range Training Complex (FRTC).

DATES: Comments on the amended withdrawal application including the environmental consequences of a withdrawal for military purposes of 92,482.45 acres of public land should be received on or before August 2, 2018. In addition, a public meeting will be held to help the public understand the withdrawal and the associated decision-making process. The meeting will be held on Tuesday, June 19, 2018, from 5 p.m. to 7 p.m.

ADDRESSES: Comments pertaining to this Notice should be submitted by any of the following methods:

- *Email: BLM_NV_FRTC@blm.gov*
- *Fax:* 775–885–6147
- *Mail:* BLM Carson City District, Attn: NAS Fallon FRTC, 5665 Morgan Mill Road, Carson City, NV 89701
- The public meeting will be held at the Fallon Convention Center, 100 Campus Way, Fallon, NV 89406.

FOR FURTHER INFORMATION CONTACT: Colleen Dingman, BLM, Carson City District Office, 775–885–6168; address: 5665 Morgan Mill Road, Carson City, NV 89701; email: *cjdingman@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The DON filed an amended application requesting the withdrawal and reservation of additional public lands for military training exercises involving NAS Fallon, Churchill County, Nevada. The DON proposed withdrawal amendment adds 92,482.45 acres of public lands and 1,001 acres of non-federally owned lands (*i.e.,* lands that would be subject to such action should they enter Federal ownership) to the original land withdrawal expansion application for the withdrawal of the public lands from appropriation under the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws, subject to valid existing rights, and reservation of the public lands located near FRTC for military use. The original and amended applications requested that Congress expand the area withdrawn and reserved for military purposes at FRTC. Currently, the FRTC occupies 223,557 acres of public lands withdrawn and reserved for its use, and the DON has requested renewal of the existing withdrawal and reservation. The Bureau of Land Management (BLM) notified the public of the original land withdrawal expansion application consisting of 678,670.69 additional acres on September 2, 2016, with a Notice published in the **Federal Register** (81 FR 60736). The DON also requests partial cancellation and removal of 2,429.80 acres of public lands from the original land withdrawal expansion application for the withdrawal and reservation of public lands located near the FRTC. The entire FRTC expansion area—beyond the existing withdrawal—consists of 769,724.34 acres that are requested to be withdrawn from appropriation under the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws, subject to valid existing rights, and reserved for military purposes. As required by section 204(b)(1) of FLPMA, 43 U.S.C. 1714(b)(1), and the BLM regulations at 43 CFR part 2300, the BLM is publishing this Notice of the DON amended application. While the BLM and the Department of the Interior (DOI) assist the DON with the processing of this application, Congress, not the Secretary, will make the decision on expansion of the existing NAS Fallon withdrawal.

Upon publication of this Notice in the **Federal Register,** the public lands described will be segregated from all forms of appropriation under the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws, subject to valid existing rights for two years. The acres of public land segregated upon publication of this Notice totals 92,482.45 acres.

The DON, in accordance with the Engle Act, (43 U.S.C. 155–158), has filed an application requesting withdrawal and reservation of additional Federal lands for military training exercises involving NAS Fallon, Churchill County, Nevada (the ‘‘expansion area’’). The DON requests that the land be withdrawn from all forms of appropriation under the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws, subject to valid existing rights and reserved for use of the DON for testing and training involving air-to-ground weapons delivery, tactical maneuvering, use of electromagnetic spectrum, land warfare maneuver, and air support, as well as other defense-related purposes consistent with these purposes. The amended expansion area consists of the lands and interests in lands described below and adjacent to the exterior boundaries of NAS Fallon FRTC Dixie Valley Training Area, located in Churchill County, Nevada and NAS Fallon FRTC B–17 area, located in Churchill, Mineral, and Nye Counties, Nevada.

The area within the Dixie Valley Training Area aggregate 16,370.50 acres. Portions of these lands are unsurveyed and the acres obtained from protraction diagram information or calculated using Geographic Information System.

Mount Diablo Meridian, Nevada

Dixie Valley Training Area, Additional Lands

Bureau of Land Management

T. 18 N., R. 33 E., unsurveyed,
Sec. 3.
T. 19 N., R. 32 E., unsurveyed,
Sec. 13.
T. 19 N., R. 33 E., unsurveyed,
Sec. 20, SE¼ and N½;
Secs. 21 thru 27;
Sec. 28, E½;
Secs. 34 and 35.
T. 19 N., R. 35 E.,
Sec. 12, S½SW¼SW¼;
Sec. 13.
T. 19 N., R. 36 E.,
Sec. 19, E½.
T. 20 N., R. 33 E., unsurveyed,
Sec. 1, SE¼;
Secs. 7 and 8;
Sec. 9, NW¼ and S½;
Sec. 10, S½;
Sec. 11, NE¼ and S½;
Sec. 12.
T. 20 N., R. 33 ½ E., unsurveyed,
Sec. 1, S½;
Sec. 12.

T. 20 N., R. 34 E., unsurveyed,
Sec. 6, S½;
Sec. 7.
T. 20 N., R. 35 E.,
Sec. 2;
Sec. 11;
Sec. 14;
Sec. 23.

The additional lands area described for Dixie Valley Training Area contains 16,370.50 acres in Churchill County.

Department of Defense Fee Owned Lands

None

Non-federally Owned Lands

None

Mount Diablo Meridian, Nevada

Dixie Valley Training Area, Partial Cancellation and Removal Lands

Bureau of Land Management

T. 21 N., R. 35 E.,
Sec. 13, lot 16 south of the southerly line of the dirt road;
Sec. 24, lots 1 and 2 south of the southerly line of the dirt road, lots 7 thru 10, 15 and 16.
T. 21 N., R. 36 E.,
Sec. 16, south of the southerly line of the dirt road;
Sec. 17, south of the southerly line of the dirt road;
Sec. 18, lots 3 and 4 south of the southerly line of the dirt road, E½W½ south of the southerly line of the dirt road and E1/2 south of the southerly line of the dirt road;
Sec. 19, lots 1 thru 4, E½W½, E½;
Sec. 20.

The partial cancellation and removal lands area described for Dixie Valley Training Area contains 2,429.80 acres in Churchill County.

Department of Defense Fee Owned Lands

None

Non-federally Owned Lands

None

Mount Diablo Meridian, Nevada

B–17, Additional Lands

Bureau of Land Management

T. 11 N., R. 34 E.,
Secs. 1 thru 3;
Sec. 4, lot 4, S½SE¼, SW¼NW¼, NW¼SW¼ and S½SW¼;
Sec. 5;
Sec. 6, lots 1 and 2, S½NE¼ and SE¼;
Secs. 9 thru 12;
Sec. 13, N½;
Sec. 14, N½;
Sec. 15, N½;
Sec. 16, N½;
T. 12 N., R. 34 E.,
Sec. 1;
Secs. 11 thru 15;
Secs. 19 thru 27;
Sec. 28, NE¼, N½NW¼, SW¼NW¼, E½SE¼ and S½SW¼;
Sec. 29, N½, SE¼SE¼, W½SE¼ and SW¼;
Sec. 30;
Sec. 31, E½;
Sec. 32;
Sec. 33, E½NE¼ and NW¼;
Secs. 34 thru 36;
T. 11 N., R. 35 E.,
Sec. 4, lots 3 and 4, SW¼ and S½NW¼;
Secs. 5 thru 7;
Sec. 8, W½;
T. 12 N., R. 35 E.,
Sec. 1 thru 12;
Sec. 13, W½;
Secs. 14 thru 23;
Sec. 26, N½;
Secs. 27 thru 33;
Sec. 34, N½;
T. 13 N., R. 35 E., unsurveyed,
Secs. 1 thru 3;
Sec. 4, E½;
Sec. 9, NE¼ and S½;
Secs. 10 thru 16;
Secs. 21 thru 29;
Secs. 31 thru 36;
T. 14 N., R. 35 E., unsurveyed,
Sec. 2, W½;
Sec. 3;
Sec. 4, E½;
Sec. 9, that portion lying east of the westerly right-of-way line of State Route 361;
Secs. 10 and 11;
Sec. 13, W½;
Secs. 14 and 15;
Sec. 16, that portion lying east of the westerly right-of-way line of State Route 361;
Sec. 21, that portion lying east of the westerly right-of-way line of State Route 361;
Sec. 22 thru 27;
Sec. 28, E½NE¼ and E½SE¼;
Sec. 33, E½NE¼ and E½SE¼;
Secs. 34 thru 36;
T. 15 N., R. 35 E., unsurveyed,
Sec. 28, SE¼;
Sec. 33, E½;
Sec. 34;
T. 12 N., R. 36 E.,
Sec. 6, lots 3 thru 7, SE¼NW¼ and E½SW¼;
T. 13 N., R. 36 E., unsurveyed,
Sec. 6, W½;
Sec. 7;
Sec. 18 and 19;
Sec. 30;
Sec. 31, W½;
T. 14 N., R. 36 E., unsurveyed,
Sec. 31, W½;

The additional lands area described for B–17 contains 76,111.95 acres in Churchill, Mineral, and Nye Counties.

Department of Defense Fee Owned Lands

None

Non-federally Owned Lands

T. 11 N., R. 34 E.,
Sec. 4, lots 1 thru 3, S½NE¼, SE¼NW¼, N½SE¼ and NE¼SW¼;
T. 12 N., R. 34 E.,
Sec. 28, SE¼NW¼, W½SE¼ and N½SW¼;
Sec. 29, NE¼SE¼;
Sec. 33, W½NE¼ and S½;

The additional lands area described for B–17 contains 1,001.00 acres in Mineral and Nye Counties.

In the event any non-federally owned lands within the requested withdrawal area return or pass to Federal ownership in the future, they would be subject to the terms and conditions described above.

The DON has amended its application to request additional lands at NAS Fallon FRTC to be used by the DON for testing and training involving air-to-ground weapons delivery, tactical maneuvering, use of electromagnetic spectrum, land warfare maneuver, and air support, as well as other defense-related purposes consistent with these purposes. National defense requirements are rapidly evolving in response to new and emerging worldwide threat conditions. The Department of Defense has responded to these new and emerging threats with advances in combat platform and weapon technologies, in an effort to maintain a competitive edge in combat operations abroad. The evolution of modern combat systems has placed an increased demand on tactical training ranges to meet combat pre-deployment training requirements. For the DON, 100 percent of deploying naval strike aviation units train at the FRTC prior to deployment. A significant percentage of deploying Naval Special Warfare units also trains at FRTC. The introduction of modern and advanced weapons systems already exceeds the DON's ability to train realistically at the FRTC while maintaining public safety. Training protocol of exercising Tactics, Techniques, and Procedures are severely limited due to a lack of adequate training space at the FRTC. These limitations diminish the Navy's ability to train to realistic employment methods of existing weapons systems. Extension and expansion of the withdrawn and reserved Federal lands at NAS Fallon are essential to the DON to provide a realistic tactical training at the FRTC while continuing to provide for public safety.

A copy of the legal descriptions and the maps depicting the lands that are the subject of the DON's application, as amended, are available for public inspection at the following offices:

State Director, BLM Nevada State Office, 1340 Financial Blvd., Reno, Nevada 89502, and District Manager, BLM Carson City District Office, 5665 Morgan Mill Road, Carson City, Nevada 89701.

For a period until August 2, 2018 all persons who wish to submit comments, suggestions, or objections in connection with the withdrawal applications may present their comments in writing to the persons and offices listed in the **ADDRESSES** section above. All comments received will be considered before any

recommendation for withdrawal is presented to Congress.

In addition, a public meeting addressing the amended withdrawal application will be held to help the public understand the amended withdrawal application and the associated process for decision-making; please see the **DATES** and **ADDRESSES** sections for details.

The DON is the lead agency for evaluation of the proposed withdrawal expansion as pursuant to the National Environmental Policy Act of 1970, as amended (NEPA) 42 U.S.C. 4371 *et seq.,* and other applicable environmental and cultural resources authorities.

Comments including names and street addresses of respondents will be available for public review at the BLM addresses noted above, during regular business hours Monday through Friday, except Federal holidays. Before including your address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment—including your personally identifiable information—may be publicly available at any time. While you can ask the BLM in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

For a period until May 4, 2020, subject to valid existing rights, the Federal lands that are described in this Notice as added to the DON's withdrawal application will be segregated, for two years, from all forms of appropriation under the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws, unless the applications/proposal are denied or canceled or the withdrawal is approved prior to that date. The acres of public land segregated upon publication of this Notice totals 92,482.45 acres. Licenses, permits, cooperative agreements, or discretionary land use authorizations may be allowed during the period of segregation, but only with the approval of the authorized officer and, as appropriate, with the concurrence of the DON.

Pursuant to 43 CFR 2310.1–4, the segregative effect for the 2,429.80 acres described above is terminated, and the lands opened as follows: At 9 a.m. on June 4, 2018 the 2,429.80 acres of public lands in Churchill County, identified by the DON as no longer needed for their application for legislative withdrawal, and legally described above, will be opened to the operation of the general land laws and to location and entry under the United States mining laws, subject to valid existing right, the provision of existing withdrawals, and other segregations of record, and other applicable law, including the provisions of 43 U.S.C. 1782. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The BLM will not intervene in disputes between rival locators over possessory rights, because Congress has provided for such determinations in local courts. All valid applications under any other general land laws received at or prior to 9 a.m. on June 4, 2018 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Authority: 43 CFR 2300.

Michael C. Courtney,

Acting State Director, Nevada.

[FR Doc. 2018–09665 Filed 5–3–18; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO200000.LXSGPL000000.18x.L11100 000.PH0000]

Notice of Availability of the Colorado Draft Resource Management Plan Amendment and Draft Environmental Impact Statement for Greater Sage-Grouse Conservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared a Draft Resource Management Plan (RMP) Amendment and Draft Environmental Impact Statement (EIS) for Colorado Greater-Sage-Grouse (GRSG) Conservation and by this notice is announcing the opening of the comment period. BLM Colorado is soliciting comments on the entire Draft EIS, as well as the specific planning issues mentioned in this NOA, and the cumulative effects analysis.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft RMP Amendment/Draft EIS within 90 days following the date the Environmental Protection Agency publishes a notice of availability of the Draft RMP Amendment/Draft EIS in the **Federal Register.** The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Colorado GRSG RMP Amendment/Draft EIS by any of the following methods:

- *Website: https://goo.gl/kmLtwT.*
- *mail:* BLM—Greater Sage-Grouse EIS, 2815 H Road, Grand Junction, CO 81506. Copies of the Colorado GRSG Draft RMP Amendment/Draft EIS are available at the website above.

FOR FURTHER INFORMATION CONTACT: For further information contact Bridget Clayton, Colorado Sage-grouse Coordinator, telephone 970–244–3045; see address above; email *bclayton@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Ms. Clayton. The FRS is available 24 hours a day, seven days a week, to leave a message or question with Ms. Clayton. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Greater Sage-Grouse is a state-managed species that is dependent on sagebrush steppe ecosystems. These ecosystems are managed in partnership across the range of the Greater Sage-Grouse by federal, state, and local authorities. Efforts to conserve the species and its habitat date back to the 1950s. Over the past two decades, state wildlife agencies, federal agencies, and many others in the range of the species have been collaborating to conserve Greater Sage-Grouse and its habitats. The United States Department of the Interior (DOI) and the BLM have broad responsibilities to manage federal lands and resources for the public benefit. Nearly half of Greater Sage-Grouse habitat is managed by the BLM. The BLM is committed to being a good neighbor and investing in on-the-ground conservation activities through close collaboration with State governments, local communities, private landowners, and other stakeholders.

In September 2015, the U.S. Fish and Wildlife Service (USFWS) determined that the Greater Sage-Grouse did not warrant listing under the Endangered Species Act of 1973. The USFWS based its ''not warranted'' determination, in part, on the conservation commitments and management actions in the BLM

and U.S. Forest Service (Forest Service) Greater Sage-Grouse land use plan amendments and revisions (2015 GRSG land use plan decisions), as well as on other private, state, and federal conservation efforts. Since 2015 the BLM, in discussion with partners, primarily Governors and state wildlife management agencies, recognized that several refinements and policy updates could help strengthen conservation efforts, while providing increased economic opportunity to local communities. The BLM and Department of Interior worked closely with Governors charged with managing Greater Sage-Grouse to determine whether some, none, or all of the 2015 Land Use Plans should be amended. After carefully considering the Governor's input, and using its discretion and authority under FLPMA, as well as under direction from the Secretary, including Secretary's Order (SO) 3353, the BLM proposes amending the Colorado Greater Sage-Grouse land use plans that address GRSG management. This action is proposed to enhance cooperation and improve alignment with the state plans or management strategies, in accordance with the BLM's multiple use and sustained yield mission. The BLM prepared the Colorado GRSG Draft RMP Amendment/Draft EIS to address alternatives that will build upon its commitment to conserve and restore Greater Sage-Grouse habitat, while improving collaboration and alignment with state management strategies for Greater Sage-Grouse. The BLM seeks to improve management alignment in ways that will increase management flexibility, maintain access to public resources, and promote conservation outcomes. The BLM used internal, agency, and public scoping to identify issues considered in the environmental analysis. As part of this analysis, the BLM also examined the range of alternatives evaluated in the BLM's 2015 GRSG land use plan decisions and their supporting NEPA analyses. This Draft RMP Amendment/Draft EIS is one of six separate planning efforts that are being undertaken in response to SO 3353, Greater Sage-Grouse Conservation and Cooperation with Western States (June 7, 2017), and in accordance with SO 3349, American Energy Independence (March 29, 2017). The Draft RMP Amendment/Draft EIS proposes to amend the RMPs for field offices on BLM lands within BLM Colorado boundaries. In addition to the 2015 Northwest Colorado GRSG Approved RMP Amendment, current management decisions for resources are described in the following RMPs:

- Colorado River Valley RMP (2015)
- Kremmling RMP (2015)
- Grand Junction RMP (2015)
- Little Snake RMP (2011)
- White River RMP (1997)

The planning area includes approximately 4,153,000 acres of BLM, National Park Service, U.S. Forest Service, U.S. Bureau of Reclamation, State, local, and private lands located in Colorado, in 10 counties: Eagle, Garfield, Grand, Jackson, Larimer, Mesa, Moffat, Rio Blanco, Routt and Summit. Within the decision area, the BLM manages approximately 1,731,400 acres of GRSG habitat. Surface management decisions made as a result of this Draft RMP Amendment/EIS will apply only to BLM-administered lands in the decision area.

The formal public scoping process for the Draft RMP Amendment/Draft EIS began on October 11, 2017, with the publication of a Notice of Intent in the **Federal Register** (82 FR 47248), and ended on December 1, 2017. A public scoping meeting was held in Craig, Colorado, on November 8, 2017.

The Draft RMP Amendment/Draft EIS addresses leasing availability within one mile from active leks, lek buffers, adjustments to habitat boundaries to reflect new information, and changes to waivers, exceptions and modification criteria. The Draft RMP Amendment/Draft EIS evaluate two alternatives in detail, including the No Action Alternative (Alternative A) and one action alternative (Alternative B). Alternative B has been identified as BLM's Preferred Alternative for the purposes of public comment and review. Identification of this alternative, however, does not represent final agency direction, and the Proposed RMP Amendment/Final EIS may reflect changes or adjustments from information received during public comment, from new information, or from changes in BLM policies or priorities. The Proposed RMP Amendment/Final EIS may include objectives and actions described in the other analyzed alternative as well. Alternative A would retain the current management goals, objectives, and direction specified in the current RMPs for each field office.

Please note that public comments and information submitted including names, street addresses, and email addresses of persons who submit comments will be available for public review and disclosure at the address provided in the **ADDRESSES** section of this notice during regular business hours (8:00 a.m. to 4:00 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10 and 43 CFR 1610.2

Gregory P. Shoop,
Acting BLM Colorado State Director.

[FR Doc. 2018–09523 Filed 5–3–18; 8:45 am]
BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY920000. L51040000.FI0000. 18XL5017AR]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW180624, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: As provided for under the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement of competitive oil and gas lease WYW180624 from Kirkwood Oil & Gas LLC for land in Converse County, Wyoming. The lessee filed the petition on time, along with all rentals due since the lease terminated under the law. No leases affecting this land were issued before the petition was filed. The BLM proposes to reinstate the lease.

FOR FURTHER INFORMATION CONTACT: Erik Norelius, Acting Branch Chief for Fluid Minerals Adjudication, Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming, 82003; phone 307–775–6176; email *enoreliu@blm.gov.*

Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Mr. Norelius during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. A reply will be sent during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee agreed to the amended lease terms for

rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16 ⅔ percent, respectively. The lessee also agreed to the amended stipulations as required by the Casper Approved Resource Management Plan. The lessee has paid the required $500 administrative fee and the $159 cost of publishing this notice. The lessee met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). The BLM proposes to reinstate the lease effective April 1, 2016, under the revised terms and conditions of the lease and the increased rental and royalty rates cited above.

Authority: 30 U.S.C. 188 (e)(4) and 43 CFR 3108.2–3 (b)(2)(v).

Erik Norelius,

Acting Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2018–09528 Filed 5–3–18; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY920000. L51040000.FI0000. 18XL5017AR]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW175931, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: As provided for under the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement of competitive oil and gas lease WYW175931 from Samson Resources Company for land in Converse County, Wyoming. The lessee filed the petition on time, along with all rentals due since the lease terminated under the law. No leases affecting this land were issued before the petition was filed. The BLM proposes to reinstate the lease.

FOR FURTHER INFORMATION CONTACT: Erik Norelius, Acting Branch Chief for Fluid Minerals Adjudication, Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003; phone 307–775–6176; email *enoreliu@blm.gov.*

Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Mr. Norelius during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. A reply will be sent during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16 ⅔ percent, respectively. The lessee has paid the required $500 administrative fee and the $159 cost of publishing this notice. The lessee met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). The BLM proposes to reinstate the lease effective March 1, 2016, under the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Authority: 30 U.S.C. 188 (e)(4) and 43 CFR 3108.2–3 (b)(2)(v).

Erik Norelius,

Acting Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2018–09527 Filed 5–3–18; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO200000.LXSGPL000000.18x.L11100 000.PH0000]

Notice of Availability of the Wyoming Draft Resource Management Plan Amendment and Draft Environmental Impact Statement for Greater Sage-Grouse Conservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared the Wyoming Draft Resource Management Plan (RMP) Amendment and Draft Environmental Impact Statement (EIS) for Wyoming Greater Sage-Grouse (GRSG), and by this notice is announcing the opening of the comment period. BLM Wyoming is soliciting comments on the entire Draft EIS, as well as the specific planning issues mentioned in this NOA, and the cumulative effects analysis.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft RMP Amendment/Draft EIS within 90 days following the date the Environmental Protection Agency publishes a notice of availability of the Draft RMP Amendment/Draft EIS in the **Federal Register.** The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Wyoming Draft RMP Amendment/Draft EIS by any of the following methods:

- *website: https://goo.gl/22jKE2.*
- *mail:* attn: Greater Sage-Grouse EIS, BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, WY 82009.

Copies of the Wyoming Draft RMP Amendment/Draft EIS are available in the Wyoming State Office at the above address or on the project website at: *https://goo.gl/22jKE2.*

FOR FURTHER INFORMATION CONTACT: For further information contact Jennifer Fleuret, Planning and Environmental Coordinator, by telephone, 307–775–6329; at the address above; or by email, *jfleuret@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Ms. Fleuret. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with Ms. Fleuret. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Greater Sage-Grouse is a state-managed species that is dependent on sagebrush steppe ecosystems. These ecosystems are managed in partnership across the range of the Greater Sage-Grouse by federal, state, and local authorities. Efforts to conserve the species and its habitat date back to the 1950s. Over the past two decades, state wildlife agencies, federal agencies, and many others in the range of the species have been collaborating to conserve Greater Sage-Grouse and its habitats. The United States Department of the Interior (DOI) and the BLM have broad responsibilities to manage federal lands and resources for the public benefit. Nearly half of Greater Sage-Grouse habitat is managed by the BLM. The BLM is committed to being a good neighbor and investing in on-the-ground conservation activities through close collaboration with State governments, local communities, private landowners, and other stakeholders.

In September 2015, the U.S. Fish and Wildlife Service (USFWS) determined that the Greater Sage-Grouse did not warrant listing under the Endangered Species Act of 1973. The USFWS based its ‘‘not warranted’’ determination, in part, on the conservation commitments and management actions in the BLM and U.S. Forest Service (Forest Service)

Greater Sage-Grouse land use plan amendments and revisions (2015 GRSG land use plan decisions), as well as on other private, state, and federal conservation efforts. Since 2015 the BLM, in discussion with partners, primarily Governors and state wildlife management agencies, recognized that several refinements and policy updates could help strengthen conservation efforts, while providing increased economic opportunity to local communities. The BLM and Department of Interior worked closely with Governors charged with managing Greater Sage-Grouse to determine whether some, none, or all of the 2015 Land Use Plans should be amended. After carefully considering the Governor's input, and using its discretion and authority under FLPMA, as well as under direction from the Secretary, including Secretary's Order (SO) 3353, the BLM proposes amending the Wyoming Greater Sage-Grouse land use plans that address GRSG management. This action is proposed to enhance cooperation and improve alignment with the state plans or management strategies, in accordance with the BLM's multiple use and sustained yield mission. The BLM prepared the Wyoming Greater Sage-Grouse Draft RMP Amendment/Draft EIS to address alternatives that will build upon its commitment to conserve and restore Greater Sage-Grouse habitat, while improving collaboration and alignment with state management strategies for Greater Sage-Grouse. The BLM seeks to improve management alignment in ways that will increase management flexibility, maintain access to public resources, and promote conservation outcomes. The BLM used internal, agency, and public scoping to identify issues considered in the environmental analysis. As part of this analysis, the BLM also examined the range of alternatives evaluated in the BLM's 2015 GRSG land use plan decisions and their supporting NEPA analyses.

This Draft RMP Amendment/Draft EIS is one of six separate planning efforts that are being undertaken in response to SO 3353, Greater Sage-Grouse Conservation and Cooperation with Western States (June 7, 2017), and in accordance with SO 3349, American Energy Independence (March 29, 2017). The Draft RMP Amendment/Draft EIS proposes to amend the RMPs for field offices on BLM lands within BLM Wyoming boundaries. The current management decisions for resources are described in the following resource management plans (RMPs):

- Buffalo RMP (2015)
- Casper RMP (2007)
- Cody RMP (2015)
- Kemmerer RMP (2010)
- Lander RMP (2014)
- Newcastle RMP (2000)
- Pinedale RMP (2008)
- Rawlins RMP (2008)
- Green River RMP (1997)
- Worland RMP (2015)

The planning area includes nearly 60 million acres of BLM, National Park Service, U.S. Forest Service, U.S. Bureau of Reclamation, State, local, and private lands located in Wyoming, in 20 counties: Albany, Bighorn, Campbell, Carbon, Converse, Crook, Fremont, Hot Springs, Johnson, Lincoln, Natrona, Niobrara, Park, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, and Weston. Within the decision area, the BLM administers more than 18 million acres of public lands, providing approximately 17 million acres of Priority and General GRSG habitat. Surface management decisions made as a result of this Draft RMP Amendment/Draft EIS will apply only to BLM administered lands in the decision area.

The formal public scoping process for the RMP Amendment/EIS began on October 11, 2017, with the publication of a Notice of Intent in the **Federal Register** (82 FR 47248), and ended on December 1, 2017. The BLM Wyoming held two public scoping meetings in November 2017. The BLM used scoping comments to help identify planning issues to form alternatives and frame the scope of the analysis in the Draft RMP Amendment/Draft EIS. The scoping process was also used to familiarize the public and introduce them to preliminary planning criteria, which sets limits on the scope of the Draft RMP Amendment/Draft EIS.

The Draft RMP Amendment/Draft EIS addresses the designation of sagebrush focal areas, mitigation standards, clarification of habitat objectives tables, adjustments to habitat boundaries to reflect new information, and reversing adaptive management responses when the BLM determines that resource conditions no longer warrant those responses.

The Draft RMP Amendment/Draft EIS evaluates two alternatives in detail, including the No Action Alternative (Alternative A) and one action alternative (Alternative B). Alternative B has been identified as BLM's Preferred Alternative for the purposes of public comment and review. Identification of this alternative, however, does not represent final agency direction, and the Proposed RMP Amendment/Final EIS may reflect changes or adjustments from information received during public comment, from new information, or from changes in BLM policies or priorities. The Proposed RMP Amendment/Final EIS may include objectives and actions described in the other analyzed alternative as well. In addition, certain components of the 2015 GRSG plans are not present in the Lander RMP; therefore, only the portions applicable to Lander would be amended through this process.

Alternative A would retain the current management goals, objectives, and direction specified in the current RMPs for each field office.

Please note that public comments and information submitted including names, street addresses, and email addresses of persons who submit comments will be available for public review and disclosure at the address provided in the **ADDRESSES** section of this notice during regular business hours (8:00 a.m. to 4:00 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2

Mary Jo Rugwell,

State Director, Wyoming.

[FR Doc. 2018–09524 Filed 5–3–18; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVC01000.L19200000.ET0000; LRORF1709600; MO# 450010998

Notice of Proposed Withdrawal and Availability of an Associated Environmental Assessment, and Notification of Public Meeting; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Withdrawal

SUMMARY: In accordance with Section 204 of the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Secretary of the Interior proposes to withdraw approximately 769,724 acres of Federal land in Churchill, Lyon, Mineral, Nye, and Pershing Counties, Nevada, for up to 4 years from all forms of appropriation

under the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws, subject to valid existing rights. The petition/application also requests withdrawal of 68,804 acres of Federal land in the Dixie Valley Training Area from the mineral leasing laws (not currently withdrawn from these laws under Section 3016 of the National Defense Authorization Act (NDAA) for Fiscal Year 2000 (NDAA 2000), subject to valid existing rights. In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), the BLM Carson City District Stillwater Field Office, Carson City, Nevada, has prepared an Environmental Assessment (EA) associated with the proposed withdrawal for Land Management Evaluation (LME) purposes, and by this Notice is announcing the EA's availability.

DATES: Comments on the proposed 4-year withdrawal including environmental consequences should be received on or before August 2, 2018. In addition, a public meeting will be held on Tuesday June 19, 2018, from 5 p.m. to 7 p.m. at the Fallon Convention Center, 100 Campus Way, Fallon, Nevada 89406 to help the public understand the proposed withdrawal and the associated decision-making process.

ADDRESSES: Comments pertaining to this Notice or the proposed withdrawal for LME purposes, including environmental issues pertaining to the proposed LME withdrawal, should be submitted by any of the following methods:

- *Email: BLM_NV_FRTC@blm.gov.*
- *Fax:* (775) 885–6147.
- *Mail:* BLM Carson City District, Attn: NAS Fallon FRTC, 5665 Morgan Mill Road, Carson City, NV 89701.

FOR FURTHER INFORMATION CONTACT: Colleen Dingman, BLM, Carson City District Office, 775–885–6168; address: 5665 Morgan Mill Road, Carson City, NV 89701; email: *cjdingman@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM and the Department of the Navy (DON) are engaged in evaluation of issues relating to the Navy's proposed training land range expansion and airspace modifications project of Naval Air Station Fallon, Fallon Range Training Complex, Nevada, pending the processing of the DON's application for withdrawal of Federal land for defense purposes under the Engle Act (**Federal Register** Notice 2016–20502) (81 FR 58919) and **Federal Register** Notice 2016–21213 (81 FR 60736). In accordance with Section 204 of the FLPMA, 43 U.S.C. 1714, and BLM regulations at 43 CFR part 2300, the BLM has filed a petition/application requesting the Secretary of the Interior to withdraw the area described below from all forms of appropriation under the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws, for LME purposes, subject to valid existing rights, to support that evaluation. This application does not request reservation of the lands for the DON for defense purposes. The BLM's petition/application also requested the Secretary to withdraw 68,804 acres of subsurface in the Dixie Valley Training Area from the mineral leasing laws, for land management evaluation purposes, subject to valid existing rights. The BLM filed the petition/application for withdrawal from the mining laws, the mineral leasing laws, and the geothermal leasing laws, for LME purposes, subject to valid existing rights in support of possible future transfer of the lands to DON jurisdiction by Congress in accordance with an application filed by the DON (see **Federal Register** Notice 2016–21213) (81 FR 60736). The Secretary of the Interior therefore proposes to withdraw the lands described below in ''Expansion and Land Management Evaluation,'' for 4 years from operation of the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws, for land management purposes, subject to valid existing rights. This notice and comment will allow opportunity for the BLM to receive input from the State of Nevada, potential stakeholders, and the local community in order to adequately address potential concerns about the overall size of the withdrawal expansion and the potential impacts to existing multiple uses and resources, including but not limited to critical and other minerals, geothermal resources, livestock grazing, and recreational access.

The ''Expansion and Land Management Evaluation'' proposal would withdraw the following areas in Churchill, Lyon, Pershing, Mineral, and Nye Counties, Nevada, subject to valid existing rights as described below:

The areas B–16, B–17, B–20 and the Dixie Valley Training Area aggregate 769,724 acres. Portions of these lands are unsurveyed and the acres were obtained from protraction diagrams information or calculated using Geographic Information System.

Mount Diablo Meridian, Nevada

B–16

Bureau of Land Management

T. 16 N., R. 26 E.,
Sec. 1, lots 1 thru 4;
Sec. 2, lots 1 and 2.
T. 17 N., R. 26 E., partly unsurveyed,
Secs. 1, 2, and 11 thru 13;
Sec. 14, E½;
Sec. 23, E½;
Secs. 24 and 25;
Sec. 26, E½;
Sec. 35, E½;
Sec. 36.
T. 18 N., R. 26 E.,
Sec. 35, S½;
Sec. 36.
T. 16 N., R. 27 E.,
Sec. 1, lots 1 thru 5, SW¼NE¼, S½NW¼, N½SW¼, and SW¼SW¼;
Secs. 2 and 3;
Sec. 4, lots 1 thru 4, S½NE¼, S½NW¼, N½SW¼, and N½SE¼;
Sec. 5, lots 1 thru 4, S½NE¼, S½NW¼, SW¼, and N½SE¼;
Sec. 6, lots 1 thru 5, S½NE¼, NE¼SE¼, and E½SE¼SE¼.
T. 17 N., R. 27 E., partly unsurveyed,
Secs. 4 thru 10;
Sec. 11, W½;
Sec. 14, W½;
Secs. 15 thru 22 and 27 thru 34.
T. 18 N., R. 27 E.,
Secs. 27 thru 34;
Sec. 35, W½.
T. 16 N., R. 28 E., partly unsurveyed,
Sec. 5, lots 1 thru 4, S½NE¼ and S½NW¼;
Sec. 6, lots 1 thru 5, SE¼NW¼ and S½NE¼.

The area described for B–16 aggregates 32,201.17 acres in Churchill and Lyon Counties.

B–17

Bureau of Land Management

T. 13 N., R. 32 E.,
Sec. 1, except patented lands.
T. 14 N., R. 32 E., unsurveyed,
Secs. 1 thru 3, 10 thru 15, 22 thru 26, 35, and 36.
T. 15 N., R. 32 E., unsurveyed,
Secs. 25, 26, 35, and 36.
T. 12 N., R. 33 E.,
Secs. 1 thru 8;
Sec 9, N½, N½SW¼, SW¼SW¼, N½SE¼, and SE¼SE¼;
Secs. 10 thru 15;
Sec 16, W½SW¼;
Secs. 17, 18, and 20 thru 24.
Tps. 13 and 14 N., R. 33 E., unsurveyed.
T. 15 N., R. 33 E., partly unsurveyed,
Sec. 6, that portion west of the easterly right-of-way boundary for State Route 839;
Sec. 7, that portion west of the easterly right-of-way boundary for State Route 839;

Sec. 18, that portion west of the easterly right-of-way boundary for State Route 839;
Sec. 19, that portion west of the easterly right-of-way boundary for State Route 839;
Secs. 29 thru 34.
T. 11 N., R. 34 E.,
Secs. 1 thru 3;
Sec. 4, lot 4, S½SE¼, SW¼NW¼, NW¼SW¼ and S½SW¼;
Sec. 5;
Sec. 6, lots 1 and 2, S½NE¼ and SE¼;
Secs. 9 thru 12;
Sec. 13, N½;
Sec. 14, N½;
Sec. 15, N½;
Sec. 16, N½.
T. 12 N., R. 34 E.,
Secs. 1 thru 5;
Sec. 6, lots 1 and 3 thru 7, SE¼NE¼, SE¼NW¼, E½SW¼, and S½SE¼;
Sec. 7, lots 1, 2, and 4, E½, E½NW¼, and SE¼SW¼;
Secs. 8 thru 27;
Sec. 28, NE¼, N½NW¼, SW¼NW¼, S½SW¼, and E½SE¼;
Sec. 29, N½, SW¼, W½SE¼, and SE¼SE¼;
Sec. 30;
Sec. 31, E½;
Sec. 32;
Sec. 33, E½NE¼ and NW¼;
Secs. 34 thru 36;
Tps. 13 and 14 N., R. 34 E., unsurveyed.
T. 15 N., R. 34 E., partly unsurveyed,
Secs. 1 thru 3;
Sec. 4, lots 1 thru 3, E½SW¼, and SE¼;
Sec. 9, E½, E½NW¼, and E½SW¼;
Secs. 10 thru 15;
Sec. 16, E½, E½NW¼, and E½SW¼;
Sec. 21, E½, E½NW¼, E½SW¼, and SW¼SW¼;
Secs. 22 thru 28 and 32 thru 36.
T. 16 N., R. 34 E., partly unsurveyed,
Sec. 15, lots 1 and 2, N½, SE¼, and E½SW¼;
Sec. 16, lots 1 thru 8 and 13, NE¼NE¼, and SW¼SE¼;
Sec. 21, lot 1, E½NE¼, SW¼NE¼, and SE¼;
Secs. 22 thru 23 and 25 thru 27;
Sec. 28, E½;
Sec. 33, E½;
Secs. 34 thru 36.
T. 11 N., R. 35 E.,
Sec. 4, lots 3 and 4, SW¼ and S½NW¼;
Secs. 5 thru 7;
Sec. 8, W½.
T. 12 N., R. 35 E.,
Sec. 1 thru 12;
Sec. 13, W½;
Secs. 14 thru 23;
Sec. 26, N½;
Secs. 27 thru 33;
Sec. 34, N½.
T. 13 N., R. 35 E., unsurveyed,
Secs. 1 thru 3;
Secs. 4, W½ and E½;
Secs. 5 thru 8;
Sec. 9, NE¼, NW¼, and S½;
Secs. 10 thru 36;
T. 14 N., R. 35 E., unsurveyed,
Sec. 2, W½;
Sec, 3;
Sec. 4, W½ and E½;
Secs. 5 thru 8;
Sec. 9, NW¼ and that portion lying east of the westerly right-of-way line of State Route 361;
Secs. 10 and 11;
Sec. 13, W½;
Secs. 14 and 15;
Sec. 16, that portion lying east of the westerly right-of-way line of State Route 361;
Secs. 17 thru 20;
Sec. 21, that portion lying east of the westerly right-of-way line of State Route 361;
Sec. 22 thru 27;
Sec. 28, W½NE¼, E½NE¼, W½, W½SE¼, and E½SE¼;
Secs. 29 thru 32;
Sec. 33, W½NE¼, W½, and W½SE¼;
Secs. 34 thru 36.
T. 15 N., R. 35 E., unsurveyed,
Secs. 6 thru 8 and 17 thru 20;
Sec. 28, W½ and SE¼;
Secs. 29 thru 32;
Sec. 33, W½ and E½;
Sec. 34.
T. 16 N., R. 35 E.,
Sec. 31.
T. 12 N., R. 36 E.,
Sec. 6, lots 3 thru 7, SE¼NW¼ and E½SW¼.
T. 13 N., R. 36 E., unsurveyed,
Sec. 6, W½;
Sec. 7;
Sec. 18 and 19;
Sec. 30;
Sec. 31, W½.
T. 14 N., R. 36 E., unsurveyed,
Sec. 31, W½.

The area described for B–17 aggregates 253,089.11 acres in Churchill, Nye, and Mineral Counties.

Non-Federally Owned Lands

T. 13 N., R. 32 E., partly unsurveyed,
A portion of M.S. No. 4773 (Viking's Daughter, Turtle, Tungsten, and Don).
T. 12 N., R. 33 E.,
Sec. 9, SE¼SW¼ and SW¼SE¼;
Sec. 16, N½, E½SW¼, and SE¼.
T. 11 N., R. 34 E.,
Sec. 4, lots 1 thru 3, S½NE¼, SE¼NW¼, N½SE¼ and NE¼SW¼;
T. 12 N., R. 34 E.,
Sec. 6, lot 2, SW¼NE¼, and N½SE¼;
Sec. 7, lot 3 and NE¼SW¼;
Sec. 28, SE¼NW¼, W½SE¼, and N½SW¼;
Sec. 29, NE¼SE¼;
Sec. 33, W½NE¼ and S½.
T. 16 N., R. 34 E., partly unsurveyed,
A portion of M.S. No. 4184 (Eva B, Eva B No. 2, Argel No. 1, Argel No. 2, Argel No. 3, and Prince Albert Lodes);
A portion of M.S. No. 3927 (Lookout No. 11 Lode).

The area described for B–17 aggregates 2,037 acres in Churchill, Nye, and Mineral Counties.

B–20

Bureau of Land Management

T. 24 N., R. 31 E.,
Secs. 2, 4, 8, 10, 12, 14, 16, 18, 20, 22, 28, and 30.
T. 25 N., R. 31 E.,
Secs. 34 and 36.
T. 24 N., R. 32 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 16, and 18.
T. 25 N., R. 32 E.,
Secs. 10, 12, and 14;
Sec. 15, SE¼NE¼, NE¼SE¼, and SE¼SE¼;
Secs. 16, 20, 22, 24, 26, 28, 32, 34, and 36.
T. 22 N., R. 33 E.,
Secs. 4, 5, and 8.
T. 23 N., R. 33 E.,
Secs. 2, 4, 10, 11, 14 thru 16, 21, 22, 27, 28, and 32 thru 34.
T. 24 N., R. 33 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 16, 18, 22, 24, 26, 28, 34, and 36.
T. 25 N., R. 33 E.,
Secs. 6, 8, 16, 18, 20, 22, 26, 28, 30, 32, and 34.

The area described for B–20 aggregates 49,986.79 acres in Churchill and Pershing Counties.

Bureau of Reclamation

T. 22 N., R. 30 E.,
Secs. 12 and 24.
T. 23 N., R. 30 E.,
Secs. 25, 35, and 36.
T. 22 N., R. 31 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32 thru 34, and 36.
T. 23 N., R. 31 E.,
Secs. 1 thru 4;
Sec. 5, S½;
Secs. 6 thru 36.
T. 24 N., R. 31 E.,
Secs. 24, 26, 32, 34, and 36.
T. 22 N., R. 32 E.,
Secs. 1, 2, 4, 6, and 8;
Sec. 9, E½;
Secs. 10 thru 16, 18, and 20 thru 36.
T. 23 N., R. 32 E.,
Secs. 32, and 34 thru 36.
T. 22 N., R. 33 E.,
Secs. 6, 7, and 18.
T. 23 N., R. 33 E.,
Sec. 31.

The area described for B–20 aggregates 65,375.88 acres in Churchill County.

Fish and Wildlife Service

T. 22 N., R. 30 E.,
Secs. 2, 10, 14, 22, and 26.

The area described for B–20 aggregates 3,201.00 acres in Churchill County.

Non-Federally Owned Lands

T. 22 N., R. 30 E.,
Secs. 1, 11, 13, 15, 23, and 25.
T. 22 N., R. 31 E.,
Secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, and 35.
T. 23 N., R. 31 E.,
Sec. 5, lots 1 thru 4, S½NE¼ and S½NW¼.
T. 24 N., R. 31 E.,
Secs. 1, 3, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35.
T. 25 N., R. 31 E.,
Sec. 35.
T. 22 N., R. 32 E.,
Secs. 3, 5, and 7;
Sec. 9, W½;
Secs. 17 and 19.
T. 23 N., R. 32 E.,
Secs. 31 and 33.
T. 24 N., R. 32 E.,

Secs. 1, 3, 5, 7, 9, 11, 13, 15, and 17.
T. 25 N., R. 32 E.,
Secs. 1, 11 and 13;
Sec 15, N½NE¼, SW¼NE¼, W½ and W½SE¼;
Secs. 21, 23, 25, 27, 29, 31, 33 and 35.
T. 23 N., R. 33 E.,
Secs. 3 and 9.
T. 24 N., R. 33 E.,
Secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 21, 23, 25, 27, 33, and 35.
T. 25 N., R. 33 E
Secs. 5, 7, 15, 17, 19, 21, 27, 29, 31, 33, and 35.

The area described for B–20 aggregates 61,764.88 acres in Churchill and Pershing Counties.

Dixie Valley Training Area

Bureau of Land Management

T. 13 N., R. 32 E.,
Sec. 2;
Sec. 3, lots 1 thru 4, S½NE¼, S½NW¼, and SE¼;
Sec. 4, lots 1 and 2 and S½NE¼;
Sec. 11;
Sec. 12, except patented lands;
Secs. 13 and 24.
T. 14 N., R. 32 E., unsurveyed,
Secs. 4, 5, 8, 9, and 16;
Sec. 21, E½;
Sec. 27;
Sec. 28, E½;
Sec. 33, E½;
Sec. 34.
T. 15 N., R. 32 E., unsurveyed,
Secs. 1 and 2;
Sec. 3, except lands withdrawn under PLO 2771 and PLO 2834, ''Shoal Site'';
Sec. 5, except lands withdrawn under PLO 2771 and PLO 2834, ''Shoal Site'';
Sec. 8, except lands withdrawn under PLO 2771 and PLO 2834, ''Shoal Site'';
Sec. 9, except lands withdrawn under PLO 2771 and PLO 2834, ''Shoal Site'';
Sec. 10, except lands withdrawn under PLO 2771 and PLO 2834, ''Shoal Site'';
Secs. 11 thru 17, 20 thru 24, 27 thru 29, and 32 thru 34.
T. 16 N., R. 32 E.,
Secs. 13 and 14, 23 thru 26, 35, and 36.
T. 17 N., R. 32 E., partly unsurveyed,
Sec. 1, E½;
Sec. 12, E½.
T. 18 N., R. 32 E., unsurveyed,
Secs. 1, 12, 13, 24, 25, and 36.
T. 19 N., R. 32 E., unsurveyed,
Secs. 13, 24, 25, and 36.
T. 16 N., R. 33 E.,
Sec. 1, that portion north of the southerly right-of-way boundary and south of the northerly right-of-way boundary for U.S. Highway 50;
Sec. 2, that portion north of the southerly right-of-way boundary and south of the northerly right-of-way boundary for U.S. Highway 50;
Sec. 3, that portion north of the southerly right-of-way boundary and south of the northerly right-of-way boundary for U.S. Highway 50, except patented lands;
Sec. 4, that portion north of the southerly right-of-way boundary and south of the northerly right-of-way boundary for U.S. Highway 50;
Sec. 5, that portion north of the southerly right-of-way boundary and south of the northerly right-of-way boundary for U.S. Highway 50;
Sec. 17, that portion west of the easterly right-of-way boundary for State Route 839;
Sec. 18, that portion west of the easterly right-of-way boundary for State Route 839;
Sec. 19, that portion west of the easterly right-of-way boundary for State Route 839;
Sec. 30, that portion west of the easterly right-of-way boundary for State Route 839;
Sec. 31, that portion west of the easterly right-of-way boundary for State Route 839;
Sec. 32, that portion west of the easterly right-of-way boundary for State Route 839.
T. 17 N., R. 33 E.,
Secs. 6 and 7.
T. 18 N., R. 33 E., unsurveyed,
Secs. 1, 2, and 4 thru 8;
Sec. 9, W½;
Sec. 10, that portion north of Elevenmile Canyon Wash;
Secs. 11 and 12;
Sec. 13, that portion north of Elevenmile Canyon Wash;
Sec. 14, that portion north of Elevenmile Canyon Wash;
Sec. 16, W½;
Secs. 17 thru 20;
Sec. 29, W½;
Secs. 30 and 31.
T. 19 N., R. 33 E., unsurveyed,
Sec. 19;
Sec. 20, N½, SW¼, and SE¼;
Sec. 21 thru 27;
Sec. 28, W½ and E½;
Secs. 29 thru 36.
T. 20 N., R. 33 E., unsurveyed,
Sec. 1, N½, SW¼, and SE¼;
Secs. 2 thru 8;
Sec. 9, NE¼, NW¼, and S½;
Sec. 10, N½ and S½;
Sec. 11, NE¼, NW¼, and S½.
T. 21 N., R. 33 E.,
Secs. 1 thru 3;
Sec. 9, E½;
Secs. 10 thru 16;
Sec. 20, E½;
Secs. 21 and 22;
Sec. 23, except patented lands;
Sec. 24, except patented lands;
Secs. 25 thru 29;
Sec. 31, E½;
Secs. 32 thru 36.
T. 16 N., 33 ½E.,
Sec. 1, that portion north of the southerly right-of-way boundary and south of the northerly right-of-way boundary for U.S. Highway 50;
T. 18 N., R. 33 ½ E.,
Secs. 1 and 12;
Sec. 13, that portion north of Elevenmile Canyon Wash;
Sec. 24, that portion north of Elevenmile Canyon Wash.
T. 19 N., R. 33 ½ E., unsurveyed,
Secs. 24, 25, and 36.
T. 20 N., R. 33 ½ E., unsurveyed,
Sec. 1, N½ and S½;
Sec. 12.
T. 16 N., R. 34 E., partly unsurveyed,
Secs. 1 thru 3;
Sec. 4, lots 1, 2, and 9 thru 12, and SE¼;
Sec. 5, that portion north of the southerly right-of-way boundary and south of the northerly right-of-way boundary for U.S. Highway 50;
Sec. 6, that portion north of the southerly right-of-way boundary and south of the northerly right-of-way boundary for U.S. Highway 50;
Sec. 9, lots 2 and 6, NE¼, and E½SE¼;
Secs. 10 thru 14 and 24.
T. 17 N., R. 34 E.,
Secs. 1 and 2;
Sec. 3, lots 1 and 2, S½NE¼, and SE¼;
Sec. 10, E½;
Secs. 11 thru 13;
Sec. 14, lots 1 thru 4, N½, N½SW¼, and E½SE¼;
Sec. 15, E½;
Sec. 22, E½;
Sec. 23, lots 1 thru 3, E½NE¼, SW¼NE¼, S½NW¼, and S½;
Secs. 24 thru 26;
Sec. 27, E½;
Sec. 34, E½;
Secs. 35 and 36.
T. 18 N., R. 34 E.,
Secs. 1 and 2;
Sec. 4, that portion west of the easterly right-of-way boundary for State Route 121;
Secs. 5 thru 8;
Sec. 9, that portion west of the easterly right-of-way boundary for State Route 121;
Secs. 11 thru 14;
Sec. 16, that portion west of the easterly right-of-way boundary for State Route 121;
Secs. 17 and 18;
Sec. 19, that portion north of Elevenmile Canyon Wash;
Sec. 20, that portion north of Elevenmile Canyon Wash;
Sec. 21, that portion west of the easterly right-of-way boundary for State Route 121 and north of Elevenmile Canyon Wash;
Secs. 23 thru 26, 35, and 36.
T. 19 N., R. 34 E.,
Secs. 1 and 2;
Sec. 4, that portion west of the easterly right-of-way boundary for State Route 121;
Secs. 5 thru 8;
Sec. 9, that portion west of the easterly right-of-way boundary for State Route 121;
Secs. 11 thru 14;
Sec. 16, that portion west of the easterly right-of-way boundary for State Route 121;
Secs. 17 thru 20;
Sec. 21, that portion west of the easterly right-of-way boundary for State Route 121;
Secs. 23 and 24;
Sec. 25, lots 1 thru 9, N½NE¼, SW¼NE¼, NW¼, and NW¼SE¼;
Sec. 26, lots 1 thru 5, N½NE¼, SE¼NE¼, and W½;
Sec. 28, that portion west of the easterly right-of-way boundary for State Route 121;
Secs. 29 thru 32;

Sec. 33, that portion west of the easterly right-of-way boundary for State Route 121;
Sec. 35, lot 1, W½NE¼, SE¼NE¼, W½, and SE¼;
Sec. 36, lots 1 thru 11, SW¼NE¼, S½NW¼, and SW¼.
T. 20 N., R. 34 E., partly unsurveyed,
Sec. 1;
Sec. 2, lot 1, SE¼NE¼, and E½SE¼;
Sec. 3, lots 2 thru 4, SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
Secs. 4 and 5;
Sec. 6, N½ and S½;
Secs. 7 thru 9;
Sec. 10, W½NE¼, W½, and W½SE¼;
Sec. 11, E½NE¼ and E½SE¼;
Secs. 12 and 13;
Sec. 14, E½NE¼ and E½SE¼;
Sec. 15, W½NE¼, W½, and W½SE¼;
Secs. 16, 17, 20 and 21;
Sec. 22, W½NE¼, W½, and W½SE¼;
Sec. 23, E½NE¼ and E½SE¼;
Secs. 24 and 25;
Sec. 26, E½NE¼ and E½SE¼;
Sec. 28, that portion west of the easterly right-of-way boundary for State Route 121;
Secs. 29 thru 32;
Sec. 33, that portion west of the easterly right-of-way boundary for State Route 121;
Secs. 35 and 36.
T. 21 N., R. 34 E.,
Sec. 1, lots 1 thru 7, SW¼NE¼, S½NW¼, and W½SE¼;
Secs. 2 thru 18
Sec. 19, except patented lands;
Secs. 20 thru 23 and 26;
Sec. 27, N½, N½SW¼, SW¼SW¼, N½SE¼SW¼, W½SW¼SE¼SW¼, SE¼SW¼SE¼SW¼, SE¼SE¼SW¼, and SE¼;
Secs. 28 thru 33;
Sec. 34, W½.
T. 22 N., R. 34 E., unsurveyed,
Secs. 34, 35, and 36.
T. 15 N., R. 35 E., unsurveyed,
Sec. 5.
T. 16 N., R. 35 E.,
Secs. 5 thru 8, 17 thru 20, 29, 30, and 32.
T. 17 N., R. 35 E.,
Secs. 2 thru 10;
Sec. 11, W½;
Sec. 15, N½;
Secs. 16 thru 20;
Sec. 21, N½ and SW¼;
Secs. 29 thru 32.
T. 18 N., R. 35 E., unsurveyed,
Secs. 1 thru 3;
Sec. 4, except patented lands;
Sec. 5, except patented lands;
Sec. 6, except patented lands;
Sec. 7;
Sec. 8, except patented lands;
Sec. 9, except patented lands;
Secs. 10 thru 24 and 26 thru 35.
T. 19 N., R. 35 E.,
Sec. 2;
Sec. 3, lots 1 thru 4, S½NE¼, S½NW¼, SW¼, N½SE¼, NE¼SW¼SE¼, N½NW¼SW¼SE¼, E½SE¼SE¼, NW¼SE¼SE¼, N½SW¼SE¼SE¼, and SE¼SW¼SE¼SE¼;
Secs. 4 thru 9;
Sec. 10, S½SW¼NE¼NE¼, S½SE¼NE¼NE¼, S½NE¼NW¼NE¼, S½NW¼NW¼NE¼, S½NW¼NE¼, S½NE¼, W½, and SE¼;
Sec. 11, NE¼, E½SE¼NE¼NW¼, NW¼NW¼NW¼, S½SW¼NW¼NW¼, S½SE¼NW¼NW¼, SW¼NW¼, NE¼NE¼SW¼, SE¼NW¼NE¼SW¼, N½SE¼NE¼SW¼, SE¼SE¼NE¼SW¼, W½SW¼, S½NE¼SE¼SW¼, S½NW¼SE¼SW¼, S½SE¼SW¼, N½NE¼SE¼, N½SW¼NE¼SE¼, N½SE¼NE¼SE¼, N½NW¼SE¼, W½SW¼NW¼SE¼, N½SE¼NW¼SE¼, S½SW¼SE¼ and S½SE¼SE¼;
Sec. 12, S½SW¼SW¼;
Secs. 13 thru 29;
Sec. 30, lots 1 thru 6, E½, and E½NW¼;
Sec. 31, lots 1 thru 7, NE¼, E½SW¼, N½SE¼, and SW¼SE¼;
Sec. 32, lots 1 thru 8, NW¼, and N½SW¼;
Sec. 33, lots 1 thru 9, E½NE¼, and SE¼;
Secs. 34 thru 36.
T. 20 N., R. 35 E., unsurveyed,
Secs. 3 thru 10, 14 thru 23, and 26 thru 35.
T. 21 N., R. 35 E.,
Secs. 1 thru 3;
Sec. 4, lots 3 thru 8 and S½NW¼;
Sec. 5, lots 1 thru 4, S½NE¼, and S½NW¼;
Secs. 6 and 7;
Sec. 10, N½;
Sec. 11, W½;
Secs. 12;
Sec. 13, except lot 16 that portion lying south of the southerly line of the dirt road;
Sec. 14, NE¼ and S½;
Sec. 15, S½NE¼, S½NW¼ and SE¼;
Sec. 16, SE¼;
Sec. 17, W½;
Sec. 19, lots 5 thru 15;
Sec. 20, W½ and SE¼SE¼;
Sec. 21, E½ and SW¼;
Sec. 22, E½ and SW¼;
Sec. 23;
Sec. 24, except lots 1 and 2 that portion lying south of the southerly line of the dirt road, and lots 7 thru 10, 15, and 16.
Sec. 25, lots 3 thru 6 and 11 thru 14;
Secs. 26 thru 35;
Sec. 36, lots 3 thru 6 and 9 thru 12.
T. 22 N., R. 35 E.,
Secs. 31 thru 36.
T. 19 N., R. 36 E.,
Sec. 19, lots 1 thru 4, E½NW¼, and E½SW¼;
Sec. 30, lots 1 thru 3, NE¼, E½NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 31, lot 4, E½, and E½SW¼.
T. 21 N., R. 36 E.,
Sec. 2 thru 9;
Secs. 16 thru 20, except that portion lying south of the southerly line of the dirt road.
T. 22 N., R. 36 E.,
Secs. 31 thru 35.

The area described for Dixie Valley Training Area aggregates 290,987.39 acres in Churchill and Mineral Counties.

Department of Navy-Managed Lands Not Withdrawn From the Public Domain

T. 20 N., R. 34 E.,
Sec. 14, W½NE¼, W½, and W½SE¼;
Sec. 15, E½NE¼ and E½SE¼;
Sec. 22, E½NE¼ and E½SE¼;
Sec. 23, W½NE¼, W½ and W½SE¼.
T. 21 N., R. 34 E.,
Sec. 1, SW¼;
Sec. 24;
Sec. 25, lots 3 and 4, SW¼, and W½SE¼;
Sec. 34, E½;
Secs. 35 and 36.
T. 19 N., R. 35 E.,
Sec. 3, S½NW¼SW¼SE¼, S½SW¼SE¼, and SW¼SW¼SE¼SE¼;
Sec. 10, N½NE¼NE¼, N½SW¼NE¼NE¼, N½SE¼NE¼NE¼, N½NE¼NW¼NE¼, and N½NW¼NW¼NE¼;
Sec. 11, N½NE¼NW¼, SW¼NE¼NW¼, W½SE¼NE¼NW¼, NE¼NW¼NW¼, N½SW¼NW¼NW¼, N½SE¼NW¼NW¼, SE¼NW¼, N½NW¼NE¼SW¼, SW¼NW¼NE¼SW¼, SW¼NE¼SW¼, SW¼SE¼NE¼SW¼, N½NE¼SE¼SW¼, N½NW¼SE¼SW¼, S½SW¼NE¼SE¼, S½SE¼NE¼SE¼, E½SW¼NW¼SE¼, S½SE¼NW¼SE¼, N½SW¼SE¼, N½SE¼SE¼, and SW¼SE¼NE¼SW¼.
T. 21 N., R. 35 E.,
Sec. 4, W½SW¼, SE¼SW¼, and SE¼;
Sec. 5, S½;
Sec. 8, N½, NW¼SW¼, and SE¼;
Sec. 9, N½, SW¼, N½NE¼SE¼, N½NW¼SE¼, SW¼NW¼SE¼, W½SE¼NW¼SE¼, W½NE¼SW¼SE¼, SE¼NE¼SW¼SE¼, W½SW¼SE¼, SE¼SW¼SE¼, S½NE¼SE¼SE¼, S½NW¼SE¼SE¼, and S½SE¼SE¼;
Sec. 10, S½;
Sec. 14, NW¼;
Sec. 15, N½NE¼, N½NW¼, and SW¼;
Sec. 16, N½ and SW¼;
Sec. 17, E½;
Sec. 18, lots 1 thru 4, E½NW¼, E½SW¼, W½SE¼, and NE¼SE¼ except Parcel 1 of Logan Turley Parcel Map, filed in the office of the County Recorder of Churchill County of July 9, 1979, under filing number 165908;
Sec. 19, lots 1 and 2, NW¼NE¼, and E½NW¼;
Sec. 20, NE¼, N½SE¼, and SW¼SE¼;
Sec. 21, NW¼;
Sec. 22, NW¼.

The area described for Dixie Valley Training Area aggregates 8,722.47 acres in Churchill, and Mineral Counties.

Non-Federally Owned Lands

T. 13 N., R. 32 E.,
A portion of M.S. No. 4773A (Don and Tungsten No. 1 Lodes).
T. 16 N., R. 33 E.,
Sec. 3, the right-of-way for U.S. Highway 50, as described in deed recorded July 27, 1934, Book 20, Deed Records, page 353, Doc. No. 48379 of Churchill County, NV.
T. 21 N., R. 33 E.,
M.S. No. 1877 (IXL, 1st Ext. IXL, Black Prince, 1st Ext. Black Prince, Twin Sister and Twin Sister No. 2 Lodes);

M.S. No. 1936 A (Bonanza);
M.S. No. 1937 (Spring Mine).
T. 16 N., R. 34 E.,
A portion of M.S. No. 3630 (Kimberly No. 3 and Kimberly No. 4 Lodes).
T. 17 N., R. 34 E.,
M.S. No. 4180 (Copper King, Central and Horn Silver Lodes).
T. 19 N., R. 34 E.,
M.S. No. 3064 (Spider, Wasp, Tony Pah, Long Nel and Last Chance Lodes);
A portion of M.S. No. 3122 (Great Eastern No. 1, Great Eastern No. 3 and Great Eastern No. 4 Lodes);
A portion of M.S. No. 3398 (Nevadan, Little Witch, Silver Tip, Valley View and Panhandle Lodes);
M.S. No. 3424 (Bumblebee, Grey Horse, Grey Horse No. 2, Grey Horse No. 1, Triangle Fraction and Kingstone Lodes);
M.S. No. 3885 (Last Chord, King Midas, King Midas No. 1, King Midas No. 2 and King Midas No. 3 Lodes).
T. 21 N., R. 34 E.,
Sec. 27, NE¼SW¼SE¼SW¼ (Dixie Cemetery).
T. 18 N., R. 35 E., unsurveyed,
M.S. No. 2954 (Blue Jay Lode);
M.S. No. 3070 (Mars Lode);
M.S. No. 3071 (Scorpion Lode);
M.S. No. 3072 (B. and S. Lode);
M.S. No. 3078 (Nevada Wonder Lode);
M.S. No. 3079 (Ruby No. 1 Lode);
M.S. No. 3123 (Last Chance Lode);
M.S. No. 3124 (Last Chance No. 1 Lode);
M.S. No. 3325 (Nevada Wonder No. 2 Lode);
M.S. No. 3326 (Last Chance No. 2 Lode);
M.S. No. 3327 (Nevada Wonder No. 1, Ruby and Ruby No. 2 Lodes);
M.S. No. 3416 (Starr Lode);
M.S. No. 3417 (Moss Fraction Lode);
A portion of M.S. No. 3671 (Gold Dawn No. 1, Gold Dawn No. 2, Gold Dawn No. 3 and Gold Dawn No. 6 Lodes);
A portion of M.S. No. 3750 (Hercules, Jackrabbit, Hilltop and Hercules No. 2 Lodes);
M.S. No. 4225 (Nevada Wonder No. 3 Lode);
M.S. No. 4226 (Hidden Treasure, Hidden Treasure No. 1 and Hidden Treasure No. 2 Lodes);
M.S. No. 4227 (North Star, Rose No. 1, Twilight No. 2 and Twilight No. 3 Lodes);
Wonder Townsite, (Patent No. 214499, July 3, 1911);
Wonder Townsite, Blocks 31 and 42.
T. 19 N., R. 35 E.,
M.S. No. 2826 (Jackpot and Grand View Lodes);
A portion of M.S. No. 3122 (Great Eastern, Great Eastern No. 1, Great Eastern No. 3, Great Eastern No. 4 and Great Eastern Fraction Lodes);
A portion of M.S. No. 3398 (Little Witch, Silver Tip, Valley View, Pan Handle and Yellow Jacket Lodes);
M.S. No. 3671 (Gold Dawn No. 1, Gold Dawn No. 2 and Gold Dawn No. 3 Lodes);
M.S. No. 3732 (Gold Bar No. 4, New York No. 2 and Blister Foot Lodes);
A portion of M.S. No. 3750 (Hilltop Fraction, Hercules, Hercules No. 2, Hercules No. 3, Hilltop, Jackrabbit, Worm, Beauty, Lizard No. 1 and Grand View Fraction Lodes);
M.S. No. 3786 (Queen, Queen No. 1, Queen No. 4, Queen No. 5, Queen No. 7, Queen No. 8, Queen No. 9, Queen No. 10, Queen No. 11, Queen Bee and Great Bend Lodes).
T. 21 N., R. 35 E.,
Sec. 4, NE¼SW¼;
Sec. 8, E½SW¼ and SW¼SW¼;
Sec. 9, S½NE¼SE¼, E½SE¼NW¼SE¼, NE¼NE¼SW¼SE¼, N½NE¼SE¼SE¼, and N½NW¼SE¼SE¼;
Sec. 11, E½;
Sec. 18, a portion of NE¼SE¼ being Parcel 1 of Logan Turley Parcel Map, filed in the office of the County Recorder of Churchill County of July 9, 1979, under filing number 165908.
T. 19 N., R. 36 E.,
Sec. 30, lot 4, SE¼SW¼, and SW¼SE¼;
Sec. 31, lots 1 thru 3 and E½NW¼.

The area described for Dixie Valley Training Area aggregates 2,358.28 acres in Churchill and Mineral Counties.

Portions of the Dixie Valley Training Area which are segregated from operation of the mineral leasing laws, subject to valid existing rights, are described below. Portions of these lands are unsurveyed and the acres were obtained from protraction diagrams information or calculated using Geographic Information System.

Mount Diablo Meridian, Nevada

Dixie Valley Training Area

Bureau of Land Management

T. 16 N, R. 33 E,
Sec. 1, that portion north of the northerly right-of-way boundary for U.S. Highway 50;
Sec. 2, that portion north of the northerly right-of-way boundary for U.S. Highway 50;
Sec. 3, that portion north of the northerly right-of-way boundary for U.S. Highway 50, except patented lands;
Sec. 4, that portion north of the northerly right-of-way boundary for U.S. Highway 50;
Sec. 5, that portion north of the northerly right-of-way boundary for U.S. Highway 50.
T. 17 N, R. 33 E,
Secs. 1 thru 5, 8 thru 17, 20 thru 29 and 32 thru 36.
T. 18 N, R. 33 E, unsurveyed,
Sec. 9, E½;
Sec. 10, that portion south of Elevenmile Canyon Wash;
Sec. 13, that portion south of Elevenmile Canyon Wash;
Sec. 14, that portion south of Elevenmile Canyon Wash;
Sec. 15;
Sec. 16, E½;
Secs. 21 thru 28;
Sec. 29, E½;
Secs. 32 thru 36.
T. 16 N, R. 33 ½ E, unsurveyed,
Sec. 1, that portion north of the northerly right-of-way boundary for U.S. Highway 50.
T. 17 N, R. 33 ½ E.
T. 18 N, R. 33 ½ E,
Sec. 13, that portion south of Elevenmile Canyon Wash;
Sec. 24, that portion south of Elevenmile Canyon Wash;
Secs. 25 and 36.
T. 16 N, R. 34 E, partly unsurveyed,
Sec. 4, lots 3 and 5;
Sec. 5, that portion north of the northerly right-of-way boundary for U.S. Highway 50;
Sec. 6, that portion north of the northerly right-of-way boundary for U.S. Highway 50.
T. 17 N, R. 34 E,
Sec. 3, lots 3 and 4, S½NW¼ and SW¼;
Secs. 4 thru 9;
Sec. 10, W½;
Sec. 15, W½;
Secs. 16 thru 21;
Sec. 22, W½;
Sec. 27, W½;
Secs. 28 thru 33;
Sec. 34, W½.
T. 18 N, R. 34 E,
Sec. 3;
Sec. 4, that portion east of the easterly right-of-way boundary for State Route 121;
Sec. 9, that portion east of the easterly right-of-way boundary for State Route 121;
Secs. 10 and 15;
Sec. 16, that portion east of the easterly right-of-way boundary for State Route 121;
Sec. 19, that portion south of Elevenmile Canyon Wash;
Sec. 20, that portion south of Elevenmile Canyon Wash;
Sec. 21, that portion east of the easterly right-of-way boundary for State Route 121 and that portion south of Elevenmile Canyon Wash;
Sec. 22;
Secs. 27 thru 34.
T. 19 N, R. 34 E,
Sec. 3;
Sec. 4, that portion east of the easterly right-of-way boundary for State Route 121;
Sec. 9, that portion east of the easterly right-of-way boundary for State Route 121;
Secs. 10 and 15;
Sec. 16, that portion east of the easterly right-of-way boundary for State Route 121;
Sec. 21, that portion east of the easterly right-of-way boundary for State Route 121;
Secs. 22 and 27;
Sec. 28, that portion east of the easterly right-of-way boundary for State Route 121;
Sec. 33, that portion east of the easterly right-of-way boundary for State Route 121;
Sec. 34.
T. 20 N, R. 34 E, partly unsurveyed,
Sec. 2, lots 2 thru 4, SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
Sec. 3, lot 1, SE¼NE¼, E½SE¼;
Sec. 10, E½NE¼ and E½SE¼;
Sec. 11, W½NE¼, W½SE¼ and W½;

Sec. 26, W½NE¼, W½SE¼ and W½;
Sec. 27;
Sec. 28, that portion east of the easterly right-of-way boundary for State Route 121;
Sec. 33, that portion east of the easterly right-of-way boundary for State Route 121;
Sec. 34.
T. 21 N, R. 34 E,
Sec. 25, lots 1 and 2, W½NE¼ and NW¼.
T. 21 N, R. 35 E,
Sec. 17, W½, except patented lands;
Sec. 18, lots 5 thru 11 and E½SE¼SE¼NE¼.

The area described for Dixie Valley Training Area aggregates 68,804.44 acres in Churchill County.

Jurisdiction for the decision on this withdrawal proposal lies with the Secretary of the Interior, or an appropriate member of the Office of the Secretary, pursuant to Section 204 of FLPMA.

The BLM's withdrawal petition/application and the records relating to the petition/application can be examined at the BLM Carson City District Office, 5665 Morgan Mill Road, Carson City, Nevada 89701, during regular business hours (7:30 a.m., to 4:30 p.m.), Monday through Friday, except Federal holidays.

A copy of the legal descriptions and the maps depicting the lands proposed withdrawal for land management evaluation purposes are available for public inspection at the following offices:

State Director, BLM Nevada State Office, 1430 Financial Boulevard, Reno, Nevada 89502

District Manager, BLM Carson City District Office, 5665 Morgan Mill Road, Carson City, Nevada 89701

For a period until August 2, 2018 all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their comments in writing to the persons and offices listed in the **ADDRESSES** section above.

All comments received will be considered before any final action is taken on the proposed withdrawal.

For the proposed 4-year withdrawal for LME purposes, the BLM is the lead agency for NEPA compliance and with this Notice invites public review of the EA. Because of the nature of a withdrawal of public lands from operation of the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws, for land management evaluation purposes, subject to valid existing rights, where the purpose of the withdrawal is to maintain the *status quo* of the lands, mitigation of the withdrawal's effects is not likely to be an issue requiring detailed analysis. However, consistent with Council on Environmental Quality regulations implementing NEPA (40 CFR 1502.14), the BLM will consider whether and what kind of mitigation measures may be appropriate to address the reasonably foreseeable impacts to resources from the approval of this proposed withdrawal for land management evaluation purposes.

You may submit comments on the EA for LME purposes in writing to the BLM using one of the methods listed in the **ADDRESSES** section above. To be most helpful, you should submit comments by the date specified in the **DATES** section above. The BLM will use this NEPA public participation process to help satisfy the public involvement requirements under Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470(f)) pursuant to 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed withdrawal for LME purposes will assist the BLM in identifying and evaluating impacts to such resources in the context of both NEPA and Section 106 of the NHPA.

Comments including names and street addresses of respondents will be available for public review at the BLM address noted above, during regular business hours Monday through Friday, except Federal holidays. Before including your address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment—including your personally identifiable information—may be publicly available at any time. While you can ask the BLM in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

As the public land referenced in this Notice have already been segregated as described, licenses, permits, cooperative agreements, or discretionary land use authorizations may be allowed during the segregative period, but only with the approval of the authorized officer and, as appropriate, with the concurrence of the DON.

The proposed withdrawal will be processed in accordance with the regulations set forth in 43 CFR part 2300.

Authority: 43 CFR 2310.3–1

Michael C. Courtney,
Acting State Director, Nevada.

[FR Doc. 2018–09670 Filed 5–3–18; 8:45 am]
BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–ANRSS–24195; PPWONRADE2, PMP00EI05.YP0000]

Notice of Availability of the Saline Valley Warm Springs Draft Environmental Impact Statement at Death Valley National Park, California and Nevada

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability.

SUMMARY: The National Park Service (NPS) announces the availability of the Saline Valley Warm Springs Draft Management Plan and Environmental Impact Statement (plan/DEIS).

DATES: The NPS will accept comments on the plan/DEIS for a period of 60 days following publication of the Environmental Protection Agency's (EPA) Notice of Availability of the plan/DEIS in the **Federal Register**. After the EPA Notice of Availability is published, the NPS will schedule public meetings to be held during the comment period. Dates, times, and locations of these meetings will be announced in press releases and on the plan/DEIS website for the project at *http://parkplanning.nps.gov/SalineValleyWarmSprings.*

ADDRESSES: You may send comments by any of the following methods:

- *NPS Planning, Environment and Public Comment website: http://parkplanning.nps.gov/SalineValleyWarmSprings.*
- *Mail or Hand Delivery:* Superintendent Mike Reynolds, Death Valley National Park, Death Valley National Park, P.O. Box 579, Death Valley, CA 92328.

For detailed instructions on sending comments and additional information, see the "Public Participation" and "How to Comment" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Please contact Superintendent Mike Reynolds, Death Valley National Park, Death Valley National Park, P.O. Box 579, Death Valley, CA 92328, or by telephone at 760–786–3243. Information is available online for public review at *http://parkplanning.nps.gov/SalineValleyWarmSprings.*

SUPPLEMENTARY INFORMATION: This process is being conducted pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and the regulations of the Department of the Interior (43 CFR part 46). The purpose of this plan/DEIS is to develop a

management strategy for the Saline Valley Warm Springs area that will complement the Death Valley National Park General Management Plan (GMP). This plan/DEIS is being developed in cooperation with the Timbisha Shoshone Tribe, Inyo County, and the Bureau of Land Management.

Saline Valley is a large desert valley located in the northwest portion of Death Valley National Park. The National Park Service has defined the warm springs area of Saline Valley as approximately 100 acres of back country surrounded by wilderness. It has not been formally or systematically developed for use by the National Park Service but does have a number of user developed and maintained structures and facilities.

The plan/DEIS is intended to provide a framework at the Saline Valley Warm Springs area for: natural and cultural resources management; administration and operations; and managing visitor use. It is intended to provide guidance for Death Valley National Park managers as they work with various stakeholders and promote the partnership between the park and the Timbisha Shoshone Tribe to ensure the Saline Valley Warm Springs area is protected and enhanced by cooperative activities.

Action is needed to implement the GMP and address visitor use and development at the Saline Valley Warm Springs area. Past visitors of the warm springs area have altered the natural aspect of the area through diversion of water from the natural warm springs and through construction of soaking tubs and other amenities. The warm springs area is also part of the Timbisha Shoshone Natural and Cultural Preservation Area, and the ethnographic uses by the Tribe and recreational uses by other visitors can be in conflict.

This plan/DEIS evaluates the impacts of the no-action alternative (Alternative 1) and four action alternatives (Alternatives 2, 3, 4, and 5).

Alternative 1 would continue existing management practices and assume no new management actions would be implemented beyond those available at the outset of this planning process. The users, with help from the volunteer camp hosts, would continue to informally oversee the recreational uses of the warm springs area and visitors would continue to be able to use the Chicken Strip airstrip, soaking tubs and associated facilities as they currently exist.

Under all action alternatives, the park would enforce existing laws and policies and continue to cooperatively manage the area with the Timbisha Shoshone Tribe pursuant to the Timbisha Shoshone Homeland Act of 2000. The NPS could create a no cost registration for all overnight guests. In addition, each action alternative includes some type of fencing, dependent on archeology surveys and consultation, as a means of excluding feral burros from the source springs.

Under Alternative 2, the NPS would retain much of the existing use of the warm springs but bring the actions and conditions into compliance with NPS, state, and federal regulations. The NPS would consult with the Office of Public Health to develop an approach for water quality monitoring, add signs at sinks to inform visitors of non-potable water, add filtration systems for discharged water at the dishwashing stations, and make the facilities accessible to the extent possible. The NPS would also take steps to restore the natural and cultural environments of the warm springs by controlling nonnative plant species, removing user-created fire rings, and requiring visitors to haul out ash and charcoal.

Alternative 3 aims to involve user groups more formally in the cooperative management of the area. The user groups would be engaged through agreements to identify and carry out many of the actions needed to protect natural and cultural resources, protect human health and safety, and maintain visitor facilities. This alternative would employ the same human and health and safety measures as alternative 2 and would involve the installation of artistic fences to protect areas from feral burros. Increased resource protection measures would be implemented including additional nonnative vegetation control, the potential use of food storage boxes, and removing the diversion piping from Burro Spring. Camping would be restricted to designated camping areas and no camping would be allowed within 200 feet of the source springs or Chicken Strip.

Under alternative 4, the NPS would restore the warm springs, as closely as possible, to a natural condition with minimal or no development. Tubs and associated infrastructure would be removed, as would dishwashing stations, showers, vehicle support facilities, airstrip, and vault toilets. Dispersed camping could continue but no camping would be allowed within 200 feet of all water sources. The park would remove nonnative plants and restore native habitats, in addition to installing fencing around warm springs area at the wilderness boundary to prevent access by feral burros.

Alternative 5, the preferred alternative, seeks to encourage cooperative management between the park and user groups while protecting natural and cultural resources and allowing for continued recreational visitor use. Alternative 5 is the same as alternative 3 except for several aspects. Under alternative 5, camping would be allowed at the Chicken Strip airstrip and additional tiedowns could be added. Visitors that camp at the airstrip would be required to pack out their waste, unlike alternative 3. Under alternative 5, the park would not consider the installation of food storage boxes for storage of visitors' food items. Instead, the park would encourage proper storage of food through on-site and online education, the same as alternative 2. Unlike alternative 3, which proposes to install artistic wood fencing to enclose soaking tubs, source springs and riparian areas, this alternative would install fencing around the entire developed warm springs area, dependent on archeology surveys and consultation. This would prevent feral burro access to water sources, vegetation, and campsites while protecting archeological resources along the wilderness boundary.

Public Participation: After the Environmental Protection Agency's Notice of Availability is published, the NPS will schedule public meetings to be held during the comment period near the park. Dates, times, and locations of these meetings will be announced in press releases and on the NPS Planning, Environment, and Public Comment website for the Draft EIS at *http://parkplanning.nps.gov/SalineValleyWarmSprings.*

How to Comment: You are encouraged to comment on the plan/DEIS online at *http://parkplanning.nps.gov/SalineValleyWarmSprings.* You may also mail or hand-deliver your written comments to Superintendent Mike Reynolds, Death Valley National Park, Death Valley National Park, P.O. Box 579, Death Valley, CA 92328. Written comments will also be accepted during scheduled public meetings discussed above. Comments will not be accepted by fax, email, or by any method other than those specified above. Bulk comments in any format (hard copy or electronic) submitted on behalf of others will not be accepted. 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.

Dated: January 30, 2018.

Martha Lee,

Acting Regional Director, Pacific West.

[FR Doc. 2018–09440 Filed 5–3–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–25494; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before April 21, 2018, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by May 21, 2018.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before April 21, 2018. Pursuant to Section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State Historic Preservation Officers:

ARIZONA

Pima County

Ferguson, George W., House, 6441 N Treasure Dr, Tucson, MP100002476

ARKANSAS

Garland County

Cleveland Arms Apartment Building, 2410 Central Ave, Hot Springs, SG100002477

Pulaski County

Carmichael House, 13905 Arch Street Pike, Little Rock vicinity, SG100002478

Union County

Goodwin Field Administration Building, 418 Airport Dr, El Dorado, SG100002479

CONNECTICUT

Hartford County

Bristol High School, 70 Memorial Blvd., Bristol, SG100002506

DISTRICT OF COLUMBIA

District of Columbia

Duvall Manor Apartments, 3500–3510 Minnesota Ave SE, Washington, MP100002480

Texas Gardens Apartments, 1741 28th St SE, Washington, MP100002481

INDIANA

Kosciusko County

Little Crow Milling Company Factory, 201 S Detroit St, Warsaw, SG100002488

Marion County

Our Savior Lutheran Church, 261 W 25th St, Indianapolis, SG100002490

Stout Field, Administration Building, Address Restricted, Indianapolis vicinity, SG100002491

Stout Field, Hangar, Address Restricted, Indianapolis vicinity, SG100002493

University Club, 970 N Delaware St, Indianapolis, SG100002494

Miami County

Peru Courthouse Square Historic District, Roughly bounded by Wabash R., Wabash, 7th & Miami Sts, Peru, SG100002492

Putnam County

Cloverdale Historic District, Generally bounded by Robert L. Weist Ave, Lafayette, Logan & Grant Sts, Cloverdale, SG100002496

National Road over Deer Creek Historic District, US 40 & W Cty Rd 570S, Old US 40 & S Cty Rd 25E & Putnam County Bridges #237 & 187, Putnamville vicinity, SG100002497

Randolph County

Union Literary Institute, Address Restricted, Spartanburg vicinity, SG100002498

Sullivan County

Center Ridge Cemetery, 704 W Johnson St, Sullivan, SG100002499

IOWA

Bremer County

Third Street Bridge (FHWA No. 012250), 3rd St SE over the Cedar R. between 5th & 6th Aves SE, Waverly, MP100002485

Dubuque County

Sacred Heart School, 2238 Queen St, Dubuque, SG100002486

Polk County

Younker Brothers Department Store (Boundary Decrease), 713 Walnut St., Des Moines, BC100002487

MARYLAND

Baltimore Independent city

Morgan State University Memorial Chapel, 4307 Hillen Rd, Baltimore (Independent City), SG100002500

MINNESOTA

Chippewa County

Maynard State Bank, 330 Cynthia St, Maynard, MP100002501

Koochiching County

Ranier Community Building, 2099 Spruce St., Ranier, MP100002502

Williams Township School, 740 Cty Rd 89, Clementson vicinity, SG100002503

Otter Tail County

Trinity Lutheran Church, 301 Douglas Ave, Henning, SG100002504

MONTANA

Jefferson County

Lewis and Clark Caverns Historic District, Lewis & Clark Caverns Rd, LaHood vicinity, SG100002505

NEW YORK

Columbia County

Austerlitz Historic District, NY 22, Harvey Mtn., E Hill, W Hill & Old Rds, Austerlitz, SG100002507

Spencertown Historic District, NY 203, Elm & South Sts, Austerlitz, SG100002508

Erie County

Buffalo General Electric Complex, 960–996 Busti Ave & 990 Niagara St., Buffalo, SG100002509

Ingleside Home, 70 Harvard Pl, Buffalo, SG100002511

Westminster House Club House, 419 Monroe St, Buffalo, SG100002512

Saratoga County

Copeland Carriage Shop, North Shore Rd, Beecher Hollow, SG100002513

Seneca County

Ford, Edith B., Memorial Library, 7169 Main St., Ovid, SG100002514

Tompkins County

Tibbetts—Rumsey House, 310 W State St, Ithaca, SG100002515

NORTH CAROLINA

Forsyth County

Flynt House, 6780 University Pkwy, Rural Hall, SG100002516

Franklin County

Concord School, 645 Walter Grissom Rd, Kittrell vicinity, MP100002517

Halifax County

Allen Grove School, 13763 NC 903, Halifax, MP100002518

Madison County

Mars Hill School, 225 Mount Olive Dr, Mars Hill, MP100002519

Pender County

Canetuck School, 6098 Canetuck Rd, Currie vicinity, MP100002520

PENNSYLVANIA

Berks County

Reading Country Club, 5311 Perkiomen Ave, Exeter Township, SG100002521

Delaware County

St. Joseph's Parish Complex, 500 Woodlawn Ave, Collingdale, SG100002522

Philadelphia County

East Center City Commercial Historic District (Boundary Increase and Decrease), Roughly bounded by S 6th, Locust, Juniper, Market & Arch Sts, Philadelphia, BC100002523

RHODE ISLAND

Newport County

Van Rensselaer, Alexander, House, 1 Ichabod Ln, Middletown, SG100002524

SOUTH CAROLINA

Anderson County

Anderson Downtown Historic District (Boundary Increase II), 400–420 S Main & 109 W Market Sts., Anderson, BC100002525

Lexington County

Colonial—Hites Company, 228 N Parson St, West Columbia, SG100002526

Richland County

Olympia Mill School, 1170 Olympia Ave, Columbia vicinity, SG100002527

VIRGINIA

Charlottesville Independent city

North Belmont Neighborhood Historic District, Roughly Avon, Castalia, Church, Douglas, Goodman, Graves, Levy, Little Graves, Meridian, Rialto, & Sonoma Sts, Belmont, Carlton, Hinton & Monticello Aves, Charlottesville (Independent City), SG100002528

Lynchburg Independent city

Twelfth Street Industrial Historic District, 600 & 700 blks of 12th & 603 Grace Sts, Dunbar Dr, Lynchburg (Independent City), SG100002529

Richmond Independent city

Kenwyn, 6 Ampthill Rd, Richmond (Independent City), SG100002530

Oliver Chilled Plow Works Branch House, 908 Oliver Way, Richmond (Independent City), SG100002531

Roanoke Independent city

Villa Heights, 2750 Hoover St, Roanoke (Independent City), SG100002532

Shenandoah County

Funkhouser Farm, 27812 Old Valley Pike, Toms Brook vicinity, SG100002533

Wythe County

Wytheville Historic District (Boundary Increase), 370 W Spring St, Wytheville, BC100002534,

A request for removal has been made for the following resources:

ARIZONA

Pima County

Blixt—Avitia House, (Menlo Park MPS), 830 W. Alameda St., Tucson, OT92000251

Yuma County

Fredley Apartments, (Yuma MRA), 406 2nd Ave., Yuma, OT82001634, Fredley House, (Yuma MRA), 408 2nd Ave., Yuma, OT82001635

Additional documentation has been received for the following resources:

INDIANA

Marion County

Millikan, Lovel D., House, 2530 N. Park Ave., Indianapolis, AD100001608

NEW YORK

Erie County

Elmwood Historic District—West, 348 Ashland Ave., Buffalo, AD12000996

Authority: Section 60.13 of 36 CFR part 60.

Dated: April 25, 2018.

Julie H. Ernstein,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2018–09478 Filed 5–3–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–PWR–PWRO–25120; PPPWOLYMS1–PPMPSPD1Z.YM0000]

Final Environmental Impact Statement/Mountain Goat Management Plan, Olympic National Park, Clallam, Grays Harbor, Jefferson and Mason County, Washington

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability.

SUMMARY: The National Park Service (NPS) announces the availability of the Final Environmental Impact Statement (EIS) for the management of exotic (non-native) mountain goats at Olympic National Park (park). The Final EIS evaluates four alternatives for managing exotic mountain goats in the park, including options such as translocation to native mountain goat habitat and lethal removal. The USDA Forest Service (Forest Service) and the Washington Department of Fish and Wildlife (WDFW) are cooperating agencies on this project.

DATES: The NPS will execute a Record of Decision (ROD) no sooner than 30 days from the date of publication by the U.S. Environmental Protection Agency of the notice of filing of the Final EIS in the **Federal Register**.

ADDRESSES: An electronic copy of the Final EIS/plan will be available for public review at *http://parkplanning.nps.gov/olymgoat.* A limited number of hard copies will be available in the office of the Superintendent, Olympic National Park, 600 East Park Ave., Port Angeles, WA 98362.

FOR FURTHER INFORMATION CONTACT: Ms. Christina Miller, Planning and Compliance Lead, Olympic National Park, 600 East Park Ave., Port Angeles, WA 98362; (360) 565–3004.

SUPPLEMENTARY INFORMATION: The purpose of the Final EIS/plan is to allow the NPS to reduce or eliminate impacts to park resources from exotic mountain goats, while reducing potential public safety issues associated with the presence of mountain goats in the Park. Management direction is needed to address resource management and human safety issues resulting from the presence of exotic mountain goats in the Park. This Final EIS/plan evaluates the impacts of the no-action alternative (Alternative A) and three action alternatives (Alternatives B, C, and D). Alternative D is the agency's preferred alternative and the environmentally preferable alternative. Alternative A would involve no new action, but would include full implementation of the 2011 *Mountain Goat Action Plan,* including management of individual mountain goats in visitor use areas according to a continuum of mountain goat-human interactions. Specific management actions could range from hazing to lethal removal of hazardous mountain goats. Alternative B would focus exclusively on the capture of mountain goats within the park and on adjacent Olympic National Forest lands followed by their transfer to WDFW. WDFW would subsequently translocate the goats to other areas chosen at its discretion, including portions of the Cascade Mountain Range where mountain goats are native and supplementation of the existing population would further mountain goat conservation efforts. Alternative C would use lethal removal to eliminate or significantly reduce mountain goats in the park and adjacent lands in the Olympic National Forest. Alternative D would utilize a combination of capture and translocation and lethal removal tools to eliminate or significantly reduce mountain goats in the park.

The Final EIS/plan responds to, and incorporates where appropriate, agency and public comments received on the Draft EIS/plan, which was available for public review from July 21, 2017 through October 10, 2017. The NPS held four public meetings between August 11 and August 14, 2017 to gather input on the Draft EIS/plan. During the public comment period, the NPS received 2,311 pieces of correspondence. In response to public comments, the NPS made several revisions to the text of the Draft EIS/plan. While most revisions were editorial in nature, the NPS did make some substantive changes regarding the timing of mountain goat removal and translocation operations under alternatives C and D. NPS and cooperating agency responses to public comments are provided as an appendix in the Final EIS/plan available at *http://parkplanning.nps.gov/olymgoat.*

Authority: 42 U.S.C. 4321 *et seq.*

Dated: April 3, 2018.

Martha J. Lee,

Acting Regional Director, Pacific West Region.

[FR Doc. 2018–09449 Filed 5–3–18; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–18–023]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: May 11, 2018 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436 Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–603–605 and 731–TA–1413–1415 (Preliminary) (Glycine from China, India, Japan, and Thailand). The Commission is currently scheduled to complete and file its determinations on May 14, 2018; views of the Commission are currently scheduled to be completed and filed on May 21, 2018.
5. Vote in Inv. Nos. 731–TA–1360 and 1361 (Final) (Tool Chests and Cabinets from China and Vietnam). The Commission is currently scheduled to complete and file its determinations and views of the Commission by May 24, 2018.
6. Vote in Inv. No. 701–TA–585 (Final) (Stainless Steel Flanges from China). The Commission is currently scheduled to complete and file it determination and views of the Commission by May 29, 2018.
7. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: May 1, 2018.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–09586 Filed 5–2–18; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1111]

Certain Portable Gaming Console Systems With Attachable Handheld Controllers and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 30, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Gamevice, Inc. of Simi Valley, California. Supplements to the complaint were filed on April 13, 2018, and April 19, 2018. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain portable gaming console systems with attachable handheld controllers and components thereof by reason of infringement of certain claims of U.S. Patent No. 9,855,498 (''the '498 patent'') and U.S. Patent No. 9,808,713 (''the '713 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2017).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on April 26, 2018, *ordered that—*

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain portable gaming console systems with attachable handheld controllers and components thereof by reason of infringement of one or more of claims 1–4, 6–9, 16, 21, and 22 of the '498 patent and claims 1–4, 6–10, and 16–19 of the '713 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Gamevice, Inc., 685 Cochran Street, Suite 200, Simi Valley, CA 93065.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Nintendo Co., Ltd., 11–1 Hokotate-cho, Kamitoba, Minami-ku, Koyoto, Japan 601–8501

Nintendo of America, Inc., 4600 150th Avenue NE, Redmond, WA 98052

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: April 30, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–09464 Filed 5–3–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–18–022]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: May 10, 2018 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–602 and 731–TA–1412 (Preliminary) (Steel Wheels from China). The Commission is currently scheduled to complete and file its determinations on May 11, 2018; views of the Commission are currently scheduled to be completed and filed on May 18, 2018.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: May 1, 2018.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–09585 Filed 5–2–18; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1359 (Final)]

Carton-Closing Staples From China

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of carton-closing staples from China that have been found by the U.S. Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV'').[2 3]

Background

The Commission, pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)), instituted this investigation effective March 31, 2017, following receipt of a petition filed with the Commission and Commerce by North American Steel & Wire, Inc./ISM Enterprises. The Commission scheduled the final phase of the investigation following notification of a preliminary determination by Commerce that imports of carton-closing staples from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of November 15, 2017 (82 FR 52939). The hearing was held in Washington, DC, on Tuesday, March 13, 2018, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made this determination pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)). It completed and filed its determination in this investigation on Monday, April 30, 2018. The views of the Commission are contained in USITC Publication 4778 (April 2018), entitled *Carton-Closing Staples from China: Investigation No. 731–TA–1359 (Final).*

By order of the Commission.

Issued: April 30, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–09422 Filed 5–3–18; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] *Carton-Closing Staples From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value,* 83 FR 13236 (March 28, 2018).

[3] Commissioner Kearns not participating.

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Martin Marietta Materials, Inc. et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Martin Marietta Materials, Inc. et al.,* Civil Action No. 1:18–cv–00973. On April 25, 2018, the United States filed a Complaint alleging that Martin Marietta Materials, Inc.'s proposed acquisition of Panadero Corp. and Panadero Aggregates Holdings, LLC, including subsidiary Bluegrass Materials Company, LLC, would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires that Defendants divest the lease to Martin Marietta's Forsyth Quarry, located in Suwanee, Georgia, and Bluegrass's Beaver Creek quarry, located

in Hagerstown, Maryland, and related assets.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's website at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's website, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Maribeth Petrizzi, Chief, Defense, Industrials, and Aerospace Section, Antitrust Division, Department of Justice, 450 Fifth Street NW, Suite 8700, Washington, DC 20530 (telephone: (202) 307–0924).

Patricia A. Brink,

Director of Civil Enforcement.

United States District Court for the District of Columbia

United States of America, United States Department of Justice, Antitrust Division, 450 Fifth Street, NW, Suite 8700, Washington, DC 20530 and *State of Maryland, Attorney General's Office, 200 St. Paul Place, 19th Floor, Baltimore, Maryland 21202,* Plaintiffs, v. *Martin Marietta Materials, Inc., 2710 Wycliff Road, Raleigh, North Carolina 27607; LG Panadero, L.P., 630 Fifth Avenue, 30th Floor, New York, New York 10111; Panadero Corp., 200 W. Forsyth Street, 12th Floor, Jacksonville, Florida 32202; Panadero Aggregates Holdings, LLC, 200 W. Forsyth Street, 12th Floor, Jacksonville, Florida 32202;* and *Bluegrass Materials Company, LLC, 200 W. Forsyth Street, 12th Floor, Jacksonville, Florida 32202,* Defendants.

Civil Action No.: 1:18–cv–00973
Judge: Randolph Moss

COMPLAINT

Plaintiffs, the United States of America (''United States''), acting under the direction of the Attorney General of the United States, and the State of Maryland, acting by and through the Attorney General of Maryland, bring this civil antitrust action against Defendants to enjoin Martin Marietta Materials, Inc.'s (''Martin Marietta'') proposed acquisition of Bluegrass Materials Company, LLC (''Bluegrass''). Plaintiffs allege as follows:

I. INTRODUCTION

1. On June 26, 2017, Martin Marietta and Bluegrass announced a definitive agreement under which Martin Marietta would acquire Bluegrass for $1.625 billion. The merger would expand the reach of one of the largest aggregate producers in the United States and create a combined firm with annual total revenues of approximately $4 billion.

2. Aggregate is a key input in asphalt and ready mix concrete and is used to build roads, highways, bridges, and other construction projects. The proposed acquisition would eliminate head-to-head competition between Martin Marietta and Bluegrass in supplying aggregate to customers in and immediately around Forsyth and north Fulton County, Georgia, and in and immediately around Washington County, Maryland. For a significant number of customers in these areas, Martin Marietta and Bluegrass are two of only three competitive sources of aggregate qualified by the respective states' Departments of Transportation (''DOT''). Elimination of competition between Martin Marietta and Bluegrass in these areas likely would give Martin Marietta the ability to raise prices or decrease the quality of service provided to these customers.

3. As a result, Martin Marietta's proposed acquisition of Bluegrass likely would substantially lessen competition for DOT-qualified aggregate in and immediately around Forsyth and north Fulton County, Georgia, and in and immediately around Washington County, Maryland, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

II. THE PARTIES AND THE PROPOSED TRANSACTION

4. Defendant Martin Marietta is a North Carolina corporation with its headquarters in Raleigh, North Carolina. Martin Marietta is a leading supplier of aggregate and heavy building materials in the United States, with operations in 26 states. In 2017, Martin Marietta had net sales of $3.9 billion.

5. Defendant Bluegrass is a Delaware limited liability company with its headquarters in Jacksonville, Florida. Bluegrass operates 17 rock quarries, one sand plant, and two concrete manufacturing plants across Kentucky, Tennessee, South Carolina, Georgia, Pennsylvania, and Maryland.

6. Defendant Panadero Aggregates Holdings, LLC (''Panadero Aggregates'') is a Delaware limited liability company with its headquarters in Jacksonville, Florida. Panadero Aggregates was formed to acquire, develop, and operate aggregate and other construction materials businesses. Panadero Aggregates is the owner of Bluegrass.

7. Defendant Panadero Corp. (''Panadero'') is a Delaware corporation with its headquarters in Jacksonville, Florida. Panadero is a wholly-owned subsidiary of LG Panadero and is the majority owner of Panadero Aggregates. Panadero, which reported consolidated net sales of $199.5 million in 2016, was formed to acquire, develop, and operate aggregate and other construction materials businesses.

8. Defendant LG Panadero, L.P. (''LG Panadero'') is a Delaware limited partnership headquartered in New York, New York. LG Panadero is the owner of Panadero.

9. Pursuant to the Securities Purchase Agreement dated June 23, 2017, Martin Marietta would acquire Panadero and Panadero Aggregates, including Bluegrass, from LG Panadero for $1.625 billion.

III. JURISDICTION AND VENUE

10. The United States brings this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. §§ 4 and 25, as amended, to prevent and restrain Defendants from violating Section 7 of the Clayton Act, 15 U.S.C. § 18.

11. The State of Maryland brings this action under Section 16 of the Clayton Act, 15 U.S.C. § 26, to prevent and restrain Defendants from violating Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18. The State of Maryland, by and through the Attorney General of Maryland, brings this action as *parens patriae* on behalf of the citizens, general welfare, and the general economy of the State of Maryland.

12. Defendants produce and sell aggregate in the flow of interstate commerce. Defendants' activity in the production and sale of aggregate substantially affects interstate commerce. The Court has subject matter jurisdiction over this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. § 25, and 28 U.S.C. §§ 1331, 1337(a), and 1345.

13. Defendants have consented to venue and personal jurisdiction in this judicial district. Venue is therefore proper in this district under Section 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C. § 1391(c).

IV. TRADE AND COMMERCE

A. Aggregate Is an Essential Input for Many Road and Construction Projects

14. Aggregate is a category of material used for road and construction projects.

Produced in quarries, mines, and gravel pits, aggregate is predominantly limestone, granite, or other dark-colored igneous rock. Different types and sizes of rock are needed to meet different specifications for use in asphalt concrete, ready mix concrete, industrial processes, and other products. Asphalt concrete consists of approximately 95 percent aggregate, and ready mix concrete is made of up of approximately 75 percent aggregate. Aggregate thus is an integral input for road and other construction projects.

15. For each construction project, a customer establishes specifications that must be met for each application for which aggregate is used. For example, state DOTs, including the Georgia and Maryland DOTs, set specifications for aggregate used to produce asphalt concrete, ready mix concrete, and road base for state DOT projects. State DOTs specify characteristics such as hardness, durability, size, polish value, and a variety of other characteristics. The specifications are intended to ensure the longevity and safety of the roads, bridges and other projects for which aggregate is used.

16. State DOTs qualify quarries according to the end uses of the aggregate, to ensure that the stone used in an application meets the necessary specifications. In addition, state DOTs test the aggregate at various points: at the quarry before it is shipped; when the aggregate is sent to the purchaser to produce an end product such as asphalt concrete; and after the end product has been produced. Many cities, counties, commercial entities, and individuals in Georgia and Maryland have adopted their respective state DOT-qualified aggregate specifications when building roads, bridges, and other construction projects in order to optimize the longevity of their projects.

B. Transportation Is a Significant Component of the Cost of Aggregate

17. Aggregate is priced by the ton and is a relatively inexpensive product, with prices typically ranging from approximately five to twenty dollars per ton. A variety of approaches are used to price aggregate. For small volumes, aggregate often is sold according to a posted price. For large volumes, customers typically either negotiate prices for a particular job or negotiate yearly requirements contracts, seeking bids from multiple aggregate suppliers.

18. In areas where aggregate is locally available, it is transported from quarries to customers by truck. Truck transportation is expensive, and transportation costs can become a significant portion of the total cost of aggregate.

C. Relevant Markets

1. State DOT-Qualified Aggregate Is a Relevant Product Market

19. Within the broad category of aggregate, different types and sizes of stone are used for different purposes. For instance, aggregate qualified for use as road base may not be the same size and type of rock as aggregate qualified for use in asphalt concrete. Accordingly, aggregate types and sizes are not interchangeable with one another and demand for each is separate. Thus, each type and size of aggregate likely is a separate line of commerce and a relevant product market within the meaning of Section 7 of the Clayton Act.

20. State DOTs qualify aggregate for use in road construction and other projects in that particular state. DOT-qualified aggregate meets particular standards for size, physical composition, functional characteristics, end uses, and availability. A customer whose job specifies aggregate qualified by a particular state's DOT cannot substitute aggregate or other materials that have not been so qualified.

21. Although numerous narrower product markets exist, the competitive dynamic for most types of state DOT-qualified aggregate is nearly identical, as a quarry can typically produce all, or nearly all, types of DOT-qualified aggregate for a particular state. Therefore, most types of DOT-qualified aggregate for a particular state may be combined for analytical convenience into a single relevant product market for the purpose of evaluating the competitive impact of the acquisition.

22. A small but significant increase in the price of state DOT-qualified aggregate would not cause a sufficient number of customers to substitute to another type of aggregate or another material so as to make such a price increase unprofitable. Accordingly, the production and sale of Georgia DOT-Qualified Aggregate and Maryland DOT-Qualified Aggregate (hereinafter ''DOT-Qualified Aggregate'') are distinct lines of commerce and relevant product markets within the meaning of Section 7 of the Clayton Act.

2. The Relevant Geographic Markets Are Local

23. Aggregate is a relatively low-cost product that is bulky and heavy. As a result, the cost of transporting aggregate is high compared to the value of the product.

24. When customers seek price quotes or bids, the distance from the quarry to the project site or plant location will have a considerable impact on the selection of a supplier, due to the high cost of transporting aggregate relative to the low value of the product. Suppliers know the importance of transportation costs to a potential customer's selection of an aggregate supplier; they know the locations of their competitors, and they often will factor the cost of transportation from other suppliers into the price or bid that they submit.

25. The primary factor that determines the area a supplier will serve is the location of competing quarries. When quoting prices or submitting bids, aggregate suppliers will account for the location of the project site or plant, the cost of transporting aggregate to the project site or plant, and the locations of the competitors that might bid on a job. Therefore, depending on the location of the project site or plant, suppliers are able to adjust their bids to account for the distance other competitors are from a job.

a. The Forsyth and North Fulton County Area Is a Relevant Geographic Market

26. Martin Marietta operates the Forsyth quarry in Suwanee, Georgia, and Bluegrass owns and operates the Cumming quarry in Cumming, Georgia. Customers in and immediately around Forsyth County and Fulton County north of the Chattahoochee River (hereinafter referred to as the ''Forsyth and North Fulton County Area'') are served by both the Forsyth and Cumming quarries. Customers with plants or jobs in the Forsyth and North Fulton County Area may, depending on the location of their plant or job sites, economically procure Georgia DOT-Qualified Aggregate from the Forsyth and Cumming quarries, or from quarries operated by a third firm located in Norcross, Buford, and Ball Ground, Georgia. Other more distant quarries cannot compete successfully on a regular basis for a significant number of customers with plants or jobs in the Forsyth and North Fulton County Area because they are too far away and transportation costs are too great.

27. Customers likely would be unable to switch to suppliers outside the Forsyth and North Fulton County Area to defeat a small but significant price increase. Accordingly, the Forsyth and North Fulton County Area is a relevant geographic market for the production and sale of Georgia DOT-Qualified Aggregate within the meaning of Section 7 of the Clayton Act.

b. The Washington County Area Is a Relevant Geographic Market

28. Martin Marietta owns and operates the Boonsboro quarry in Boonsboro, Maryland, and the Pinesburg quarry in Williamsport, Maryland, and Bluegrass owns and operates the Beaver Creek quarry in Hagerstown, Maryland. The Boonsboro, Pinesburg, and Beaver Creek quarries each serve customers in and immediately around Washington County, Maryland (hereinafter referred to as the ''Washington County Area''). Customers with plants or jobs in the Washington County Area may, depending on the location of their plant or job site, economically procure Maryland DOT-Qualified Aggregate from the Boonsboro, Pinesburg, or Beaver Creek quarries, or from a quarry operated by a third firm located in nearby Chambersburg, Pennsylvania. Other more distant quarries cannot compete successfully on a regular basis for customers with plants or jobs in the Washington County Area because they are too far away and transportation costs are too great.

29. Customers likely would be unable to switch to more distant suppliers outside of the Washington County Area to defeat a small but significant price increase. Accordingly, the Washington County Area is a relevant geographic market for the production and sale of Maryland DOT-Qualified Aggregate within the meaning of Section 7 of the Clayton Act.

D. Martin Marietta's Acquisition of Bluegrass Is Anticompetitive

30. Vigorous competition between Martin Marietta and Bluegrass on price and customer service in the production and sale of DOT-Qualified Aggregate has benefitted customers in the Forsyth and North Fulton County Area and in the Washington County Area.

31. In each of these areas, the competitors that constrain Martin Marietta and Bluegrass from raising prices on DOT-Qualified Aggregate are limited to those who are qualified by the Georgia and Maryland DOTs to supply aggregate and can economically transport the aggregate into these areas. As alleged above, for a significant number of customers in each area, there is only one other firm that produces DOT-Qualified Aggregate and can economically serve customers at their plants or job sites. The proposed acquisition will eliminate the competition between Martin Marietta and Bluegrass and reduce from three to two the number of suppliers of DOT-Qualified Aggregate for a significant number of customers in each area.

32. For a significant number of customers in each area, a combined Martin Marietta and Bluegrass will have the ability to increase prices for DOT-Qualified Aggregate and decrease service by limiting availability or delivery options. DOT-Qualified Aggregate producers know the distance from their own quarries and their competitors' quarries to a customer's job site. Generally, because of transportation costs, the farther a supplier's closest competitor is from a job site, the higher the price and margin that supplier can expect for that project. Post-acquisition, in instances where Martin Marietta and Bluegrass quarries are the closest locations to a customer's project, the combined firm, using the knowledge of its competitors' locations, will be able to charge such customers higher prices or decrease the level of customer service.

33. The response of other suppliers of DOT-Qualified Aggregate will not be sufficient to constrain a unilateral exercise of market power by Martin Marietta after the acquisition.

34. The proposed acquisition will therefore substantially lessen competition in the market for DOT-Qualified Aggregate in the Forsyth and North Fulton County Area and in the Washington County Area and will likely lead to higher prices and reduced customer service for consumers of such products, in violation of Section 7 of the Clayton Act.

E. Difficulty of Entry

35. Timely, likely, and sufficient entry in the production and sale of DOT-Qualified Aggregate in the Forsyth and North Fulton County Area and in the Washington County Area is unlikely, given the substantial time and cost required to open a quarry.

36. Quarries are particularly difficult to locate and permit. First, securing the proper site for a quarry is challenging and time-consuming. Finding land with the correct rock composition requires extensive investigation and testing of candidate sites, as well as the negotiation of necessary land transfers, leases, and/or easements. Further, the site must be close to customer plants and likely job sites given the high cost of transporting aggregate.

37. Second, once a suitable location is chosen, obtaining the necessary permits is difficult and time-consuming. Attempts to open a new quarry often face fierce public opposition, which can prevent a quarry from opening altogether or make the process of opening it much more time-consuming and costly.

38. Third, even after a site is acquired and permitted, the owner must spend significant time and resources to prepare the land for quarry operations and purchase and install the necessary equipment.

39. Because of the cost and difficulty of establishing a quarry, entry will not be timely, likely or sufficient to mitigate the anticompetitive effects of Martin Marietta's proposed acquisition of Bluegrass.

V. VIOLATION ALLEGED

40. Martin Marietta's proposed acquisition of Bluegrass likely will substantially lessen competition in the production and sale of DOT-Qualified Aggregate in the Forsyth and North Fulton County Area and in the Washington County Area, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

41. Unless enjoined, the proposed acquisition likely will have the following anticompetitive effects, among others:

(a) actual and potential competition between Martin Marietta and Bluegrass in the production and sale of DOT-Qualified Aggregate in the Forsyth and North Fulton County Area and in the Washington County Area will be eliminated; and

(b) prices for DOT-Qualified Aggregate in the Forsyth and North Fulton County Area and in the Washington County Area likely will increase and customer service likely will decrease.

VI. REQUESTED RELIEF

42. Plaintiffs request that this Court:

(a) adjudge and decree that Martin Marietta's acquisition of Bluegrass would be unlawful and violate Section 7 of the Clayton Act, 15 U.S.C. § 18;

(b) preliminarily and permanently enjoin and restrain the Defendants and all persons acting on their behalf from consummating the proposed acquisition of Bluegrass by Martin Marietta, or from entering into or carrying out any other contract, agreement, plan, or understanding, the effect of which would be to combine Martin Marietta with Bluegrass;

(c) award Plaintiffs their costs for this action; and

(d) award Plaintiffs such other and further relief as the Court deems just and proper.

Dated: April 25, 2018

For Plaintiff United States of America

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United States District Court for the District of Columbia

United States of America and *State of Maryland*, *Plaintiffs,* v. *Martin Marietta Materials, Inc., LG Panadero, L.P., Panadero Corp., Panadero Aggregates Holdings, LLC* and *Bluegrass Materials Company, LLC, Defendants.*
Civil Action No.: 1:18–cv–00973
Judge: Randolph Moss

PROPOSED FINAL JUDGMENT

WHEREAS, Plaintiffs, United States of America and the State of Maryland, filed their Complaint on April 25, 2018, Plaintiffs and Defendants, Martin Marietta Materials, Inc., LG Panadero, L.P., Panadero Corp, Panadero Aggregates Holdings, LLC, and Bluegrass Materials Company, LLC, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by Defendants to assure that competition is not substantially lessened;

AND WHEREAS, Plaintiffs require Defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, Defendants have represented to Plaintiffs that the divestitures required below can and will be made and that Defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED, AND DECREED:

I. *JURISDICTION*

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II. *DEFINITIONS*

As used in this Final Judgment:

A. ''Acquirer'' or ''Acquirers'' means the entity or entities to whom Defendants divest the Divestiture Assets.

B. ''Acquirer of the Georgia Divestiture Assets'' means Midsouth Paving, Inc., or another entity to which Defendants divest the Georgia Divestiture Assets.

C. ''Acquirer of the Maryland Divestiture Assets'' means the entity to which Defendants divest the Maryland Divestiture Assets.

D. ''Closing'' means the consummation of the divestiture of all the Divestiture Assets pursuant to either Section IV or Section V of this Final Judgment.

E. ''Completion of the Transaction'' means the closing of Martin Marietta's acquisition of Panadero Corp. and Panadero Aggregates Holdings, LLC, including Bluegrass Materials Company, LLC.

F. ''Martin Marietta'' means Defendant Martin Marietta Materials, Inc., a North Carolina corporation with its headquarters in Raleigh, North Carolina, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

G. ''LG Panadero'' means Defendant LG Panadero, L.P., a Delaware limited partnership with its headquarters in New York, New York, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

H. ''Panadero'' means Defendant Panadero Corp., a Delaware corporation with its headquarters in Jacksonville, Florida, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

I. ''Panadero Aggregates'' means Defendant Panadero Aggregates Holdings, LLC, a Delaware limited liability company with its headquarters in Jacksonville, Florida, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

J. ''Bluegrass'' means Defendant Bluegrass Materials Company, LLC, a Delaware limited liability company with its headquarters in Jacksonville, Florida, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

K. ''Bluegrass Entities'' means LG Panadero, Panadero, Panadero Aggregates, and Bluegrass.

L. ''Midsouth'' means Midsouth Paving, Inc., a Delaware corporation with its headquarters in Birmingham, Alabama, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees. Midsouth is a subsidiary of CRH plc and CRH Americas Materials, Inc.

M. ''Forsyth Quarry'' means Martin Marietta's quarry located at 3561 Peachtree Pkwy., Suwanee, Georgia 30024.

N. ''Beaver Creek Quarry'' means Bluegrass's quarry located at 10101 Mapleville Rd., Hagerstown, Maryland 21740.

O. ''Georgia Divestiture Assets'' means:

1. Martin Marietta's lease to the Forsyth Quarry;

2. all tangible assets used at the Forsyth Quarry, including, but not limited to, all manufacturing equipment, tooling, and fixed assets, mining equipment, aggregate reserves, personal property, inventory, office furniture, materials, supplies, on- or off-site warehouses or storage facilities, and all other tangible property and assets used in connection with the Forsyth Quarry; all licenses, permits, and authorizations issued by any governmental organization relating to the Forsyth Quarry; all contracts, agreements, teaming arrangements, leases (including renewal rights), commitments, certifications and understandings, including sales agreements and supply agreements relating to the Forsyth Quarry, except for regional or national service agreements; all customer lists, contracts, accounts, and credit records relating to the Forsyth Quarry; all repair and performance records and all other records relating to the Forsyth Quarry; and

3. all intangible assets used in the production and sale of aggregate at the Forsyth Quarry, including but not limited to, all contractual rights, patents, licenses and sublicenses, intellectual property, copyrights, trademarks, trade names, service marks, service names (provided, however, that such marks and names shall not include the term ''Martin Marietta''), technical information, computer software (including dispatch software and management information systems) and related documentation (provided, however, that the Acquirer may elect to acquire extracted data relating to the Forsyth Quarry without the accompanying software), know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, all manuals and technical information Martin Marietta provides to its own employees, customers, suppliers, agents, or licensees, and all data (including aggregate reserve testing information) concerning the Forsyth Quarry.

P. ''Maryland Divestiture Assets'' means:

1. the Beaver Creek Quarry;

2. all tangible assets used at the Beaver Creek Quarry, including, but not limited to, all manufacturing equipment, tooling, and fixed assets, mining equipment, aggregate reserves, personal property, inventory, office furniture, materials, supplies, on- or off-site warehouses or storage facilities, and all other tangible property and assets used in connection with the Beaver Creek Quarry; all licenses, permits, and authorizations issued by any governmental organization relating to the Beaver Creek Quarry; all contracts, agreements, teaming arrangements, leases (including renewal rights), commitments, certifications and understandings, including sales agreements and supply agreements, except for regional or national service agreements; all customer lists, contracts, accounts, and credit records relating to the Beaver Creek Quarry; all repair and performance records and all other records relating to the Beaver Creek Quarry; and

3. all intangible assets used in the production and sale of aggregate at the Beaver Creek Quarry, including but not limited to, all contractual rights, patents, licenses and sublicenses, intellectual property, copyrights, trademarks, trade names, service marks, service names (provided, however, that such marks and names shall not include the word ''Bluegrass''), technical information, computer software (including dispatch software and management information systems) and related documentation (provided, however, that the Acquirer may elect to acquire extracted data relating to the Beaver Creek Quarry without the accompanying software), know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, all manuals and technical information Bluegrass provides to its own employees, customers, suppliers, agents, or licensees, and all data (including aggregate reserve testing information) concerning the Beaver Creek Quarry.

Q. ''Divestiture Assets'' means the Georgia Divestiture Assets and the Maryland Divestiture Assets.

III. *APPLICABILITY*

A. This Final Judgment applies to Martin Marietta and the Bluegrass Entities, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Section IV and Section V of this Final Judgment, Defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, they shall require the purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the Acquirers of the assets divested pursuant to this Final Judgment.

IV. DIVESTITURES

A. Defendants are ordered and directed, within twenty-one (21) calendar days after the Court's signing of the Hold Separate Stipulation and Order in this matter, to divest the Georgia Divestiture Assets in a manner consistent with this Final Judgment to Midsouth or another Acquirer of the Georgia Divestiture Assets acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed sixty (60) calendar days in total, and shall notify the Court in such circumstances. Defendants agree to use their best efforts to divest the Georgia Divestiture Assets as expeditiously as possible.

B. Defendants are ordered and directed, within ninety (90) calendar days after the filing of the Complaint in this matter, or five (5) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the Maryland Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer of the Maryland Divestiture Assets acceptable to the United States, in its sole discretion, after consultation with the State of Maryland. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed sixty (60) calendar days in total, and shall notify the Court in such circumstances. Defendants agree to use their best efforts to divest the Maryland Divestiture Assets as expeditiously as possible.

C. In the event Defendants are attempting to divest the Georgia Divestiture Assets to an Acquirer other than Midsouth, and in accomplishing the divestiture of the Maryland Divestiture Assets ordered by this Final Judgment, Defendants promptly shall make known, by usual and customary means, the availability of the Divestiture Assets. Defendants shall inform any person making an inquiry regarding a possible purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture

Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privilege or work-product doctrine. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

D. Defendants shall provide the Acquirer(s) and the United States information relating to the personnel involved in the operation of the Divestiture Assets to enable the Acquirer(s) to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer(s) to employ any Defendant employee whose primary responsibility is the operation of the Divestiture Assets.

E. Defendants shall permit prospective Acquirers of the Divestiture Assets to have reasonable access to personnel and to make inspections of the physical facilities of Divestiture Assets; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

F. Defendants shall warrant to the Acquirer(s) that each Divestiture Asset will be operational on the date of sale.

G. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

H. Defendants shall warrant to the Acquirer(s) that (1) there are no material defects in the environmental, zoning, or other permits pertaining to the operation of each Divestiture Asset, and (2) following the sale of the Divestiture Assets, Defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

I. Unless the United States otherwise consents in writing, the divestitures pursuant to Section IV, or by Divestiture Trustee appointed pursuant to Section V, of this Final Judgment, shall include the entire Divestiture Assets, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, after consultation with the State of Maryland with respect to the Maryland Divestiture Assets, that the Divestiture Assets can and will be used by the Acquirer(s) as part of a viable, ongoing business in the production and sale of Georgia and Maryland Department of Transportation-qualified aggregate (''State DOT-Qualified Aggregate''). The divestitures, whether pursuant to Section IV or Section V of this Final Judgment,

(1) shall be made to an Acquirer that, in the United States' sole judgment, after consultation with the State of Maryland with respect to the Maryland Divestiture Assets, has the intent and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the business of producing and selling State DOT-Qualified Aggregate; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, after consultation with the State of Maryland with respect to the Maryland Divestiture Assets, that none of the terms of any agreement between an Acquirer and Defendants give Defendants the ability unreasonably to raise the Acquirer's or Acquirers' costs, to lower the Acquirer's or Acquirers' efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

V. *APPOINTMENT OF DIVESTITURE TRUSTEE*

A. If Defendants have not divested all of the Divestiture Assets within the time periods specified in Paragraphs IV(A) and IV(B), Defendants shall notify the United States, and the State of Maryland with respect to the Maryland Divestiture Assets, of that fact in writing. Upon application of the United States, the Court shall appoint a Divestiture Trustee selected by the United States and approved by the Court to effect the divestiture of the remaining Divestiture Assets.

B. After the appointment of a Divestiture Trustee becomes effective, only the Divestiture Trustee shall have the right to sell the remaining Divestiture Assets. The Divestiture Trustee shall have the power and authority to accomplish the divestitures to an Acquirer acceptable to the United States, after consultation with the State of Maryland with respect to the Maryland Divestiture Assets, at such price and on such terms as are then obtainable upon reasonable effort by the Divestiture Trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Paragraph V(D) of this Final Judgment, the Divestiture Trustee may hire at the cost and expense of Defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the Divestiture Trustee, reasonably necessary in the Divestiture Trustee's judgment to assist in the divestitures. Any such investment bankers, attorneys, or other agents shall serve on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications.

C. Defendants shall not object to a sale by the Divestiture Trustee on any ground other than the Divestiture Trustee's malfeasance. Any such objections by Defendants must be conveyed in writing to the United States and the Divestiture Trustee within ten (10) calendar days after the Divestiture Trustee has provided the notice required under Section VI.

D. The Divestiture Trustee shall serve at the cost and expense of Defendants pursuant to a written agreement, on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications. The Divestiture Trustee shall account for all monies derived from the sale of the assets sold by the Divestiture Trustee and all costs and expenses so incurred. After approval by the Court of the Divestiture Trustee's accounting, including fees for its services yet unpaid and those of any professionals and agents retained by the Divestiture Trustee, all remaining money shall be paid to Defendants and the trust shall then be terminated. The compensation of the Divestiture Trustee and any professionals and agents retained by the Divestiture Trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the Divestiture Trustee with an incentive based on the price and terms of the divestitures and the speed with which it is accomplished, but timeliness is paramount. If the Divestiture Trustee and Defendants are unable to reach agreement on the Divestiture Trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within fourteen (14) calendar days of appointment of the Divestiture Trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The Divestiture Trustee shall, within three (3) business days of hiring any other professionals or agents, provide written notice of such hiring and the rate of compensation to Defendants and the United States.

E. Defendants shall use their best efforts to assist the Divestiture Trustee in accomplishing the required divestitures. The Divestiture Trustee and any consultants, accountants, attorneys, and other agents retained by the Divestiture Trustee shall have full

and complete access to the personnel, books, records, and facilities of the business to be divested, and Defendants shall develop financial and other information relevant to such business as the Divestiture Trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information or any applicable privileges. Defendants shall take no action to interfere with or to impede the Divestiture Trustee's accomplishment of the divestitures.

F. After its appointment, the Divestiture Trustee shall file monthly reports with the United States and, as appropriate, the Court setting forth the Divestiture Trustee's efforts to accomplish the divestitures ordered under this Final Judgment. To the extent such reports contain information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The Divestiture Trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the Divestiture Trustee has not accomplished the divestitures ordered under this Final Judgment within six months after its appointment, the Divestiture Trustee shall promptly file with the Court a report setting forth (1) the Divestiture Trustee's efforts to accomplish the required divestitures, (2) the reasons, in the Divestiture Trustee's judgment, why the required divestitures have not been accomplished, and (3) the Divestiture Trustee's recommendations. To the extent such report contains information that the Divestiture Trustee deems confidential, such report shall not be filed in the public docket of the Court. The Divestiture Trustee shall at the same time furnish such report to the United States which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the Divestiture Trustee's appointment by a period requested by the United States.

H. If the United States determines that the Divestiture Trustee has ceased to act or failed to act diligently or in a reasonably cost-effective manner, it may recommend the Court appoint a substitute Divestiture Trustee.

VI. *NOTICE OF PROPOSED DIVESTITURE*

A. Within two (2) business days following execution of a definitive divestiture agreement, Defendants or the Divestiture Trustee, whichever is then responsible for effecting the divestitures required herein, shall notify the United States, and the State of Maryland with respect to the Maryland Divestiture Assets, of any proposed divestitures required by Section IV or Section V of this Final Judgment. If the Divestiture Trustee is responsible, it shall similarly notify Defendants. The notice shall set forth the details of the proposed divestitures and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States, after consultation with the State of Maryland with respect to the Maryland Divestiture Assets, may request from Defendants, the proposed Acquirer(s), any other third party, or the Divestiture Trustee, if applicable, additional information concerning the proposed divestitures, the proposed Acquirer(s), and any other potential Acquirer. Defendants and the Divestiture Trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from Defendants, the proposed Acquirer(s), any third party, and the Divestiture Trustee, whichever is later, the United States shall provide written notice to Defendants and the Divestiture Trustee, if there is one, stating whether or not it objects to the proposed divestitures. If the United States provides written notice that it does not object, the divestitures may be consummated, subject only to Defendants' limited right to object to the sale under Paragraph V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer(s) or upon objection by the United States, the divestitures proposed under Section IV or Section V shall not be consummated. Upon objection by Defendants under Paragraph V(C), the divestitures proposed under Section V shall not be consummated unless approved by the Court.

VII. *FINANCING*

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or Section V of this Final Judgment.

VIII. *HOLD SEPARATE*

Until the divestitures required by this Final Judgment have been accomplished, the Bluegrass Entities shall until the Completion of the Transaction, and Martin Marietta shall until Closing, take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestitures ordered by this Court.

IX. *AFFIDAVITS*

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestitures have been completed under Section IV or Section V, the Bluegrass Entities shall until the Completion of the Transaction, and Martin Marietta shall until Closing, deliver to the United States an affidavit, which shall describe the fact and manner of Defendants' compliance with Section IV or Section V of this Final Judgment. Affidavits provided by Martin Marietta must be signed by its Chief Financial Officer and General Counsel; each affidavit provided by the Bluegrass Entities must be signed by the highest ranking officer of each Defendant included in the Bluegrass Entities; and affidavits provided by Bluegrass Materials Co., LLC must also be signed by its CFO. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts Defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by Defendants, including limitation on

information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter the Bluegrass Entities shall until the Completion of the Transaction, and Martin Marietta shall until Closing, deliver to the United States an affidavit that describes in reasonable detail all actions Defendants have taken and all steps Defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in Defendants' earlier affidavits filed pursuant to this Section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestitures have been completed.

X. *COMPLIANCE INSPECTION*

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related orders such as any Hold Separate Stipulation and Order, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally-recognized privilege, from time to time authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

(1) access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or response to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this Section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, or the Maryland Attorney General's Office, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Defendants to the United States, Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," then the United States shall give Defendants ten (10) calendar days' notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. *NO REACQUISITION*

Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment.

XII. *RETENTION OF JURISDICTION*

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. *ENFORCEMENT OF FINAL JUDGMENT*

A. The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including its right to seek an order of contempt from this Court. Defendants agree that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of this Final Judgment, the United States may establish a violation of the decree and the appropriateness of any remedy therefor by a preponderance of the evidence, and they waive any argument that a different standard of proof should apply.

B. In any enforcement proceeding in which the Court finds that the Defendants have violated this Final Judgment, the United States may apply to the Court for a one-time extension of this Final Judgment, together with such other relief as may be appropriate. In connection with any successful effort by the United States to enforce this Final Judgment against a Defendant, whether litigated or resolved prior to litigation, that Defendant agrees to reimburse the United States for any attorneys' fees, experts' fees, and costs incurred in connection with that enforcement effort, including the investigation of the potential violation.

XIV. *EXPIRATION OF FINAL JUDGMENT*

Unless this Court grants an extension, this Final Judgment shall expire ten (10) years from the date of its entry, except that after five (5) years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and the Defendants that the divestitures have been completed and that the continuation of the Final Judgment no longer is necessary or in the public interest.

XV. *PUBLIC INTEREST DETERMINATION*

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and responses to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: ________________

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16

____

United States District Judge

United States District Court for the District of Columbia

United States of America and State of Maryland, Plaintiffs, v. *Martin Marietta Materials, Inc., LG Panadero, L.P., Panadero Corp., Panadero Aggregates Holdings, LLC,* and *Bluegrass Materials Company, LLC,* Defendants.

Civil Action No.: 1:18–cv–00973

Judge: Randolph Moss

COMPETITIVE IMPACT STATEMENT

Plaintiff United States of America (''United States''), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. § 16(b)-(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. *NATURE AND PURPOSE OF THE PROCEEDING*

On June 26, 2017, Martin Marietta Materials, Inc. (''Martin Marietta'') and Bluegrass Materials Company, LLC (''Bluegrass'') announced a definitive agreement under which Martin Marietta would acquire Bluegrass for approximately $1.625 billion. The United States and the State of Maryland (''Plaintiffs'') filed a civil antitrust Complaint on April 25, 2018, seeking to enjoin the proposed acquisition. The Complaint alleges that the likely effect of the proposed acquisition would be to substantially lessen competition in the production and sale of Department of Transportation (''DOT'')-qualified aggregate in and immediately around Forsyth and north Fulton County, Georgia and in and immediately around Washington County, Maryland, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. This loss of competition likely would result in increased prices and decreased customer service for customers in those areas.

At the same time the Complaint was filed, Plaintiffs also filed a Hold Separate Stipulation and Order (''Hold Separate'') and proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the acquisition. Under the proposed Final Judgment, which is explained more fully below, Defendants are required to divest the lease to Martin Marietta's Forsyth quarry and all of the quarry's assets to Midsouth Paving, Inc., a subsidiary of CRH, plc and CRH Americas Materials, Inc., and to divest Bluegrass's Beaver Creek quarry and all of the quarry's assets to a yet-to-be determined purchaser that must be approved by the United States (collectively, the ''Divestiture Assets''). Under the terms of the Hold Separate, Defendants will take certain steps to ensure that prior to their divestiture the Divestiture Assets are operated as competitively independent, economically viable and ongoing business concerns, that they will remain independent and uninfluenced by the consummation of the acquisition, and that competition is maintained during the pendency of the ordered divestitures.

Plaintiffs and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. *DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATION*

A. The Defendants and the Proposed Transaction

Defendant Martin Marietta is a North Carolina corporation with its headquarters in Raleigh, North Carolina. Martin Marietta is a leading supplier of aggregates and heavy building operations, with operations in 26 states. In 2017, Martin Marietta had net sales of $3.9 billion.

Defendant Bluegrass is a Delaware limited liability company with its headquarters in Jacksonville, Florida. Bluegrass operates 17 rock quarries, one sand plant, and two concrete manufacturing plants across Kentucky, Tennessee, South Carolina, Georgia, Pennsylvania, and Maryland.

Defendant Panadero Aggregates Holdings, LLC (''Panadero Aggregates'') is a Delaware limited liability company with its headquarters in Jacksonville, Florida. Panadero Aggregates was formed to acquire, develop, and operate aggregate and other construction materials businesses, and is the owner of Bluegrass.

Defendant Panadero Corp. (''Panadero'') is a Delaware corporation with its headquarters in Jacksonville, Florida. Panadero is a wholly-owned subsidiary of LG Panadero and is the majority owner of Panadero Aggregates. Panadero, which reported consolidated net sales of $199.5 million in 2016, was formed to acquire, develop, and operate aggregate and other construction materials businesses.

Defendant LG Panadero, L.P. (''LG Panadero'') is a Delaware limited partnership headquartered in New York, New York. LG Panadero is the owner of Panadero.

Pursuant to a Securities Purchase Agreement dated June 23, 2017, Martin Marietta would acquire Panadero and Panadero Aggregates, including Bluegrass, from LG Panadero for $1.625 billion. The proposed transaction, as initially agreed to by Defendants on June 23, 2017, would lessen competition substantially in the production and sale of DOT-qualified aggregate in and immediately around Forsyth and north Fulton County, Georgia and in and immediately around the Washington County, Maryland Area. This acquisition is the subject of the Complaint and proposed Final Judgment that Plaintiffs filed today.

B. Industry Overview

Aggregate is a category of material used for road and construction projects. Produced in quarries, mines, and gravel pits, aggregate is predominantly limestone, granite, or other dark-colored igneous rock. Different types and sizes of rock are needed to meet different specifications for use in asphalt concrete, ready mix concrete, industrial processes, and other products. Asphalt concrete consists of approximately 95 percent aggregate, and ready mix concrete is made of up of approximately 75 percent aggregate. Aggregate thus is an integral input for road and other construction projects.

For each construction project, a customer establishes specifications that must be met for each application for which aggregate is used. For example, state DOTs, including the Georgia and Maryland DOTs, set specifications for aggregate used to produce asphalt concrete, ready mix concrete, and road base for state DOT projects. State DOTs specify characteristics such as hardness, durability, size, polish value, and a variety of other characteristics. The specifications are intended to ensure the longevity and safety of the roads, bridges and other projects for which aggregate is used.

State DOTs qualify quarries according to the end uses of the aggregate, to ensure that the stone used in an application meets the necessary specifications. In addition, state DOTs test the aggregate at various points: at the quarry before it is shipped; when the aggregate is sent to the purchaser to produce an end product such as asphalt concrete; and after the end product has been produced. Many cities, counties, commercial entities, and individuals in Georgia and Maryland have adopted their respective state DOT-qualified aggregate specifications when building roads, bridges, and other construction projects in order to help ensure the longevity of their projects.

Aggregate is priced by the ton and is a relatively inexpensive product, with prices typically ranging from approximately five to twenty dollars per ton. A variety of approaches are used to price aggregate. For small volumes, aggregate often is sold according to a

posted price. For large volumes, customers typically either negotiate prices for a particular job or negotiate yearly requirements contracts, seeking bids from multiple aggregate suppliers.

In areas where aggregate is locally available, it is transported from quarries to customers by truck. Truck transportation is expensive relative to the cost of the product itself, and transportation costs can become a significant portion of the total cost of aggregate.

C. Relevant Markets

1. State DOT-Qualified Aggregate Is a Relevant Product Market

According to the Complaint, within the broad category of aggregate, different types and sizes of stone are used for different purposes. For instance, aggregate qualified for use as road base may not be the same size and type of rock as aggregate qualified for use in asphalt concrete. Accordingly, aggregate types and sizes are not interchangeable for one another and demand for each is separate. Thus, the Complaint alleges that each type and size of aggregate likely is a separate line of commerce and a relevant product market within the meaning of Section 7 of the Clayton Act.

State DOTs qualify aggregate for use in road construction and other projects in that particular state. DOT-qualified aggregate meets particular standards for size, physical composition, functional characteristics, end uses, and availability. A customer whose job specifies aggregate qualified by a particular state's DOT cannot substitute aggregate or other materials that have not been so qualified.

The Complaint alleges that although numerous narrower product markets exist, the competitive dynamic for most types of state DOT-qualified aggregate is nearly identical, as a quarry can typically produce all, or nearly all, types of DOT-qualified aggregate for a particular state. Therefore, most types of DOT-qualified aggregate for a particular state may be combined for analytical convenience into a single relevant product market for the purpose of evaluating the competitive impact of the acquisition.

According to the Complaint, a small but significant increase in the price of state DOT-qualified aggregate would not cause a sufficient number of customers to substitute to another type of aggregate or another material so as to make such a price increase unprofitable. Accordingly, the Complaint alleges that the production and sale of Georgia DOT-Qualified Aggregate and Maryland DOT-Qualified Aggregate (hereinafter ''DOT-Qualified Aggregate'') are distinct lines of commerce and relevant product markets within the meaning of Section 7 of the Clayton Act.

2. The Relevant Geographic Markets Are Local

When customers seek price quotes or bids for aggregate, the distance from the quarry to the project site or plant location will have a considerable impact on the selection of a supplier, due to the high cost of transporting aggregate relative to the low value of the product. Suppliers know the importance of transportation costs to a potential customer's selection of an aggregate supplier; they know the locations of their competitors, and they often will factor the cost of transportation from other suppliers into the price or bid that they submit. For these reasons, the primary factor that determines the area a supplier will serve is the location of competing quarries.

a. The Forsyth and North Fulton County Area Is a Relevant Geographic Market

According to the Complaint, Martin Marietta operates the Forsyth quarry in Suwanee, Georgia, and Bluegrass owns and operates the Cumming quarry in Cumming, Georgia. Customers in and immediately around Forsyth County and Fulton County north of the Chattahoochee River (hereinafter referred to as the ''Forsyth and North Fulton County Area'') are served by both the Forsyth and Cumming quarries. Customers with plants or jobs in the Forsyth and North Fulton County Area may, depending on the location of their plant or job sites, economically procure Georgia DOT-Qualified Aggregate from the Forsyth and Cumming quarries, or from quarries operated by a third firm located in Norcross, Buford, and Ball Ground, Georgia. Other more distant quarries cannot compete successfully on a regular basis for a significant number of customers with plants or jobs in the Forsyth and North Fulton County Area because they are too far away and transportation costs are too great.

According to the Complaint, customers likely would be unable to switch to suppliers outside the Forsyth and North Fulton County Area to defeat a small but significant price increase. The Complaint therefore alleges that the Forsyth and North Fulton County Area is a relevant geographic market for the production and sale of Georgia DOT-Qualified Aggregate within the meaning of Section 7 of the Clayton Act.

b. The Washington County Area Is a Relevant Geographic Market

According to the Complaint, Martin Marietta owns and operates the Boonsboro quarry in Boonsboro, Maryland, and the Pinesburg quarry in Williamsport, Maryland, and Bluegrass owns and operates the Beaver Creek quarry in Hagerstown, Maryland. The Boonsboro, Pinesburg, and Beaver Creek quarries each serve customers in and immediately around Washington County, Maryland (hereinafter referred to as the ''Washington County Area''). Customers with plants or jobs in the Washington County Area may, depending on the location of their plant or job site, economically procure Maryland DOT-Qualified Aggregate from the Boonsboro, Pinesburg, or Beaver Creek quarries, or from a quarry operated by a third firm located in nearby Chambersburg, Pennsylvania. Other more distant quarries cannot compete successfully on a regular basis for customers with plants or jobs in the Washington County Area because they are too far away and transportation costs are too great.

According to the Complaint, customers likely would be unable to switch to more distant suppliers outside of the Washington County Area to defeat a small but significant price increase. The Complaint therefore alleges that the Washington County Area is a relevant geographic market for the production and sale of Maryland DOT-Qualified Aggregate within the meaning of Section 7 of the Clayton Act.

D. Martin Marietta's Acquisition of Bluegrass Is Anticompetitive

According to the Complaint, vigorous competition between Martin Marietta and Bluegrass on price and customer service in the production and sale of DOT-Qualified Aggregate has benefitted customers in the Forsyth and North Fulton County Area and in the Washington County Area.

The Complaint alleges that in each of these areas, the competitors that constrain Martin Marietta and Bluegrass from raising prices on DOT-Qualified Aggregate are limited to those who are qualified by the Georgia and Maryland DOTs to supply aggregate and can economically transport the aggregate into these areas. According to the Complaint, for a significant number of customers in each area, there is only one other firm that produces DOT-Qualified Aggregate and can economically serve customers at their plants or job sites. The proposed acquisition will eliminate the competition between Martin Marietta and Bluegrass and reduce from

three to two the number of suppliers of DOT-Qualified Aggregate for a significant number of customers in each area.

According to the Complaint, for a significant number of customers in each area, a combined Martin Marietta and Bluegrass will have the ability to increase prices for DOT-Qualified Aggregate and decrease service by limiting availability or delivery options. DOT-Qualified Aggregate producers know the distance from their own quarries and their competitors' quarries to a customer's job site. Generally, because of transportation costs, the farther a supplier's closest competitor is from a job site, the higher the price and margin that supplier can expect for that project. Post-acquisition, in instances where Martin Marietta and Bluegrass quarries are the closest locations to a customer's project, the combined firm, using the knowledge of its competitors' locations, will be able to charge such customers higher prices or decrease the level of customer service.

The Complaint alleges that the response of other suppliers of DOT-Qualified Aggregate will not be sufficient to constrain a unilateral exercise of market power by Martin Marietta after the acquisition. For all of these reasons, the Complaint alleges that the proposed acquisition will therefore substantially lessen competition in the market for DOT-Qualified Aggregate in the Forsyth and North Fulton County Area and in the Washington County Area and likely lead to higher prices and reduced customer service for consumers of such products, in violation of Section 7 of the Clayton Act.

E. Barriers to Entry

The Complaint alleges that entry in the production and sale of DOT-Qualified Aggregate in the Forsyth and North Fulton County Area and in the Washington County Area is unlikely to be timely or sufficient to offset the anticompetitive effects of the acquisition, given the substantial time and cost required to open a quarry.

According to the Complaint, quarries are particularly difficult to locate and permit. First, securing the proper site for a quarry is challenging and time-consuming. Finding land with the correct rock composition requires extensive investigation and testing of candidate sites, as well as the negotiation of necessary land transfers, leases, and/or easements. Further, the site must be close to customer plants and likely job sites given the high cost of transporting aggregate. Second, once a suitable location is chosen, obtaining the necessary permits is difficult and time-consuming. Attempts to open a new quarry often face fierce public opposition, which can prevent a quarry from opening altogether or make the process of opening it much more time-consuming and costly. Finally, even after a site is acquired and permitted, the owner must spend significant time and resources to prepare the land for quarry operations and purchase and install the necessary equipment.

For all of these reasons, the Complaint alleges that entry will not be timely, likely or sufficient to mitigate the anticompetitive effects of the acquisition.

III. *EXPLANATION OF THE PROPOSED FINAL JUDGMENT*

The divestiture requirement of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in the production and sale of DOT-qualified aggregate in the Forsyth and North Fulton County Area and the Washington County Area by establishing a new, independent, and economically viable competitor in each area.

A. Divestiture

In the Forsyth and North Fulton County Area, Paragraph IV(A) of the proposed Final Judgment requires Defendants to divest the lease to Martin Marietta's Forsyth quarry and all tangible and intangible assets related to the quarry (the ''Georgia Divestiture Assets'') to Midsouth Paving, Inc. (''Midsouth''), or an alternative Acquirer acceptable to the United States, in its sole discretion, within twenty-one (21) days after the Court's signing of the Hold Separate. The United States required an upfront buyer for the divestiture of the Georgia Divestiture Assets because of the unique nature of the short-term lease being divested and the accompanying need to minimize the time before an Acquirer assumed control of the Forsyth quarry's operations. Midsouth, which is a subsidiary of CRH plc and CRH Americas Materials, Inc. (commonly known in the industry as ''Oldcastle''), is an experienced operator of quarries in the region, with locations in Georgia, Alabama, and Tennessee.

In the Washington County Area, Paragraph IV(B) of the proposed Final Judgment requires the Defendants to divest Bluegrass's Beaver Creek quarry and all tangible and intangible assets related to the quarry (the ''Maryland Divestiture Assets'') to an Acquirer acceptable to the United States, in its sole discretion, after consultation with the State of Maryland. Defendants must complete the divestiture within ninety (90) days after the filing of the Complaint, or five (5) days after notice of entry of the Final Judgment by the Court, whichever is later.

With respect to the divestiture of both the Georgia and Maryland Divestiture Assets, Defendants must take all reasonable steps necessary to accomplish the divestitures quickly and shall cooperate with prospective purchasers. Paragraph IV(I) of the proposed Final Judgment further provides that Defendants must accomplish the divestitures in such a way as to satisfy the United States in its sole discretion, after consultation with the State of Maryland with respect to the Maryland Divestiture Assets, that the Divestiture Assets can and will be operated by the respective purchasers as viable, ongoing businesses that can compete effectively in the production and sale of State DOT-Qualified Aggregate.

The proposed Final Judgment also contains provisions intended to facilitate the respective purchasers' efforts to hire the employees involved in the operation of the Divestiture Assets. Paragraph IV(D) of the proposed Final Judgment requires Defendants to provide the Acquirers of the Divestiture Assets with information relating to the personnel involved in the operation of the Divestiture Assets to enable the Acquirers to make offers of employment, and provides that Defendants will not interfere with any negotiations by the Acquirers to hire these employees.

In the event that Defendants do not accomplish the divestitures within the periods prescribed in the proposed Final Judgment, Paragraph V(A) of the Final Judgment provides that the Court will appoint a trustee selected by the United States to effect the divestiture of any remaining Divestiture Assets. If a trustee is appointed, the proposed Final Judgment provides that Defendants will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. Paragraph V(F) of the proposed Final Judgment requires that, after his or her appointment becomes effective, the trustee will file monthly reports with the Court and the United States setting forth his or her efforts to accomplish the divestiture. Paragraph V(G) of the proposed Final Judgment requires that, at the end of six months, if the divestiture has not been accomplished, the trustee and the United States will make recommendations to the Court,

which shall enter such orders as appropriate, in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

B. Compliance Affidavits

The proposed Final Judgment requires, in Paragraph IX(A), that the Defendants inform the United States of their compliance with the divestiture requirements of the proposed Final Judgment by delivering affidavits to the United States 20 days after the filing of the Complaint, and every 30 days thereafter until the divestitures have been completed. Martin Marietta's affidavits must be signed by its Chief Financial Officer and General Counsel. Defendants LG Panadero, Panadero, and Panadero Aggregates lack both a General Counsel and a Chief Financial Officer, so those entities must submit affidavits from each company's highest ranking officer. Bluegrass also is not represented by a General Counsel, but will submit affidavits from both its highest ranking officer and Chief Financial Officer.

C. Enforcement and Expiration of the Final Judgment

The proposed Final Judgment contains provisions designed to promote compliance and make enforcement of Division consent decrees as effective as possible. Paragraph XIII(A) provides that the United States retains and reserves all rights to enforce the provisions of the proposed Final Judgment, including its right to seek an order of contempt from the Court. Under the terms of this paragraph, Defendants have agreed that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of the Final Judgment, the United States may establish the violation and the appropriateness of any remedy by a preponderance of the evidence and that the Defendants have waived any argument that a different standard of proof should apply. This provision aligns the standard for compliance obligations with the standard of proof that applies to the underlying offense that the compliance commitments address.

Paragraph XIII(B) of the proposed Final Judgment further provides that should the Court find in an enforcement proceeding that the Defendants have violated the Final Judgment, the United States may apply to the Court for a one-time extension of the Final Judgment, together with such other relief as may be appropriate. In addition, in order to compensate American taxpayers for any costs associated with the investigation and enforcement of violations of the proposed Final Judgment, Paragraph XIII(B) provides that in any successful effort by the United States to enforce this Final Judgment against a Defendant, whether litigated or resolved prior to litigation, that Defendant agrees to reimburse the United States for any attorneys' fees, experts' fees, or costs incurred in connection with any enforcement effort, including the investigation of the potential violation.

Finally, Section XIV of the proposed Final Judgment provides that the Final Judgment shall expire ten (10) years from the date of its entry, except that after five (5) years from the date of its entry, the Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestitures have been completed and that the continuation of the Final Judgment is no longer necessary or in the public interest.

IV. *REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS*

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. *PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT*

Plaintiffs and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet website and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to:

Maribeth Petrizzi
Chief, Defense, Industrials, and Aerospace Section
Antitrust Division
United States Department of Justice
450 Fifth Street, NW, Suite 8700
Washington, D.C. 20530

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. *ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT*

Plaintiffs considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. Plaintiffs could have continued the litigation and sought preliminary and permanent injunctions against Martin Marietta's acquisition of Bluegrass. Plaintiffs are satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition for the production and sale of DOT-Qualified Aggregate in the Forsyth and North Fulton County and Washington County Areas. Thus, the proposed Final Judgment would achieve all or substantially all of the relief Plaintiffs would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. *STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT*

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. § 16(e)(1). In making that determination, the court, in

accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States v. U.S. Airways Group, Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the ''court's inquiry is limited'' in Tunney Act settlements); *United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.'').[1]

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[2] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that a court should not reject the proposed remedies because it believes others are preferable); *Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); *see also U.S. Airways,* 38 F. Supp. 3d at 74 (noting that room must be made for the government to grant concessions in the negotiation process for settlements (citing *Microsoft,* 56 F.3d at 1461); *United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 74 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As this Court confirmed in *SBC Communications,* courts ''cannot look beyond the complaint in making the public interest determination unless the

[1] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. § 16(e) (2004), *with* 15 U.S.C. § 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

[2] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest''').

complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. § 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 75 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[3] A court can make its public interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways,* 38 F. Supp. 3d at 75.

VIII. *DETERMINATIVE DOCUMENTS*

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: April 25, 2018

Respectfully submitted,

[3] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States* v. *Mid-Am. Dairymen, Inc.,* No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

FOR PLAINTIFF UNITED STATES OF AMERICA

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[FR Doc. 2018–09458 Filed 5–3–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ODPi, Inc.

Notice is hereby given that, on April 6, 2018, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ODPi, Inc. (''ODPi'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Attunity, Burlington, MA; ING, Amsterdam, NETHERLANDS; and SAP SE, Walldorf, GERMANY, have been added as parties to this venture.

Also, Pivotal Software, Inc., Palo Alto, CA; Altiscale, Inc., Palo Alto, CA; Squid Solutions, Inc., San Francisco, CA; TOSHIBA Corporation/Industrial ICT Solutions Company, Kanagawa, JAPAN; Z Data Inc., Newark, DE; Zettaset, Inc., Mountain View, CA; SAS Institute Inc., Cary, NC; Capgemini Service SAS, Paris, FRANCE; NEC Corporation, Tokyo, JAPAN; Philippine Long Distance Telephone Company, Makati City, PHILIPPINES; Cask Data, Inc., Palo Alto, CA; Splunk Inc., San Francisco, CA; Xavient Information System, Herndon, VA; DriveScale, Inc., Sunnyvale, CA; Redoop, Beijing, PEOPLE'S REPUBLIC OF CHINA; China Mobile Communication Company Ltd., Beijing, PEOPLE'S REPUBLIC OF CHINA; High Octane SPRL, Bierges, BELGIUM; and Innovyt LLC, Edison, NJ, have withdrawn as parties to this venture.

In addition, Beijing AsiaInfo Smart Big Data Co, Ltd. has changed its name to AsiaInfo Technologies (H.K.) Limited, Beijing, PEOPLE'S REPUBLIC OF CHINA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ODPi intends to file additional written notifications disclosing all changes in membership.

On November 23, 2015, ODPi filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 23, 2015 (80 FR 79930).

The last notification was filed with the Department on March 7, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 27, 2017 (82 FR 15239).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2018–09459 Filed 5–3–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Node.js Foundation

Notice is hereby given that, on April 6, 2018, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Node.js Foundation (''Node.js Foundation'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Cars.com, Chicago, IL, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Node.js Foundation intends to file additional written notifications disclosing all changes in membership.

On August 17, 2015, Node.js Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 28, 2015 (80 FR 58297).

The last notification was filed with the Department on January 25, 2018. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on March 12, 2018 (83 FR 10753).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2018–09460 Filed 5–3–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Department of Justice's Initiative to Seek Termination of Legacy Antitrust Judgments

AGENCY: Antitrust Division, Department of Justice.

ACTION: Notice of initiative.

SUMMARY: This notice describes the Department of Justice's new initiative for seeking unilaterally to terminate ''legacy'' antitrust judgments. Legacy antitrust judgments are those judgments that do not include an express termination date and that a court has not terminated by an order. The vast majority of these judgments were entered before 1979, when the Division adopted the general practice of using sunset provisions to terminate a judgment automatically, usually 10 years after entry of the judgment. Nearly 1300 legacy judgments remain open on the books of the Antitrust Division, and nearly all of them likely remain open on the dockets of courts around the country. Many of these legacy judgments do not serve their original purpose of protecting competition. To eliminate the burden on defendants, courts, and the Division of complying with, overseeing, and enforcing outdated judgments, the Division has announced an initiative whereby it unilaterally will seek to terminate legacy judgments, as appropriate. The initiative provides for public notice and comment before the Division seeks to terminate a judgment. The Division has established a website to keep the public apprised of this initiative and its efforts to terminate outdated judgments: *www.justice.gov/atr/JudgmentTermination.*

FOR FURTHER INFORMATION CONTACT: Dorothy B. Fountain, Office of the Chief Legal Advisor, Antitrust Division, U.S. Department of Justice, at (202) 514–3543, *ChiefLegalAdvisor@usdoj.gov.*

SUPPLEMENTARY INFORMATION: From the early days of the Sherman Act until the late 1970s, the Antitrust Division of the Department of Justice often entered into judgments to settle violations of the antitrust laws that included no express termination date. In 1979, the Division adopted the general practice of including sunset provisions that automatically terminate judgments, usually 10 years from entry. However, nearly 1300 judgments entered before the Division put the practice into full effect remain on the books of the Division, and nearly all of them likely remain open on the dockets of courts around the country. The vast majority of these outstanding legacy judgments no longer protect competition because of changes in industry conditions, changes in economics, changes in law, or for other reasons. The Division has announced a new initiative that will seek to identify and expedite the termination of such legacy judgments.

Division review of legacy judgments. Under the new initiative, announced April 25, 2018, the Division will review its legacy judgments to identify those that no longer protect competition. The Division has assigned each legacy judgment to a Division attorney. Using court papers, information available in Division files, and public information, attorneys will review each judgment to determine whether changes in industry conditions, changes in economics, changes in the law, or other factors have rendered the judgment outdated and appropriate for termination. Examples of legacy judgments for which termination may be appropriate include judgments whose terms have been completely satisfied, judgments governing defendants who are deceased or no longer in existence, and judgments governing products that no longer are produced.

New termination process for legacy judgments. Once the Division identifies judgments appropriate for termination, it will list those judgments on a website established for purposes of informing the public of the progress of the initiative: *www.justice.gov/atr/JudgmentTermination.* The Division will invite the public to submit comments within 30 days of listing on the website regarding the Division's assessment that termination is appropriate. This website will identify the name of the case, the court that entered the judgment, the date the court entered the judgment, and the date by which comments are due to the Division; the website also will link to the text of the judgment. The Division will consult with the relevant court to determine the most appropriate means of termination.

The Division has established an email address through which the public may submit comments: *JudgmentTerminationComments@usdoj.gov.* Members of the public are encouraged to supply any additional information they may have regarding the efficacy of judgments the Division proposes to terminate. Absent public comments or other factors that lead the Division to revise its determination that termination of a judgment is appropriate, it will proceed as directed by the court. In many cases, this will entail filing a motion to terminate. When feasible and when allowed by local rules, the Division will seek to terminate judgments in ''batches.'' That is, rather than file a motion for each judgment it seeks to terminate, the Division would make a single filing seeking to terminate a group of judgments in the same court. In this way, the Division hopes to expedite termination and ease the burden on the courts of reviewing multiple motions.

Existing process for modification of judgments unaffected. The new initiative does not replace the Antitrust Division's existing process for consenting to a defendant's request to modify or terminate an existing antitrust judgment. Defendants still may seek the Division's consent to terminate or modify any judgment as described in the Antitrust Division Manual (see Section III.H.5, *https://www.justice.gov/atr/file/761141/download*).

Mailing list for updates. Members of the public interested in receiving notice of updates to the public website, including posting of judgments that the Division believes should be terminated, may subscribe to email updates at *https://public.govdelivery.com/accounts/USDOJ/subscriber/new.*

Dated: April 30, 2018.

Dorothy B. Fountain,

Chief Legal Advisor.

[FR Doc. 2018–09461 Filed 5–3–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Employee Retirement Income Security Act Regulation

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Employee Retirement Income Security Act Section 408(b)(2) Regulation,'' to the Office of Management and Budget (OMB) for review and approval for

continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before June 4, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201803-1210-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Employee Retirement Income Security Act (ERISA) section 408(b)(2) regulation information collection requirements codified in regulations 29 CFR 2550.408(b)(-2(c) that require certain retirement plan service providers to disclose information about their compensation and potential conflicts of interest to responsible plan fiduciaries. These disclosure requirements provide guidance for compliance with a statutory exemption from ERISA prohibited transaction provisions. Failing to satisfy the 408(b)(2) regulation disclosure requirements may result in provision of services prohibited by ERISA section 406(a)(1)(C), with consequences for both the responsible plan fiduciary and the covered service provider. ERISA section 408(b)(2) authorizes this information collection. Employee Retirement Income Security Act of 1974 section 408(a) authorizes this information collection. *See* 29 U.S.C. 1108.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0133.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on May 31, 2018. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 12, 2017 (82 FR 47581).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0133. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Employee Retirement Income Security Act Section 408(b)(2) Regulation.

OMB Control Number: 1210–0133.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 34,696.

Total Estimated Number of Responses: 1,483,062.

Total Estimated Annual Time Burden: 1,045,680 hours.

Total Estimated Annual Other Costs Burden: $1,251,649.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: April 30, 2018.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–09509 Filed 5–3–18; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2018–0005]

Notice of Stakeholder Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of public meeting.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is announcing a public meeting to solicit comments and suggestions from stakeholders in the railroad and trucking industries, including employers, employees, and representatives of employers and employees, on issues facing the agency in its administration of the whistleblower protection provisions of the Federal Railroad Safety Act, the Surface Transportation Assistance Act, the National Transit Systems Security Act, and Section 11(c) of the Occupational Safety and Health Act (as that provision relates to employers and employees in the railroad and trucking industries).

DATES: The public meeting will be held on June 12, 2018, from 1 p.m. to 3 p.m. ET. Persons interested in attending the meeting must register by May 29, 2018. In addition, comments relating to the ''Scope of Meeting'' section of this document must be submitted in written or electronic form by June 5, 2018.

ADDRESSES: The public meeting will be held in Room N–3437 A–B, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210.

Written Comments: Submit written comments to the OSHA Docket Office, Docket No. OSHA–2018–0005, Room N–3653, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; telephone (202) 693–2350. You may submit materials, including attachments, electronically at *http://www.regulations.gov* which is the Federal eRulemaking Portal. Follow the on-line instructions for submissions. All comments should be identified with Docket No. OSHA–2018–0005.

Registration To Attend and/or To Participate in the Meeting: If you wish to attend the public meeting, make an oral presentation at the meeting, or participate in the meeting via telephone, you must register using this link *https://www.eventbrite.com/e/occupational-safety-and-health-administration-stakeholder-meeting-registration-45311347460* by close of business on May 29, 2018. Participants may speak and pass out written materials, but there will not be an opportunity to give an electronic presentation. Actual times provided for presentation will depend on the number of requests, but no more than 10 minutes per participant. There is no fee to register for the public meeting. Registration on the day of the public meeting will be permitted on a space-available basis beginning at 12 p.m. ET. After reviewing the presentation requests, participants will be contacted prior to the meeting with an approximate time the participants' presentation is scheduled to begin.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone (202) 693–1999; email *meilinger.francis2@dol.gov.*

For general information: Mr. Anthony Rosa, Deputy Director, OSHA Directorate of Whistleblower Protection Programs, U.S. Department of Labor; telephone (202) 693–2199; email *osha.dwpp@dol.gov.*

SUPPLEMENTARY INFORMATION:

Scope of Meeting

OSHA is interested in obtaining information from the public on key issues facing the agency's whistleblower program. This meeting will be the first in a series of meetings requesting public input on this program. For this meeting, OSHA is focusing on issues relating to whistleblower protection in the railroad and trucking industries. In particular, the agency invites input on the following:

1. How can OSHA deliver better whistleblower customer service?
2. What kind of assistance can OSHA provide to help explain the whistleblower laws it enforces?

Request for Comments

Regardless of attendance at the public meeting, interested persons may submit written or electronic comments (see **ADDRESSES**). Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Please indicate which industry (railroad or trucking) your comments are intended to address. To permit time for interested persons to submit data, information, or views on the issues in the ''Scope of Meeting'' section of this notice, submit comments by June 5, 2018. Please include Docket No. OSHA–2018–0005. Comments received may be seen in the U.S. Department of Labor, OSHA Docket Office, (see **ADDRESSES**), between 10:00 a.m. and 3:00 p.m. ET, Monday through Friday.

Access to the Public Record

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, also are available on the Directorate of Whistleblower Protection Programs' web page at: *http://www.whistleblowers.gov.*

Authority and Signature

Loren Sweatt, Deputy Assistant Secretary for Occupational Safety and Health, authorized the preparation of this notice under the authority granted by Secretary's Order 01–2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012); 29 U.S.C. 660(c); 49 U.S.C. 31105; 49 U.S.C. 20109, and 6 U.S.C. 1142.

Signed at Washington, DC on April 30, 2018.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2018–09456 Filed 5–3–18; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (18–039)]

National Environmental Policy Act; Wallops Flight Facility; Site-Wide

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of availability of the Draft Site-wide Programmatic Environmental Impact Statement (PEIS) for improvement of infrastructure and services at Wallops Flight Facility (WFF), Accomack County, Virginia.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), as amended, the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA, and NASA's NEPA policy and procedures, NASA has prepared a Draft PEIS for the improvement of infrastructure and services at WFF. The Federal Aviation Administration's Air Traffic Organization (FAA–ATO) and Office of Commercial Space Transportation (FAA–AST); the Federal Highway Administration (FHWA); the National Oceanic and Atmospheric Administration's National Environmental Satellite, Data, and Information Service (NOAA–NESDIS); the U.S. Army Corps of Engineers (USACE); the U.S. Coast Guard; the U.S. Fish and Wildlife Service (USFWS); the U.S. Navy, Naval Sea Systems Command (NAVSEA); the U.S. Navy, Naval Air Systems Command (NAVAIR); U.S. Navy, U.S. Fleet Forces Command; the U.S. Environmental Protection Agency (EPA); the U.S. Air Force Space Command/Space and Missile Systems Center; and Virginia Commercial Space Flight Authority (Virginia Space) have served as Cooperating Agencies in preparing the Draft PEIS as they either have permanent facilities or missions at WFF or possess regulatory authority or specialized expertise pertaining to the Proposed Action.

The purpose of this notice is to apprise interested agencies, organizations, tribal governments, and individuals of the availability of the Draft PEIS and to invite comments on the document. In partnership with its Cooperating Agencies, NASA will hold a public meeting as part of the Draft PEIS review process. The meeting location and date is provided under **SUPPLEMENTARY INFORMATION** below.

DATES: Interested parties are invited to submit comments on environmental issues and concerns, preferably in writing, no later than forty-five (45) days following the publication of the EPA's Notice of Availability of the Draft PEIS in the **Federal Register**. Once known, this date will be posted on the project website at: *https://code200-external.gsfc.nasa.gov/250-wff/site-wide_eis.*

ADDRESSES: Comments submitted by mail should be addressed to Shari Miller, Site-wide PEIS, NASA Goddard Space Flight Center's Wallops Flight Facility, Mailstop: 250.W, Wallops Island, Virginia 23337. Comments may

be submitted via email to *Shari.A.Miller@nasa.gov.*

The Draft PEIS may be reviewed at the following locations:

(a) Chincoteague Island Library, Chincoteague, Virginia, 23336 (757) 336–3460
(b) NASA Wallops Visitor Center, Wallops Island, Virginia, 23337 (757) 824–1344
(c) Eastern Shore Public Library, Accomac, Virginia, 23301 (757) 787–3400
(d) Northampton Free Library, Nassawadox, Virginia, 23413 (757) 414–0010

A limited number of hard copies of the Draft PEIS are available, on a first request basis, by contacting the NASA point of contact listed under **FOR FURTHER INFORMATION CONTACT**. The Draft PEIS is available on the internet in Adobe® portable document format at *https://code200-external.gsfc.nasa.gov/250-wff/site-wide_eis.* The **Federal Register** Notice of Intent to prepare the Draft PEIS, issued on July 11, 2011, is also available on the internet at the same website address.

FOR FURTHER INFORMATION CONTACT: Shari Miller, Site-wide PEIS, NASA Goddard Space Flight Center's Wallops Flight Facility, Mailstop: 250.W, Wallops Island, Virginia 23337; telephone (757) 824–2327; email: *Shari.A.Miller@nasa.gov.* A toll-free telephone number, (800) 521–3415, is also available for persons outside the local calling area. When using the toll-free number, please follow the menu options and enter the ''pound sign (#)'' followed by extension number ''2327.'' Additional information about NASA's WFF may be found on the internet at *http://www.nasa.gov/centers/wallops/home/index.html.* Information regarding the NEPA process for this proposal and supporting documents (as available) are located at *https://code200-external.gsfc.nasa.gov/250-wff/site-wide_eis.*

SUPPLEMENTARY INFORMATION: WFF is a NASA Goddard Space Flight Center field installation located in northern Accomack County on the Eastern Shore of Virginia. The facility consists of three distinct landmasses—the Main Base, Wallops Mainland, and Wallops Island. WFF operates the oldest active launch range in the continental U.S. and the only range completely under NASA management. For over 70 years, WFF has flown thousands of research vehicles in the quest for information on the characteristics of airplanes, rockets, and spacecraft, and to increase the knowledge of the Earth's upper atmosphere and the near space environment. The flight programs and projects conducted by WFF range from small sounding and suborbital rockets, unmanned scientific balloons, unmanned aerial systems, manned aircraft, and orbital spacecraft to next-generation launch vehicles and small- and medium-classed launch vehicles. In keeping with the principles, goals, and guidelines of the 2010 National Space Policy, as updated by the 2013 U.S. National Space Transportation Policy and the 2017 Presidential Memorandum on Reinvigorating America's Human Space Exploration Program, NASA is proposing to improve its service capability at WFF to support a growing mission base in the areas of civil, defense, and academic aerospace. One guiding principle of the National Space Policy is for Federal agencies to facilitate the commercial space industry. The Mid-Atlantic Regional Spaceport, a commercial launch site on Wallops Island, is a real-world example of WFF's commitment to making commercial access to space a reality. Accordingly, it is expected that a commercial presence at WFF will continue to expand in the coming years.

The National Space Policy also instructs Federal agencies to improve their partnerships through cooperation, collaboration, information sharing, and/or alignment of common pursuits with each other. WFF supports aeronautical research, and science, technology, engineering, and math (STEM) education programs by providing other NASA centers and other U.S. government agencies access to resources such as special use (*i.e.,* controlled/restricted) airspace, runways, and launch pads. WFF regularly facilitates a wide array of U.S. Department of Defense (DoD) research, development, testing, and evaluation; training missions, including target and missile launches; and aircraft pilot training. Similar to its forecasted commercial growth at WFF, NASA also expects an increase in DoD presence at WFF in the foreseeable future.

Finally, the National Space Policy directs NASA to fulfill various key civil space roles regarding space science, exploration, and discovery; a number of which have been priorities at WFF for decades. NASA's need to ensure continued growth while preserving the ability to safely conduct its historical baseline of services is a key component of facilitating future projects and new missions at WFF.

Related Environmental Documents

In January 2005, NASA issued a Final Site-Wide Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for its operations and institutional support at WFF. Since then, substantial growth has occurred and NASA, and its Cooperating Agencies, have prepared multiple supplemental NEPA documents including the 2008 EA/FONSI for the Wallops Research Park; the 2009 EA/FONSI for the Expansion of the Wallops Flight Facility Launch Range; the 2010 PEIS/Record of Decision for the Shoreline Restoration and Infrastructure Protection Program; the 2011 EA/FONSI for the Alternative Energy Project; the 2011 EA/FONSI for the Main Entrance Reconfiguration; the 2011 NOAA–NESDIS EA/FONSI for Electrical and Operational Upgrade, Space Addition, and Geostationary Operational Environmental Satellite Installation; the 2012 EA/FONSI for the North Wallops Island Unmanned Aerial Systems Airstrip Project; the U.S. Fleet Force Command's 2013 EA/FONSI for E–2/C–2 Field Carrier Landing Practice at WFF; the Navy's 2014 EA/FONSI for the Testing of Hypervelocity Projectiles and an Electromagnetic Railgun; the 2015 Supplemental EA/FONSI for Antares 200 Configuration Expendable Launch Vehicle at WFF; the 2016 EA/FONSI for Establishment of Restricted Area Airspace R–6604 C/D/E; the Navy's 2017 EA/FONSI for and the Installation and Operation of Air and Missile Defense Radar AN/SPY-6; and the 2017 U.S. Air Force's EA/FONSI for the Instrumentation Tower on Wallops Island.

Need for Preparing a PEIS

Since the 2005 WFF Site-wide EA, WFF, NOAA–NESDIS, and the Navy have updated their Master Plans; which propose new facilities and numerous infrastructure improvements to enable a growing mission base. Additionally, during reviews of the post-2005 Site-wide EA NEPA documents, resource agencies have expressed concerns regarding cumulative environmental effects and a desire for NASA to consider all reasonably foreseeable future projects at WFF in a consolidated NEPA document. NASA determined that preparing a single Site-wide PEIS not only would assist in its decision-making process for future mission growth at WFF but also address concerns regarding cumulative environmental effects. Therefore, the Site-wide PEIS considers all reasonably foreseeable future actions at WFF; those proposed by NASA along with those proposed by its tenants and partners.

Cooperating Agency Actions

The Site-wide PEIS will serve as a decision-making tool not only for NASA

but also for its Cooperating Agencies. Given the potential for their undertaking actions related to NASA's actions, each of these agencies has been involved closely in NASA's NEPA process.

Alternatives

The PEIS evaluates the environmental consequences of a range of reasonable alternatives that meet NASA's need to ensure continued growth at WFF while also preserving the ability to safely conduct its historical baseline of services. The planning horizon for actions in the PEIS is 20 years.

Currently under consideration are the Proposed Action and a No Action alternative. The Proposed Action would support a number of facility projects ranging from new construction, demolition, and renovation; the replacement of the Wallops causeway bridge; maintenance dredging between the boat docks at the Main Base and Wallops Island; development of a deep-water port and operations area on North Wallops Island; construction and operation of an additional medium to heavy class launch site; the introduction of new NASA and DoD programs at WFF; the expansion of the launch vehicle services with liquid-fueled intermediate class and solid fueled heavy class launch vehicles; and the consideration of commercial human spaceflight missions and the return of launch vehicles to the launch site. Under the No Action Alternative, WFF and its partners would continue the existing operations and programs previously discussed in the 2005 Site-Wide EA and the subsequent NEPA documents identified under *Related Environmental Documents.*

Public Meeting

NASA and its Cooperating Agencies will hold a public meeting to discuss WFF's proposed actions and to solicit comments on the Draft PEIS. The public meeting will be held at the WFF Visitor Center on May 23, 2018, from 6 p.m. to 8 p.m.

NASA anticipates that the public will be most interested in the potential environmental impacts of each alternative on protected and special-status species, wetlands, noise, and socioeconomics.

In developing its Final PEIS, NASA will consider all comments received; comments received and responses to comments will be included in the Final PEIS. In conclusion, written public input on environmental issues and concerns associated with the improvement of infrastructure and services at WFF is hereby requested.

Cheryl E. Parker,

Federal Register Liaison.

[FR Doc. 2018–09469 Filed 5–3–18; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Computing and Communication Foundations; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub., L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Proposal Review Panel for Computing and Communication Foundations—Science and Technology Centers—Integrative Partnerships Site Visit (#1192)

Date and Time: May 21, 2018; 7:00 p.m.–8:30 p.m.; May 22, 2018; 8:00 a.m.–8:00 p.m.; May 23, 2018; 8:00 a.m.–4:00 p.m.

Place: McGovern Institute for Brain Research, Massachusetts Institute of Technology (MIT), 43 Vassar St., Cambridge, MA 02139.

Type of Meeting: Part-Open.

Contact Person: Phillip Regalia, National Science Foundation, 2415 Eisenhower Avenue, Room W10207, Alexandria, VA 22314; Telephone: (703) 292–8910.

Purpose of Meeting: Site visit to assess the progress of the STC Award: 1231216 ''A Center for Brains, Minds and Machines: The Science and the Technology of Intelligence'', and to provide advice and recommendations concerning further NSF support for the Center.

Agenda: MIT Renewal Review Site Visit

Monday, May 21, 2018

7:00 p.m. to 8:30 p.m.: Closed
Site Team and NSF Staff meet to discuss site visit materials, review process and charge

Tuesday, May 22, 2018

8:00 a.m. to 8:00 p.m.: Open
Presentations by Awardee Institution, faculty staff and students, to Site Team and NSF Staff; Discussions, question and answer sessions

Wednesday, May 23, 2018

8:00 a.m.–4:00 p.m.: Closed
Complete written site visit report with preliminary recommendations.

Reason for Closing: The work being reviewed during closed portions of the site review will include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the project. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 1, 2018.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2018–09479 Filed 5–3–18; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunities in Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Committee on Equal Opportunities in Science and Engineering (CEOSE) Advisory Committee Meeting (#1173).

Date and Time: May 30, 2018 1:00 p.m.–5:30 p.m.; May 31, 2018 8:30 a.m.–3:30 p.m.

Place: National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314. To help facilitate your entry into the building, please contact Una Alford (*ualford@nsf.gov* or 703–292–7111) on or prior to May 29, 2018.

Type of Meeting: Open.

Contact Person: Dr. Bernice Anderson, Senior Advisor and CEOSE Executive Secretary, Office of Integrative Activities (OIA), National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314. Contact Information: 703–292–8040/*banderso@nsf.gov.*

Minutes: Meeting minutes and other information may be obtained from the CEOSE Executive Secretary at the above address or the website at *http://www.nsf.gov/od/oia/activities/ceose/index.jsp.*

Purpose of Meeting: To study data, programs, policies, and other information pertinent to the National Science Foundation and to provide advice and recommendations concerning broadening participation in science and engineering.

Agenda:

- Opening Statement and Chair Report by the CEOSE Chair
- NSF Executive Liaison Report
- Discussion: Responses to the 2015–2016 CEOSE Biennial Report: NSF and Higher Education

- Presentation: The ADVANCE Program Model and the STEM Equality Achievement Project
- Presentation: Community-Driven Partnerships
- Discussion: Inclusion of Diverse Community Voices and the 2017–2018 CEOSE Biennial Report to Congress
- Panel: STEM Diversity within NSF
- Reports and Updates from the CEOSE Liaisons and the Federal Liaisons
- Meeting with NSF Director and Chief Operating Officer
- Presentation: GEO Opportunities for Leadership in Diversity

Dated: May 1, 2018.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2018–09467 Filed 5–3–18; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces its intent to hold proposal review meetings throughout the year. The purpose of these meetings is to provide advice and recommendations concerning proposals submitted to the NSF for financial support. The agenda for each of these meetings is to review and evaluate proposals as part of the selection process for awards. The review and evaluation may also include assessment of the progress of awarded proposals. The majority of these meetings will take place at NSF, 2415 Eisenhower Avenue, Alexandria, VA 22314.

These meetings will be closed to the public. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act. NSF will continue to review the agenda and merits of each meeting for overall compliance of the Federal Advisory Committee Act.

These closed proposal review meetings will not be announced on an individual basis in the **Federal Register**. NSF intends to publish a notice similar to this on a quarterly basis. For an advance listing of the closed proposal review meetings that include the names of the proposal review panel and the time, date, place, and any information on changes, corrections, or cancellations, please visit the NSF website: *https://www.nsf.gov/events/*. This information may also be requested by telephoning, 703/292–8687.

Dated: May 1, 2018.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2018–09468 Filed 5–3–18; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0001]

Sunshine Act Meeting Notice

DATE: Week of April 30, 2018.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of April 30

Thursday, May 3, 2018

1:00 p.m. Affirmation Session (Public Meeting) (Tentative)

a. Tennessee Valley Authority (Clinch River Nuclear Site Early Site Permit Application), Docket No. 52–047–ESP, Applicant's Appeal of LBP–17–8 (Tentative)

b. Northwest Medical Isotopes, LLC (Medical Radioisotope Production Facility), Docket No. 50–609–CP, Mandatory Hearing Decision (Tentative)

* * * * *

Additional Information

By a vote of 3–0 on May 2, 2018, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that the above referenced Affirmation Session be held with less than one week notice to the public. The meeting is scheduled on May 3, 2018.

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0981 or via email at *Denise.McGovern@nrc.gov*.

* * * * *

The NRC Commission Meeting Schedule can be found on the internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html*.

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Wendy.Moore@nrc.gov* or *Patricia.Jimenez@nrc.gov*.

Dated: May 2, 2018.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2018–09682 Filed 5–2–18; 4:15 pm]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; January 2018

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This notice identifies Schedule A, B, and C appointing authorities applicable to a single agency that were established or revoked from January 1, 2018, to January 31, 2018.

FOR FURTHER INFORMATION CONTACT: Senior Executive Resources Services, Senior Executive Services and Performance Management, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 213.103, Schedule A, B, and C appointing authorities available for use by all agencies are codified in the Code of Federal Regulations (CFR). Schedule A, B, and C appointing authorities applicable to a single agency are not codified in the CFR, but the Office of Personnel Management (OPM) publishes a notice of agency-specific authorities established or revoked each month in the **Federal Register** at *www.gpo.gov/fdsys/*. OPM also publishes an annual notice of the consolidated listing of all Schedule A, B, and C appointing authorities, current as of June 30, in the **Federal Register**.

Schedule A

07. Department of the Army (Sch. A, 213.3107)

(j) U.S. Military Academy Preparatory School, West Point, New York—

(1) Positions of Academic Director, Department Head, and Instructor.

Schedule B

No schedule B Authorities to report during January 2018.

Schedule C

The following Schedule C appointing authorities were approved during January 2018.

Agency name	Organization name	Position title	Authorization number	Effective date
DEPARTMENT OF AGRICULTURE	Office of the Secretary	Confidential Assistant	DA180115	01/23/2018
	Office of Farm Service Agency	State Executive Director—Arizona	DA180109	01/16/2018
		State Executive Director (2)	DA180104	01/26/2018
			DA180114	01/26/2018
		State Executive Director—West Virginia.	DA180107	01/26/2018
DEPARTMENT OF COMMERCE	Office of Legislative and Intergovernmental Affairs.	Associate Director for Oversight	DC180073	01/18/2018
CONSUMER PRODUCT SAFETY COMMISSION.	Office of Communications	Supervisory Public Affairs Specialist.	PS170009	01/10/2018
	Office of Commissioners	Special Assistant (Legal)	PS180002	01/10/2018
DEPARTMENT OF DEFENSE	Office of the Assistant Secretary of Defense (Special Operations/Low Intensity Conflict).	Special Assistant and Combating Terrorism (2).	DD180028	01/18/2018
			DD180029	01/23/2018
	Office of the Under Secretary of Defense (Comptroller).	Special Assistant (Comptroller) (3)	DD180042	01/30/2018
			DD180039	01/31/2018
			DD180055	01/31/2018
	Office of the Under Secretary of Defense (Policy).	Special Assistant (Space Policy)	DD180041	01/30/2018
		Special Assistant (Special Operations and Counterterrorism).	DD180043	01/31/2018
DEPARTMENT OF EDUCATION	Office of Elementary and Secondary Education.	Confidential Assistant	DB180023	01/18/2018
	Office of Special Education and Rehabilitative Services.	Confidential Assistant	DB180024	01/18/2018
	Office of the Under Secretary	Executive Director	DB180029	01/31/2018
DEPARTMENT OF ENERGY	Office of Assistant Secretary for Congressional and Intergovernmental Affairs.	Special Assistant	DE180007	01/30/2018
		Senior Legislative Advisor	DE180042	01/30/2018
	Office of Assistant Secretary for Electricity Delivery and Energy Reliability.	Senior Advisor for External Affairs	DE180024	01/26/2018
	Office of General Counsel	Senior Advisor	DE180046	01/31/2018
	Office of Public Affairs	Digital Director	DE180028	01/30/2018
	Office of the Secretary	Senior Support Specialist	DE180043	01/23/2018
	Office of the Secretary of Energy Advisory Board.	Deputy Director, Office of Secretarial Boards and Councils.	DE180029	01/23/2018
	Office of the Under Secretary	Senior Advisor	DE180023	01/26/2018
		Scheduler	DE180032	01/31/2018
EXPORT IMPORT BANK	Office of the General Counsel	Senior Vice President and General Counsel.	EB180004	01/31/2018
GENERAL SERVICES ADMINISTRATION.	Office of the Heartland Region	Senior Advisor	GS180001	01/16/2018
	Office of Federal Acquisition Service.	Confidential Assistant	GS180008	01/16/2018
	Office of Regional Administrators	Senior Advisor	GS180015	01/29/2018
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of the Assistant Secretary for Public Affairs.	Director of Speechwriting	DH180033	01/08/2018
	Office of the Deputy Secretary	Assistant	DH180038	01/16/2018
	Office of the Secretary	Special Assistant	DH180024	01/23/2018
DEPARTMENT OF HOMELAND SECURITY.	Office of Federal Emergency Management Agency.	Confidential Assistant	DM180067	01/30/2018
		Special Assistant	DM180069	01/30/2018
	Office of Assistant Secretary for Legislative Affairs.	Director, Legislative Affairs	DM180058	01/30/2018
	Office of Partnership and Engagement.	Homeland Security Advisory Council and Campaigns Coordinator.	DM180050	01/31/2018
	Office of the Assistant Secretary for Public Affairs.	Digital Director	DM180043	01/05/2018
	Office of the Chief of Staff	Deputy Director of Advance	DM180037	01/05/2018
		Special Assistant	DM180087	01/31/2018
	Office of the Executive Secretariat	Briefing Book Coordinator	DM180076	01/31/2018
	Office of the Secretary	Advance Representative	DM180052	01/30/2018
	Office of the Under Secretary for National Protection and Programs Directorate.	Special Assistant	DM180060	01/23/2018
		Policy Advisor	DM180070	01/30/2018

Agency name	Organization name	Position title	Authorization number	Effective date
		Coordinator of Strategic Communications.	DM180068	01/31/2018
	Office of United States Citizenship and Immigration Services.	Special Assistant	DM180044	01/30/2018
		Senior Advisor (2)	DM180046	01/30/2018
			DM180055	01/30/2018
	Office of United States Immigration and Customs Enforcement.	Press Assistant	DM180020	01/05/2018
		Special Assistant	DM180047	01/18/2018
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of Community Planning and Development.	Senior Advisor	DU180035	01/18/2018
		Special Policy Advisor	DU180037	01/31/2018
	Office of Field Policy and Management.	Regional Administrator	DU180009	01/11/2018
	Office of Public Affairs	Press Secretary	DU180021	01/23/2018
	Office of Public and Indian Housing	Special Assistant	DU180020	01/19/2018
	Office of the Deputy Secretary	Senior Policy Advisor	DU180022	01/16/2018
DEPARTMENT OF THE INTERIOR	Office of United States Fish and Wildlife Service.	Advisor	DI180021	01/10/2018
	Office of National Park Service	Senior Advisor for Congressional and Legislative Affairs.	DI180027	01/11/2018
	Secretary's Immediate Office	Special Assistant	DI180006	01/26/2018
	Office of Assistant Secretary—Indian Affairs.	Senior Advisor	DI180025	01/26/2018
	Office of Assistant Secretary—Fish and Wildlife and Parks.	Senior Advisor	DI180013	01/31/2018
DEPARTMENT OF JUSTICE	Office of Environment and Natural Resources Division.	Chief of Staff and Counsel	DJ180032	01/02/2018
	Office of Legal Policy	Chief of Staff and Counsel	DJ180037	01/02/2018
	Office of the Attorney General	Confidential Assistant	DJ180028	01/03/2018
	Office of the Associate Attorney General.	Confidential Assistant	DJ180044	01/23/2018
	Office of Civil Division	Counsel	DJ180052	01/23/2018
	Office of Antitrust Division	Counsel	DJ180049	01/31/2018
DEPARTMENT OF LABOR	Office of the Secretary	Director of Scheduling	DL180029	01/23/2018
		Policy Advisor	DL180045	01/31/2018
	Office of Congressional and Intergovernmental Affairs.	Legislative Officer	DL180044	01/31/2018
	Office of the Assistant Secretary for Administration and Management.	Special Assistant	DL180046	01/31/2018
	Office of Employment and Training Administration.	Senior Policy Advisor	DL180047	01/31/2018
NATIONAL MEDIATION BOARD	Office of the Board	Confidential Assistant (2)	NM180001	01/29/2018
			NM180004	01/29/2018
NATIONAL TRANSPORTATION SAFETY BOARD.	Office of Board Members	Communications Liaison	TB180002	01/02/2018
SMALL BUSINESS ADMINISTRATION.	Office of Administration	White House Liaison	SB180013	01/23/2018
		Director of Scheduling and External Affairs.	SB180014	01/31/2018
SOCIAL SECURITY ADMINISTRATION.	Office of Retirement and Disability Policy.	Senior Advisor	SZ180021	01/26/2018
DEPARTMENT OF STATE	Office of the Chief of Protocol	Staff Assistant (Visits)	DS180016	01/18/2018
	Office of Policy Planning	Senior Advisor	DS180015	01/23/2018
		Special Assistant	DS180017	01/31/2018
	Office of the Secretary	Special Assistant	DS180020	01/31/2018
TRADE AND DEVELOPMENT AGENCY.	Office of the Director	Senior Advisor	TD180001	01/04/2018
DEPARTMENT OF THE TREASURY.	Office of the Executive Secretary	Assistant Executive Secretary (2)	DY180012	01/02/2018
			DY180013	01/02/2018
	Office of Assistant Secretary (Legislative Affairs).	Senior Advisor	DY180034	01/23/2018
	Office of Assistant Secretary (Public Affairs).	Press Assistant	DY180031	01/31/2018
	Office of Tax Policy	Senior Advisor	DY180033	01/31/2018
DEPARTMENT OF VETERANS AFFAIRS.	Office of the Assistant Secretary for Public and Intergovernmental Affairs.	Special Advisor	DV180012	01/12/2018
		Special Assistant/Deputy Press Secretary.	DV180013	01/12/2018

The following Schedule C appointing authorities were revoked during January 2018.

Agency name	Organization name	Position title	Request No.	Date vacated
DEPARTMENT OF AGRICULTURE	Office of the General Counsel	Senior Advisor	DA170158	01/06/2018
	Office of the Secretary	Confidential Assistant	DA170113	01/06/2018
DEPARTMENT OF COMMERCE	Immediate Office	Senior Advisor	DC170056	01/05/2018
	Office of White House Liaison	Director, Office of White House Liaison.	DC170061	01/06/2018
DEPARTMENT OF ENERGY	Office of the Secretary	Executive Support Specialist	DE170114	01/23/2018
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of Administration for Children and Families.	Policy Advisor	DH170306	01/05/2018
	Office of the Secretary	Briefing Coordinator	DH170218	01/22/2018
	Office of the Centers for Medicare and Medicaid Services.	Policy Advisor	DH170320	01/23/2018
DEPARTMENT OF JUSTICE	Office of Environment and Natural Resources Division.	Counsel	DJ170069	01/06/2018
	Office of the Attorney General	Special Assistant	DJ170040	01/06/2018
DEPARTMENT OF LABOR	Office of Employment and Training Administration.	Senior Policy Advisor	DL170065	01/07/2018
DEPARTMENT OF THE INTERIOR	Office of the Solicitor	Counselor	DI170096	01/06/2018
DEPARTMENT OF THE TREASURY.	Office of Tax Policy	Senior Advisor	DY170126	01/27/2018
DEPARTMENT OF VETERANS AFFAIRS.	Office of the Assistant Secretary for Public and Intergovernmental Affairs.	Special Assistant	DV170051	01/15/2018
		Special Assistant/Deputy Press Secretary.	DV170053	01/15/2018
EXPORT-IMPORT BANK	Office of the Chairman	Senior Advisor	EB170019	01/06/2018
NATIONAL TRANSPORTATION SAFETY BOARD.	Office of Board Members	Confidential Assistant	TB150008	01/06/2018
SMALL BUSINESS ADMINISTRATION.	Office of Administration	Deputy White House Liaison	SB170048	01/20/2018

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

Office of Personnel Management.

Jeff T.H. Pon,

Director.

[FR Doc. 2018–09508 Filed 5–3–18; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Financial Resources Questionnaire (RI 34–1, RI 34–17, and RI 34–18) and Notice of Amount Due Because of Annuity Overpayment (RI 34–3, RI 34–19, and RI 34–20)

AGENCY: Office of Personnel Management.

ACTION: 30-day Notice and request for comments.

SUMMARY: Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on revised information collection requests (ICR), Financial Resources Questionnaire (RI 34–1, RI 34–17, and RI 34–18) and Notice of Amount Due Because Of Annuity Overpayment (RI 34–3, RI 34–19, and RI 34–20).

DATES: Comments are encouraged and will be accepted until June 4, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent by email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent by email to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or reached via telephone at (202) 606–4808.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection (OMB No. 3206–0167) was previously published in the **Federal Register** on November 8, 2017, at 82 FR 51883, allowing for a 60-day public comment period. No comments were received for this collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of 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.

Form Financial Resources Questionnaire (RI 34–1), Financial Resources Questionnaire—Federal Employees' Group Life Insurance Premiums Underpaid (RI 34–17), and Financial Resources Questionnaire—Federal Employees Health Benefits Premiums Underpaid (RI 34–18), collects detailed financial information for use by OPM to determine whether to agree to a waiver, compromise, or adjustment of the collection of erroneous payments from the Civil Service Retirement and Disability Fund. Notice of Amount Due Because Of Annuity Overpayment (RI 34–3), Notice of Amount Due Because of FEGLI Premium Underpayment (RI 34–19), and Notice of Amount Due Because of FEHB

Premium Underpayment (RI 34–20), informs the annuitant about the overpayment and collects information from the annuitant about how repayment will be made.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Financial Resources Questionnaire/Notice of Debt Due Because of Annuity Overpayment

OMB Number: 3206–0167.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 2,361.

Estimated Time Per Respondent: 60 minutes.

Total Burden Hours: 2,361 hours.

Office of Personnel Management.

Jeff T.H. Pon,

Director.

[FR Doc. 2018–09439 Filed 5–3–18; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: OPM 1655, Application for Senior Administrative Law Judge, and OPM 1655–A, Geographic Preference Statement for Senior Administrative Law Judge Applicant

AGENCY: Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Administrative Law Judge Program Office, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an information collection request (ICR) 3206–0248, OPM 1655, *Application for Senior Administrative Law Judge,* and OPM 1655–A, *Geographic Preference Statement for Senior Administrative Law Judge Applicant.* The information collection was previously published in the **Federal Register** on November 3, 2017 at 82 FR 51305 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until June 4, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent by email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed information collection, with applicable supporting documentation, may be obtained by contacting the Administrative Law Judge Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415, Attention: Kyme Williamson, ALJ Program Manager or sent by email to *kyme.williamson@opm.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

OPM is soliciting comments for this collection under 44 U.S.C. 3507(a)(1)(D) and 5 CFR 1320.5(a)(1)(iv) and 1320.10(a). OPM 1655, *Application for Senior Administrative Law Judge,* and OPM 1655–A, *Geographic Preference Statement for Senior Administrative Law Judge Applicant,* are used by retired Administrative Law Judges seeking reemployment on a temporary and intermittent basis to complete hearings of one or more specified case(s) in accordance with the Administrative Procedure Act of 1946. As stated in the prior 60-day notice, OPM proposes to revise the information collection for OPM Form 1655 to clarify, in the instructions, who may apply for the Senior ALJ Program and to list States and territories as geographic locations on OPM Form 1655–A.

Analysis

Agency: Administrative Law Judge Program Office, Office of Personnel Management.

Title: OPM 1655, *Application for Senior Administrative Law Judge,* and OPM 1655–A, *Geographic Preference Statement for Senior Administrative Law Judge Applicant.*

OMB Number: 3206–0248.

Frequency: Annually.

Affected Public: Federal Administrative Law Judge Retirees.

Number of Respondents: Approximately 150—OPM 1655/Approximately 200—OPM 1655–A.

Estimated Time per Respondent: Approximately 30–45 Minutes—OPM 1655/Approximately 15–25 Minutes—OPM 1655–A.

Total Burden Hours: Estimated 94 hours—OPM 1655/Estimated 67 hours—OPM 1655–A.

Office of Personnel Management.

Jeff T.H. Pon,

Director.

[FR Doc. 2018–09438 Filed 5–3–18; 8:45 am]

BILLING CODE 6325–43–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2018–212]

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:* May 8, 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 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2018–212; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 9 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* April 30, 2018; *Filing Authority:* 39 CFR 3015.50; *Public Representative:* Christopher C. Mohr; *Comments Due:* May 8, 2018.

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–09543 Filed 5–3–18; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83132; File No. SR–NASDAQ–2018–031]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 4702(b)(5), Rule 4703(d), Rule 4752(d)(2)(B), and Rule 4754(b)(2)(B)

April 30, 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 April 18, 2018, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 4702(b)(5) and Rule 4703(d) to prevent Midpoint Peg Post-Only Orders and Orders entered with a Midpoint Pegging Order Attribute from participating in the Nasdaq Halt Cross, and (2) to amend Rule 4752(d)(2)(B) and Rule 4754(b)(2)(B) to state that Open Eligible Interest and Close Eligible Interest, respectively, are used in determining the ''imbalance'' for purposes of those rules.

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 purpose of the proposed rule change is to: (1) Amend Rule 4702(b)(5) and Rule 4703(d) to prevent Midpoint Peg Post-Only Orders (''MPPOs'') and Orders entered with a Midpoint Pegging Order Attribute (''Midpoint Pegged Orders'') from participating in the Nasdaq Halt Cross, and (2) to amend Rule 4752(d)(2)(B) and Rule 4754(b)(2)(B) to state that Open Eligible Interest and Close Eligible Interest, respectively, are used in determining the ''imbalance'' for purposes of those rules.

Excluding MPPOs and Midpoint Pegged Orders From the Nasdaq Halt Cross

An ''MPPO'' is defined in Rule 4702(b)(5)(A) as an Order Type with a Non-Display Order Attribute that is priced at the midpoint between the national best bid and offer (''NBBO''), and that will execute upon entry only in circumstances where economically beneficial to the party entering the Order. Today, Rule 4702(b)(5)(C) provides that MPPOs are available during Market Hours only, and may not participate in the Nasdaq Opening Cross conducted pursuant to Rule 4752 or the Nasdaq Closing Cross conducted pursuant to Rule 4754.[3] However, MPPOs are not similarly prohibited from participating in the Nasdaq Halt Cross conducted pursuant to Rule 4753—*i.e.,* the process for determining the price at which Eligible Interest shall be executed at the open of trading for a halted security and for executing that Eligible Interest.

Similar to current behavior for the Nasdaq Opening Cross and the Nasdaq Closing Cross, the Exchange believes that it would be beneficial for members and investors to prevent MPPOs from executing in the Nasdaq Halt Cross, as these Orders are designed for regular trading on the Exchange's continuous market where there is an active market

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] An MPPO entered prior to the beginning of Market Hours will be rejected, and an MPPO remaining on the Nasdaq Book at 4:00 p.m. ET will be cancelled by the System. *See* Rule 4702(b)(5)(C).

that can be used to price these Orders. The Exchange therefore proposes to amend Rule 4702(b)(5)(C) to provide that MPPOs may not participate in the Nasdaq Halt Cross. Furthermore, the Exchange proposes to add language to Rule 4702(b)(5)(C) that explains that MPPOs will be cancelled by the System when a trading halt is declared, and any MPPOs entered during a trading halt will be rejected. The System currently rejects MPPOs entered when a trading halt is in effect but does not cancel existing MPPOs when the trading halt is declared. The proposed behavior will ensure that MPPOs do not participate in the subsequent reopening of the halted security in the Nasdaq Halt Cross by cancelling existing MPPOs when the trading halt is declared in addition to curtailing the ability of members to enter new MPPOs during the trading halt, which the Exchange believes is consistent with the intention of this Order Type. Furthermore, MPPOs will be handled consistently across the Nasdaq Opening Cross, Nasdaq Closing Cross, and Nasdaq Halt Cross, which is consistent with how the Exchange believes members want these orders treated.

Furthermore, the Exchange proposes to remove language describing MPPO behavior in a cross where the MPPO locks a preexisting Order. Specifically, Rule 4702(b)(5)(A) contains language that states that: ''For purposes of any cross in which a Midpoint Peg Post-Only Order participates, a Midpoint Peg Post-Only Order to buy (sell) that is locking a preexisting Order shall be deemed to have a price equal to the price of the highest sell Order (lowest buy Order) that would be eligible to execute against the Midpoint Peg Post-Only Order in such circumstances. Thus, a Midpoint Peg Post-Only Order to buy that locked a preexisting Non-Displayed Order to sell at $11.03 would be deemed to have a price of $11.02. It should be noted, however, that Midpoint Peg Post-Only Orders may not be entered prior to the Nasdaq Opening Cross, and the System cancels Midpoint Peg Post-Only Orders prior to the commencement of the Nasdaq Closing Cross.'' This language, which only applies to MPPOs that participate in a cross, is no longer necessary as MPPOs will be systematically prohibited from trading in any cross—*i.e.,* the Nasdaq Opening Cross, Nasdaq Halt Cross, or Nasdaq Closing Cross. The Exchange therefore proposes to eliminate this language from its rulebook.[4]

In addition to MPPOs the Exchange offers Midpoint Pegged Orders. Rule 4703(d) describes the Pegging Order Attribute, including Midpoint Pegging. Pegging is an Order Attribute that allows an Order to have its price automatically set with reference to the NBBO. Midpoint Pegging means Pegging with reference to the midpoint between the Inside Bid and the Inside Offer. Midpoint Pegged Orders are not displayed. Like MPPOs, Midpoint Pegged Orders are also designed for regular trading on the Exchange's continuous market where there is an active market that can be used to price these Orders. Thus, similar to the proposed handling of MPPOs the Exchange proposes to prevent Midpoint Pegged Orders from participating in the Nasdaq Halt Cross. As such, the Exchange proposes to amend Rule 4703(d) to provide that Orders with Midpoint Pegging will be cancelled by the System when a trading halt is declared, and any Orders with the Midpoint Pegging Order Attribute entered during a trading halt will be rejected. Similar to MPPOs, the System currently rejects Midpoint Pegged Orders entered when a trading halt is in effect but does not cancel existing Midpoint Pegged Orders when the trading halt is declared. Similar to the behavior of MPPOs described above, the proposed behavior for Midpoint Pegged Orders will ensure that Midpoint Pegged Orders do not participate in the subsequent reopening of the halted security in the Nasdaq Halt Cross by cancelling existing Midpoint Pegged Orders when the trading halt is declared in addition to curtailing the ability of members to enter new Midpoint Pegged Orders during the trading halt, thereby ensuring that no Orders with this Order Attribute will participate in the Nasdaq Halt Cross.

Nasdaq Opening Cross and Nasdaq Closing Cross Imbalance

The Exchange disseminates an Order Imbalance Indicator beginning at 9:28 a.m. to increase market transparency ahead of the Nasdaq Opening Cross, and beginning at 3:50 p.m. to increase market transparency ahead of the Nasdaq Closing Cross. The Order Imbalance Indicator includes several data elements that provide information about the crosses, including the Current Reference Price, the number of paired shares at that price, and the size of any Imbalance. On July 13, 2017, the Exchange filed a proposed rule change that, among other things, amended language describing the Current Reference Price, the associated paired share count, and the definition of Imbalance.[5] Specifically, the Exchange amended Rule 4752(a) to exclude Open Eligible Interest from these data elements for the Nasdaq Opening Cross, and amended Rule 4754(a) to exclude Close Eligible Interest from these data elements for the Nasdaq Closing Cross.

With these changes, ''Imbalance'' is now correctly defined in the rulebook: (1) For the Nasdaq Opening Cross, as the number of shares of buy or sell MOO, LOO or Early Market Hours orders that may not be matched with other MOO, LOO, Early Market Hours, or OIO order shares at a particular price at any given time, and (2) for the Nasdaq Closing Cross, as the number of shares of buy or sell MOC or LOC orders that cannot be matched with other MOC or LOC, or IO order shares at a particular price at any given time. Prior to SR–Nasdaq–2017–061, the definition of Imbalance had mistakenly included Open Eligible Interest as contra-side interest for matching MOO, LOO or Early Market Hours orders when calculating the size of any Imbalance in the Nasdaq Opening Cross, and mistakenly included Close Eligible Interest as contra-side interest for matching MOC or LOC orders when calculating the size of any Imbalance for the Nasdaq Closing Cross.

The term Imbalance, however, is also used in other parts of the Nasdaq Opening Cross and Nasdaq Closing Cross rules. For example, the term Imbalance is used: (1) In Rule 4752(d)(2)(B) to describe a tie-breaker used to determine the Nasdaq Opening Cross price if more than one price would maximize the number of shares of MOO, LOO, OIO, Early Market Hours orders, and executable quotes and orders in the Nasdaq Market Center to be executed pursuant to Rule 4752(d)(2)(A), and (2) in Rule 4754(b)(2)(B) to describe a tie-breaker used to determine the Nasdaq Closing Cross price if more than one price would maximize the number of shares of Eligible Interest in the Nasdaq Market Center to be executed pursuant to Rule 4754(b)(2)(A). Specifically, these rules provide that if more than one price exists under Rule 4752(d)(2)(A) or Rule 4754(b)(2)(A), each of which are described above, the Nasdaq Opening Cross and Nasdaq Closing Cross, respectively, shall occur at the price that minimizes any Imbalance.

[4] This language references that MPPOs do not participate in the Nasdaq Opening Cross or Nasdaq Closing Cross. Although the Exchange is not changing that behavior, the Exchange proposes to remove this reference, which is duplicative of language described above in Rule 4702(b)(5)(C).

[5] *See* Securities Exchange Act Release Nos. 81188 (July 21, 2017), 82 FR 35014 (July 27, 2017) (Notice); 81556 (September 8, 2017), 82 FR 43264 (September 14, 2017) (Approval Order) (SR–NASDAQ–2017–061).

In fact, if more than one price exists under Rule 4752(d)(2)(A), the Nasdaq Opening Cross shall occur at the price that minimizes the number of shares of buy or sell MOO, LOO or Early Market Hours orders that may not be matched with other MOO, LOO, Early Market Hours, Open Eligible Interest, or OIO order shares—*i.e.,* the previous definition of Imbalance under Rule 4752(a)(1). Similarly, if more than one price exists under Rule 4754(b)(2)(A), the Nasdaq Closing Cross shall occur at the price that minimizes the number of shares of buy or sell MOC or LOC orders that cannot be matched with other MOC or LOC, Close Eligible Interest or IO order shares—*i.e.,* the previous definition of Imbalance under Rule 4754(a)(2). While Open Eligible Interest and Close Eligible Interest are not included in the definition of Imbalance for purposes of the Order Imbalance Indicator as such interest may be executed prior to the execution of the cross, they are included in the cross price calculation if remaining on the book at the time the cross is executed. The Exchange therefore proposes to amend Rule 4752(d)(2)(B) and Rule 4754(b)(2)(B) to appropriately describe the tie-breakers discussed above using the previous definition of Imbalance for the Nasdaq Opening Cross and Nasdaq Closing Cross, respectively.

Implementation

The Exchange proposes to introduce the changes described in this proposed rule change in Q2 2018. The Exchange will announce the implementation date of this functionality in an Equity Trader Alert issued to members prior to the launch date.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Excluding MPPOs and Midpoint Pegged Orders From the Nasdaq Halt Cross

As indicated in the Exchange's current rules, MPPOs are designed for Market Hours trading and therefore do not participate in either the Nasdaq Opening Cross or Nasdaq Closing Cross. Nevertheless, MPPOs may trade in the Nasdaq Halt Cross today. The Exchange believes that members prefer not to have their MPPOs executed in any of the crosses, including the Nasdaq Halt Cross, and is therefore proposing to cancel MPPOs when a trading halt is initiated. Furthermore, the System already prevents the subsequent entry of MPPOs during the trading halt as reflected in the proposed rule. The Exchange believes that it is consistent with the protection of investors and the public interest to treat MPPOs similarly across all three crosses so that members have a consistent experience when entering MPPOs at different times of the trading day.

The proposed changes would also eliminate language in the MPPO rules that describe MPPO handling during a cross. As explained in the purpose section of this proposed rule change, this language will no longer be necessary since MPPOs will be prohibited from participating in any of the Exchange's three crosses—*i.e.,* the Nasdaq Opening Cross, Nasdaq Closing Cross, and Nasdaq Halt Cross. The Exchange believes that this proposed change is consistent with the protection of investors and the public interest because it will properly reflect that MPPOs are no longer eligible for any crosses, and will only trade on the continuous book.

Similar to the proposed handling of MPPOs, the Exchange is also proposing to prevent Midpoint Pegging Orders from participating in the Nasdaq Halt Cross. The Exchange believes that it is consistent with the protection of investors and the public interest to cancel these Orders when a trading halt is initiated so that they cannot participate in the Nasdaq Halt Cross. Furthermore, the System already prevents the subsequent entry of additional such Orders during a trading halt. The Exchange believes that members do not want their Midpoint Pegging Orders to trade in the Nasdaq Halt Cross and is therefore introducing functionality that will ensure that these Orders will not do so.

Nasdaq Opening Cross and Nasdaq Closing Cross Imbalance

The Exchange believes that the proposed changes regarding the Nasdaq Opening Cross and Nasdaq Closing Cross price calculations are consistent with the protection of investors and the public interest because these changes properly identify the tie-breakers used to determine the opening and closing prices when multiple prices would satisfy the maximum quantity requirements of Rule 4752(d)(2)(A) or Rule 4754(b)(2)(A), respectively. Open Eligible Interest or Close Eligible Interest are not used in determining the size of any Imbalance for the Order Imbalance Indicator because such interest may be executed before the time of the cross. Such interest is used in the opening and closing price tie-breakers pursuant to Rule 4752(d)(2)(B) and Rule 4754(b)(2)(B), however, because it is available to execute in the crosses if remaining on the book at the time of the cross price calculation. Using all available interest in these price calculations, rather than only on-open or on-close order types ensures that these price discovery mechanisms properly reflect the interest available at the time the crosses are conducted. The Exchange's rules previously included Open Eligible Interest and Close Eligible Interest in the tie-breakers when such interest was included in the definition of Imbalance. With the recent changes to those definitions—which now align with the interest considered in the Imbalance field of the Order Imbalance Indictor—the Exchange believes that it is necessary to update Rule 4752(d)(2)(B) and Rule 4754(b)(2)(B).

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. Currently, MPPOs and Midpoint Pegging Orders can participate in the Nasdaq Halt Cross despite the fact that these Orders are designed for regular trading on the continuous book. The Exchange is now enhancing MPPO and Midpoint Pegging Order handling to prevent all such Orders from participating in the Nasdaq Halt Cross by cancelling existing interest on the Exchange's order book in addition to rejecting new Orders as done by the System today. The Exchange does not believe this change will have any significant impact on competition as the proposed changes will apply to all MPPOs and Midpoint Pegging Orders. Moreover, the Exchange believes that this is how members want these Orders treated. Furthermore, the proposed changes with respect to the Nasdaq Opening Cross and Nasdaq Closing Cross price calculations are rule corrections and will therefore have no impact on 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.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

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 Act [8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [10] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. Waiver of the operative delay would allow the Exchange to prevent MPPOs and Midpoint Pegged Orders from participating in the Nasdaq Halt Cross without delay. The Commission also notes that the proposal would ensure that MPPOs and Midpoint Pegged Orders do not participate in any cross (*i.e.,* Nasdaq Opening Cross, Nasdaq Halt Cross, and Nasdaq Closing Cross). According to the Exchange, MPPOs and Midpoint Pegged Orders are designed for regular trading on the Exchange's continuous market, and the proposal would ensure that these orders behave in a manner consistent with members' expectations. Moreover, waiver of the operative delay would allow the Exchange to immediately correct its rules to reflect that Open Eligible Interest and Close Eligible Interest (*i.e.,* interest that is available to execute in the crosses if remaining on the book at the time of the cross price calculation) are included in tie-breakers for the Nasdaq Opening Cross and Nasdaq Closing Cross price calculations, respectively, thus reducing any potential member confusion surrounding the cross price calculations. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–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–NASDAQ–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 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–2018–031 and should be submitted on or before May 25, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–09448 Filed 5–3–18; 8:45 am]

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[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83134; File No. SR–NYSE–2018–17]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 13

April 30, 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 April 20, 2018, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the preamble to Rule 13 to provide that the definition of ''retail'' in subsection (f)(2) be applicable to trading of UTP

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Securities on Pillar trading platform. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On April 9, 2018, the Exchange introduced trading of UTP Securities on the Exchange on the Pillar trading platform.[4] As described in the UTP Trading Rules Filing, for each current Exchange rule that is not applicable for trading on the Pillar trading platform, the Exchange added a preamble to such rule providing that ''this rule is not applicable to trading UTP Securities on the Pillar trading platform.'' Exchange rules governing equities trading that do not have this preamble currently govern Exchange operations on Pillar.[5]

The Exchange proposes to amend the preamble to Rule 13 to provide that the definition of ''retail'' modifier in subsection (f)(2) would be applicable to the trading of UTP Securities on the Pillar trading platform.

Under Rule 13(f)(2)(A), an order designated with a ''retail'' modifier is an agency order or a riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a member organization, provided that 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. An order with a ''retail'' modifier is separate and distinct from a ''Retail Order'' under Rule 107C. Under subsection (C), to submit a ''retail'' order, a member organization must also submit an attestation, in a form prescribed by the Exchange, that substantially all orders submitted as ''retail'' will qualify as such. Finally, a member organization must have written policies and procedures reasonably designed to assure that it will only designate orders as ''retail'' if all requirements of paragraph (f)(4)(A) are met.[6] The Exchange would determine if and when a member organization is disqualified from submitting ''retail'' orders and, when disqualification determinations are made, the Exchange would provide a written disqualification notice to the member organization.[7] A disqualified member organization may (1) appeal such disqualification, and/or (B) resubmit the attestation described in Rule 13(f)(4)(C) 90 days after the date of the disqualification notice from the Exchange.[8]

The proposed applicability of the definition of ''retail'' modifier to the trading of UTP Securities on the Pillar trading platform would enable the Exchange to propose transaction pricing related to retail orders in UTP Securities that add liquidity to the Exchange, as is currently the case for orders designated as ''retail'' in Tape A securities.[9] As is also the case with orders designated as ''retail'' in Tape A securities, member organizations not wishing to be eligible for the proposed pricing would be free to not designate orders in UTP Securities as ''retail.'' The Exchange believes providing member organizations with the ability to submit orders designated as ''retail'' in UTP Securities would incentivize the submission of additional retail order flow to a public market, to the benefit of the marketplace and all market participants.

To effect this change, the Exchange proposes to amend the preamble to Rule 13 by adding the clause ''With the exception of the definition of a ''retail'' modifier in Rule 13(f)(2)'' immediately before the phrase ''This Rule is not applicable to trading UTP Securities on the Pillar trading platform.''

2. Statutory Basis

The Exchange believes that the proposed rule change 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, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change is consistent with these principles because it would increase competition among execution venues by enabling the Exchange to file a separate proposed rule change to establish fees and credits relating to orders in UTP Securities designated as ''retail,'' thereby encouraging the submission of retail order flow in UTP Securities to a public market. The Exchange believes that promoting submission of orders designated as ''retail'' in UTP Securities would attract additional retail order flow to a public market and that such a process would contribute to perfecting the mechanisms of a free and open market and a national market system. The Exchange further

[4] *See* Securities Exchange Act Release No.82945 (March 26, 2018), 83 FR 13553, 13555 (March 29, 2018) (SR–NYSE–2017–36) (the ''UTP Trading Rules Filing''). The term ''UTP Security'' means a security that is listed on a national securities exchange other than the Exchange and that trades on the Exchange pursuant to unlisted trading privileges. *See* Rule 1.1(ii).

[5] *See* UTP Trading Rules Filing, 83 FR at 13554, n.17.

[6] Rule 13(f)(2)(D) provides that such written policies and procedures must require the member organization to (i) exercise due diligence before entering a ''retail'' order to assure that entry as a ''retail'' order is in compliance with the requirements of Rule 13(f)(4)(A), and (ii) monitor whether orders entered as ''retail'' orders meet the applicable requirements. If a member organization represents ''retail'' orders from another broker-dealer customer, the member organization's supervisory procedures must be reasonably designed to assure that the orders it receives from such broker-dealer customer that it designates as ''retail'' orders meet the definition of a ''retail'' order in Rule 13(f)(4)(A). Further, the member organization must (i) obtain an annual written representation, in a form acceptable to the Exchange, from each broker-dealer customer that sends it orders to be designated as ''retail'' orders that entry of such orders as ''retail'' orders will be in compliance with the requirements of Rule 13(f)(4)(A); and (ii) monitor whether its broker-dealer customer's ''retail'' order flow meets the applicable requirements.

[7] *See* Rule 13(f)(4)(E).

[8] If a member organization disputes the Exchange's decision to disqualify it from submitting ''retail'' orders, the member organization may request, within five business days after notice of the decision is issued by the Exchange, that the ''retail'' order ''Hearing Panel'' review the decision to determine if it was correct. The Hearing Panel would consist of the NYSE's Chief Regulatory Officer (''CRO''), or a designee of the CRO, and two officers of the Exchange designated by the Chief Executive Officer of ICE Group. The Hearing Panel would review the facts and render a decision within the time frame prescribed by the Exchange. The Hearing Panel may overturn or modify an action taken by the Exchange under this Rule. A determination by the Hearing Panel shall constitute final action by the Exchange. *See* Rule 13(f)(4)(F).

[9] *See* page 5 of the current Price List, available at *https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf.*

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

believes that promoting such orders in UTP Securities would not permit unfair discrimination between customers, issuers, brokers, or dealers because, as is currently the case for orders designated as ''retail'' in Tape A securities, promoting orders designated as ''retail'' in UTP Securities would promote a competitive process around retail executions and would result in greater transparency and competitiveness surrounding executions of retail flow.[12]

The Exchange believes that the proposed change is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade because it would contribute to increasing the proportion of retail flow in UTP Securities that are executed on a registered national securities exchange and would protect investors and the public interest by contributing to investors' confidence in the fairness of their transactions and because it would benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

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. Instead, the Exchange believes that the proposed change would increase competition among execution venues and encourage additional liquidity in UTP Securities. In this regard, the Exchange believes that the transparency and competitiveness of attracting additional executions on an exchange market would encourage competition. The proposal would also promote competition on the Exchange because the ability to designate an order as ''retail'' would be available to all member organizations that submit qualifying orders and satisfy the other related requirements.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[12] *See* Securities Exchange Act Release No.72253 (May 27, 2014), 79 FR 31353, 31355 (June 2, 2014) (SR–NYSE–2014–26) (Notice).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[15] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[16] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. According to the Exchange, waiver of the operative delay would allow the Exchange to implement, without undue delay, a process that is already in place for Tape A securities that would incentivize the submission of retail order flow in UTP securities to a public market to the benefit of the marketplace and all market participants. The Commission believes that the proposal raises no new or novel issues and that waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–NYSE–2018–17 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSE–2018–17. 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–NYSE–2018–17 and should be submitted on or before May 25, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–09441 Filed 5–3–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Advisers Act Release No. 4902/ 803–00239]

1112 Partners, LLC

May 1, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of application for an exemptive order under section 202(a)(11)(H) of the Investment Advisers Act of 1940 (''Advisers Act'').

Applicant: 1112 Partners, LLC (the ''Applicant'').

Relevant Advisers Act Sections: Exemption requested under section 202(a)(11)(H) of the Advisers Act from section 202(a)(11) of the Advisers Act.

Summary of Application: The Applicant requests that the Commission issue an order declaring it to be a person not within the intent of Section 202(a)(11) of the Advisers Act, which defines the term ''investment adviser.''

Filing Dates: The application was filed on January 17, 2017, and amended on May 8, 2017; September 15, 2017; and March 9, 2018.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving the Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 25, 2018, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Advisers Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549. Applicant, 1112 Partners, LLC, c/o Ingrid R. Welch, Esq., Cozen O'Connor, One Liberty Place, 1650 Market Street, Suite 2800, Philadelphia, PA 19103.

FOR FURTHER INFORMATION CONTACT: James D. McGinnis, Senior Counsel, at (202) 551–3025 or Holly L. Hunter-Ceci, Assistant Chief Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website either at *http://www.sec.gov/rules/iareleases.shtml* or by calling (202) 551–8090.

Applicant's Representations:

1. The Applicant is a recently-formed, multi-generational single-family office that provides or intends to provide services to the family and descendants of William Render Ford. The Applicant is wholly-owned by Family Clients and is exclusively controlled (directly and indirectly) by one or more Family Members and/or Family Entities in compliance with Rule 202(a)(11)(G)–1 (the ''Family Office Rule''). For purposes of the application, the term ''Ford Family'' means the lineal descendants of William Render Ford, their spouses or spousal equivalents, and all other persons and entities that qualify as ''Family Clients'' as defined in paragraph (d)(4) of the Family Office Rule. Unless otherwise indicated, capitalized terms herein have the same meaning as defined in the Family Office Rule.

2. The Applicant provides both advisory and non-advisory services (collectively, ''Services'') to members of the Ford Family. Any Service provided by the Applicant that relates to investment advice about securities or may otherwise be construed as advisory in nature is considered an ''Advisory Service.''

3. Prior to forming the Applicant, David B. Ford, Jr. was associated with a third-party registered investment adviser (''RIA'') that for approximately eleven (11) years managed substantially all of the advisory accounts of the Ford Family managed or intended to be managed by the Applicant, and among these accounts were accounts of the Additional Family Clients (as defined below). Effective as of October 1, 2016, David B. Ford, Jr.'s association with RIA was terminated. Commencing October 1, 2016, the advisory accounts of the Family Clients managed by RIA were transition to the Applicant.

4. The Applicant represents that: (i) Each of the persons served by the Applicant is a Family Client (*i.e.,* the Applicant has no investment advisory clients other than Family Clients as required by paragraph (b)(1) of the Family Office Rule); (ii) the Applicant is owned and controlled in a manner that complies in all respects with paragraph (b)(2) of the Family Office Rule; and (iii) the Applicant does not hold itself out to the public as an investment adviser as required by paragraph (b)(3) of the Family Office Rule. At the time of the application, the Applicant represents that Family Members account for approximately 100% of the natural persons to whom the Applicant provides Advisory Services.

5. In addition to the Family Clients, the Applicant desires to provide Services (including Advisory Services) to the parents of a spouse of a lineal descendant of William Render Ford (''Parents-in-Law''), the brother of a spouse of a lineal descendant of William Render Ford and his spouse and children (''Brother-in-Law'') and retirement plan accounts of the Parents-in-Law or Brother-in-Law (collectively, the ''Additional Family Clients'').

6. The Additional Family Clients do not have an ownership interest in the Applicant. The Applicant represents that the assets beneficially owned by Family Members and/or Family Entities (excluding the Additional Family Clients) would make up at least 90% of the total assets for which the Applicant provides Advisory Services.

7. The Applicant represents that the Parents-in-Law and Brother-in-Law have important familial ties to and are an integral part of the Ford Family. The Applicant maintains that including the Additional Family Clients in the ''family'' simply recognizes and memorializes the familial ties and intra-familial relationships that already exist, and have existed for fifteen (15) years and that the inclusion of the Additional Family Clients as members of the Ford Family for which the Applicant may provide Services would be consistent with the existing familial relationship among the family members.

The Applicant's Legal Analysis

1. Section 202(a)(11) of the Advisers Act defines the term ''investment adviser'' to mean ''any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities. . . .''

2. The Applicant falls within the definition of an investment adviser

[18] 17 CFR 200.30–3(a)(12).

under Section 202(a)(11). The Family Office Rule provides an exclusion from the definition of investment adviser for which the Applicant would be eligible but for the provision of Services to the Additional Family Clients. Section 203(a) of the Advisers Act requires investment advisers to register with the SEC. Because the Applicant has regulatory assets under management of more than $100 million, it is not prohibited from registering with Commission under Section 203A(a) of the Advisers Act. Therefore, absent relief, the Applicant would be required to register under Section 203(a) of the Advisers Act.

3. The Applicant submits that its proposed relationship with the Additional Family Clients does not change the nature of the office into that of a commercial advisory firm. In support of this argument, the Applicant notes that if the Parents-in-Law and Brother-in-Law were the parents and sibling, respectively of a lineal descendant, rather than the parents and sibling, respectively, of a spouse of a lineal descendant, there would be no question that each of them would be a Family Member, and their retirement assets would similarly fall within the definition of Family Client. The Applicant states that in requesting the order, the office is not attempting to expand its operations or engage in any level of commercial activity to which the Advisers Act is designed to apply. Although the Additional Family Clients do not fall within the definition of Family Member, the Applicant represents that the Additional Family Clients for the last fifteen (15) years and to this day were and continue to be considered and treated as members of the Ford Family, and that prior to forming the Applicant, the RIA had for some time provided services to the Additional Family Clients. Additionally, the Applicant represents that the number of natural persons who are not Family Members as a percentage of the total natural persons to whom the office would provide Advisory Services if relief were granted would be less than 9%. From the perspective of the Ford Family, allowing the Applicant to provide Services to the Additional Family Clients is consistent with the family's previous experience with investment management services provided by the RIA and the existing family relationship among family members.

4. The Applicant also submits that there is no public interest in requiring the Applicant to be registered under the Advisers Act. The Applicant states that the office is a private organization that was formed to be the ''family office'' for the Ford Family, and that the office does not have any public clients. The Applicant maintains that the office's Advisory Services are exclusively tailored to the needs of the Ford Family and the Additional Family Clients. The Applicant argues that the provision of Advisory Services to the Additional Family Clients, who have been receiving Advisory Services from the RIA in the same manner as other family members for eleven (11) years, does not create any public interest that would require the office to be registered under the Advisers Act that is different in any manner than the considerations that apply to a ''family office'' that complies in all respects with the Family Office Rule.

5. The Applicant argues that, although the Family Office Rule largely codified the exemptive orders that the Commission had previously issued before the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Commission recognized in proposing the rule that the exact representations, conditions, or terms contained in every exemptive order could not be captured in a rule of general applicability. The Commission noted that family offices would remain free to seek a Commission exemptive order to advise an individual or entity that did not meet the proposed family client definition, and that certain situations may raise unique conflicts and issues that are more appropriately addressed through an exemptive order process where the Commission can consider the specific facts and circumstances, than through a rule of general applicability.

6. The Applicant maintains that, based on its unusual circumstances—desiring to provide Services to certain Additional Family Clients who are relatives that have been considered and treated as family members for fifteen (15) years and whose status as clients of the office would not change the nature of the office's operations to that of a commercial advisory business—an exemptive order is appropriate based on the Applicant's specific facts and circumstances.

7. For the foregoing reasons, the Applicant requests an order declaring it to be a person not within the intent of Section 202(a)(11) of the Advisers Act. The Applicant submits that the order is necessary and appropriate, in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Advisers Act.

The Applicant's Conditions

1. The Applicant will offer and provide Advisory Services only to Family Clients and to the Additional Family Clients, who generally will be deemed to be, and be treated as if they were, Family Clients; provided, however, that the Additional Family Clients will be deemed to be, and treated as if they were, Family Members for purposes of paragraph (b)(1) and for purposes of paragraph (d)(4)(vi) of the Family Office Rule.

2. The Applicant will at all times be wholly owned by Family Clients and exclusively controlled (directly or indirectly) by one or more Family Members and/or Family Entities (excluding the Additional Family Clients' Family Entities) as defined in paragraph (d)(5) of the Family Office Rule.

3. At all times the assets beneficially owned by Family Members and/or Family Entities (excluding the Additional Family Clients' Family Entities) will account for at least 90% of the assets for which the Applicant provides Advisory Services.

4. The Applicant will comply with all the terms for exclusion from the definition of investment adviser under the Advisers Act set forth in the Family Office Rule except for the limited exception requested by this Application.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–09559 Filed 5–3–18; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15499 and #15500; ALABAMA Disaster Number AL–00088]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Alabama

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of the presidential declaration of a major disaster for public assistance only for the state of Alabama (FEMA–4362–DR), dated 04/26/2018.

Incident: Severe Storms and Tornadoes.

Incident Period: 03/19/2018 through 03/20/2018.

DATES: Issued on 04/26/2018.

Physical Loan Application Deadline Date: 06/25/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 01/28/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/26/2018, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Calhoun, Cullman, Etowah, Saint Clair

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.500
Non-Profit Organizations Without Credit Available Elsewhere	2.500
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15499B and for economic injury is 155000.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–09431 Filed 5–3–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15497 and #15498; Alabama Disaster Number AL–00087]

Presidential Declaration of a Major Disaster for the State of ALABAMA

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Alabama (FEMA–4362–DR), dated 04/26/2018.

Incident: Severe Storms and Tornadoes.

Incident Period: 03/19/2018 through 03/20/2018.

DATES: Issued on 04/26/2018.

Physical Loan Application Deadline Date: 06/25/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 01/28/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/26/2018, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Calhoun, Cullman, Etowah

Contiguous Counties (Economic Injury Loans Only):

Alabama, Blount, Cherokee, Cleburne, De Kalb, Lawrence, Marshall, Morgan, Saint Clair, Talladega, Walker, Winston

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.625
Homeowners Without Credit Available Elsewhere	1.813
Businesses With Credit Available Elsewhere	7.160
Businesses Without Credit Available Elsewhere	3.580
Non-Profit Organizations With Credit Available Elsewhere ...	2.500
Non-Profit Organizations Without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	3.580
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15497B and for economic injury is 154980.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–09433 Filed 5–3–18; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10405]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: "Canova's George Washington" Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Canova's George Washington,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Frick Collection, New York, New York, from on or about May 23, 2018, until on or about September 23, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Marie Therese Porter Royce,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 2018–09639 Filed 5–3–18; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Twenty Seventh RTCA SC–223 IPS and AeroMACS Joint Plenary With WG–108

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

ACTION: Twenty Seventh RTCA SC–223 IPS and AeroMACS Joint Plenary with WG–108.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Twenty Seventh RTCA SC–223 IPS and AeroMACS Joint Plenary with WG–108.

DATES: The meeting will be held June 4, 2018 10:30 a.m.–5:00 p.m. and June 5–7, 2018 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at: EUROCAE, 9 Rue Paul Lafargue, 93210 Saint-Denis, France.

FOR FURTHER INFORMATION CONTACT: Rebecca Morrison at *rmorrison@rtca.org* or 202–330–0654, or The RTCA Secretariat, 1150 18th Street NW, Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or website at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Twenty Seventh RTCA SC–223 IPS and AeroMACS Joint Plenary with WG–108. The agenda will include the following:

Monday June 4, 2018 10:30 a.m.–5:00 p.m.

1. Welcome, Introductions, DFO Statement, Administrative Remarks
2. Review of Previous Meeting Notes and Action Items
3. Review of Current State of Industry Standards
   A. ICAO WG–I
   B. AEEC IPS Sub Committee
   C. RTCA SC–223 Status
   D. EUROCAE WG–108 Status
4. Current State of Activities
   A. FAA Status
   B. SESAR Programs
   C. ESA IRIS Precursor
   D. Any Other Activities
5. IPS Technical Discussions
   A. Consider a Motion To Initiate Open Consultation/Final ReviewaAnd Comment for IPS Profile Document
   B. Review of IPS High–Level Profile and RFC Detail Profiles
   C. Discussion of Mops and Guidance Document Scope & Plan
6. Review and Approve Changes to the Terms of Refence For SC–223 and WG–108
7. Any Other Topics of Interest
8. Plans for Next Meetings
9. Review of Action Items and Meeting Summary

Tuesday June 5, 2018 9:00 a.m.–5:00 p.m.

10. Continue With Plenary Agenda

Wednesday June 6, 2018 9:00 a.m.–5:00 p.m.

11. Continue With Plenary Agenda

Thursday June 7, 2018 9:00 a.m.–5:00 p.m.

12. Continue With Plenary Agenda
13. Adjourn When Plenary Business Is Complete

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC on April 30, 2018.

Michelle Swearingen,

Systems and Equipment Standards Branch, AIR–6B0, Policy and Innovation Division, AIR–600, Federal Aviation Administration.

[FR Doc. 2018–09446 Filed 5–3–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Notice of Funding Opportunity; Correction

AGENCY: Office of the Secretary of Transportation, DOT.

ACTION: Notice of Funding Opportunity, Correction.

SUMMARY: The Office of the Secretary of Transportation published a document in the **Federal Register** of April 27, 2018 concerning the solicitation of applications for National Infrastructure Investments, known as BUILD Transportation Discretionary Grants. This document contained an incorrect deadline date.

FOR FURTHER INFORMATION CONTACT: For further information concerning this notice, please contact the BUILD Transportation program staff via email at *BUILDgrants@dot.gov,* or call Howard Hill at 202–366–0301. A TDD is available for individuals who are deaf or hard of hearing at 202–366–3993. In addition, DOT will regularly post answers to questions and requests for clarifications as well as information about webinars for further guidance on DOT's website at *www.transportation.gov/BUILDgrants.*

CORRECTION: In the **Federal Register** of April 27, 2018, in FR Doc 2018–08906, correct the **DATES** section and the first sentence in Section D.4.i to read: Applications must be submitted by 8:00 p.m. E.D.T. on July 19, 2018.

DATES: Applications must be submitted by 8:00 p.m. E.D.T. on July 19, 2018.

Dated: April 30, 2018.

T. Finch Fulton,

Deputy Assistant Secretary for Policy.

[FR Doc. 2018–09492 Filed 5–3–18; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the name of one individual that has been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of this person are blocked, and U.S. persons are generally prohibited from engaging in transactions with this individual.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel. 202–622–4855; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On April 30, 2018, OFAC determined that the property and interests in

property subject to U.S. jurisdiction of the following person are blocked under the relevant sanctions authority listed below.

Individual:

1. MABANZA, Myrna Ajijul (a.k.a. MABANZA, Myrna Adijul; a.k.a. MABANZA, Myrna Ajilul), Basilan Province, Philippines; Zamboanga City, Philippines; DOB 11 Jul 1991; nationality Philippines; Gender Female; Identification Number 73320881AG1191MAM20000; alt. Identification Number 200801087; alt. Identification Number 140000900032 (individual) [SDGT] (Linked To: ISIS–PHILIPPINES).

Designated pursuant to section 1(d)(i) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism'' (E.O. 13224) for assisting in, sponsoring, or providing financial, material, or technological support for, or financial or other services to or in support of, ISIS–PHILIPPINES, an entity determined to be subject to E.O. 13224.

Dated: April 30, 2018.

John E. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2018–09435 Filed 5–3–18; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Rural Health Advisory Committee, Notice of Meeting Amended

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the Veterans' Rural Health Advisory Committee will meet on May 23–24, 2017. The meeting will be held at 400 Veterans Avenue, Rec Hall in Bldg. 17, Biloxi, Mississippi 39531 on May 23–24 the meeting sessions will begin at 8:30 a.m. (EST) each day and adjourn at 5:00 p.m. (EST). The meetings are open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on rural health care issues affecting Veterans. The Committee examines programs and policies that impact the delivery of VA rural health care to Veterans and discusses ways to improve and enhance VA access to rural health care services for Veterans.

The agenda will include updates from Department leadership, Network Director South Central VA Health Care Network, Director Gulf Coast Veterans Health Care System and the Director Office of Rural Health and Committee Chairman, as well as presentations on general health care access.

Public comments will be received at 4:30 p.m. on May 24, 2018. Interested parties should contact Ms. Judy Bowie, via email at *VRHAC@va.gov,* via fax at (202) 632–8615, or by mail at 810 Vermont Avenue NW (10P1R), Washington, DC 20420. Individuals wishing to speak are invited to submit a 1–2 page summary of their comment for inclusion in the official meeting record. Any member of the public seeking additional information should contact Ms. Bowie at the phone number or email address noted above.

Dated: May 1, 2018.

LaTonya L. Small,

Federal Advisory Committee Management Office.

[FR Doc. 2018–09550 Filed 5–3–18; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 83 Friday,
No. 87 May 4, 2018

Part II

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 66

National Bioengineered Food Disclosure Standard; Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 66

[Doc. No. AMS–TM–17–0050]

RIN 0581–AD54

National Bioengineered Food Disclosure Standard

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: A recent amendment to the Agricultural Marketing Act of 1946 requires the Secretary of Agriculture (Secretary) to establish the national mandatory bioengineered (BE) food disclosure standard. The Agricultural Marketing Service (AMS) is proposing a new rule that would require food manufacturers and other entities that label foods for retail sale to disclose information about BE food and BE food ingredient content. The proposed rule is intended to provide a mandatory uniform national standard for disclosure of information to consumers about the BE status of foods. AMS seeks comments on the proposed rule. This proposed rule also announces AMS' intent to request approval by the Office of Management and Budget (OMB) of new information collection and recordkeeping requirements to implement the proposed BE food disclosure standard.

DATES: Comments on the proposed rule must be received by July 3, 2018. Pursuant to the Paperwork Reduction Act, comments on the information collection and recordkeeping burden must be received by July 3, 2018. AMS will conduct a webinar on this rulemaking, and further information regarding webinar details will be presented in a separate **Federal Register** notification.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments should be submitted via the Federal eRulemaking portal at *www.regulations.gov.* Comments may also be filed with the Docket Clerk, 1400 Independence Ave. SW, Room 4543-South, Washington, DC 20250; Fax: (202) 690–0338. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in Room 4543-South, 1400 Independence Ave. SW, Washington, DC 20250 during regular business hours, or can be viewed at: *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Email: *befooddisclosure@ams.usda.gov;* telephone: (202) 690–1300; or Fax: (202) 690–0338.

SUPPLEMENTARY INFORMATION: On July 29, 2016, Public Law 114–216 amended the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*), as amended (amended Act), by adding Subtitles E and F. Subtitle E of the amended Act directs the Secretary to establish the National Bioengineered Food Disclosure Standard (NBFDS) for disclosing any BE food and any food that may be bioengineered. Subtitle E also directs the Secretary to establish requirements and procedures necessary to carry out the new standard. Additionally, the amended Act directs the Secretary to conduct a study to identify potential technological challenges related to electronic or digital disclosure methods. *See* 7 U.S.C. 1639b(c)(1). Subtitle F addresses Federal preemption of State and local genetic engineering labeling requirements. Subtitle F also specifies that certification of food under the U.S. Department of Agriculture's (USDA) National Organic Program (NOP) (7 CFR part 205) shall be considered sufficient to make claims about the absence of bioengineering in the food.

Outline of the Notice of Proposed Rulemaking

I. Introduction
II. Applicability: What is to be disclosed?
A. Definitions
B. Food Subject to Disclosure
C. Bioengineered Food
1. Definition of ''Bioengineering'' and ''Bioengineered Food''
2. Lists of Bioengineered Foods
3. Factors and Conditions
a. Incidental Additives
b. Undetectable Recombinant DNA
D. Exemptions
1. Food Served in a Restaurant or Similar Retail Food Establishment
2. Very Small Food Manufacturers
3. Threshold
a. Alternative 1–A
b. Alternative 1–B
c. Alternative 1–C
4. Animals Fed With Bioengineered Feed and Their Products
5. Food Certified Organic Under the National Organic Program
III. Disclosure: What will the disclosure look like?
A. General
1. Responsibility for Disclosure
2. Appearance of Disclosure
3. Placement of Disclosure
4. How BE Food Lists Relate to Disclosure
B. Text Disclosure
1. High Adoption of Bioengineered Food
2. Non-High Adoption of Bioengineered Food
C. Symbol Disclosure
1. Alternative 2–A
2. Alternative 2–B
3. Alternative 2–C
D. Electronic or Digital Link Disclosure
E. Study on Electronic or Digital Disclosure and a Text Message Disclosure Option
F. Small Food Manufacturers
1. Definition
2. Telephone Number
3. Internet Website
G. Small and Very Small Packages
H. Foods Sold in Bulk Containers
I. Voluntary Disclosure
IV. Administrative Provisions
A. Recordkeeping Requirements
1. What Records Are Required
2. How Recordkeeping Applies to Disclosure
a. Non-Disclosure of Foods on Either List
b. Disclosure of Foods on Either List
3. Other Recordkeeping Provisions
B. Enforcement
C. Proposed Effective and Initial Compliance Dates
D. Use of Existing Label Inventories
V. Rulemaking Analyses and Notices

I. Introduction

The Secretary delegated the authority for establishing and administering the NBFDS provided in the amended Act to the Agricultural Marketing Service (AMS). As part of the development of the proposed NBFDS, on June 28, 2017, AMS sought public input on 30 questions posted on its website (*https://www.ams.usda.gov/rules-regulations/be-questions*). The deadline for submitting input was August 25, 2017. AMS received over 112,000 responses from contributors with diverse backgrounds, including consumers; food manufacturers and retailers; farmers and processing operations; State and foreign governments; and associations representing various food manufacturers and retailers, farmers, and other interest groups. AMS posted the responses on its website. Pursuant to 7 U.S.C. 1639b(c), USDA, through Deloitte Consulting LLP, completed a study to identify potential technological challenges that may impact whether consumers would have access to the BE disclosure through electronic or digital disclosure methods. AMS posted the results of the study on its website on September 6, 2017 (*https://www.ams.usda.gov/reports/study-electronic-or-digital-disclosure*).

This notice of proposed rulemaking (NPRM) presents AMS' proposed requirements and procedures for the NBFDS to be codified at 7 CFR part 66. In developing this proposal, AMS was mindful that the purpose of the NBFDS is to provide a mandatory uniform disclosure standard for BE food to provide uniform information to consumers. In this regard, nothing in the disclosure requirements set out in this proposed rule conveys information about the health, safety, or environmental attributes of BE food

compared to non-BE counterparts. The regulatory oversight of USDA and other relevant Federal agencies ensures that food produced through bioengineering meets all relevant Federal health, safety, and environmental standards.

The responsibility to protect public health and the environment rests with the U.S. Government agencies responsible for oversight of the products of biotechnology: USDA's Animal and Plant Health Inspection Service (USDA–APHIS), the U.S. Environmental Protection Agency (EPA), and the Department of Health and Human Services' Food and Drug Administration (FDA). The Coordinated Framework for Regulation of Biotechnology is a policy framework that summarized the roles and responsibilities of these three principal regulatory agencies with respect to regulating biotechnology products. Therefore, nothing in the requirements set out in this proposed rule for disclosure of BE food supports claims regarding the health, safety or environmental attributes of BE food compared to non-BE counterparts.

The proposed rule is intended to provide for disclosure of foods that are or may be bioengineered in the interest of consumers, but also seeks to minimize implementation and compliance costs for the food industry—costs that could be passed on to consumers. To that end, AMS has tried to craft requirements that are clear and straightforward, incorporating flexibility where appropriate. Public input has been invaluable to this effort, and public comments submitted in response to this proposed rule will be critical in the development of a final rule.

The discussion of the proposed NBFDS is divided into three parts: (1) Applicability; (2) disclosure; and (3) administrative provisions. In determining whether a product would be required to bear a disclosure under the NBFDS, potentially regulated entities should consult the following questions or undertake the following analysis:

(1) Who is responsible for the disclosure? (Part III.A.1.)

(2) Is the particular product at issue a ''food''? (Part II.B.)

(3) Does the food fall within the scope of the NBFDS? (Part II.B.)

a. Is the food subject to the labeling requirements under the Federal Food, Drug, and Cosmetic Act (FDCA), 21 U.S.C. 301?

b. Is the food subject to the labeling requirements under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), or the Egg Products Inspection Act (21 U.S.C. 1031 *et seq.*), with certain exceptions?

(4) Is the food a BE food? (Part II.C.)

a. Does the food appear on either of the two AMS lists of BE foods that are commercially available in the U.S? (Part II.D.)

b. Do other factors or conditions exist that affect the food's BE status? (Part II.C.2.)

(5) Does the amount of a bioengineered substance that may be present in the food exceed the threshold? (Part II.D.3.)

(6) Are there any applicable exemptions? (Part II.D.)

A full discussion of the above analysis follows, and AMS invites comment on the proposed requirements and procedures, alternatives that are offered, and on any specific questions that are raised for comment.

II. Applicability: What is to be disclosed?

The amended Act directs USDA to promulgate regulations regarding foods required to bear a disclosure indicating that the food is bioengineered or may be bioengineered. 7 U.S.C. 1639b(b). At the outset, the amended Act establishes the scope of the NBFDS by defining ''bioengineering'' and ''food,'' and by limiting the food subject to disclosure to those foods subject to the labeling requirements in the Federal Food, Drug, and Cosmetic Act (FDCA), 21 U.S.C. 301 *et seq.,* and to certain foods subject to labeling under three statutes administered by USDA's Food Safety and Inspection Service (FSIS).[1] 7 U.S.C. 1639 and 1639a. In proposed subpart A, AMS includes the definitions that would be pertinent to the proposed new regulatory section (part 66), describes the foods that would be subject to disclosure, and explains the exemptions that would be applicable.

A. Definitions

Proposed § 66.1 lists the definitions that would apply to proposed part 66. Each term defined in proposed § 66.1 is discussed in the section of the NPRM where the term is used. For subpart A, the key terms are ''bioengineered food,'' ''bioengineered substance,'' ''food,'' ''label,'' ''predominance,'' ''similar retail food establishment,'' ''very small food manufacturer,'' ''list of commercially available bioengineered foods not highly adopted,'' and ''list of commercially available bioengineered foods with a high adoption rate.'' Those terms are critical in determining what foods would require a BE food disclosure.

B. Food Subject to Disclosure

To understand whether a food is subject to the labeling requirements of the amended Act, we must consider as a preliminary matter whether the product at issue is a ''food.'' The amended Act codified the definition of ''food'' as ''a food (as defined in section 321 of title 21) that is intended for human consumption.''[2] 7 U.S.C. 1639(2). The proposed rule would adopt the same definition of ''food'' as used in the amended Act.

The FDCA defines ''food'' as ''. . . (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.'' 21 U.S.C. 321(f). Ultimately, the U.S. Food and Drug Administration (FDA) has jurisdiction over the FDCA and has the authority to determine what is considered ''food'' under the FDCA. AMS intends to defer to FDA in interpreting the definition of ''food.'' However, the amended Act limits the definition of food to articles used for human consumption and does not include articles used for animals. Therefore, although pet food and animal feed are ''food'' under the FDCA, such foods for animals would not be covered by this proposed regulation, pursuant to the amended Act. Chewing gum, is considered to be ''intended for human consumption,'' and it is therefore considered a ''food'' for the purpose of the NBFDS.

Under the FDCA, the definition of ''food'' includes both articles used for food or drink and articles used for components of any such article. For instance, a raw agricultural commodity such as an apple constitutes food under FDCA. A processed item like a soup with the following ingredients—water, broccoli, vegetable oil, modified food starch, and wheat flour—is also a food, as are each of those ingredients. Other examples of ''food'' under the FDCA include dietary supplements, processing aids, and enzymes.

Not all food within the FDCA's definition would be within the scope of the NBFDS. The amended Act limits the disclosure to (1) food that is subject to the labeling requirements of the FDCA; or (2) food that is subject to the labeling requirements of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), or the Egg Products

[1] The three statutes are: the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), and the Egg Products Inspection Act (21 U.S.C. 1031 *et seq.*).

[2] The original text of the amended Act referred to section 201 of the FDCA, but the reference was changed to section 321 of title 21 in the codification of the statute.

Inspection Act (21 U.S.C. 1031 *et seq.*), with certain exceptions, as set forth in the amended Act. *See* 7 U.S.C. 1639a. As for the FDCA, which is under FDA jurisdiction, the NBFDS would apply to all foods subject to its labeling requirement, including but not limited to raw produce, seafood, dietary supplements, and most prepared foods, such as breads, cereals, non-meat canned and frozen foods, snacks, desserts, and drinks. The amended Act also specifies that the NBFDS only applies to foods subject to the labeling requirements of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), or the Egg Products Inspection Act (21 U.S.C. 1031 *et seq.*) if the most predominant ingredient of the food would independently be subject to the labeling requirements under the FDCA; or if the most predominant ingredient of the food is broth, stock, water, or a similar solution and the second-most predominant ingredient of the food would independently be subject to the labeling requirements under the FDCA. *See* 7 U.S.C. 1639a.

AMS is proposing to use the same methods FDA uses to identify predominance at 21 CFR 101.4(a)(1), which states: ''Ingredients required to be declared on the label or labeling of a food, including foods that comply with standards of identity, except those ingredients exempted by § 101.100, shall be listed by common or usual name in descending order of predominance by weight on either the principal display panel or the information panel in accordance with the provisions of § 101.2. . . .'' The proposed definition of ''predominance'' for the NBFDS follows this same approach. Thus, a multi-ingredient food product that contains meat, poultry, or egg product, subject to the Federal Meat Inspection Act, the Poultry Products Inspection Act, or the Egg Products Inspection Act, respectively, as the first ingredient of the ingredient list on the food label would not be subject to the NBFDS, per the amended Act.

A multi-ingredient food product that contains broth, stock, water, or similar solution as the first ingredient, and a meat, poultry, or egg product as the second ingredient on the food label would also not be subject to the NBFDS. For example, a canned ham where pork is the primary ingredient followed by other ingredients such as corn syrup, would not be subject to the NBFDS. Although the corn syrup may be bioengineered, because pork, which is subject to the labeling requirements of the Federal Meat Inspection Act, is the predominant ingredient, the product is not subject to the NBFDS, pursuant to the amended Act. If, however, a meat, poultry, or egg ingredient is the third most predominant ingredient, or lower, the food would be subject to the NBFDS. For example, a soup with the following ingredient list—broth, carrots, chicken, etc.—would be subject to disclosure under the NBFDS, and the analysis as to whether it would be considered a ''bioengineered food'' subject to the NBFDS's disclosure requirements would continue.

Seafood, except Siluriformes, and meats such as venison and rabbit are subject to the FDCA (and not the Federal Meat Inspection Act) and thus, a multi-ingredient food product that contains one of these as the first ingredient would be subject to the NBFDS. Thus, a multi-ingredient food product that contains one of these foods as either a first ingredient or a less predominant ingredient would require disclosure, unless the product is otherwise exempt (for example, due to the predominance of another ingredient, such as beef or chicken, as described above).

C. Bioengineered Food

The amended Act delegates authority to the Secretary to establish the NBFDS regarding ''bioengineered food.'' 7 U.S.C. 1639b(a). This authority includes the ability to define ''bioengineered food,'' consistent with the statutory provisions that address this term. The amended Act also authorizes the Secretary to determine other terms that are similar to ''bioengineering.'' 7 U.S.C. 1639(1). AMS is not proposing any similar terms.

1. Definition of ''Bioengineering'' and ''Bioengineered Food''

The amended Act defines ''bioengineering'' with respect to a food, as referring to a food ''(A) that contains genetic material that has been modified through in vitro recombinant deoxyribonucleic acid (DNA) techniques; and (B) for which the modification could not otherwise be obtained through conventional breeding or found in nature.'' 7 U.S.C. 1639(1). In accordance with its statutory mandate and for purposes of consistency, AMS proposes to directly incorporate this statutory definition into the definition of ''bioengineered food'' without further interpretation of what ''bioengineering'' means, but welcomes public comment on what could be considered to constitute ''bioengineering.''

Responses to AMS' 30 questions disclosed wide differences in public opinion about how the statutory definition of ''bioengineering'' should be interpreted and applied to the definition of ''bioengineered food.'' Specifically, respondents offered conflicting views on highly refined foods and ingredients, and whether those products should fall within the definition, thus subjecting those foods and ingredients to disclosure. The following discussion provides an overview of the two prevailing viewpoints.

Position 1

One position adopted by respondents is that highly refined products do not ''contain genetic material that has been modified through in vitro recombinant deoxyribonucleic acid (DNA) techniques.'' These commenters reasoned that those products have undergone processes that have removed genetic material such that it cannot be detected using common testing methods; therefore, highly refined products do not fall within the statutory definition of ''bioengineering'' and are exempt from the standard's disclosure requirement. Commenters cited scientific studies showing that modified genetic material (DNA) could not be detected using common testing methods on highly refined products after the refinement process.[3] Another argument is that by nature of the intended food product, these particular highly refined foods generally either do not contain nucleic acids or contain minute amounts of foreign material, which could result in incidental detection of DNA due to inadvertant transfer during the refinement process. Thus proponents of this argument conclude that presence of incidental or trace amounts of DNA should not be within the scope of the definition.

Commenters also stated that highly refined products made from BE crops, such as sucrose; dextrose; corn-starch;

[3] For example, with regard to sugar, some studies failed to detect transgenes during sugar crystallization processes in genetically modified sugar crops. See Joyce, P.A., Dinh, S–Q., Burns, E.M. and O'Shea M.G. (2013), ''Sugar from genetically modified sugar cane: Tracking transgenes, transgene products and compositional analysis'', Proc. Int. Soc. Sugar Cane Technol.'', Vol. 28, pp. 1–9; see also Klein, J., Altenbuchner, J. and Mattes, R. (1998), ''Nucleic acid and protein elimination during the sugar manufacturing process of conventional and transgenic sugar beets'', J. Biotechnology, Vol. 60, pp. 145–153; see also Oguchi, T., Chikagawa, Y., Kodama, T., Suzuki, E., Kasahara, M., Akiyama, H., Teshima, R., Futo, S., Hino, A., Furui, S. and Kitta, K. (2009), ''Investigation of residual DNAs in sugar from sugar beet (Beta vulgaris L.)'', J. Food Hyg. Soc. Japan, Vol. 50, pp. 42–46; see also Taylor, G.O., Joyce, P.A., Sedl, J.M. and Smith, G.R. (1999), ''Laboratory crystallised sugar from genetically engineered sugar cane does not contain transgene DNA'', Proc Aust. Soc. Sugar Cane Technol., Vol. 21, pp. 502.

high-fructose corn syrup; and corn, canola, and soybean oils, are chemically identical to those made from non-BE crops, regardless of the production method (bioengineered or conventional) used to produce the crops. For instance, according to commenters, refined sugar produced from bioengineered sugarbeets is—at the end of the refining process—exactly the same as refined sugar produced from non-bioengineered sugarbeets: both refined products are sucrose, and they are chemically and molecularly indistinguishable from one another.

In summary, proponents of these points of view argue that highly refined products are not within the scope of ''bioengineering'' because they do not ''contain[ ] genetic material that has been modified through in vitro recombinant deoxyribonucleic acid (DNA) techniques,'' and therefore do not require disclosure as ''bioengineered food'' under the NBFDS. *See* 7 U.S.C. 1639(1).

Position 2

Another viewpoint contends that the scope of the definition of ''bioengineering'' includes all foods produced from bioengineering, such as highly refined products. One basis for this viewpoint is that highly refined products, for example, a sugar beet, contains modified genetic material before it is processed; therefore, one could suppose the resulting product (sugar) would contain at least some trace amount of genetic material from the BE sugar beet. Whether genetic material is detectable may depend on the characteristics of the refinement process, as well as the sample and the testing method applied. Some commenters assert that although a test may not detect the modified genetic material, it does not necessarily mean that there is no modified genetic material in the food. In addition, proponents of this position argue that science is inconclusive about whether or not highly refined ingredients contain modified DNA, and they cite studies that genetic material can be found present in highly refined oils and sugars.[4] Therefore, these proponents believe there should be a presumption that these products meet the statutory definition of ''bioengineering'' and are therefore BE foods.

AMS invites comment on these two different positions on how to interpret the statutory definition of ''bioengineering,'' and thus the scope of the regulatory definition of ''bioengineered food.'' In particular, AMS is interested in any additional studies conducted on this issue, the cost of implementation under each policy, and whether certain policies describing the scope of foods subject to the disclosure standard would lower costs to affected entities. In addition, we request public comment on whether one position is a better interpretation of the statutory definition. For USDA's estimate of the cost of implementation under each position, please see the accompanying Regulatory Impact Analysis.

Conventional Breeding

As to the component terms of the definition of ''bioengineering,'' AMS seeks comment on whether the NBFDS should include a definition for ''conventional breeding,'' and if so, what it should be. While AMS has not included a definition of ''conventional breeding'' in this proposal, we welcome comments on whether there should be a definition for ''conventional breeding'' and, if so, what that definition should be. Possible definitions could be ''traditional breeding techniques, including, but not limited to, marker-assisted breeding and chemical or radiation-based mutagenesis, as well as tissue culture and protoplast, cell, or embryo fusion,'' or ''traditional methods of breeding or crossing plants, animals, or microbes with certain desired characteristics for the purpose of generating offspring that express those characteristics,'' or EPA's definition of conventional breeding in its regulations for plant-incorporated protectants in 40 CFR 174.3: ''the creation of progeny through either: The union of gametes, *e.g.,* syngamy, brought together through processes such as pollination, including bridging crosses between plants and wide crosses, or vegetative reproduction. It does not include any of the following technologies: Recombinant DNA; other techniques wherein the genetic material is extracted from an organism and introduced into the genome of the recipient plant through, for example, micro-injection, macro-injection, micro-encapsulation; or cell fusion.'' AMS seeks comment on whether a definition of ''conventional breeding,'' if included in the regulations implementing the NBFDS, should be limited to methods currently used to propagate or modify existing genetics.

''Found in Nature''

As to the component terms of the definition of ''bioengineering,'' AMS seeks comment on whether the NBFDS should include a definition for ''found in nature,'' and if so, what it should be. Although this concept is not included in the proposed regulatory text, AMS seeks comment on whether to consider intellectual property law as one potential method of determining whether a genetic modification could be found in nature. Based on a U.S. Supreme Court decision, the U.S. Patent and Trademark Office issued guidance to its examiners,[5] that products of nature are not patentable subject matter under 35 U.S.C. 101. AMS believes that there are similarities in how a product of nature is interpreted for purposes of patent eligibility and how a modification could be found in nature for purposes of determining whether a modification is bioengineered. Therefore, for purposes of this standard, AMS would be able to use intellectual property protection under 35 U.S.C. 101 to inform its decision about whether a modification ''could not otherwise be found in nature'' (for those food products that have been granted intellectual property protection). 7 U.S.C. 1639(1).

If we were to apply this concept, AMS would limit its consideration to patents under 35 U.S.C. 101, which excludes the intellectual property protections obtained by plant patents and plant variety protection certificates. AMS is aware that there are many non-BE plants that have intellectual property protection, including plant and utility patents, and is not suggesting that intellectual property protection means a plant is BE. Conversely, AMS is also aware that developers of many BE plants may not pursue intellectual property protection. Whether a modification has intellectual property protection under 35 U.S.C. 101 would be just one method in making a determination about whether a specific modification could be found in nature.

[4] A study published in 2014 found that minute quantities of sugar cane DNA were detected in raw sugar after industrial scale refining of sugar cane into raw sugar. See Cullis, C., Contento, A., Schell, M., DNA and Protein Analysis throughout the Industrial Refining Process of Sugar Cane. International Journal of Agricultural and Food Research, North America, 3, jul. 2014. Available at: *https://www.sciencetarget.com/Journal/index.php/IJAFR/article/view/437*.

With regards to oils, one study detected amplifiable DNA in all the stages of chemical refining of crude soybean oil by end-point and real-time PCR techniques. J. Costa, I. Mafra, J.S. Amaral, M. Beatriz, M.B.P.P. (2010).

[5] *See* U.S. Patent and Trademark Office's 2014 Interim Guidance on Patent Subject Matter Eligibility, 79 FR 74618, 74622–24 (Dec. 16, 2014), and the May 4, 2016, Memorandum from Deputy Commissioner for Patent Examination Policy to Patent Examining Corps titled ''Formulating a Subject Matter Eligibility Rejection and Evaluating the Applicant's Response to a Subject Matter Eligibility Rejection'' (*https://www.uspto.gov/sites/default/files/documents/ieg-may-2016-memo.pdf*).

AMS invites comment on this approach of using intellectual property protections as a method in determining whether a modification could not otherwise be found in nature, including specific comments on whether it should distinguish between the different categories of patents available under 35 U.S.C. 101. AMS also invites comment on other possible definitions or methods of determining whether a specific modification could not otherwise be found in nature.

2. Lists of Bioengineered Foods

Recognizing the complexity of the definition of ''bioengineering,'' and in an attempt to make it easier and less burdensome for consumers and regulated entities alike to understand what products may need to be disclosed under the NBFDS, AMS has applied the definition of ''bioengineered food'' outlined above to determine which foods would be subject to BE disclosure by developing (1) a proposed list of BE foods that are commercially available in the United States with a high adoption [6] rate and (2) a proposed list of BE foods that are commercially available in the United States that are not highly adopted. Only foods or products on either of those lists or made from foods on either of the lists would be subject to disclosure under the NBFDS. Thus, regulated entities would only need to determine whether the consumer-facing end product, or an ingredient used in the end product, is on either of the lists or is produced using foods on either of the lists. Ultimately, the BE food lists would serve as the linchpin in determining whether a regulated entity would need to disclose a BE food under the NBFDS.

To compile the proposed lists, AMS considered data reported by USDA's Economic Research Service (ERS),[7] data published by the International Service for the Acquisition of Agri-biotech Applications (ISAAA),[8] and FDA's list of Biotechnology Consultations on Food from GE Plant Varieties.[9] AMS also considered input from industry stakeholders and consumers about which BE foods should require disclosure labeling. BE foods on the proposed initial lists (1) are included in FDA's list of Biotechnology Consultations on Food from GE Plant Varieties [10] (2) are produced anywhere in the world, and (3) are commercially available for retail sale in the United States. In proposing the lists, we are attempting to capture the foods on the market that meet the statutory definition of ''bioengineering'' based on existing technology. The various considerations and the definition we have proposed for ''bioengineered food'' earlier would be used to determine what foods would be required to bear a BE disclosure moving forward, when new technologies may emerge. (See Treatment of Technologies section, below.) AMS would maintain the lists on its website.

AMS is proposing that the following BE foods be considered highly adopted. Their U.S. adoption rates according to 2016 ERS and ISAAA data are included.

Commercially Available BE Foods—Highly Adopted

Canola—90%
Corn, Field—92%
Cotton—93%
Soybean—94%
Sugar Beet—100%

Proposed § 66.1 would define this list as one maintained by AMS and as consisting of commercially available BE foods that have an adoption rate of eighty-five percent (85%) or more in the United States, as determined by the Economic Research Service or any successor agency. This list would be an acknowledgement that there is a subset of BE foods commercially available in the United States that are highly adopted in food production. ERS has reported that U.S. plantings of those crops have averaged more than 85 percent bioengineered cultivars since 2012. Thus, AMS believes it is reasonable to assume that foods produced from those crops are likely bioengineered and should be labeled accordingly. (See Disclosure section, below)

AMS intends that this particular list would identify crops and foods generally (*e.g.* field corn and soybean) and would not list the specific derivatives or all the varieties of the crops and foods (*e.g.* corn starch and soy meal). However, foods containing derivatives of the crops would be subject to the same disclosure requirement as foods on the list. For example, since 92% of the field corn produced in the United States is bioengineered, foods made from or containing ingredients made from field corn are likely to contain BE corn. Those foods might include corn starch, cornmeal, corn syrup, grits, corn chips, corn tortillas, and corn cereal, among others, and would be subject to BE disclosure.

Some BE crops that are commercially available in the U.S would not be considered highly adopted, since their market prevalence does not appear to be 85 percent or more, as suggested by ERS and ISAAA reports, as well as other published industry information. For that reason, AMS proposes to also maintain a list of commercially available, but not highly adopted, BE foods. AMS proposes to include the following in that list:

Commercially Available BE Foods—Not Highly Adopted

Apple, Non-browning cultivars
Corn, Sweet
Papaya
Potato
Squash, Summer varieties

Proposed § 66.1 would define this list as one maintained by AMS and as consisting of commercially available BE foods with an adoption rate of less than eighty-five percent (85%) in the United States, as determined by the Economic Research Service or any successor agency. Where practical, AMS would delineate the foods on the commercially available, but not highly adopted, BE foods list by specifying that only certain cultivars of those crops would be subject to the disclosure and recordkeeping requirements of the proposed rule. For instance, since information available at the time of this writing indicates that bioengineered versions of squash include only summer squash varieties,[11] summer squash would be the only squash included on the list of commercially available, but not highly adopted, BE foods. If BE cultivars of winter squashes were developed and made commercially available in the United States, AMS could revise the list to include them through the process described in the following section.

List Maintenance and Revision

We are cognizant that biotechnology is a dynamic industry and that developments in biotechnology would likely render the lists obsolete over time if AMS does not update them periodically; thus, AMS would establish

[6] Adoption refers to the prevalence with which BE cultivars of a food crop are planted or produced in the United States, relative to the number of non-BE cultivars of the same crop in production.

[7] *https://www.ers.usda.gov/data-products/adoption-of-genetically-engineered-crops-in-the-us.aspx;* accessed February 5, 2018.

[8] ISAAA Brief 52: Global Status of Commercialized Biotech/GM Crops: 2016.

[9] *https://www.accessdata.fda.gov/scripts/fdcc/?set=Biocon;* accessed February 5, 2018.

[10] We note that not all bioengineered plant varieties for use in food have completed FDA's Biotechnology Consultation on Food Derived from GE Plant Varieties program. Some have gone through the New Dietary ingredient, food additive petition or GRAS notice review processes (for example, GLA safflower), so FDA's Biotech consultation program is not a complete list of all bioengineered food plants. We also note that FDA's consultation process is voluntary and does not capture the full range of GE plant varieties on the market.

[11] ISAAA Brief 52: Global Status of Commercialized Biotech/GM Crops: 2016.

a process whereby the two lists would be reviewed and revised on an annual basis. Following a notification in the **Federal Register**, interested parties would be invited to recommend additions to and subtractions from the two lists and to provide data supporting those recommendations. Supporting data might include information about commercial availability through domestic production or importation. AMS would publish any recommendations, along with relevant data and other information submitted, on its website, and would solicit comments on the recommendations. AMS would review submissions and comments from interested parties, and would review available data from other sources to determine whether revisions to the lists would be appropriate. Final notification regarding revisions to the lists would be published in the **Federal Register**. Proposed § 66.7(c) would provide for an 18-month grace period to allow regulated entities time to revise food labels appropriately following revisions to the two lists of commercially available BE foods in the U.S.

Treatment of Technologies

As to specific technologies, AMS recognizes that technologies continue to evolve, and that food produced through a specific technology may or may not meet the definition of BE food. The proposed process for establishing and amending the BE food lists would provide a vehicle by which AMS could evaluate whether a particular crop meets the definition of ''bioengineering.'' As part of this process for amending the BE food lists, AMS would consult with the U.S. Government agencies responsible for oversight of the products of biotechnology—USDA–APHIS, EPA, FDA and appropriate similar successor members of the Coordinated Framework for the Regulation of Biotechnology—to understand if foods resulting from the new technologies would be consistent with the definition of ''bioengineered food'' and would be commercially available.

Request for Comments on the Lists

AMS solicits comments on several aspects of the proposed lists, including the composition of the lists and whether the proposed cutoff at 85 percent adoption rate would support the presumption that the food is BE and thus would be appropriate for identifying foods on the list of highly adopted BE foods. We are interested in whether another percentage rate would be more appropriate. We also seek comments on the potential impact and any burdens associated with maintaining separate lists for high and non-high adoption BE foods.

It is possible that BE foods produced in the United States or in other countries do not appear on the proposed initial lists, but may be commercially available in the United States and should be added to the lists. AMS solicits input on the criteria used to create the lists, what foods should be listed, and on how best to identify those foods. AMS also seeks comments on whether the lists, as defined by foods commercially available in the United States, should be expanded to include foods produced in other countries, and if so, what would be the rationale to utilize an international list of foods for the NBFDS and what would be the sources for obtaining accurate data about BE foods produced abroad. AMS invites comments on how often the lists should be reviewed and revised, as well as timeframes for compliance when foods are added to or deleted from these two lists.

AMS is aware that there are food that have completed FDA's voluntary premarket consultation process for food from GE plant varieties, or FDA's new animal drug approval process, such as rice cultivars, pink-fleshed pineapple cultivars, and salmon, but we have not included them on the initial lists of commercially available foods because we have no indication that they are currently commercially available. AMS seeks comments on whether these foods should be included on the initial list of commercially available BE foods that are not highly adopted. As well, comments are sought on practical ways to distinguish subsets of BE cultivars from non-BE cultivars, so as to minimize the compliance burden for regulated entities.

AMS is aware that some foods produced through bioengineering may not necessarily be produced as crops in the same way that foods currently on the two lists are produced. For example, many enzymes, yeast, and a number of foods produced in controlled environments are produced using bioengineering. AMS seeks comments on whether such foods should be included on the lists and how AMS should describe them if added to either list. We request any information or data that may support the development of BE foods lists that promote the lowest cost policy and what the cost estimates of such lists may be.

2. Factors and Conditions

In promulgating a regulation to carry out the standard, the amended Act directs the Secretary to establish a process for requesting and granting a determination by the Secretary regarding other factors and conditions under which a food is considered a BE food. 7 U.S.C. 1639b(b)(2)(C). The amended Act does not specify the process by which the Secretary will determine other factors and conditions under which a food is considered a BE food; rather, it provides the Secretary with discretion in setting up such a process.

Proposed Subpart C would describe the process by which people can submit a request or petition for a determination regarding other factors or conditions. The acceptance of a request or petition for determination regarding a factor or condition would then culminate in rulemaking to incorporate the factor or condition into the ''bioengineered food'' definition. Rulemaking would allow for transparency and public participation in determining whether or not the definition of ''bioengineered food'' should be amended. Ultimately, the impact of adopting the proposed factors or conditions (as follows) would be to limit the scope of the definition of ''bioengineered food,'' thus potentially excluding certain products from disclosure.

Under proposed § 66.200, the determination process would begin with the submission of a request or petition for determination regarding other factors and conditions under which a food is considered a BE food in accordance with proposed § 66.204. Proposed § 66.204 describes the process for submitting a request or petition, including where to send the submission. The submission would need to include a description and analysis of the requested new factor or condition and any supporting document or data. Proposed § 66.204 would describe how to properly mark confidential business information that may be included to support the request, to ensure its confidentiality. Finally, proposed § 66.204 instructs that the submission would need to explain how the standards for consideration apply to the requested factor or condition.

Because the amended Act provides no criteria for the Secretary to determine other factors and conditions under which a food is considered a BE food, for purposes of transparency, proposed § 66.202 describes the standards for consideration by which the Secretary's designee, the AMS Administrator, would evaluate the request or petition. Given the already existing statutory definition of ''bioengineering,'' the first standard, in proposed paragraph (a), would require the requested factor or

condition to be within the scope of the definition of ''bioengineering'' in 7 U.S.C. 1639(1). The second standard, in proposed paragraph (b), would require the Administrator to evaluate the cost of implementation and compliance. In applying this second standard, the Administrator would evaluate the cost related to the factor or condition, the difficulty for affected food manufacturers and importers to implement the factor or condition, especially small businesses, and the difficulty AMS would have in monitoring compliance with the factor or condition. Proposed paragraph (c) would allow the Administrator to consider other relevant information as part of the evaluation. Relevant information for a particular proposed factor or condition would include its compatibility with the food labeling requirements of other Federal agencies or foreign governments. In determining compatibility with other requirements, AMS would consult with the U.S. Government agencies responsible for oversight of the products of biotechnology: USDA–APHIS, EPA, and FDA. Such information may allow AMS to align the NBFDS with the standards of other Federal agencies or foreign governments, which may facilitate interstate commerce and trade by allowing for recognition of compatible standards.

The Administrator would also consult with the United States Trade Representative (USTR) to ensure the request or petition regarding other factors and conditions related to BE disclosure requirements results in implementation in a manner consistent with international trade obligations as mandated by 7 U.S.C. 1639c(a). If the Administrator determines that the request or petition satisfies the standards for consideration, AMS would initiate rulemaking that seeks to amend the definition of ''bioengineered food'' in proposed § 66.1 to include the factor or condition.

Among public comments AMS received in response to the 30 questions were requests that we include certain factors or conditions for consideration. AMS believes that two of the submitted requests may satisfy the proposed standards and may constitute factors and conditions under which a food is considered a BE food. Those requests involved (1) whether incidental additives present in food should be considered ''bioengineered food'' and labeled accordingly; and (2) whether the modified genetic material in a highly refined food may be detected. The proposed definition of ''bioengineered food'' includes the first requested factor or condition (incidental additives), but does not include the second (detection). AMS seeks comment on whether the final rule should incorporate one or both of them into the definition. The impact of adopting these factors or conditions would be to limit the scope of the definition of ''bioengineered food,'' thus potentially excluding certain products from disclosure.

a. Incidental Additives

The first factor or condition concerns a BE food that is an incidental additive. As described in 21 CFR 101.100(a)(3), incidental additives that are present in food at an insignificant level and do not have any technical or functional effect in the food are exempt from certain labeling requirements under the FDCA. Commenters in response to AMS' 30 questions requested that incidental additives not be subject to disclosure under the proposed NBFDS because they are exempt from inclusion in the ingredient statement on a food label, according to 21 CFR 101.100(a)(3). AMS is aware that an ingredient that is required to be listed in the ingredient list in one instance may be used in another product as an incidental additive that is not required to be included in the ingredient list. Under this proposed factor or condition, such an item would only trigger disclosure when it is used as an ingredient that is included on the ingredient list, not when used as an incidental additive.

Application of this factor or condition would fall within the scope of the definition of ''bioengineering'' in 7 U.S.C. 1639(1), and thus meets the first standard for consideration. This factor or condition may also satisfy the second standard for consideration—cost of implementation and compliance. Aligning the disclosure requirements of the NBFDS with the ingredient declaration requirements under applicable FDA regulations may simplify compliance and reduce labeling costs for regulated entities. Finally, AMS finds it relevant that adoption of this factor or condition may be compatible with the food labeling requirements of other Federal agencies and some foreign governments.

The impact of adopting this proposed factor or condition as not being within the definition of ''bioengineered food'' would be to exclude certain incidental additives from disclosure. Based on public comments, AMS believes adopting this factor or condition may exempt a number of enzymes that are currently used in food production but not currently listed in the ingredient statement on a food label. However, based on those same comments, AMS is aware that some enzymes may be used in a manner that requires them to be labeled on the ingredient statement. If this proposed factor or condition is adopted, AMS believes that enzymes that are required to be listed on the ingredient list would be subject to disclosure. As such, AMS seeks comment on whether, more generally, enzymes present in food should be considered ''bioengineered food.'' As a result, we are proposing that ingredients exempt from labeling pursuant to 21 CFR 101.100(a)(3) would not be required to be disclosed under this regulation, unless the incidental additive would require disclosure pursuant to other labeling requirements under the FDCA.

b. Undetectable Recombinant DNA

Several responses to the 30 questions requested that the NBFDS exclude food where the modified genetic material cannot be detected. Those responders cited research that found that refined sugar may not contain recombinant DNA.[12] Should AMS ultimately decide to include highly refined ingredients within the definition of ''bioengineered food,'' (see Part II.C.1 above) this factor or condition, if adopted, would be a means to potentially exclude products where modified genetic material cannot be detected.

Were AMS to ultimately adopt ''Position 2'' as discussed above, AMS believes that this requested factor or condition would be consistent with the statutory definition of ''bioengineering'' in that the food product would be presumed to contain modified genetic material. Therefore, in applying the standards for consideration, this factor or condition would be within the scope of the definition of ''bioengineering'' in 7 U.S.C. 1639(1).

This requested factor or condition may also satisfy the second standard as it could impact the cost of compliance. If regulated entities can demonstrate that the manufacturing process results in a final product where the modified genetic material cannot be detected and their records prove as such, food subjected to that process would no longer be considered a bioengineered food.

[12] *See* Klein, J., Altenbuchner, J. and Mattes, R. (1998), ''Nucleic acid and protein elimination during the sugar manufacturing process of conventional and transgenic sugar beets'', J. Biotechnology, Vol. 60, pp. 145—153; *see also* Oguchi, T., Chikagawa, Y., Kodama, T., Suzuki, E., Kasahara, M., Akiyama, H., Teshima, R., Futo, S., Hino, A., Furui, S. and Kitta, K. (2009), ''Investigation of residual DNAs in sugar from sugar beet (Beta vulgaris L.)'', J. Food Hyg. Soc. Japan, Vol. 50, pp. 41–43.

To demonstrate that modified genetic material cannot be detected, AMS proposes that regulated entities would need to maintain records showing that food subjected to a specific process has been tested for that purpose by a laboratory accredited under ISO/ICE 17025:2017 standards, using methodology validated according to Codex Alimentarius guidelines.[13] AMS seeks comment on inclusion of this proposed factor, which would exclude from the disclosure standard food products that demonstrate that modified genetic material cannot be detected, including how difficult it would be for regulated entities, especially small businesses, to implement it. We also seek comment on alternative suggestions for other methods of demonstrating that modified genetic material cannot be detected.

Finally, AMS understands that several foreign governments exempt food from BE disclosure where the bioengineered genetic material has been removed. For example, South Korea has a process to exempt food from disclosure if a food manufacturer submits a document confirming that a product or a raw ingredient does not contain a foreign DNA or protein; the supporting document can be based upon a test result or substance purification document. Australia and New Zealand do not require BE foods to be labeled as such when the BE food ''has been highly refined where the effect of the refining process is to remove novel DNA or novel protein'' and the final product does not differ from a non-BE version (Australia New Zealand Food Standards Code—Standard 1.5.2). If the final product is different from a non-BE version, such as high oleic soybean oil or high lysine corn, the product is subject to BE labeling. *Id.* AMS may consider compatibility with the standards of foreign countries that are the United States' trading partners as relevant information in evaluating this requested factor or condition.

D. Exemptions

The amended Act includes two express exemptions to the disclosure requirement: food served in a restaurant or similar retail food establishment and very small food manufacturers. 7 U.S.C. 1639b(b)(2)(G). Proposed § 66.5 would incorporate those exemptions into the NBFDS. Therefore, food served in a restaurant or similar retail food establishment and very small food manufacturers would not be required to display any form of disclosure. The amended Act also authorizes the Secretary to ''determine the amounts of a bioengineered substance that may be present in food, as appropriate, in order for the food to be a bioengineered food.'' 7 U.S.C. 1639b(b)(2)(B). As discussed below, foods with amounts of BE substance below an established threshold level would also be exempt from disclosure under the NBFDS.

The amended Act also prohibits a food derived from an animal to be considered a BE food solely because the animal consumed feed produced from, containing, or consisting of a bioengineered substance. 7 U.S.C. 1639b(b)(2)(A). Finally, Subtitle F also specifies that certification of food under the U.S. Department of Agriculture's (USDA) National Organic Program (NOP) (7 CFR part 205) shall be considered sufficient to make claims about the absence of bioengineering in the food. 7 U.S.C. 6524. AMS proposes that § 66.5 include these as regulatory exemptions.

1. Food Served in a Restaurant or Similar Retail Food Establishment

The exemption in proposed § 66.5(a) would exempt food served in restaurants or similar retail food establishments from the NBFDS. In § 66.1, AMS is proposing to define ''similar retail food establishment'' as: ''a cafeteria, lunch room, food stand, saloon, tavern, bar, lounge, other similar establishment operated as an enterprise engaged in the business of selling prepared food to the public, or salad bars, delicatessens, and other food enterprises located within retail establishments that provide ready-to-eat foods that are consumed either on or outside of the retailer's premises.'' This definition would be consistent with the definition of ''food service establishment'' included in other labeling programs under the amended Act. See 7 U.S.C. 1638(3) and the regulations at 7 CFR 60.107 and 7 CFR 65.140, with minor modifications. AMS seeks comment on the scope of this definition.

2. Very Small Food Manufacturers

Proposed § 66.1 would define ''very small food manufacturer'' as: ''any food manufacturer with annual receipts of less than $2,500,000.'' This definition would apply to both domestic and foreign food manufacturers. The Small Business Administration does not have a definition of very small business that we can rely on as a starting point for defining ''very small food manufacturer.'' However, FDA exempts certain food from certain labeling requirements or subjects it to special labeling requirements if the food is offered for sale by certain persons who have annual gross sales made or business done in sales to consumers that are not more than $500,000 under certain conditions. *See* 21 CFR 101.9(j)(1)(i) and 21 CFR 101.36(h)(1). More generally, the U.S. Census Bureau defines a ''very small enterprise'' for purposes of its annual *Statistics of U.S. Businesses* (SUSB) as a business having fewer than 20 employees.

To evaluate the impact of various definitions of ''very small food manufacturer'' we estimated the number of firms that would be covered by such an exemption, the number of products that would likely be exempt at various levels for which SUSB data is available, and the proportion of annual industry sales that would be exempt at each level. The number (proportion) of firms exempted gives us a sense of the level of relief we would be able to provide to small firms. The number of products gives us a sense of how much the costs of the rule would likely be reduced by an exemption at a given level (as well as the number of products that will not provide consumers with the additional bioengineering information). The proportion of sales gives us insight into how likely it is for a consumer to encounter an unlabeled product (that may otherwise require disclosure) in the marketplace.

The following tables show the cumulative percentage of firms, products (UPCs), and sales that would be exempt if the definition of ''very small food manufacturer'' were set at the top of each of the annual revenue ranges (based on the 2012 SUSB):

[13] Codex Alimentarius *Guidelines on Performance Criteria and Validation of Methods for Detection, Identification and Quantification of Specific DNA Sequences and Specific Proteins in Foods* (CAC/GL 74–2010).

FOOD MANUFACTURERS

Establishment receipts threshold	Cumulative percent of firms exempt	Cumulative percent of products exempt	Cumulative percent of sales exempt
<100,000	20	0	0
100,000–499,999	45	1	0
500,000–999,999	58	2	1
1,000,000–2,499,999	74	4	1
2,500,000–4,999,999	81	6	2
5,000,000–7,499,999	84	7	3
7,500,000–9,999,999	86	8	3

DIETARY SUPPLEMENT MANUFACTURERS

Establishment receipts threshold	Cumulative percent of firms exempt	Cumulative percent of products exempt	Cumulative percent of sales exempt
<100,000	7.36	0.02	0.00
100,000–499,999	16.75	0.12	0.10
500,000–999,999	26.14	0.33	0.32
1,000,000–2,499,999	45.18	1.54	1.26
2,500,000–4,999,999	59.14	3.26	2.63
5,000,000–7,499,999	62.18	3.83	3.15
7,500,000–9,999,999	63.96	4.41	3.63

Applying the FDA exemptions at 21 CFR 101.9(j)(1)(i) and 21 CFR 101.36(h)(1), as described above, would exempt 45 percent of manufacturers, only one percent of products, less than 0.5 percent of sales for food manufacturers, only 17 percent of firms, and about a tenth of a percent of products and sales for dietary supplement manufacturers. In conducting the Regulatory Impact Analysis,we estimated the impacts of the U.S. Census Bureau's definition of very small (less than 20 employees), and they fall somewhere between the $2.5 million annual sales cutoff and the $5 million annual sales cutoff. Both of these revenue cutoff levels for the definition of ''very small food manufacturer'' offer significantly greater relief for small manufacturers while still having a relatively minor impact on the amount of information available to consumers.

The proposed definition of ''very small food manufacturer'' as a food manufacturer with annual receipts less than $2.5 million would provide regulatory relief to 74 percent of food manufacturers (45 percent of dietary supplement manufacturers) while reducing the products covered by four percent (two percent for dietary supplements) and number of purchases covered by only one percent for both food and dietary supplement manufacturers.

We seek comment on alternative revenue cutoffs of $500,000 and $5,000,000.

3. Threshold

The amended Act provides that the regulation promulgated by the Secretary ''shall determine the amounts of a bioengineered substance that may be present in food, as appropriate, in order for the food to be a bioengineered food.'' 7 U.S.C. 1639b(b)(2)(B). In establishing a proposed threshold to implement this section of the amended Act, AMS seeks to minimize costs and impacts on the domestic and international value chain while providing practicality and consistency for regulated entities and consumers regarding implementation. Respondents to AMS' 30 questions offered a number of concepts to consider regarding thresholds, including different threshold levels for determining exemptions to the disclosure requirement (0.9, 5, and 10 percent), and different ways of calculating the threshold (by ingredient or by total weight).

In an effort to minimize costs for regulated entities, AMS is proposing and seeking comment on three different alternative thresholds, each of which would be verified through the regulated entity's customary and reasonable business records. Regulated entities could apply the threshold to a particular product in order to demonstrate that a product is not subject to disclosure. Details of the proposed alternatives are described below.

In the section authorizing the creation of a threshold, the amended Act uses but does not define the term ''bioengineered substance.'' *See* 7 U.S.C. 1639b(b)(2)(B). Therefore, AMS proposes a definition of ''bioengineered substance'' that incorporates the statutory definition of ''bioengineering.'' As set forth in § 66.1, ''bioengineered substance'' would mean ''matter that contains genetic material that has been modified through *in vitro* recombinant deoxyribonucleic acid (DNA) techniques and for which the modification could not otherwise be obtained through conventional breeding or found in nature.''

a. Alternative 1–A (for § 66.5(c))

The first proposed alternative would establish that food in which an ingredient contains a BE substance that is inadvertent or technically unavoidable, and accounts for no more than five percent (5%) of the specific ingredient by weight, would not be subject to disclosure as a result of that one ingredient. Any other use of a food or food ingredient that contained a BE substance would be subject to disclosure.

Some food manufacturers that provided input to AMS advocated for this threshold because it would acknowledge the realities of the food supply chain. BE crops and non-BE crops are frequently grown in close proximity to each other, transported in

the same equipment, processed on the same machinery, and in some cases used by the same manufacturers. Because of this coexistence, allowing for an insignificant amount of a BE substance, when that amount is inadvertent or technically unavoidable, may be practical.

For purposes of the proposed rule, AMS would consider inadvertent or technically unavoidable presence to mean insignificant amounts of a BE substance in food that resulted from the coexistence of BE and non-BE foods in the supply chain. For example, if a non-BE corn flour contained trace amounts of BE corn that could have originated from corn grown in a neighboring field or residues left on transportation or processing equipment, those trace amounts would be considered inadvertent or technically unavoidable.

This alternative may align with existing industry practices. Under current practices, many food and ingredient suppliers separate BE and non-BE foods throughout the supply chain, beginning at the farm and continuing through the creation of a finished food product. AMS understands that there are existing industry standards and practices for keeping BE and non-BE food separate as they travel throughout the supply chain, and those standards and practices may be sufficient for complying with this proposed alternative threshold. However, some entities that are responsible for disclosure may not have adopted these standards and practices and would need to implement similar standards and practices to comply with this alternative threshold.

For compliance, AMS would look to a regulated entity's records. If a regulated entity has records to demonstrate that they source non-BE ingredients, and can demonstrate through records that they take appropriate measures to separate BE and non-BE ingredients, then the presence of any BE substance would be considered inadvertent or technically unavoidable. Nevertheless, the product would be subject to disclosure if the amount of inadvertent or technically unavoidable BE substance in any one ingredient exceeded five percent by weight. Based on comments it has received, AMS believes this approach to determining compliance through recordkeeping would align with existing industry practices and records, which should minimize the amount of any new records that would need to be kept to demonstrate compliance.

b. Alternative 1–B (for § 66.5(c))

The second alternative proposal would establish that food, in which an ingredient contains a BE substance that is inadvertent or technically unavoidable, and accounts for no more than nine-tenths percent (0.9%) of the specific ingredient by weight, would not be subject to disclosure as a result of that one ingredient. Under this alternative, AMS would determine whether the use of a BE substance was inadvertent or technically unavoidable in the same way it would under alternative 1–A. Similarly, AMS would monitor compliance with the threshold by reviewing a regulated entity's records in the same way it would under alternative 1–A.

AMS believes this approach could be less permissive than alternative 1–A because only products with a lesser amount of a BE substance would be exempt from disclosure. Based on comments, AMS believes this alternative may align with some existing industry standards for the separation of BE and non-BE products, as well as the thresholds established by some U.S. trading partners. Because some regulated entities currently have processes in place to meet this proposed alternative, this alternative may reduce implementation costs for some regulated entities. However, some regulated entities may need to change their processes to comply with this alternative.

c. Alternative 1–C (for § 66.5(c))

In addition to the two alternative thresholds proposed above, AMS seeks comment on another approach. Some commenters suggested that AMS should allow regulated entities to use a small amount of BE ingredients up to a certain threshold, such as 5% of the total weight of the product, before being required to label a product with a BE disclosure. Under this approach, a regulated entity could use ingredients it knew were bioengineered, and not have to disclose under the NBFDS, as long as the total amount of all BE ingredients used in the product were not greater than 5% of the total weight of the product. AMS believes that this approach would likely decrease the number of foods subject to disclosure, and may require regulated entities to create and maintain records they do not currently keep.

AMS invites comments on the three alternative proposals, including on the administrative costs of creating and maintaining necessary records if they do not already exist. AMS also seeks specific comments on whether proposed threshold amounts should be increased or decreased, and the calculation and verification methods of each proposal. AMS requests public comment on the threshold option that would present the lowest costs to regulated entities, and the estimated costs of such a policy.

4. Animals Fed With Bioengineered Feed and their Products

The amended Act prohibits a food derived from an animal from being considered a BE food solely because the animal consumed feed produced from, containing, or consisting of a BE substance. 7 U.S.C. 1639b(b)(2)(A). Proposed § 66.5(d) would incorporate this statutory exemption. For example, eggs used in a baked good, where the eggs come from a chicken fed feed produced from BE corn and soy, would not be considered bioengineered solely on the basis of the chicken's feed.

5. Food Certified Organic Under the National Organic Program

Subtitle F states that ''In the case of food certified under the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 *et seq.*), the certification shall be considered sufficient to make a claim regarding the absence of bioengineering in the food, such as 'not bioengineered', 'non-GMO', or another similar claim.'' 7 U.S.C. 6524. Implicit in the statutory provision is that certified organic foods are not subject to BE disclosure. This implication, in conjunction with the Secretary's authority to consider establishing consistency between the NBFDS and the Organic Foods Production Act, permits a regulatory exemption for products certified organic under the NOP. See 7 U.S.C. 1639b(f). As such, proposed § 66.5(e) would exempt certified organic foods from BE disclosure, so food manufacturers, retailers, and importers of certified organic food would not be required to maintain additional records to demonstrate that the organic food is not bioengineered for purpose of the NBFDS regulations.

III. Disclosure: What will the disclosure look like?

As statutorily required, the National Bioengineered Food Disclosure Standard, ''for the purposes of regulations promulgated and food disclosures made pursuant to[], a bioengineered food that has successfully completed the pre-market Federal regulatory review process shall not be treated as safer than, or not as safe as, a non-bioengineered counterpart of the food solely because the food is bioengineered or produced or developed

with the use of bioengineering.'' The amended Act provides three disclosure options for all food subject to the mandatory BE food disclosure, as well as additional options for small food manufacturers, and requires that the Secretary provide reasonable alternative disclosure options for food contained in small and very small packages. 7 U.S.C. 1639b(b)(2)(D), 1639b(b)(F), and 1639b(b)(E). In addition, the amended Act requires the Secretary to conduct a study to identify potential technological challenges that may impact whether consumers would have access to the bioengineering disclosure through electronic or digital disclosure methods and provides specific factors to be considered in the study. 7 U.S.C. 1639b(c)(1) and 1639(b)(c)(3). Based on the study, if the Secretary determines that consumers would not have sufficient access to the bioengineering disclosure through electronic or digital disclosure methods, the Secretary, after consultation with food retailers and manufacturers, shall provide additional and comparable disclosure options. 7 U.S.C. 1639b(c)(4).

Proposed subpart B specifies: (1) Who would be responsible for the BE food disclosure in proposed § 66.100; (2) the text disclosure in proposed § 66.102; (3) the symbol alternatives in proposed § 66.104; (4) the electronic or digital link disclosure in proposed § 66.106; (5) the text message disclosure in proposed § 66.108; (6) the disclosure options for small food manufacturers in proposed § 66.110; (7) the disclosure options for small or very small packages in proposed § 66.112; (8) the disclosure for foods sold in bulk containers in proposed § 66.114; (9) the voluntary disclosure in proposed § 66.116; and (10) other claims in § 66.118. As used in subpart B, the key terms include ''information panel'' and ''label.'' As defined in proposed § 66.1, these definitions would be consistent with those used in the National Organic Program (NOP) regulations, 7 CFR 205.2. In addition, the terms ''marketing and promotional information,'' ''principal display panel,'' ''small package,'' ''very small package,'' and ''small food manufacturer,'' are discussed in the section of the NPRM where the term is used.

A. General

1. Responsibility for Disclosure

The amended Act permits a food to bear a disclosure that the food is bioengineered only in accordance with the regulations promulgated by the Secretary. 7 U.S.C. 1639b(b)(1). Proposed § 66.100(a) would identify three categories of entities responsible for disclosure: food manufacturers, importers, and certain retailers. If a food is packaged prior to receipt by a retailer, either the food manufacturer or the importer would be responsible for ensuring that the food label bears a BE food disclosure in accordance with this part. If a retailer packages a food, then the retailer would be responsible for ensuring that the food bears a BE food disclosure in accordance with this part.

AMS believes that this approach would align responsibility for labeling with that currently required under other mandatory food labeling laws and regulations, including those administered by FDA and FSIS.

International Impact

Under the proposed rule, importers would be subject to the same disclosure and compliance requirements as domestic entities. Generally, importers of foods on either AMS list of commercially available BE foods would be required to make appropriate disclosures on the labels of BE foods and would be required to verify, with appropriate records, that imported foods on the lists that do not bear disclosures are not bioengineered. However, to facilitate international trade, AMS would consider establishing recognition arrangements with appropriate foreign government entities that have established labeling standards for BE food. Under such arrangements, each country could agree to recognize each other's standards as comparable. Such an arrangement would allow importers to sell products in the U.S. that comply with the source nation's labeling standard for BE food, and therefore the NBFDS. Similarly, the arrangements could enable U.S. exporters to sell products abroad that meet NBFDS requirements, without requiring additional actions to comply with the partner nation's labeling standard for BE food. Under a mutual recognition arrangement, an importer bringing food from a partner country into the U.S. that is labeled in compliance with that country's BE food labeling laws, would only need to demonstrate with records that the food came from the partner country. Similarly, U.S. exporters could sell U.S. foods that are compliant with the NBFDS into partner countries and need only to demonstrate that the food came from the U.S.

AMS would consider a number of factors before entering into mutual recognition arrangements. For example, AMS would consider whether the proposed partner nation's BE labeling requirement is mandatory, what threshold requirement is imposed, and what food products are subject to BE labeling.

Imports of products from countries that do not have bioengineered food labeling regulations or with whom AMS had no mutual recognition arrangement would be subject to the disclosure and recordkeeping requirements of the NBFDS. U.S. exports to non-partner countries would need to continue to meet that country's import requirements.

AMS seeks comment on any impact this proposal might have on importers. Comments are specifically invited on the degree to which elements of the labeling regulations between partner countries should be comparable and on the factors that should be considered in determining whether the U.S. would recognize another nation's labeling regulations as comparable through a mutual recognition arrangement. In addition to seeking comment on this proposal, AMS seeks comment from all stakeholders regarding any unique issues associated with BE disclosure for imports and on any potential impacts on international stakeholders. AMS will also conduct a World Trade Organization (WTO) notification and would also welcome comments on any potential impacts offered by international stakeholders, recognizing the statutory authority and parameters of the amended Act.

2. Appearance of Disclosure

Proposed § 66.100(c) would require the disclosure to be of sufficient size and clarity to appear prominently and conspicuously on the label, making it likely to be read and understood by the consumer under ordinary shopping conditions. AMS believes these requirements would align with other mandatory food labeling requirements, including those administered by FDA (21 CFR 101.15) and FSIS (9 CFR 317.2(b)). While FDA uses the term ''customary conditions of purchase,'' 21 CFR 101.15, we have proposed to utilize the term ''ordinary shopping conditions'' as the statutory language references ''shopping'' in 7 U.S.C. 1639b(c)(4). AMS considered prescribing specific type sizes for different disclosure options, but determined that the number and type of disclosure options, combined with the variety of food package sizes, shapes, and colors, would make prescriptive requirements too difficult to implement. AMS believes that the proposed performance standard would likely provide the BE food disclosure information to consumers in an accessible manner, while allowing the entities responsible for the disclosure to

have flexibility in implementing the requirements.

3. Placement of Disclosure

Proposed § 66.100(d) would provide that the BE food disclosure be placed in one of the following places: The information panel adjacent to the statement identifying the name and location of the manufacturer/distributor or similar information; anywhere on the principal display panel; or an alternate panel if there is insufficient space to place the disclosure on the information panel or the principal display panel. Proposed § 66.100(d) would not apply to bulk foods (see proposed § 66.114). ''Information panel'' as defined in proposed § 66.1, would be consistent with the definitions found in the NOP regulations at 7 CFR 205.2, which largely reflect those found in FDA's food labeling regulations at 21 CFR 101.2. ''Principal display panel,'' as defined in proposed § 66.1, would reflect the definition found in FDA's food labeling regulations at 21 CFR 101.1. If there is insufficient space on either the information panel or the principal display panel, AMS proposes that the disclosure may be placed on an alternate panel likely to be seen by a consumer under ordinary shopping conditions.

AMS proposes locating the disclosure on the information panel or the principal display panel because we believe that is where consumers who are interested in additional food information typically look for information about their food. The information panel typically includes the nutrition fact panel, the ingredient list, the manufacturer/distributor name and address, and, if applicable, the country of origin. The principal display panel typically includes the statement of identity and the net quantity statement in addition to other marketing claims. AMS believes that placing the BE food disclosure near this existing information would be effective because consumers would be able to see all the disclosures, statements, and marketing claims in one common place on the label.

AMS proposes placing the disclosure adjacent to the manufacturer/distributor name and location statement. Such placement should avoid interfering with other required statements on the information panel. In addition to addressing consumer preference, AMS also considered the impact on food manufacturers of prescribing a specific location for the disclosure. We believe that the information panel would be an appropriate location for a mandatory BE food disclosure because food manufacturers are accustomed to making statements and disclosures required by FDA and FSIS on the information panel. By also proposing that the disclosure may appear on the principal display panel, AMS acknowledges that some regulated entities may want to increase transparency or highlight specific traits from the BE food in tandem with the BE food disclosure. Pursuant to proposed § 66.118, regulated entities would be able to make other claims regarding bioengineered foods, provided that such claims are consistent with applicable federal law.

We believe this array of options would allow regulated entities adequate flexibility to tailor their chosen disclosures to most of their food package labels. However, in order to provide additional flexibility, AMS proposes a third option that would allow the placement of the disclosure on an alternate panel if there is insufficient space on the information panel or the principal display panel. The alternate panel would need to be visible to the consumer under ordinary shopping conditions to ensure the disclosure could be found without much effort.

4. How BE Food Lists Relate to Disclosure

The purpose of the proposed lists of BE foods is to provide entities responsible for disclosure with a straightforward method of determining whether a food is or may be bioengineered, and thus would require BE disclosure. For products that contain a food on either of the lists, regulated entities would either make a disclosure consistent with the NBFDS or not disclose if they believe the food is not required to have a BE disclosure. For foods that would not have a BE disclosure, regulated entities would need to maintain documented verification that the food is not a BE food or that it does not contain a BE food. (See Recordkeeping section). If a regulated entity chooses to disclose, that entity has several options (text, symbol, electronic or digital link, and/or text message, with additional options available to small food manufacturers or for small or very small packages), with differing requirements, as described below. Regardless of the disclosure form they elect to use, regulated entities can look to the lists of commercially available BE foods as a means by which to determine if the food would be required to have a BE disclosure. For foods that display a BE disclosure, regulated entities would not need to maintain documented verification that the food is a BE food or that it does contain a BE food beyond those records that are believed to be currently maintained. AMS understands that all manufacturers and retailers maintain business records, such as purchase orders, invoices, and bills of lading, that verify information about the materials they source to make their products. AMS understands that importers maintain similar business records for the products they import.

B. Text Disclosure

The amended Act allows for text disclosure of BE food as one option given to regulated entities. 7 U.S.C. 1639b(c)(4). At the outset, for all on-package text disclosure options and alternatives, AMS proposes using the terms ''bioengineered food'' or ''bioengineered food ingredient.'' AMS considered using alternative phrases, such as ''genetically modified'' or ''genetically engineered.'' However, AMS is not proposing any similar terms because we believe that the statutory term, ''bioengineering,'' adequately describes food products of the technology that Congress intended to be within the scope of the NBFDS.

AMS proposes to differentiate between BE food and BE food ingredients through the on-package text disclosure alternatives. We believe this approach would recognize that some foods are entirely a product of bioengineering and that some foods are a mix of BE and non-BE food ingredients.

1. High Adoption Bioengineered Food

Proposed § 66.102 would require use of the statements ''Bioengineered food'' or ''Contains a bioengineered food ingredient'' for disclosure of BE food and BE food ingredients that appear on the list of BE foods with a high adoption rate. A food on this list would be presumed to be a BE food, absent documentation that would verify otherwise (see Recordkeeping section). AMS believes that this is a reasonable presumption because, at 85 percent or higher adoption rate, there is a high likelihood that the food would be bioengineered. Additionally, given the high adoption rate, it is likely that farmers who are producing a non-BE variety of a crop on the list are doing so intentionally and are marketing their product as such. For those reasons, we are not proposing to allow foods on, or foods produced from crops on, this list to bear a ''may'' disclosure.

For BE food or BE food ingredients that appear on the high-adoption list, entities would be required to use one of two alternative statements. The first statement—''Bioengineered food''—would be for raw agricultural products

that meet the proposed definition of ''bioengineered food,'' as well as for processed products that only contain BE food ingredients (*e.g.* BE cornmeal). The second statement—''Contains a bioengineered food ingredient''—would be for all other foods. AMS believes this statement would cover all multi-ingredient products that contain both BE food ingredients and non-BE food ingredients (*e.g.* processed food products such as cereals). Regardless of which statement is applicable, the disclosure must be legible under ordinary shopping conditions.

2. Non-High Adoption BE Food

AMS is proposing that regulated entities would disclose the presence or possible presence of BE food and BE food ingredients that are on the list of BE foods commercially available, but not highly adopted, in the United States using the following statements: ''Bioengineered food,'' ''May be bioengineered food,'' ''Contains a bioengineered food ingredient,'' or ''May contain a bioengineered food ingredient.'' The default presumption would be that any foods on the non-high adoption BE food list may be bioengineered, and regulated entities would have discretion to use any of these disclosure options.

The use of the more affirmative statements, ''Bioengineered food'' or ''Contains a bioengineered food ingredient'' for food on the non-high adoption BE food list would be used at the discretion of the regulated entity. For example, one manufacturer who packages ears of sweet corn for retail sale may not have records indicating the corn is bioengineered, but since sweet corn is on the list of non-highly adopted BE foods, would be able to disclose that their packaged corn is ''bioengineered food.''

Another manufacturer may produce canned sweet corn, and may have records that enable it to distinguish between BE and non-BE sweet corn inventories. Nevertheless, since sweet corn is on the list of non-highly adopted BE foods, the manufacturer would be able to use the ''may be bioengineered'' disclosure.

A manufacturer could prefer to use the ''may contain a bioengineered food ingredient'' disclosure when it sources squash from several suppliers. For instance, the manufacturer knows some suppliers provided BE squash, but isn't sure whether other suppliers provided BE squash. If the manufacturer does not track which squash goes into which food product, the manufacturer would be able to use the ''may contain a bioengineered food ingredient'' disclosure for all its products that contain squash.

This approach acknowledges that the food supply chain is complex, and many entities could be sourcing both BE and non-BE versions of the same food or food ingredients from the non-highly adopted BE foods list and comingling those foods or combining those ingredients to form the final products. This approach attempts to avoid imposing additional costs on regulated entities by offering flexibility.

Regardless of which statement is chosen, the disclosure must be legible under ordinary shopping conditions.

AMS seeks comment on several aspects of the proposed text disclosure options, including any use of the ''may be'' or ''may contain'' disclosures. For example, should regulated entities be permitted to use a ''may'' disclosure for foods on the highly-adopted BE foods list? Should regulated entities be permitted to use a ''may'' disclosure for foods on the non-highly adopted BE foods list even if their records provide certainty that the foods are bioengineered? In addition, comments are requested on the potential impact of this proposal on recordkeeping activities, sourcing challenges, labeling costs, etc.

For BE food that is distributed solely in a U.S. territory, AMS proposes in § 66.102(c) that disclosure statements equivalent to those above be allowed in the predominant language of that territory. AMS believes this approach would make the BE food disclosure more accessible in territories where the predominant language is something other than English. AMS also believes this would allow regulated entities who only distribute food in a given territory to respond to consumer demand. AMS invites comments on ideas that would make the proposed on-package text disclosure options more accessible.

C. Symbol Disclosure

A symbol is another form of BE food disclosure regulated entities can use as set forth in the amended Act. 7 U.S.C. 1639b(c)(4). AMS proposes three alternative symbols with variations of those symbols, and invites comment on each alternative and its variation. The three symbols are designed to communicate the bioengineered status of a food in a way that would not disparage biotechnology or suggest BE food is more or less safe than non-BE food. Regulated entities would be able to use each alternative symbol to designate BE food, food that contains a BE food ingredient, a food that may be a BE food, or a food that may contain a BE food ingredient.

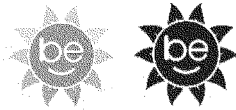
The first proposed alternate symbol is a circle with a green circumference, and the capital letters "BE" in white type located slightly below the center of the circle. The bottom portion of the circle contains an arch, filled in green, that resembles a rounded hill. Above that arch, about halfway through the height of the circle, is a second arch, filled in darker green, that resembles a second rounded hill. On the left side of the second arch, near the left side of the circle, is a stem coming from the second arch and arching towards the center of the circle, ending in a four-pointed starburst. The stem has two leaves coming from the upper side of the stem and pointing towards the top of the circle. At the top of the circle, to the left of center, in the background of the leaf, is a portion of a yellow circle that resembles a sun. The remainder of the circle is filled in light blue, resembling the sky.

1. Alternative 2–A

The first proposed alternate symbol is a circle with a green circumference, and the capital letters ''BE'' in white type located slightly below the center of the circle. The bottom portion of the circle contains an arch, filled in green, that resembles a rounded hill. Above that arch, about halfway through the height of the circle, is a second arch, filled in darker green, that resembles a second rounded hill. On the left side of the second arch, near the left side of the circle, is a stem coming from the second arch and arching towards the center of the circle, ending in a four-pointed starburst. The stem has two leaves coming from the upper side of the stem and pointing towards the top of the circle. At the top of the circle, to the left of center, in the background of the leaf, is a portion of a yellow circle that resembles a sun. The remainder of the circle is filled in light blue, resembling the sky.

2. Alternative 2–B

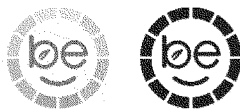
The second proposed alternative symbol is a filled, green circle with the lower-case letters ''be'' in white type, slightly above the center of the circle. Just below the letters is an inverted, white arch, beginning just below the middle of the ''b'' and ending just below the middle of the ''e.'' Around the outside of the circle are ten (10) triangular leaves spread equally around the perimeter of the circle. The leaves transition from light green at the top of the circle to shades of yellow and orange on the sides, ending with dark orange leaves on the bottom of the circle.



The second proposed alternative symbol is a filled, green circle with the lower-case letters "be" in white type, slightly above the center of the circle. Just below the letters is an inverted, white arch, beginning just below the middle of the "b" and ending just below the middle of the "e." Around the outside of the circle are ten (10) triangular leaves spread equally around the perimeter of the circle. The leaves transition from light green at the top of the circle to shades of yellow and orange on the sides, ending with dark orange leaves on the bottom of the circle.

3. Alternative 2–C

The third proposed alternative symbol is a circle with a circumference made up of 12 separate, equally-spaced segments. The segments gradually transition from yellow at the top of the circle to dark orange at the bottom of the circle. The interior of the circle is a white background with the lowercase letters "be" in green type, located slightly above the center of the circle. Below the letters is an inverted, green arch, beginning below the center of the "b" and ending below the center of the "e." Inside the middle of the "b" is a bifurcated leaf.



The third proposed alternative symbol is a circle with a circumference made up of 12 separate, equally-spaced segments. The segments gradually transition from yellow at the top of the circle to dark orange at the bottom of the circle. The interior of the circle is a white background with the lowercase letters "be" in green type, located slightly above the center of the circle. Below the letters is an inverted, green arch, beginning below the center of the "b" and ending below the center of the "e." Inside the middle of the "b" is a bifurcated leaf.

AMS recognizes that a multi-colored product label may increase printing costs or disrupt product design in other ways. Therefore, similar to use of the USDA Organic seal under the NOP, AMS proposes to allow regulated entities to use a black and white version of the symbol. Regardless of colors, the symbol would still be required to meet the appearance and placement requirements in proposed § 66.100. AMS invites comment on other reasonable modifications that would make the symbol easier to include on food packages, while still communicating the BE food disclosure to consumers. We also invite comment on whether the word "Bioengineered" should be incorporated into the design of the chosen disclosure symbol. We also seek comment on whether the phrase "May be" should be incorporated into the design of one of the disclosure symbols above to account for "may" disclosures.

A supplemental document to this NPRM will contain the proposed symbols in full color as well as other variations of the symbols incorporating the words "bioengineered" and "may be." The document may be viewed in the docket for this rulemaking at *regulations.gov.* As statutorily required, the National Bioengineered Food Disclosure Standard, "for the purposes of regulations promulgated and food disclosures made pursuant to[], a bioengineered food that has successfully completed the pre-market Federal regulatory review process shall not be treated as safer than, or not as safe as, a non-bioengineered counterpart of the food solely because the food is bioengineered or produced or developed with the use of bioengineering." As with all other forms of disclosure, this requirement applies to the proposed symbols. AMS requests public comment, particularly available research findings and factual information, on the interpretation of

each of the proposed symbol disclosures, specifically with regard to the following topics: (1) Perceptions, beliefs, or feelings in response to each of the proposed symbols; and (2) interpretation of the proposed symbols (*i.e.* what message a consumer would think each symbol is communicating). We are aware that some entities may have completed or expect to complete before the end of the comment period research, investigative studies, surveys and/or focus groups with the intention of evaluating consumer perceptions of disclosure symbols. We would be glad to receive through the public comment process any information such entities would like to provide to further inform this rulemaking.

D. Electronic or Digital Link Disclosure

The third disclosure option available for regulated entities to use is an electronic or digital link disclosure. 7 U.S.C. 1639b(b)(2)(D), 1639b(d). The amended Act requires that the use of an electronic or digital link to disclose BE food must be accompanied by the statement ''Scan here for more food information'' or equivalent language that reflects technological changes. 7 U.S.C. 1639b(d)(1). This statutory requirement would be incorporated in proposed § 66.106(a)(1). AMS recognizes that electronic and digital links currently used on food products in the marketplace take different forms and the amended Act allows for equivalent statements that reflect technological changes. Current technology includes, among others, quick response codes that are detectable by consumers and digital watermark technology that is imperceptible to consumers, but can be scanned anywhere on a food package using a smart phone or other device. Consequently, AMS proposes two examples of alternative statements that could appear above or below an electronic or digital link to direct consumers to the link to the BE food disclosure. The proposed examples are: ''Scan anywhere on package for more food information'' and ''Scan icon for more food information.'' Each would reflect changes in technology but still would provide consumers with the instruction necessary to access the disclosure. We are not including examples for all statements that reflect changes in technology, and we invite comments on other statements that may reflect changes in electronic or digital link technology.

Proposed § 66.106(a)(2) would incorporate the amended Act's requirement to include a telephone number that provides access to the BE food disclosure. 7 U.S.C. 1639b(d)(4). The proposal would further require that the disclosure be available regardless of the time of day, and that the telephone number be located in close proximity to the electronic or digital link. The proposal would also require that the statement ''Call for more food information'' be utilized.

The amended Act requires the electronic or digital link to provide the bioengineering disclosure on the first product information page accessed through the link, without any marketing or promotional material. 7 U.S.C. 1639b(d)(2). Proposed § 66.106(b) would incorporate this requirement. The proposal would define marketing or promotional material to mean ''any written, printed, audiovisual, or graphic information—including advertising, pamphlets, flyers, catalogues, posters, and signs—distributed, broadcast, or made available to assist in the sale or promotion of a product.'' This definition would be consistent with that in the NOP regulations at 7 CFR 205.2.

AMS proposes that the disclosure on the product information page conform to the requirements of the text disclosure in proposed § 66.102 or the symbol disclosure in proposed § 66.104. AMS believes that using a uniform, consistent approach to the disclosure language and symbol would make it easier for consumers to understand the disclosure, whether that language or symbol appears on a food label or an electronic or digital device. AMS also believes that this approach would make compliance easier for entities responsible for disclosing and ensuring consistency in the communication of required disclosure information.

If the entity responsible for the disclosure chooses to use an electronic or digital link, the amended Act requires the entity not collect, analyze, or sell any personally identifiable information about consumers or their devices. 7 U.S.C. 1639b(d)(3)(A). Under proposed § 66.106(b)(4), if such information must be collected in order to fulfill the disclosure requirements, that information would need to be deleted immediately and not used for any other purpose. 7 U.S.C. 1639b(d)(3)(B). AMS believes this language in the amended Act is self-explanatory and did not propose additional language in the proposed rule.

AMS received requests to allow additional information about BE food to be included in the disclosure. The proposed regulations would not prohibit such additional information, but if the information is presented to the public, it must be done outside of the landing page that includes the BE food disclosure.

E. Study on Electronic or Digital Disclosure and a Text Message Disclosure Option

The amended Act requires the Secretary to conduct a study to identify potential technological challenges that may impact whether consumers would have access to the bioengineering disclosure through electronic or digital disclosure methods. 7 U.S.C. 1639b(c)(1). The Department contracted with Deloitte Consulting LLP to perform the study, received the study results from Deloitte Consulting LLP on July 27, 2017, and made the study available to the public on September 6, 2017, at *https://www.ams.usda.gov/reports/study-electronic-or-digital-disclosure.* AMS invites comment on the study and its results.

As required by the amended Act, the study considered five factors: The availability of wireless internet or cellular networks; the availability of landline telephones in stores; challenges facing small retailers and rural retailers; the efforts that retailers and other entities have taken to address potential technology and infrastructure challenges; and the costs and benefits of installing in retail stores electronic or digital link scanners or other evolving technologies that provide bioengineering disclosure information. 7 U.S.C. 1639b(c)(3). The amended Act also requires the Secretary, after consultation with food retailers and manufacturers, to provide additional and comparable options to access the bioengineering disclosure, should the Secretary determine that consumers, while shopping, would not have sufficient access to the bioengineering disclosure through electronic or digital disclosure methods. 7 U.S.C. 1639b(c)(4). The Secretary is reviewing the study and its results to decide whether to make that determination and will consider comments received when making that determination.

Although the study is under review and no determination has been made, AMS is proposing an additional disclosure option, should the Secretary determine that consumers, while shopping, would not have sufficient access to the bioengineering disclosure through electronic or digital disclosure methods. Proposed § 66.108 describes the one additional option—a text message. This text message option would operate similarly to the electronic or digital disclosure under proposed § 66.106, but it would not rely on broadband access and would not require consumers to have smart phones in order to access the disclosure. Entities responsible for disclosure that

choose this option would be required to include a statement on the package that instructs consumers to ''Text [number] for more food information,'' where the number would be a phone number or short code. An automated response would immediately provide the disclosure using text in conformance with § 66.102. Similar to the electronic or digital disclosure, the text message would not be allowed to contain marketing or promotional material and would not collect, analyze, or sell any personally identifiable information unless it would be necessary to complete the disclosure, immediately deleted, and not used for any other purpose. Additionally, the proposed rule would not allow the entity responsible for the disclosure to charge the consumer a fee to access the disclosure information.

F. Small Food Manufacturers

The amended Act provides two additional disclosure options for small food manufacturers: (1) A telephone number accompanied by appropriate language to indicate that the phone number provides access to additional information; and (2) an internet website address. 7 U.S.C. 1639b(b)(2)(F)(ii). In addition, in the case of small food manufacturers, the amended Act provides that the implementation date not be earlier than one year after the implementation date for regulations promulgated in accordance with the NBFDS. See 7 U.S.C. 1639b(b)(2)(F)(i).

1. Definition

AMS proposes to define ''small food manufacturer'' as ''any food manufacturer with less than $10 million in annual receipts but $2,500,000 or more in annual receipts.'' This definition would be similar to FDA's proposed rule to extend the compliance dates for manufacturers with less than $10 million in annual food sales (see 82 FR 45753). AMS seeks comment on this proposed definition.

Proposed § 66.110 provides two additional options that would be made available to small food manufacturers in addition to the text, symbol, electronic or digital link, or text message disclosure options. The two proposed options are disclosure by telephone number and by internet website.

2. Telephone Number

Under proposed § 66.110(a), if a small food manufacturer chooses to use a telephone number to disclose the presence of a BE food or BE food ingredients, text accompanying the telephone number would need to state ''Call for more food information.'' The telephone number would need to provide the BE food disclosure regardless of the time of day. Disclosure via telephone number would include a BE food disclosure that is consistent with proposed § 66.102 in audio form. AMS believes that the requirement to provide the BE food disclosure at any time of day would be reasonable, given the different hours that consumers shop for groceries and the varying time zones in the United States. Because the disclosure by telephone can be accomplished through a recorded message, AMS does not believe that requiring the disclosure to be available at any time of day would increase the burden on small food manufacturers.

3. Internet Website

Under proposed § 66.110(b), if the small food manufacturer chooses to use an internet website to disclose the presence of BE food or BE food ingredients, text would need to accompany the website address on the label stating, ''Visit [Uniform Resource Locator of the website] for more food information.'' The website would need to meet the requirements for a product information page in proposed § 66.106(b). Disclosure via website would include a bioengineered food disclosure that is consistent with proposed § 66.102 or § 66.104 in written form. AMS believes that implementing the internet website option for small food manufacturers in conformance with the requirements for the electronic or digital disclosure product information page would give small food manufacturers the flexibility to disclose in a way that is cost effective for a small business, while providing disclosure to consumers and the same level of protection for personally identifiable information.

G. Small and Very Small Packages

The amended Act requires the Secretary to provide alternative reasonable disclosure options for food contained in small or very small packages. 7 U.S.C. 1639b(b)(2)(E). In order to ensure consistency with existing labeling requirements, as defined in the proposed rule, the definition of ''small packages'' was taken from FDA labeling requirements at 21 CFR 101.9(j)(17). The definition of ''very small package'' was also taken from FDA labeling requirements at 21 CFR 101.9(j)(13)(i)(B). Under proposed § 66.112, AMS included three options that it believes would be feasible for small and very small packages: A modified version of the electronic or digital link disclosure in proposed § 66.106; a modified version of the text message in proposed § 66.108; and a modified version of the phone number disclosure in proposed § 66.110. In addition, for very small packages, regulated entities would be allowed to use a label's preexisting Uniform Resource Locator or telephone number for disclosure.

For the modified version of the electronic or digital link, proposed § 66.112(a) would allow entities responsible for disclosure to utilize the electronic or digital link in proposed § 66.106, but replace the statement ''Scan here for more food information'' and accompanying phone number required in proposed paragraph (a) of that section with the statement ''Scan for info.'' AMS believes that shortening the statement and removing the phone number may make the electronic or digital link disclosure small enough to fit on small and very small packages.

For the modified version of the text message, proposed § 66.112(b) would allow entities responsible for disclosure to utilize the text message in proposed § 66.108, but replace the statement ''Text [number] for more food information'' with ''Text for info.'' AMS believes that shortening the statement may make the text message disclosure small enough to fit on small and very small packages.

Similarly, AMS believes that a phone number with a short statement could be small enough to fit on small and very small packages. Proposed § 66.112(c) would require the disclosure to meet the requirements of proposed § 66.110, but would replace the statement ''Call for more food information'' with ''Call for info.''

AMS recognizes that very small packages have limited surface area on which to bear labels. Under proposed § 66.112(d), for very small packages, if the preexisting label includes a Uniform Resource Locator for a website or a telephone number that a person can use to obtain other food information, that website or telephone number may also be used for the BE food disclosure, provided that the disclosure is consistent with proposed § 66.102 in written or audio form.

During the formulation of this proposed rule, stakeholders representing food manufacturers who use small and very small packages indicated that using the symbol under proposed § 66.104 could be a viable disclosure option. Accordingly, the proposed symbol and other disclosure options available to all entities responsible for disclosure would still be available to those who package foods in small and very small packages. AMS believes providing the additional

options described above would provide needed flexibility for disclosure on small and very small food packages.

H. Foods Sold in Bulk Containers

Because bulk products, such as cornmeal in a bin or unpackaged produce, are frequently displayed without packaging and placed on display by retailers, rather than food manufacturers or importers, AMS proposes that retailers would be responsible for complying with the BE food disclosure of bulk food. AMS believes this approach is similar to the approach AMS has used previously, and that retailers would be accustomed to ensuring that bulk food appears with appropriate signage.

AMS proposes in § 66.114(a) that the BE food disclosure on bulk foods be allowed to appear using any of the options for on-package disclosure, including: Text, symbol, electronic or digital link, or text message (if applicable). The disclosure would be required to appear on signage or other materials (stickers, bindings, etc.) on or near the bulk item. AMS believes the requirement that the signage or materials include the disclosure would allow consumers to easily identify and understand the bioengineered status of the food. Retailers who use an electronic or digital link would be required to place any sign or image to be scanned in a place readily accessible by consumers. For all other disclosure options, AMS believes that signs currently used on or near bulk items, when supplemented with the BE food disclosure, would be sufficient to comply with the requirements of the amended Act.

I. Voluntary Disclosure

AMS received questions from the public about whether voluntary disclosure would be an option for food that would not be subject to the NBFDS disclosure. We recognize that some entities responsible for disclosure may want to provide a BE disclosure even though they are exempted, *e.g.* very small food manufacturers, to provide information that their consumers may seek. The amended Act at 7 U.S.C. 1639b(b)(1) provides that, ''[a] food may bear a disclosure that the food is bioengineered only in accordance with regulations promulgated by the Secretary in accordance with this subchapter.'' In accordance with this provision, and to ensure that entities responsible for disclosure would have the option to disclose bioengineering information regarding foods that may not be subject to mandatory disclosure, AMS is proposing provisions in the NBFDS that would allow for such voluntary labeling for food that meets the definition of ''bioengineering'' in the statute. 7 U.S.C. 1639(1).

The labeling framework described in proposed § 66.116 would allow for the voluntary use of disclosure methods as provided for foods that would be required to be labeled under the NBFDS. For example, a very small food manufacturer would be able to use an on-package text, an electronic disclosure, the BE symbol, a text message disclosure (if applicable), or a combination of the options to disclose BE food. It is important to note that when regulated entities take advantage of the disclosure provisions in § 66.116, they would be required to comply with the disclosure requirements for text, symbol, digital or electronic link, or text message disclosure, as applicable. AMS is proposing this requirement to minimize consumer confusion.

IV. Administrative Provisions: Recordkeeping & Enforcement

A. Recordkeeping Requirements

1. What Records Are Required

The amended Act requires each person subject to mandatory BE food disclosure under the proposed standard to maintain records such as the Secretary determines to be customary or reasonable in the food industry to establish compliance with the standard. *See* 7 U.S.C. 1639b(g)(2). Persons required to keep such records would include food manufacturers, importers, retailers who label bulk foods or package and label foods for retail sale, and any other entities responsible for labeling for retail sale foods on the BE food lists. Proposed § 66.302(a)(1) would therefore require that entities responsible for disclosure maintain records that are customary or reasonable to demonstrate compliance with the BE food disclosure requirements. So long as the records would contain sufficient detail as to be readily understood and audited as set forth in proposed § 66.302(a)(2), AMS anticipates that each entity subject to the disclosure requirement would decide for itself what records and records management protocol are appropriate, given the scope and complexity of individual businesses, as well as the food being produced.

Commenters who provided input to AMS during the development of this proposed rule suggested that AMS pattern recordkeeping requirements for the NBFDS on other AMS regulations. Many commenters agreed that the records already customarily kept in the course of normal business, such as under those other AMS programs, should be adequate to satisfy recordkeeping needs under the BE food disclosure standard. Commenters also suggested that identity preservation records, organic certification records, genetic marker testing records, and records related to product labels and food product formulations should be maintained, with the caveat that company product formulations and recipes should remain confidential.

Commenters agreed that the NBFDS's recordkeeping requirements should be adapted to the scope of the new standard and should not present an unreasonable burden to entities who must comply with the standard. Some commenters suggested that the NBFDS adopt recordkeeping requirements specified in FDA's Food Safety Modernization Act rules or in USDA's Food Safety Inspection Service regulations, but most suggested that because the proposed standard is not related to food safety, recordkeeping requirements consistent with other AMS marketing programs would be more appropriate.

2. How Recordkeeping Applies to Disclosure

As described in the *Disclosure* section, AMS would maintain two lists: (1) A list of commercially available BE foods with a high adoption rate and (2) a list of commercially available BE foods not highly adopted. AMS understands that all manufacturers and retailers maintain business records, such as purchase orders, invoices, and bills of lading, that verify information about the materials they source to make their products. AMS understands that importers maintain similar business records for the products they import. Such records must be maintained for foods on either of these lists. As explained further below, entities responsible for disclosure would be required to maintain records necessary to substantiate compliance with the standards for individual disclosure options, including the type and wording of the disclosure used, and to substantiate the claim included in the disclosure or implied by absence of a disclosure statement. Entities choosing not to disclose that foods are or may be bioengineered may need additional records if existing records are not sufficient to substantiate non-disclosure.

a. Non-Disclosure of Foods on Either List

As set forth in proposed § 66.302(b), AMS proposes that regulated entities who offer for retail sale foods on either list of commercially available BE foods,

but do not disclose that the products are BE foods or contain bioengineered food ingredients, would be required to maintain documentation that verify the foods are not bioengineered. Such documentation might include supply chain documents, purchase orders, sales confirmations, bills of lading, supplier attestations, purchase receipts, written records, labels, contracts, brokers' statements, analytical testing results, or process certifications.

AMS believes these types of records are regularly kept and maintained by food manufacturers, importers or food retailers. Thus, we expect that documentation normally maintained showing that a crop, ingredient, or finished food product is not a bioengineered food would satisfy the standard's recordkeeping requirements. For example, a food manufacturer uses soy sauce as an ingredient in barbecue sauce. Soy sauce is produced from soybeans, a proposed highly adopted BE food in the United States. The default assumption would be that the food is bioengineered or contains a BE food ingredient and must include a BE food disclosure on the label. However, in this case, the manufacturer has sourced soy sauce produced from non-BE soybeans. Therefore, the food manufacturer would not make a BE disclosure, but would be required to maintain documented verification, such as a contract with its supplier that shows it ordered finished products that are not bioengineered. These records may be subject to USDA audit as provided in § 66.402. (See Enforcement section, below.)

Foods or ingredients not included on either list of commercially available BE foods would not be subject to the disclosure standard. Records required to demonstrate that such foods are not BE would consist simply of an indication of the food type (*e.g.,* peaches).

b. Disclosure of Foods on Either List

AMS proposes that entities making affirmative disclosures for BE food on either list of BE foods would only need to maintain records to show that their product contains a food or food ingredient on one of the BE food lists. For instance, a food manufacturer uses cornmeal, a food made from field corn, which is a high adoption rate food, in a muffin mix and includes a BE food disclosure on the label. The food manufacturer would not need records to show that the corn was bioengineered, as it would be on the high adoption rate list; that manufacturer would only need to maintain a record that shows that the food contained cornmeal.

As described in the *Disclosure* section above, ''may'' disclosure statements could be used for any foods that are on the list of commercially available, but not highly adopted, BE foods. Recordkeeping to substantiate a ''may'' claim would only need to demonstrate that the food is on the list. Such a disclosure might be preferred by entities whose sources vary throughout the year and who may procure both BE and non-BE foods. Rather than switching labels to reflect which type of food or ingredient is used, which could create additional costs, entities could use one label—the ''may'' option—to cover either possibility. As such, recordkeeping requirements would not change—records maintained would only need to demonstrate that that particular food is on the list. The intent of this recordkeeping provision is to give regulated entities some degree of flexibility and to acknowledge the complexities of the food supply chain.

3. Other Recordkeeping Provisions

As set forth in proposed § 66.302(a)(3), records would have to be maintained for at least two years after the food's distribution for retail sale. Commenters suggested a range of record retention periods, from as short as 12 months to as long as indefinitely. But many commenters stated that two years would be a reasonable amount of time to maintain records, given product inventories and expected shelf lives. It should be noted that records related to detectability testing, as described in section II.C.3.b. above and if adopted, may need to be retained longer than other records in order to provide ongoing evidence that foods manufactured under a particular process do not have detectable modified genetic material. Such records would be valid and should be retained for as long as the processor makes no changes to the process. Commenters almost unanimously agreed that records could be electronic or hard copy, as preferred by individual companies, and that records could be stored at any location, as long as they were readily accessible. Finally, some commenters recommended that no new records or forms be developed or required under the proposed standard.

Proposed § 66.304 sets forth the provisions for AMS' access to records. A few commenters suggested that regulated entities be required to produce records on demand, while others recommended that regulated entities be given as much as 45 days to produce records. But some commenters thought one or two weeks' notice would be adequate and in keeping with the nature and scope of the proposed standard. Under proposed § 66.304(a), entities would have five business days to provide records to AMS upon request, unless AMS extends the deadline. Under proposed § 66.304(b), if AMS needs to access the records at the entity's place of business, AMS would provide prior notice of at least three days. AMS would examine the records during normal business hours, and entities would make such records available during those times. AMS would review the records during audits and examinations, as appropriate, to verify compliance with the standard's disclosure requirements. Proprietary business information, including product formulations and recipes, would be kept confidential by USDA, consistent with the Freedom of Information Act, 5 U.S.C. 552 *et seq.* Under proposed § 66.304(c), if an entity fails to provide AMS access to records, AMS would determine that the entity did not comply with the access requirement and that AMS could not confirm whether the entity is in compliance with the disclosure standard. This determination would be made public, as described in the *Enforcement* section below.

Request for Comments on Recordkeeping Provisions

AMS seeks comments on several aspects of the proposed recordkeeping requirements of the NBFDS, including:

(1) The types of customary and reasonable records kept by the various entities proposed to be regulated under this standard, and the costs associated with maintaining such records;

(2) Whether regulated entities should be required to verify the BE status of foods that bear the ''bioengineered'' or ''contains a bioengineered ingredient'' disclosure for foods on that list, through more than just a record showing that a particular food or ingredient is on the list;

(3) Whether regulated entities that choose to disclose the BE status of foods through any of the disclosure options should be required to maintain records regarding whether inputs are BE or not.

(4) Whether the lists should be consolidated into one list of commercially available foods and the ''may'' disclosure be made available for all BE foods. With consolidation of the list, entities labeling foods on the BE list would not be required to maintain records as long as they display any of the disclosure options. AMS seeks comment on the potential impact and any burdens associated with consolidating the lists into one list of commercially available BE foods;

(5) The proposed timelines for providing records if requested by AMS

for review during an audit or investigation; and

(6) The types of recordkeeping policies that could further reduce costs for affected entities and what the cost estimates would be for such policies.

B. Enforcement

The amended Act specifies that failure to make a BE food disclosure as required by the NBFDS is prohibited. *See* 7 U.S.C. 1639b(g)(1). Proposed § 66.400 would capture this prohibition. AMS' enforcement authority is limited under the amended Act, as it authorizes AMS to enforce compliance with the standard through records audits and examinations, hearings, and public disclosure of the results of audits, examinations, and hearings. *See* 7 U.S.C. 1639b(g)(3). Moreover, the amended Act expressly states that the Secretary shall have no authority to recall any food subject to the NBFDS ''on the basis of whether the food bears a disclosure that the food is bioengineered.'' 7 U.S.C. 1639b(g)(4).

AMS received input about the compliance and enforcement aspects of the proposed standard from numerous stakeholders. Most stakeholders supported establishing compliance and enforcement procedures similar to those under other AMS marketing programs. They suggested AMS take action in response to specific complaints about possible violations of the standard. Stakeholders indicated that AMS should notify entities about records audits and provide opportunities for regulated entities to appeal AMS findings and make corrections before posting results of compliance investigations online.

Other stakeholders advocated use of more aggressive measures, such as conducting unannounced audits of regulated entities' records or imposing steep fines for non-compliance with the disclosure standard. The amended Act does not authorize civil penalties for violations, and AMS believes the other suggestions to be impractical. Therefore, the proposed rule does not include those suggestions.

The amended Act authorizes AMS to conduct audits or examinations of records. Proposed § 66.402 describes the process for receiving and reviewing complaints about possible violations of the disclosure standard and sets forth the audit procedure. Any interested person can file a written statement or complaint with the Administrator. If the Administrator determines that further investigation of a complaint is warranted, an audit or examination may be made of the entity responsible for the BE food disclosure. After completing the audit or examination of the records, AMS would make its findings available to the entity that was audited. The entity would then have an opportunity to object to the findings and to request a hearing within 30 days of receiving the results of the audit or examination. As part of the request for a hearing, the entity would be required to file its objections to the findings and explain the basis of its objections. Under proposed § 66.404, the Administrator or designee would conduct the hearing, which may include an oral presentation. The Administrator or designee would be able to affirm or revise the findings of the audit or examination of records. After the conclusion of the hearing, or after 30 days from the entity's receipt of the finding, if the entity does not request a hearing, AMS would make public a summary of the results, including findings, of the audit or examination under proposed § 66.406. The decision to make this summary public would constitute final agency action for purposes of judicial review.

C. Proposed Effective and Initial Compliance Dates

We intend that any final rule resulting from this rulemaking would become effective 60 days after the date of the final rule's publication in the **Federal Register**, with a compliance date of January 1, 2020, and with a delayed compliance date of January 1, 2021, for small food manufacturers. The proposed compliance date of January 1, 2020, is intended to align with FDA's proposed rule to extend the compliance dates for the changes to the Nutrition Facts and Supplement Facts label final rule and the Serving Size final rule from July 26, 2018, to January 1, 2020, for manufacturers with $10 million or more in annual food sales. *See* 81 FR 33741, 82 FR 45753. We recognize that it may take entities time to analyze products for which there may be new mandatory requirements under the NBFDS, make required changes to their labels, review and update their records, and print new labels. The proposed compliance dates are intended to provide a balance between the time industry will need to come into compliance with the new labeling requirements and the need for consumers to have the information in a timely manner. We invite comment on the proposed compliance dates.

D. Use of Existing Label Inventories

In an effort to reduce costs and burdens, AMS believes that regulated entities using food labels should have an opportunity to use up their current foods labels for a period of time. Therefore, AMS is proposing that regulated entities may use labels printed by the initial compliance date, regardless of whether they comply with the NBFDS, until the regulated entity uses up remaining label inventories, or until January 1, 2022, whichever date comes first. AMS is not proposing to require regulated entities to change the labels of food products that have entered the stream of commerce prior to January 1, 2022. For example, if a food manufacturer used the last of its existing labels on December 1, 2021, and the product entered the stream of commerce the following week, the food manufacturer would not have to change the labels on the food products if those products remain on the store shelf after January 1, 2022. We invite comment on this approach.

V. Rulemaking Analyses and Notices

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), AMS is requesting OMB approval for a new information collection totaling 11,163,755 hours for the reporting and recordkeeping requirements contained in this proposed rule. Below, AMS has described and estimated the annual burden, *i.e.,* the amount of time and cost of labor, for entities to prepare and maintain information to participate in this proposed labeling program. The amended Act provides authority for this action.

Title: National Bioengineered Food Disclosure Standards for Manufacturers and Other Entities that Label Food for Retail Sale.

OMB Number: 0581–NEW.

Expiration Date of Approval: To be assigned by OMB.

Type of Request: Intent to establish a new information collection.

Abstract: The information collection requirements in this request are essential to foster documentation supporting information disclosure for consumer assurance, and to administer the amendment to the Agricultural Marketing Act of 1946.

The amended Act requires the Secretary to establish the NBFDS. AMS is the agency that would develop the new rule for manufacturers, importers, and retailers to ensure that bioengineered food bears a bioengineered food disclosure in accordance with the rule.

Entities subject to the mandatory disclosure requirement would be required to retain records that are customarily generated in the course of business. Such records may include, but would not be limited to, supply chain documents, purchase orders, sales confirmations, bills of lading, purchase

receipts, written records, labels, contracts, brokers' statements, analytical testing results, and process certifications that would substantiate claims about a food's bioengineering status. Records may also include others that are preexisting and readily available, such as identity preservation records, organic certification records, genetic marker testing records, and records related to product labels and food product formulations. Each entity subject to the disclosure requirement would decide for itself what records and records management protocol are appropriate, given the scope and complexity of the individual business, as well as the food being produced.

Enforcement would include AMS reviewing existing ingredient records and calculations, as needed, to verify compliance with the proposed standard. Records would have to be maintained in hardcopy or electronic format for at least two years after the food's distribution for retail sale. Entities would have five business days to provide records to AMS upon request, unless AMS extends the deadline. AMS would be required to provide prior notice of at least three days for onsite access to records.

The information collected would be used only by authorized representatives of USDA, including AMS, and would be maintained confidential to prevent inadvertent release of company information.

Cost of Compliance

AMS expects each entity (respondents) would need to submit and maintain information in order to satisfy the requirement of the proposed NBFDS regulation. AMS expects respondents to modify packaging for products that have been found to need disclosure. After this one-time burden, a recurring paperwork burden is expected to demonstrate compliance with the NBFDS regulation. For both one-time and annual burden, we describe the general evaluation and recordkeeping activities and estimate: (1) The hours spent, per response, completing the paperwork requirements of this labeling program; (2) the number of respondents; (3) the estimated number of responses per respondent; and (4) the total annual burden on respondents. This information is multiplied by the average wage to calculate the labor costs of implementing the labeling program.

1. One-Time Paperwork Costs

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Estimated Number of Respondents: 166,975.

Estimated Number of Responses per Respondent: 41.0

Estimated Total Annual Burden on Respondents: 6,845,975 hours.

AMS estimates the annual initial cost per respondent will be $1,384.57 per year. This estimate is based on an estimated 41.0 labor hours per year at $33.77 per hour. The source of the hourly rate is the National Compensation Survey: Occupational Employment and Wages, May 2016, published by the Bureau of Labor Statistics. The rate is the mean hourly wage for compliance officers. The cost of the estimated total annual burden on respondents is expected to be $231.2 million. This calculation is the number of estimated burden hours times the hourly rate.

2. Annual Recordkeeping Costs

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Estimated Number of Respondents: 239,913.

Estimated Number of Responses per Respondent: 4.7

Estimated Total Annual Burden on Respondents: 1,127,591 hours.

AMS estimates the annual recordkeeping cost per respondent will be $158.72 per year. This estimate is based on an hourly rate of $33.77 per hour. The source of the hourly rate is the National Compensation Survey: Occupational Employment and Wages, May 2016, published by the Bureau of Labor Statistics. The rate is the mean hourly wage for compliance officers. The cost of the estimated total annual burden on respondents is expected to be $38.1 million. This calculation is the number of estimated burden hours times the hourly rate.

Comments: AMS is inviting comments from all interested parties concerning the information collection and recordkeeping required as a result of the proposed amendments to 7 CFR part 66. Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments that specifically pertain to the information collection and recordkeeping requirements of this action should be sent to the Docket Clerk, 1400 Independence Ave. SW, Stop 0264, Washington, DC 20250–0268 and to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street NW, Room 725, Washington, DC 20503. Comments on the information collection and recordkeeping requirements should reference the date and page number of this issue of the **Federal Register**. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. The comment period for the information collection and recordkeeping requirements contained in this proposed rule is 60 days.

E-Gov

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

Civil Rights Review

AMS has considered the potential civil rights implications of this rule on minorities, women, or persons with disabilities to ensure that no person or group shall be discriminated against on the basis of race, color, national origin, gender, religion, age, disability, sexual orientation, marital or family status, political beliefs, parental status, or protected genetic information. This review included persons that are employees of the entities that are subject to these regulations. This proposed rule does not require affected entities to relocate or alter their operations in ways that could adversely affect such persons or groups. Further, this proposed rule would not deny any persons or groups the benefits of the program or subject any persons or groups to discrimination.

A 60-day comment period is provided to allow interested persons to respond to this proposed rule. All written comments received in response to this proposed rule by the date specified will be considered.

C. Executive Orders 12866, 13563, and 13771

USDA is issuing this rule in conformance with Executive Orders 12866 and 13563, which 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, which include potential economic, environmental, public health and safety effects, distributive impacts, and equity. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

USDA estimates that the costs of the proposed NBFDS would range from $598 million to $3.5 billion for the first year, with ongoing annual costs of between $114 million and $225 million. The annualized costs in perpetuity would be $132 million to $330 million at a three percent discount rate and $156 million to $471 million at a seven percent discount rate. These results assume that the final rule includes a provision for the use of existing label inventories that extends to January 1, 2022; without such a provision, the total annualized cost are $164 million to $410 million and $236 million to $559 million at discount rates of three and seven percent respectively.

These cost estimates represent the cost of the proposed standard relative to a baseline in which there are no requirements for the labeling of food containing bioengineered foods or ingredients. This estimate encompasses three options for the definition of very small food manufacturers: Less than $2,500,000 annual receipts (proposed definition); less than $500,000 annual receipts (alternative A); and less than $5,000,000 annual receipts (alternative B). Very small food manufacturers are exempted from the NBFDS, and the NBFDS utilizes the definition of small food manufacturers to mean any food manufacturer with less than $10 million in annual receipts but $2,500,000 or more in annual receipts. Small food manufacturers have an extra year for compliance. This cost estimate also includes three thresholds for separation costs: Not more than 5 percent of a specific ingredient by weight and only inadvertent introduction allowed; not more than 0.9 percent (0.9%) of a specific ingredient by weight and only inadvertent introduction allowed; and, a threshold of less than 5 percent of total additive weight. This estimate includes costs of disclosure for highly refined foods (such as oils and sugars) with no detectable rDNA. This estimate excludes the costs of disclosure for incidental additives.

The proposed NBFDS is not expected to have any benefits to human health or the environment. Any benefits to consumers from the provision of reliable information about BE food products are difficult to measure. Under some, but not all, potentially informative analytic baselines (see the accompanying regulatory impact analysis for this proposed rule), a more clear-cut benefit of the NBFDS is that it eliminates costly inefficiencies of a state-level approach to BE disclosure. We estimate the size of these benefits by focusing on Vermont's BE labeling law because that law had been signed into law before the NBFDS was passed. The avoided costs of the Vermont law are a direct benefit of the NBFDS. We estimate that the total cost of the Vermont BE labeling law would have been between $2 billion and $6.9 billion for the first year with ongoing cost similar to the NBFDS. The annualized benefits from replacing the Vermont BE labeling law would be between $126 million and $333 million at a three percent discount rate and between $190 million and $565 million at a seven percent discount rate.

In addition to the pre-statutory (baselines 2a, 2b and 3) and simplistic post-statutory (baseline 1) baselines discussed in greater detail in the accompanying regulatory impact analysis for this proposed rule, a more nuanced post-statutory baseline would reflect the least costly rule that would comply with the requirements of the NBFDS; this is because the issuance of a federal regulation is necessary for preemption of state-level labeling requirements to be maintained in the long-run. Inefficiency-avoidance benefits would be zero under this analytic approach, but the costs could be lower than under the simplistic post-statute baseline (and lower than the costs summarized throughout most of this RIA). The use of this baseline would also be consistent with OMB' Regulatory Impact Analysis guidelines (Circular A–4), which states that, while agencies should generally use a pre-statute baseline, a post-statute baseline allows agencies to ''evaluate those areas where the agency has discretion.'' This action's designation under E.O. 13771 will be informed by comments received in response to this proposed rule. Details on the estimates of costs and cost savings of this rule can be found in the economic analysis in the accompanying regulatory impact analysis.

This rule meets the definition of an economically significant regulatory action under Executive Order 12866, as it is likely to result in a rule that would have an annual effect on the economy of $100 million or more, and thereby triggers the requirements contained in Executive Order 13771. *See* OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This proposed rule has been reviewed by OMB. USDA seeks comments and data on the estimated impacts of this rulemaking that may affect its designation under Executive Order 12866 and the Congressional Review Act. USDA also requests public comment on the estimated impacts of the rule, specifically whether there is information or data that may inform whether or not the market will experience a decrease in BE products/ingredients and what the impacts of the disclosure standard are on consumer choice and purchasing behaviors. In addition, USDA seeks comments and request any data or information on what impacts the disclosure standard may have on current and future innovation in the areas of crop biotechnology and food manufacturing and how such impacts on innovation may affect rural communities.

Regulations must be designed in the most cost-effective manner possible to obtain the regulatory objective while imposing the least burden on society. This proposed rule would establish a national mandatory bioengineered food disclosure and labeling provisions for certain human foods that are bioengineered or contain bioengineered ingredients. The national standard is necessary to replace similar laws enacted by various states, which were superseded by the amended Act. The rule is intended to meet public demand for consistent label information.

D. Initial Regulatory Flexibility Analysis

1. Introduction

We have examined the economic implications of this proposed rule as required by the Regulatory Flexibility Act (5 U.S.C. 601–612). If a rule has significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would lessen the economic effect of the rule on small entities consistent with statutory objectives. We have tentatively concluded that the proposed rule, if finalized, will have a significant economic impact on a substantial number of small entities.

2. Economic Effects on Small Entities

a. Number of Small Entities Affected

Guidance on rulemaking recommends SBA's definition of small business as it applies to the relevant economic sector, which for this rule are NAICS 311, 312, and 325, with indirect effects on sectors 115, 424, 445 and 446. SBA recently revised the definition for small businesses, as shown in Table 2. This table also provides the number of firms classified as small and large business for each 6-digit NAICS expected to be impacted by the rule—164,329, or 98 percent of 166,975 total firms. With the new SBA definitions of small business, the share of manufacturers now classified as small is 96 percent (26,213 out of 27,176 total manufacturing firms).

TABLE 2—NUMBER OF SMALL FIRMS DIRECTLY AFFECTED BY PROPOSED RULE BY NAICS

[Data from the 2012 economic census]

2012 NAICS code	Meaning of 2012 NAICS code	SBA size standard	Number of firms			Percentage of industry defined as small (%)
			Total	Large	Small	
311211	Flour milling	1,000 Employees	165	13	152	92.1
311212	Rice milling	500 Employees	50	9	41	82.0
311213	Malt manufacturing	500 Employees	19	2	17	89.5
311221	Wet corn milling	1,250 Employees	31	6	25	80.6
311224	Soybean and other oilseed processing.	1,000 Employees	84	14	70	83.3
311225	Fats and oils refining and blending	1,000 Employees	90	14	76	84.4
311230	Breakfast cereal manufacturing	1,000 Employees	37	9	28	75.7
311313	Beet sugar manufacturing	750 Employees	15	6	9	60.0
311314	Cane sugar manufacturing *	1,000 Employees	35	4	31	88.6
311340	Nonchocolate confectionery manufacturing.	1,000 Employees	426	16	410	96.2
311351	Chocolate and confectionery manufacturing from cacao beans.	1,250 Employees	161	7	154	95.7
311352	Confectionery manufacturing from purchased chocolate.	1,000 Employees	1,110	13	1,097	98.8
311411	Frozen fruit, juice, and vegetable manufacturing.	1,000 Employees	148	16	132	89.2
311412	Frozen specialty food manufacturing	1,250 Employees	389	29	360	92.5
311421	Fruit and vegetable canning	1,000 Employees	575	28	547	95.1
311422	Specialty canning	1,250 Employees	106	6	100	94.3
311423	Dried and dehydrated food manufacturing.	750 Employees	167	17	150	89.8
311511	Fluid milk manufacturing *	1,000 Employees	246	33	213	86.6
311512	Creamery butter manufacturing	750 Employees	30	5	25	83.3
311513	Cheese manufacturing	1,250 Employees	390	14	376	96.4
311514	Dry, condensed, and evaporated dairy product manufacturing.	750 Employees	133	27	106	79.7
311520	Ice cream and frozen dessert manufacturing.	1,000 Employees	347	19	328	94.5
311612	Meat processed from carcasses *	1,000 Employees	1,202	33	1,169	97.3
311615	Poultry processing *	1,250 Employees	307	31	276	89.9
311710	Seafood product preparation and packaging.	750 Employees	497	15	482	97.0
311811	Retail bakeries	500 Employees	6,423	17	6,406	99.7
311812	Commercial bakeries	1,000 Employees	2,321	58	2,263	97.5
311813	Frozen cakes, pies, and other pastries manufacturing.	750 Employees	205	21	184	89.8
311821	Cookie and cracker manufacturing	1,250 Employees	309	16	293	94.8
311824	Dry pasta, dough, and flour mixes manufacturing from purchased flour.	750 Employees	375	27	348	92.8
311830	Tortilla manufacturing	1,250 Employees	334	5	329	98.5
311911	Roasted nuts and peanut butter manufacturing.	750 Employees	208	15	193	92.8
311919	Other snack food manufacturing	1,250 Employees	307	12	295	96.1
311920	Coffee and tea manufacturing *	750 Employees	410	14	396	96.6
311930	Flavoring syrup and concentrate manufacturing.	1,000 Employees	138	9	129	93.5
311941	Mayonnaise, dressing, and other prepared sauce manufacturing.	750 Employees	303	18	285	94.1
311942	Spice and extract manufacturing	500 Employees	344	28	316	91.9
311991	Perishable prepared food manufacturing.	500 Employees	640	40	600	93.8
311999	All other miscellaneous food manufacturing.	500 Employees	567	35	532	93.8
312111	Soft drink manufacturing	1,250 Employees	244	21	223	91.4
312112	Bottled water manufacturing *	1,000 Employees	219	10	209	95.4
312113	Ice manufacturing *	750 Employees	310	5	305	98.4

TABLE 2—NUMBER OF SMALL FIRMS DIRECTLY AFFECTED BY PROPOSED RULE BY NAICS—Continued

[Data from the 2012 economic census]

2012 NAICS code	Meaning of 2012 NAICS code	SBA size standard	Number of firms			Percentage of industry defined as small (%)
			Total	Large	Small	
312120	Breweries	1,250 Employees	843	4	839	99.5
312130	Wineries	1,000 Employees	2,519	12	2,507	99.5
312140	Distilleries	1,000 Employees	231	3	228	98.7
325411	Medicinal and botanical manufacturing.	1,000 Employees	394	24	370	93.9
445110	Supermarkets and other grocery (except convenience) stores.	$32.5 Million	42,107	702	41,405	98.3
445120	Convenience stores	$29.5 Million	23,086	39	23,047	99.8
445210	Meat markets	$7.5 Million	4,880	27	4,853	99.4
445220	Fish and seafood markets	$7.5 Million	1,929	20	1,909	99.0
445230	Fruit and vegetable markets	$7.5 Million	2,716	42	2,674	98.5
445291	Baked goods stores	$7.5 Million	2,470	18	2,452	99.3
445292	Confectionery and nut stores	$7.5 Million	1,952	30	1,922	98.5
445299	All other specialty food stores	$7.5 Million	4,018	27	3,991	99.3
445310	Beer, wine, and liquor stores	$7.5 Million	28,386	392	27,994	98.6
446110	Pharmacies and drug stores	$27.5 Million	18,852	306	18,546	98.4
446191	Food (health) supplement stores	$15 Million	4,786	7	4,779	99.9
446199	Other health and personal care stores.	$7.5 Million	7,389	270	7,119	96.3
Total			166,975	2,646	164,329	98.4

*These products denote those sectors of the industry that, based on the proposal, are less likely to be required to disclose pursuant to the NBFDS.

3. Definitions

a. Small Business

The definition of small business for the Initial Regulatory Flexibility Analysis are those codified in 13 CFR 121.201.

b. Delay for Small Food Manufacturers

For the purposes of the implementation of the delay for ''small food manufacturers,'' AMS proposes that USDA adopt a definition of *small food manufacturer* that would align with FDA. AMS has attempted to be as consistent as possible with other similar existing regulations in order to minimize the cost burden on the industry.

The proposed definition of *small food manufacturer* is: ''any food manufacturer with less than $10 million in annual receipts but $2,500,000 or more in annual receipts.'' This definition would be similar to FDA's criteria for allowing an extended compliance period in its recent revision requirements for food labeling (Docket numbers FDA–2012–N–1210 and FDA–2004–N0258). FDA determined that 95 percent of food manufacturers would fall into this category, or roughly 32,345 firms. FDA also determined that 48 percent of the UPCs would be owned by the firms classified using this criteria as small businesses.

The alternative definition analyzed is a business (including any subsidiaries and affiliates) with fewer than 500 employees.

b. Exemptions for Very Small Food Manufacturers

AMS proposes to define *very small food manufacturer* as ''any food manufacturer with annual receipts of less than $2,500,000.'' We also analyzed the following scenarios for comparison:

Alternative A: A food manufacturer with less than $500,000 in annual receipts.

Alternative B: A food manufacturer with less than $5,000,000 in annual receipts.

Currently, there are roughly 18,530 businesses that would fall into the very small category under the proposed definition; 11,170 businesses that would fall into the very small category under *Alternative A;* and, 20,440 businesses that would fall into the very small category under *Alternative B.* This is out of an estimated 27,176 total firms.

Table 3, below, presents data showing the number of establishments by size classification according to the different definitions of very small, small, and large manufacturers. AMS is seeking comment on the proposed definitions.

TABLE 3—NUMBER OF MANUFACTURERS FOR ALTERNATIVE SIZE CLASSIFICATIONS

Size Classification Options for Manufacturers	Number of Firms		
All manufacturing establishments	27,176		
	Very Small	Small	Large
Small Firm Criteria:			
Firms with less than $10 million in annual food sales (FDA definition)	N/A	23,029	4,147

TABLE 3—NUMBER OF MANUFACTURERS FOR ALTERNATIVE SIZE CLASSIFICATIONS—Continued

Very Small Firm Alternatives			
Very small alternative A:			
Firms with less than $500,000 in annual receipts	11,527	11,502	4,147
Very small alternative B:			
Firms with less than $5,000,000 in annual receipts	21,581	1,448	4,147
Very small proposed definition:			
Firms with less than $2,500,000 in annual receipts	19,455	3,574	4,147

N/A means no definition was determined for this size category.

c. Costs to Small Entities

We compared the maximum annualized cost in our analysis of the proposed rule to the revenue of firms in each size category (by receipts) using 2012 Census data. There was no category that would not be excluded under any of the definitions of very small food manufacturer under consideration for which costs were greater than one percent of revenues.

Summary

Under the Regulatory Flexibility Act (5 U.S.C. 606(b)), we tentatively conclude that the proposed rules will have a significant economic impact on a substantial number of small entities. The statutory exemption of very small food manufacturers further reduces the impact on the entities that are likely to face the highest costs relative to revenue.

D. Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on: (1) Policies that have tribal implications, including regulations, legislative comments or proposed legislation; and (2) other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

The Agricultural Marketing Service has assessed the impact of this rule on Indian tribes and determined that this rule may, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. AMS invites Tribal Leaders to consult on the tribal implications of this proposed rule, and AMS will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified herein are not expressly mandated by Congress.

E. Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. The proposed rule is not intended to have retroactive effect. The amended Act specifies that no State or political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food or seed in interstate commerce any requirement relating to the labeling or disclosure of whether a food is bioengineered or was developed or produced using bioengineering for a food subject to the proposed national bioengineered food disclosure standard that is not identical to the mandatory disclosure requirements under the proposed standard. With regard to other Federal statutes, all labeling claims made in conjunction with this regulation must be consistent with other applicable Federal requirements. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

F. Executive Order 13132

This rule has been reviewed under Executive Order 13132, Federalism. Executive Order 13132 directs agencies to construe, in regulations and otherwise, a Federal statute to preempt State law only where the statute contains an express preemption provision or there is some other clear evidence to conclude that Congress intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute. The amended Act includes an express preemption of State law. Sections 293(e) and 295(b) provide that no State may directly or indirectly establish or continue with any food or seed requirement relating to the labeling or disclosure of whether the food or seed is bioengineered or was developed or produced using bioengineering, including any requirement for claims that a food or seed is or contains an ingredient that was developed by or produced using bioengineering. After USDA establishes the NBFDS, States may adopt standards that are identical to the NBFDS, and States may impose remedies for violations of their standards, such as monetary damages and injunctive relief.

With regard to consultation with States, as directed by Executive Order 13132, USDA notified the governors of each U.S. State of the amended Act's purpose and preemption provisions by letter in August 2016. Copies of the letters may be viewed at *https://www.ams.usda.gov/rules-regulations/gmo.*

List of Subjects in 7 CFR Part 66

Agricultural commodities, Bioengineering, Food labeling, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, USDA proposes to amend 7 CFR chapter 1 by adding part 66 to read as follows:

PART 66—NATIONAL BIOENGINEERED FOOD DISCLOSURE STANDARD

Subpart A—General Provisions

Sec.

66.1 Definitions.
66.3 Disclosure requirement and applicability.
66.5 Exemptions.
66.7 Process for revision of lists.

Subpart B—Bioengineered Food Disclosure

66.100 General.
66.102 Text disclosure.
66.104 Symbol disclosure.
66.106 Electronic or digital link disclosure.
66.108 Text message disclosure.
66.110 Small food manufacturers.
66.112 Small and very small packages.
66.114 Foods sold in bulk containers.
66.116 Voluntary disclosure.
66.118 Other claims.
66.120 Use of existing label inventories.

Subpart C—Other Factors and Conditions for Bioengineered Food

66.200 Request or petition for determination.
66.202 Standards for determination.
66.204 Submission of request or petition.

Subpart D—Recordkeeping

66.300 Scope.
66.302 Recordkeeping requirements.
66.304 Access to records.

Subpart E—Enforcement

66.400 Prohibited act.
66.402 Audit or examination of records.
66.404 Hearing.
66.406 Summary of results.

Authority: 7 U.S.C. 1621 *et seq.*

Subpart A—General Provisions

§ 66.1 Definitions.

Act means the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*), as amended to include Subtitle E—National Bioengineered Food Disclosure Standard and Subtitle F—Labeling of Certain Food.

Administrator means the Administrator of the Agricultural Marketing Service, United States Department of Agriculture, or the representative to whom authority has been delegated to act in the stead of the Administrator.

AMS means the Agricultural Marketing Service of the United States Department of Agriculture.

Bioengineered food means—

(1) Subject to the factors, conditions, and limitations in paragraph (2) of this definition, a food that contains genetic material that has been modified through *in vitro* recombinant deoxyribonucleic acid (DNA) techniques and for which the modification could not otherwise be obtained through conventional breeding or found in nature.

(2) A food that meets the following factors and conditions is not a bioengineered food.

(i) An incidental additive present in food at an insignificant level and that does not have any technical or functional effect in the food, as described in 21 CFR 101.100(a)(3) or any successor regulation.

(ii) [Reserved].

Bioengineered substance means matter that contains genetic material that has been modified through *in vitro* recombinant deoxyribonucleic acid (DNA) techniques and for which the modification could not otherwise be obtained through conventional breeding or found in nature.

Compliance date means—

(1) *Initial compliance date.* (i) Except for small food manufacturers, entities responsible for bioengineered food disclosure must comply with the requirements of this part by January 1, 2020.

(ii) Small food manufacturers must comply with the requirements of this part by January 1, 2021.

(2) *Updates to the bioengineered food lists.* When AMS updates the list of commercially available bioengineered foods not highly adopted and/or the list of commercially available bioengineered foods with a high adoption rate pursuant to § 66.7, entities responsible for bioengineered food disclosure must comply with the updates no later than six months after the effective date of the update.

Food means a food (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) that is intended for human consumption.

Food manufacturer means an entity that manufactures, processes, or packs human food and labels the food or food product for U.S. retail sale.

Importer means the importer of record, as determined by U.S. Customs and Border Protection (19 U.S.C. 1484(a)(2)(B)), who engages in the importation of food or food products labeled for retail sale into the United States.

Information panel means that part of the label of a packaged product that is immediately contiguous to and to the right of the principal display panel as observed by an individual facing the principal display panel, unless another section of the label is designated as the information panel because of package size or other package attributes (*e.g.* irregular shape with one usable surface).

Label means a display of written, printed, or graphic matter upon the immediate container or outside wrapper of any retail package or article that is easily legible on or through the outside container or wrapper.

Labeling means all labels and other written, printed, or graphic matter:

(1) Upon any article or any of its containers or wrappers; or

(2) Accompanying such article.

List of commercially available bioengineered foods not highly adopted means a list, maintained by AMS, of commercially available bioengineered foods with an adoption rate of less than eighty-five percent (85%) in the United States, as determined by the Economic Research Service or any successor agency.

List of commercially available bioengineered foods with a high adoption rate means a list, maintained by AMS, of commercially available bioengineered foods with an adoption rate of eighty-five percent (85%) or more in the United States, as determined by the Economic Research Service or any successor agency.

Marketing and promotional information means any written, printed, audiovisual, or graphic information, including advertising, pamphlets, flyers, catalogues, posters, and signs that are distributed, broadcast, or made available to assist in the sale or promotion of a product.

Predominance means an ingredient's position in the ingredient list on a product's label. Predominant ingredients are those most abundant by weight in the product, as required under 21 CFR 101.4(a)(1).

Principal display panel means that part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

Processed food means any food other than a raw agricultural commodity, and includes any raw agricultural commodity that has been subject to processing, such as canning, cooking, freezing, dehydration, or milling.

Raw agricultural commodity means any agricultural commodity in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

Secretary means the United States Secretary of Agriculture or a representative to whom authority has been delegated to act in the Secretary's stead.

Similar retail food establishment means a cafeteria, lunch room, food stand, saloon, tavern, bar, lounge, other similar establishment operated as an enterprise engaged in the business of selling prepared food to the public, or salad bars, delicatessens, and other food enterprises located within retail establishments that provide ready-to-eat foods that are consumed either on or outside of the retailer's premises.

Small food manufacturer means any food manufacturer with less than $10 million in annual receipts but $2,500,000 or more in annual receipts.

Small package means food packages that have a total surface area of less than 40 square inches.

Very small food manufacturer means any food manufacturer with annual receipts of less than $2,500,000.

Very small package means food packages that have a total surface area of less than 12 square inches.

§ 66.3 Disclosure requirement and applicability.

(a) *General.* A label for a bioengineered food must bear a disclosure indicating that the food is a bioengineered food or contains a bioengineered food ingredient consistent with this part.

(b) *Application to food.* This part applies only to a food subject to:

(1) The labeling requirements under the Federal Food, Drug, and Cosmetic Act (''FDCA''); or

(2) The labeling requirements under the Federal Meat Inspection Act, the Poultry Products Inspection Act, or the Egg Products Inspection Act only if:

(i) The most predominant ingredient of the food would independently be subject to the labeling requirements under the FDCA; or

(ii) The most predominant ingredient of the food is broth, stock, water, or a similar solution and the second-most predominant ingredient of the food would independently be subject to the labeling requirements under the FDCA.

§ 66.5 Exemptions.

This part shall not apply to the food and entities described in this section.

(a) Food served in a restaurant or similar retail food establishment.

(b) Very small food manufacturers.

Alternative 1–A (for paragraph (c))

(c) Food in which an ingredient contains a bioengineered substance that is inadvertent or technically unavoidable, and accounts for no more than five percent (5%) by weight of the specific ingredient.

Alternative 1–B (for paragraph (c))

(c) Food in which an ingredient contains a bioengineered substance that is inadvertent or technically unavoidable, and accounts for no more than nine-tenths percent (0.9%) by weight of the specific ingredient.

Alternative 1–C (for paragraph (c))

(c) Food in which the ingredient or ingredients that contain a bioengineered substance account for no more than five percent (5%) of the total weight of the food in final form.

(d) A food derived from an animal shall not be considered a bioengineered food solely because the animal consumed feed produced from, containing, or consisting of a bioengineered substance.

(e) Food certified organic under the National Organic Program.

§ 66.7 Process for revision of lists.

Lists of bioengineered foods that are commercially available in the United States as identified by the Agricultural Marketing Service will be maintained as follows:

(a) *Current lists.* Current lists will be published and maintained on AMS' website.

(b) *Updates to the lists.* AMS will announce its intention to review and update the lists annually through notification in the **Federal Register** and on the AMS website.

(1) Recommendations regarding additions to and subtractions from the list may be submitted within the timeframe and to the address(es) specified in the notification.

(2) Recommendations should be accompanied by data and other information to support the recommended action.

(3) AMS will post public recommendations, along with information about other revisions to the lists that the agency may be considering, including input based on consultation with the government agencies responsible for oversight of the products of biotechnology: USDA's Animal and Plant Health Inspection Service (USDA–APHIS), the U.S. Environmental Protection Agency (EPA), and the Department of Health and Human Services' Food and Drug Administration (FDA) and appropriate members of the Coordinated Framework for the Regulation for Biotechnology or a similar successor, on its website. AMS will invite interested persons to submit comments and additional relevant information regarding the proposed changes during a specified timeframe.

(4) Following its review of all relevant information provided, AMS will determine what revisions should be made to the lists and will publish the updated lists in the **Federal Register** and on the AMS website.

(c) *Compliance grace period.* Regulated entities will have 18 months following the effective date of the updated lists to make any necessary changes to food labels in accordance with the disclosure requirements of this part.

Subpart B—Bioengineered Food Disclosure

§ 66.100 General.

(a) *Responsibility for disclosure.* (1) For a food that is packaged prior to receipt by a retailer, the food manufacturer or importer is responsible for ensuring that the food label bears a bioengineered food disclosure in accordance with this part.

(2) If a retailer packages a food or sells a food in bulk, that retailer is responsible for ensuring that the food bears a bioengineered food disclosure in accordance with this part.

(b) *Type of disclosure.* If a food must bear a bioengineered food disclosure under this part, the disclosure must be in one of the forms described in this paragraph (b), except as provided for in §§ 66.110 and 66.112 of this subpart.

(1) A text disclosure in accordance with § 66.102.

(2) A symbol disclosure in accordance with § 66.104.

(3) An electronic or digital link disclosure in accordance with § 66.106.

(4) A text message disclosure in accordance with § 66.108.

(c) *Appearance of disclosure.* The required disclosure must be of sufficient size and clarity to appear prominently and conspicuously on the label, making it likely to be read and understood by the buyer under ordinary shopping conditions.

(d) *Placement of the disclosure.* Except as provided in § 66.114 for bulk food, the disclosure must be placed on the label in one of the manners described in this paragraph (d).

(1) The disclosure is placed in the information panel directly adjacent to the statement identifying the name and location of the handler, distributor, packer, manufacturer, importer, or any statement disclosing similar information.

(2) The disclosure is placed in the principal display panel.

(3) The disclosure is placed in an alternate panel likely to be seen by a buyer under ordinary shopping conditions, if there is insufficient space to place the disclosure on the information panel or the principal display panel.

(e) *Uniform Resource Locator (URL).* Except for disclosures made by small manufacturers and for disclosures on very small packages, a bioengineered food disclosure may not include an internet website URL that is not embedded in an electronic or digital link.

§ 66.102 Text disclosure.

A text disclosure must bear the text as described in this section. A text disclosure may use a plural form if applicable, *e.g.* if a food product includes more than one bioengineered food, then ''bioengineered foods'' or ''bioengineered food ingredients'' may be used.

(a) *High adoption bioengineered foods.* Unless records support non-disclosure pursuant to § 66.302(b), if a food (including any ingredient produced from such food) is on the list of bioengineered foods that are commercially available and highly adopted, the text disclosure must be one of the following, as applicable:

(1) ''Bioengineered food'' for bioengineered food that is a raw agricultural commodity or processed food that contains only bioengineered food ingredients; or

(2) ''Contains a bioengineered food ingredient'' for multi-ingredient food that is not described in paragraph (a)(1) of this section, but contains one or more bioengineered food ingredients.

(b) *Non-high adoption bioengineered foods.* Unless records support non-disclosure pursuant to § 66.302(b), if a food (including any ingredient

produced from such food) is on the list of bioengineered foods that are commercially available, but not highly adopted, the text disclosure must be ‘‘may be a bioengineered food,’’ ‘‘may contain a bioengineered food ingredient,’’ ‘‘bioengineered food,’’ or ‘‘contains a bioengineered food ingredient,’’ as appropriate.

(c) *Predominant language in U.S.* Food subject to disclosure that is distributed solely in a U.S. territory may be labeled with statements equivalent to those required in this part, using the predominant language used in that territory.

§ 66.104 Symbol disclosure.

The symbol described in this section may be used to designate bioengineered food, food that contains a bioengineered food ingredient, a food that may be a bioengineered food, or a food that may contain a bioengineered food ingredient. The bioengineered food symbol must replicate the form and design of the example in Figure 1 to § 66.104:

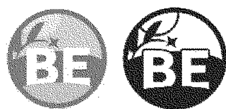
Alternative 2–A

(a) Using a circle with a green circumference, and the capital letters ‘‘BE’’ in white type located slightly below the center of the circle. The bottom portion of the circle contains an arch, filled in green to the bottom of the circle. Approximately halfway through the height of the circle is a second arch, filled in darker green to the top of the first arch. Beginning on the left side of the second arch is stem arching towards the center of the circle, ending in a four-pointed starburst above the space between the letters ‘‘B’’ and ‘‘E.’’ The stem contains two leaves originating on the upper side of the stem and pointing towards the top of the circle. In the background of the leaves, at the top of the circle and to the left of center, is approximately one-half of a circle filled in yellow. The remainder of the circle is filled in light blue.

(b) The symbol may be printed in black and white.

(c) Nothing can be added to or removed from the bioengineered food symbol design except as allowed in this part.

Figure 1 to § 666.104



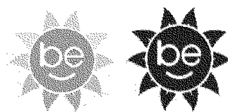
Alternative 2–B

(a) Using a filled, green circle with the lower-case letters ‘‘be’’ in white type, slightly above the center of the circle. Just below the letters is an inverted, white arch, beginning just below the middle of the ‘‘b’’ and ending just below the middle of the ‘‘e.’’ The outside of the circle includes ten (10) triangular leaves spread equally around the perimeter of the circle. The leaves transition from light green at the top of the circle to yellow and orange on the sides, ending with dark orange leaves on the bottom of the circle.

(b) The symbol may be printed in black and white.

(c) Nothing can be added to or removed from the bioengineered food symbol design except as allowed in this part.

Figure 1 to § 66.104



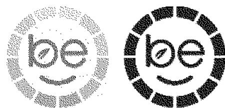
Alternative 2–C

(a) Using a circle with a circumference made up of 12 separate, equally-spaced segments. The segments gradually transition from yellow at the top of the circle to dark orange at the bottom of the circle. The interior of the circle is a green background with the lowercase letters ‘‘be’’, in white type, located slightly above the center of the circle. Below the letters is an inverted, green arch, beginning below the center of the ‘‘b’’ and ending below the center of the ‘‘e.’’ Inside the middle of the ‘‘b’’ is a bifurcated leaf.

(b) The symbol may be printed in black and white.

(c) Nothing can be added to or removed from the bioengineered food symbol design except as allowed in this part.

Figure 1 to § 66.104



§ 66.106 Electronic or digital link disclosure.

If a required bioengineered food disclosure is made through an electronic or digital link printed on the label, the disclosure must comply with the requirements described in this section.

(a) *Accompanying statement.* (1) An electronic or digital disclosure must be accompanied by, and be placed directly above or below, this statement: ‘‘Scan here for more food information’’ or equivalent language that only reflects technological changes (*e.g.* ‘‘Scan anywhere on package for more food information’’ or ‘‘Scan icon for more food information’’).

(2) The electronic or digital disclosure must also be accompanied by a telephone number that will provide the bioengineered food disclosure to the consumer, regardless of the time of day. The telephone number must be in close proximity to the digital link and the accompanying statement described in paragraph (a)(1) of this section, must indicate that calling the telephone number will provide more food information, and must be accompanied by the following statement: ‘‘Call for more food information.’’

(b) *Product information page.* When the electronic or digital link is accessed, the link must go directly to the product information page for display on the electronic or digital device. The product information page must comply with the requirements described in this paragraph (b).

(1) The product information page must be the first screen to appear on an electronic or digital device after the link is accessed as directed.

(2) The product information page must include a bioengineered food disclosure that is consistent with § 66.102 or § 66.104.

(3) The product information page must exclude marketing and promotional material.

(4) The electronic or digital link disclosure may not collect, analyze, or sell any personally identifiable information about consumers or the devices of consumers; however, if this information must be collected to carry out the purposes of this part, the information must be deleted immediately and not used for any other purpose.

§ 66.108 Text message disclosure.

The entity responsible for the bioengineered food disclosure must not charge a person any fee to access the bioengineered food information through text message and must comply with the requirements described in this section.

(a) The label must include this statement ‘‘Text [number] for more food information.’’ The number must be a number, including a short code, that is capable of sending an immediate response to the consumer’s mobile device.

(b) The only information in the response must be the bioengineered food disclosure described in § 66.102.

(c) The response must exclude marketing and promotional material.

(d) A manufacturer who selects the text message option may not collect, analyze, or sell any personally identifiable information about consumers or the devices of consumers; however, if this information must be collected to carry out the purposes of this part, the information must be deleted as soon as possible and not be used for any other purpose.

§ 66.110 Small food manufacturers.

A small food manufacturer may make the required bioengineered food disclosure using one of the bioengineered food disclosure options permitted under §§ 66.102, 66.104, 66.106, and 66.108 of this subpart or described in this section.

(a) The label bears the statement: ''Call for more food information,'' which accompanies a telephone number that will provide the bioengineered food disclosure to the consumer, regardless of the time of day. Disclosure via telephone number must include a bioengineered food disclosure that is consistent with § 66.102 in audio form.

(b) The label bears the statement: ''Visit [URL of the website] for more food information,'' which accompanies a website that meets the requirements of § 66.106(b) of this subpart. Disclosure via website must include a bioengineered food disclosure that is consistent with § 66.102 or § 66.104 in written form.

§ 66.112 Small and very small packages.

In addition to the disclosures described in this subpart, for food in small and very small packages, the required disclosure may be in the form described in paragraph (a), (b), or (c) of this section.

(a) The label bears the electronic or digital disclosure described in § 66.106, and replaces the statement and phone number required in § 66.106(a) with the statement ''Scan for info.''

(b) The label bears a number or short code as described in § 66.108(a), and replaces the statement with ''Text for info.''

(c) The label bears a phone number as described in § 66.110(a), and replaces the statement with ''Call for info.''

(d) For very small packages, if the label includes a preexisting Uniform Resource Locator for a website or a telephone number that a consumer can use to obtain food information, that website or telephone number may also be used for the required bioengineered food disclosure, provided that the disclosure is consistent with § 66.102 or § 66.104 in written or audio form, as applicable.

§ 66.114 Foods sold in bulk containers.

(a) Bioengineered food sold in bulk containers, including a display at a fresh seafood counter, must use one of the disclosure options described in § 66.102, § 66.104, § 66.106, or § 66.108.

(b) The disclosure must appear on signage or other materials (*e.g.,* placard, sign, label, sticker, band, twist tie, or other similar format) that allows consumers to easily identify and understand the bioengineered status of the food.

§ 66.116 Voluntary disclosure.

(a) *Applicability and disclosure.* Bioengineered foods that are not subject to mandatory disclosure under this part may be labeled in accordance with this section.

(b) *Type of disclosure.* The disclosure must be in one or more of the forms described in this paragraph (b).

(1) An on-package text disclosure, in accordance with § 66.102.

(2) The symbol disclosure, in accordance with § 66.104.

(3) An electronic or digital link disclosure, in accordance with § 66.106.

(4) A text message disclosure, in accordance with § 66.108.

(5) Appropriate small manufacturer and small and very small package disclosure options, in accordance with §§ 66.110 and 66.112.

(c) *Appearance of disclosure.* The disclosure should be of sufficient size and clarity to appear prominently and conspicuously on the label, making it likely to be read and understood by the buyer under ordinary shopping conditions.

(d) *Recordkeeping.* Reasonable and customary records should be maintained to verify disclosures made under this section.

§ 66.118 Other claims.

Nothing in this subpart will prohibit regulated entities from making other claims regarding bioengineered foods, provided that such claims are consistent with applicable federal law.

§ 66.120 Use of existing label inventories.

Products that are manufactured, labeled, and entered into the stream of commerce prior to January 1, 2022, or until regulated entities use up remaining label inventories as of the initial compliance date, whichever date comes first, may be sold using their existing food labels.

Subpart C—Other Factors and Conditions for Bioengineered Food

§ 66.200 Request or petition for determination.

(a) Any person may submit a request or petition for a determination by the Secretary regarding other factors and conditions under which a food is considered a bioengineered food. A request or petition must be submitted in accordance with § 66.204.

(b) The request or petition may be supplemented, amended, or withdrawn in writing at any time without prior approval of the Administrator, and without affecting resubmission, except when the Administrator has responded to the request or petition.

(c) If the Administrator determines that the request or petition satisfies the standards for consideration in § 66.202, AMS will initiate a rulemaking that would amend the definition of ''bioengineered food'' in § 66.1 to include the factor or condition.

(d) An Administrator's determination that the request or petition does not satisfy the standards for consideration in § 66.202 constitutes final agency action for purposes of judicial review.

§ 66.202 Standards for consideration.

In evaluating a request or petition, the Administrator must apply the applicable standards described in this section.

(a) The requested factor or condition is within the scope of the definition of ''bioengineering'' in 7 U.S.C. 1639(1).

(b) The Administrator must evaluate the difficulty and cost of implementation and compliance.

(c) The Administrator may consider other relevant information, including whether the factor or condition is compatible with the food labeling requirements of other agencies or countries, as part of the evaluation.

§ 66.204 Submission of request or petition.

(a) *Submission procedures and format.* A person must submit the request to the Agricultural Marketing Service in the form and manner established by AMS.

(b) *Required information.* The request or petition must include the information described in this paragraph (b).

(1) Description of the factor or condition.

(2) Analysis of why the factor or condition should be included in considering whether a food is a bioengineered food, including any relevant information, publication, and/or data. The analysis should include how the Administrator should apply the standards in § 66.202 of this subpart.

(3) If the request or petition contains Confidential Business Information (CBI), the submission must comply with the requirements of this paragraph (b)(3).

(i) The requester or petitioner must submit one copy that is marked as ''CBI Copy'' on the first page and on each page containing CBI.

(ii) The requester or petitioner must submit a second copy with the CBI deleted. This copy must be marked as ''CBI Redacted'' on the first page and on each page where the CBI was deleted.

(iii) The submission must include an explanation as to why the redacted information is CBI.

Subpart D—Recordkeeping

§ 66.300 Scope.

This subpart applies to records for food on the lists maintained by AMS of bioengineered foods commercially available in the United States.

§ 66.302 Recordkeeping requirements.

(a) *General.* (1) Entities subject to this subpart must maintain records that are customary or reasonable to demonstrate compliance with the bioengineered food disclosure requirements of this part.

(2) The records must contain sufficient detail as to be readily understood and audited.

(3) Records must be maintained for at least two years beyond the date the food or food product is sold or distributed for retail sale.

(b) *Records supporting non-disclosure.* If a food is on either AMS-maintained list of bioengineered foods commercially available in the United States and does not bear a bioengineered food disclosure, entities subject to this subpart must maintain records that include documented verification that the food is not a bioengineered food or that it does not contain a bioengineered food ingredient.

§ 66.304 Access to records.

(a) *Request for records.* When AMS makes a request for records, the entity must provide the records to AMS within five (5) business days, unless AMS extends the deadline.

(b) *On-site access.* If AMS needs to access the records at the entity's place of business, AMS will provide prior notice of at least three (3) business days. AMS will examine the records during normal business hours, and the records will be made available during those times. Access to any necessary facilities for an examination of the records must be extended to AMS.

(c) *Failure to provide access.* If the entity fails to provide access to the records as required under this section, the result of the audit or examination of records will be that the entity did not comply with the requirement to provide access to records and AMS could not confirm whether the entity is in compliance with the bioengineered food disclosure standard for purposes of § 66.402 of this part.

Subpart E—Enforcement

§ 66.400 Prohibited act.

It is a violation of section 293 of the Act for any person to knowingly fail to make a bioengineered food disclosure in accordance with this part.

§ 66.402 Audit or examination of records.

(a) Any interested person who has knowledge of or information regarding a possible violation of this part may file a written statement or complaint with the Administrator. The Administrator will determine whether reasonable grounds exist for an investigation of such complaint.

(b) If the Administrator determines that further investigation of a complaint is warranted, an audit or examination may be made of the records of the entity responsible for the bioengineered food disclosure under § 66.100(a) of this part.

(c) Notice regarding records audits or examinations will be provided in accordance with § 66.304(a) and (b) of this part.

(d) At the conclusion of the audit or examination of records, AMS will make the findings of the audit or examination of records available to the entity that was the subject of the audit or examination of record.

(e) If the entity that is the subject of the audit or examination of record objects to any findings, it may request a hearing in accordance with § 66.404 of this subpart.

§ 66.404 Hearing.

(a) Within 30 days of receiving the results of an audit or examination of records to which the entity that was the subject of the audit or examination of record objects, the entity may request a hearing by filing a request, along with the entity's response to the findings and any supporting documents, with AMS.

(b) The response to the findings of the audit or examination of records must identify any objection to the findings and the basis for the objection.

(c) The AMS Administrator or designee will review the findings of the audit or examination of records, the response, and any supporting documents, and may allow the entity that was the subject of the audit or examination of records to make an oral presentation.

(d) At the conclusion of the hearing, the AMS Administrator or designee may revise the findings of the audit or examination of records.

§ 66.406 Summary of results.

(a) If the entity that was the subject of the audit or examination of records does not request a hearing in accordance with § 66.404, or at the conclusion of a hearing, AMS will make public the summary of the final results of the audit or examination of records.

(b) AMS' decision to make public the summary of the final results constitutes final agency action for purposes of judicial review.

Dated: April 30, 2018.

Bruce Summers,

Acting Administrator.

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FEDERAL REGISTER

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Part III

The President

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Proclamation 9736—Older Americans Month, 2018
Proclamation 9737—National Physical Fitness and Sports Month, 2018
Proclamation 9738—Loyalty Day, 2018

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Presidential Documents

Title 3—

The President

Proclamation 9733 of April 30, 2018

Asian American and Pacific Islander Heritage Month, 2018

By the President of the United States of America

A Proclamation

Americans of Asian and Pacific Islander descent have contributed immeasurably to our Nation's development and diversity as a people. During Asian American and Pacific Islander Heritage Month, we recognize their tremendous contributions, which have helped strengthen our communities, industries, Armed Forces, national security, and institutions of governance. Through their industriousness and love of country, our Nation has enjoyed the privileges and enrichments of multiple innovations and societal advancements.

Indian American Kalpana Chawla was the first woman of Indian descent to fly in space, and became an American hero for her devotion to the Space Shuttle program and its various missions transporting cargo and crew to and from the International Space Station. For her achievements, the Congress posthumously awarded her the Congressional Space Medal of Honor, and the National Aeronautics and Space Administration (NASA) posthumously awarded her the NASA Space Flight Medal and the NASA Distinguished Service Medal. Ms. Chawla's courage and passion continue to serve as an inspiration for millions of American girls who dream of one day becoming astronauts.

Susan Ahn Cuddy, who was the daughter of the first Korean couple to immigrate to the United States, also uplifted the Nation through strong work ethic, an unwavering love of country, and a steadfast devotion to her life mission, even in the face of great adversity. She was the first Asian-American woman to join the U.S. Navy. During World War II, she excelled as a code breaker and became the first female aerial gunnery officer in the Naval Forces. Lieutenant Cuddy would go on to further serve her country as an intelligence analyst at the National Security Agency.

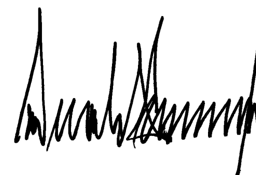
America is a country that values hard work, an honest living, and a commitment to the ideals of life, liberty, and the pursuit of happiness. For these reasons, America cherishes its connections with the Indo-Pacific region, which shares an appreciation for these principles. Americans of Asian and Pacific Islander heritage help to reinforce these relationships, which are stronger today than ever before. As President, I have visited and renewed ties with countries from which many proud Americans hail, including Japan, South Korea, China, Vietnam, and the Philippines. During my visits to these countries, I shared my vision for continued prosperity, peace, and security through a free and open Indo-Pacific region. It is clear that a renewed sense of our common purpose and goals has consolidated and strengthened our economic, cultural, and security relationships.

This month, and every month, we honor the more than 20 million Asian Americans and Pacific Islanders who call America home, including those living in Guam, American Samoa, and the Commonwealth of the Northern Marianas, and we salute those who have served and are currently serving our Nation in the Armed Forces. Together, we will continue to make our country more prosperous and secure for all Americans.

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 May 2018 as Asian American and Pacific Islander Heritage Month. The Congress, by Public Law 102–450, as amended, has also designated the month of May each year as ''Asian/Pacific American Heritage Month.'' I encourage all Americans to learn more about those of Asian American, Native Hawaiian, and Pacific Islander heritage, and to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



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Billing code 3295–F8–P

Presidential Documents

Proclamation 9734 of April 30, 2018

National Foster Care Month, 2018

By the President of the United States of America

A Proclamation

During National Foster Care Month, we reflect on the dedication of foster and kinship caregivers, faith-based and community organizations, and child welfare professionals who are improving the lives of children and youth in foster care throughout the country. Our Nation is deeply indebted to these selfless and compassionate Americans. We also observe this month, with sadness, the plight of innocent children who are in foster care because their lives have been disrupted by neglect or abuse.

Providing a stable, secure, and nurturing home environment is one of the greatest gifts a foster parent or guardian can give a child. This critical investment in their well-being, safety, and sense of belonging brings precious hope to children in need. We acknowledge, with gratitude, the tremendous sacrifices made by our Nation's foster families as they open their hearts and lives and provide secure and supportive homes for the hundreds of thousands of infants, children, and youth in foster care.

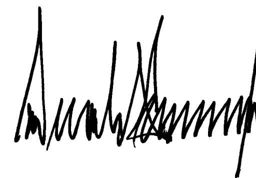
We also take this opportunity to acknowledge that there is still much more we can do to prevent the abuse and neglect that forces children into foster care placements. For the fourth consecutive year, the number of children placed in foster care has increased, driven in part by the opioid crisis and drug abuse. My Administration is dedicated to bringing help and healing to families threatened by addiction so that parents and children can stay together in a safe and stable home environment.

In February, I signed into law the Family First Prevention Services Act, a law that aims to keep children at home and out of foster care by allowing States to use matching funds from the Federal Government for substance abuse prevention and treatment, mental health services, family counseling, and parenting-skills training. When it becomes necessary to place children or youth in foster care, this new law gives States incentives to reduce the placement of children in congregate care in favor of more desirable family atmospheres.

We are blessed that our country is filled with generous individuals and families who willingly welcome children in need into their homes so that they can experience loving guardianship and some of the joys of family life. Many of these heroic families provide foster care for children with complex medical and challenging psychological and behavioral needs. This month is an opportunity to raise awareness about the increasing number of children and youth entering foster care and to encourage Americans to invest in the lives of some of our Nation's most vulnerable children and families.

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 May 2018 as National Foster Care Month. I call upon all Americans to observe this month by taking time to help children and youth in foster care, and to recognize the commitment of those who touch their lives, particularly celebrating their foster parents and other caregivers.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2018–09727
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Presidential Documents

Proclamation 9735 of April 30, 2018

National Mental Health Awareness Month, 2018

By the President of the United States of America

A Proclamation

During the month of May, we observe National Mental Health Awareness Month and reaffirm our commitment to improving the overall health and well-being of our Nation. America has made tremendous strides in providing treatment and recovery support services for individuals who experience mental illnesses. Yet sadly, stigma and misconceptions about mental illness persist. The negative stereotypes surrounding mental illness deter people who may experience these disorders from getting help that can improve their lives and their ability to achieve their full potential.

Approximately one in five Americans experiences a mental illness, yet only about one third of them will access treatment. For this reason, my fiscal year 2019 budget request to the Congress includes $10 billion in new funding to combat the opioid epidemic and address serious mental illness. This funding will improve access to evidence-based treatment services for those who are seriously mentally ill. My budget also requests new funding for the Substance Abuse and Mental Health Services Administration to ensure more adults with serious mental illness receive Assertive Community Treatment, an evidence-based practice that provides a comprehensive array of services to reduce costly hospitalizations. Additionally, my budget maintains funding for the Community Mental Health Services Block Grant, which helps ensure that individuals with serious mental illness receive appropriate treatment in a timely manner. Further, it includes new targeted investments to help divert individuals with serious mental illnesses from the criminal justice system and into treatment. Finally, it funds important suicide prevention activities.

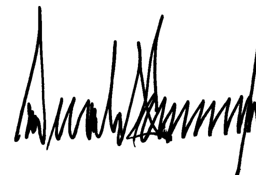
As part of an ongoing effort to improve the quality and availability of treatment for people with mental illnesses in our healthcare systems, I appointed the first Assistant Secretary of Mental Health and Substance Use to ensure that all agencies are working together to increase access to the best treatment and recovery services possible. This will accelerate research and innovation through the Department of Health and Human Services and other executive departments and agencies. Additionally, we have launched the inaugural Interdepartmental Serious Mental Illness Coordinating Committee, which will improve the lives of individuals and families who have been affected by serious mental illness. This Committee will coordinate services across multiple agencies and will serve as a national model to improve access to evidence-based treatment and services most needed by persons with severe mental illness or those who are seriously disturbed emotionally.

This month, and always, we pledge to strive to eliminate the stigma of mental illness by increasing awareness for all Americans that these illnesses are common and treatable, and that recovery is possible. Through these efforts, our neighbors, co-workers, family, and friends affected by mental illness will know that there is hope for recovery and hope for healthier, more productive lives.

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 May 2018 as National Mental Health Awareness Month. I call upon all Americans to support citizens suffering from mental illness, raise awareness of mental health conditions through appropriate programs and activities, and commit our Nation to innovative prevention, diagnosis, and treatment.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2018–09730
Filed 5–3–18; 11:15 am]
Billing code 3295–F8–P

Presidential Documents

Proclamation 9736 of April 30, 2018

Older Americans Month, 2018

By the President of the United States of America

A Proclamation

During Older Americans Month, we recognize and celebrate those Americans who have spent decades providing for the next generation and building the greatness of our Nation. Our country and our communities are strong today because of the care and dedication of our elders. Their unique perspectives and experiences have endowed us with valuable wisdom and guidance, and we commit to learning from them and ensuring their safety and comfort.

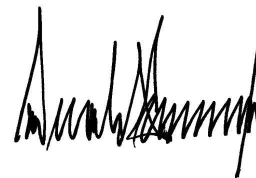
Older Americans play critical roles in helping support their adult children, grandchildren, and extended families. They work and volunteer for businesses and organizations that drive our economy and serve our communities. Most importantly, our senior citizens mentor future generations and instill core American values in them. Their guidance preserves our heritage and the invaluable lessons of the past.

My Administration is focused on the priorities of our Nation's seniors. The Department of Justice, for example, is focused on protecting seniors from fraud and abuse. My Administration is also committed to protecting the Social Security system so that seniors who have contributed to the system can receive benefits from it. We are also dedicated to improving healthcare, including by increasing the quality of care our veterans receive through the Department of Veterans Affairs and by lowering prescription drug prices for millions of Americans.

As a Nation, we are grateful to older Americans for all they have done to build up and sustain our families and communities. Senior citizens deserve to be treated with respect, to have their needs met, and to age with dignity. This month, we recommit ourselves to ensure that older Americans are able to navigate financial and physical obstacles that could stand in the way of joyful and meaningful golden years.

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 May 2018 as Older Americans Month. I call upon all Americans to honor our elders, acknowledge their contributions, care for those in need, and reaffirm our country's commitment to older Americans this month and throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2018–09733
Filed 5–3–18; 11:15 am]
Billing code 3295–F8–P

Presidential Documents

Proclamation 9737 of April 30, 2018

National Physical Fitness and Sports Month, 2018

By the President of the United States of America

A Proclamation

During National Physical Fitness and Sports Month, we renew our commitment to living healthier and more active lifestyles, and acknowledge the positive difference that sports make in our society. Setting time aside each day to exercise improves both mental health and overall quality of life. In addition to the health benefits, participation in sports builds good character, teaches the value of teamwork, reinforces self-discipline, and promotes leadership.

Involvement in both team and individual sports offers countless benefits to the general well-being of children, allowing them to gain knowledge of the connection between effort and success, and enhancing their academic, economic, and social prospects. Studies have shown that children who are involved in sports have greater self-discipline, higher self-esteem, and are better at working with others. They are also more likely to attend college and less likely to commit a crime or suffer from mental or physical health problems. Similar research suggests that individuals who have participated in sports are more likely to excel in the workplace and earn higher wages than their peers who did not compete in athletics.

In recent years, unfortunately, America has seen a decline in youth sports participation, particularly among young girls and children from economically distressed areas. For this reason, in February, I signed an Executive Order regarding sports, fitness, and nutrition. The order establishes a Presidential council focused on the critical importance of sports in increasing the physical fitness and positive life outcomes of our Nation's youth. This council is charged with identifying ways to expand access to youth sports and ensuring American children from all zip codes can compete if they desire. The Executive Order emphasizes my Administration's commitment to encouraging youth sports participation throughout the United States, so that we can strengthen the next generation of American leaders and lift up our communities.

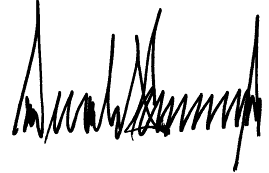
Routine physical activity also offers extraordinary health benefits for individuals of all ages. Engaging in regular physical activity can reduce risk of developing heart disease, type 2 diabetes, and even certain types of cancers. It also builds bone and muscle strength, reducing the risk of injuries. In children six years and older, regular engagement in 60 minutes or more of physical activity per day has been shown to lower the risk of obesity, while improving heart, muscular, and bone health. A routine exercise plan can even assist in reducing symptoms of depression and improving mental health. Therefore, I encourage all Americans to develop and maintain a physical fitness plan that helps them fulfill their fitness goals and achieve a healthier overall lifestyle.

At the root of a healthy America are healthy citizens. This month, we celebrate and promote the benefits of physical activity and recognize those selfless individuals who volunteer their time and resources to make it possible for our Nation's youth to participate in sports programs. I encourage all Americans to find a sport or to adopt an exercise routine that allows

them to reap the numerous benefits of an active lifestyle. Together, we can invest in a healthier and stronger America.

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 May 2018 as National Physical Fitness and Sports Month. I call upon the people of the United States to make physical activity and sports participation a priority in their lives.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2018–09737
Filed 5–3–18; 11:15 am]
Billing code 3295–F8–P

Presidential Documents

Proclamation 9738 of April 30, 2018

Loyalty Day, 2018

By the President of the United States of America

A Proclamation

On Loyalty Day, we reflect with humility and gratitude upon the freedoms we hold dear, and we reaffirm our allegiance to our Nation and its founding principles. We cherish our system of self-government, whereby each American citizen is free to exercise their God-given and inalienable rights to life, liberty, and the pursuit of happiness. We honor and defend our Constitution, which constrains the power of government and allows us freely to exercise these rights. We also recognize the great responsibility that accompanies a free people and vow to preserve our hard-won liberty. For we know, as President Ronald Reagan once said, that ''freedom is never more than one generation away from extinction.''

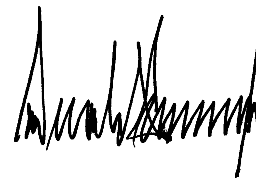
This Loyalty Day, we remember and honor the thousands of Americans who have laid down their lives to protect and defend our Nation's beautiful flag, from those who battled on Bunker Hill to those who sailed at Midway. These brave men and women fought and died to ensure that the United States of America continues to shine as a beacon of hope and freedom around the world. America's light will continue to shine because our Government is built on the propositions that government derives its just power from the consent of the governed and that government exists for the purpose of protecting the individual rights of its citizens. This makes our Nation exceptional. Through devotion and sacrifice, each new generation has preserved these rights for posterity. It now falls to us to continue this legacy.

As we have since our Nation's founding, Americans today continue to strengthen the fabric of our Nation. The men and women of our Armed Forces courageously confront our enemies, who seek to do us harm and to destroy our way of life. Our first responders valiantly rush toward danger to save lives and aid those in need, often at great personal risk. Parents and teachers prepare our youth to defend our unique heritage and our rights. Our Nation's entrepreneurs and business owners are rewarded by how well they serve others—a remarkable feature of our free market system. The valued virtue of selfless service that permeates American life exemplifies our proud loyalty to our country and fellow citizens.

To express our country's loyalty to individual liberties, to limited government, and to the inherent dignity of every human being, the Congress, by Public Law 85–529, as amended, has designated May 1 of each year as ''Loyalty Day.'' On this day, we honor the United States of America and those who uphold its values, particularly those who have fought and continue to fight to defend the freedom our Constitution affords us.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim May 1, 2018, as Loyalty Day. I call on all Americans to observe this day with appropriate ceremonies in our schools and other public places, including recitation of the Pledge of Allegiance to the Flag of the United States of America. I also call upon all Government officials to display the flag of the United States on all Government buildings and grounds on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2018–09739
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