AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 82 Wednesday,

No. 167 August 30, 2017

Pages 41157–41320

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

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

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

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

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

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 82 FR 12345.

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

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

Printed on recycled paper.

Contents

Federal Register

Vol. 82, No. 167

Wednesday, August 30, 2017

Agency for Toxic Substances and Disease Registry
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 41263–41265

Agriculture Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 41207

Bureau of Consumer Financial Protection
RULES
Truth in Lending Annual Threshold Adjustments, 41158–41160

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 41265–41268

Centers for Medicare & Medicaid Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 41268–41269

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 41269–41270

Coast Guard
RULES
Drawbridge Operations:
St. Croix River, Stillwater, MN, 41174
Upper Mississippi River, Rock Island, IL, 41173–41174
Safety Zones:
Wando River, Charleston, SC, 41174–41177
NOTICES
Meetings:
Chemical Transportation Advisory Committee, 41279–41280

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Consumer Product Safety Commission
RULES
Prohibition of Children's Toys and Child Care Articles Containing Specified Phthalates:
Determinations Regarding Certain Plastics, 41163–41172

Defense Department
NOTICES
Meetings:
Vietnam War Commemoration Advisory Committee, 41255

Education Department
PROPOSED RULES
Borrower Defenses, Financial Responsibility, and Gainful Employment:
Negotiated Rulemaking Committee Nominations and Schedule of Committee Meetings, 41194–41197

Energy Department
See Federal Energy Regulatory Commission
RULES
Advanced Technology Vehicles Manufacturer Assistance Program, 41157–41158
PROPOSED RULES
Energy Conservation Program:
Test Procedure for Small Electric Motors and Electric Motors, 41179

Environmental Protection Agency
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Rhode Island; Infrastructure Requirement for 2010 Sulfur Dioxide and 2010 Nitrogen Dioxide National Ambient Air Quality Standards, 41197–41205
NOTICES
Meetings:
Methylene Chloride in Furniture Refinishing; Workshop, 41256–41258
Proposed CERCLA Cost Recovery Settlements:
Former Douglas Battery Site, Winston-Salem, Forsyth County, NC, 41256

Farm Credit Administration
NOTICES
Equal Employment Opportunity and Diversity, 41258–41259

Federal Aviation Administration
RULES
Airworthiness Directives:
The Boeing Company Airplanes, 41160–41163
PROPOSED RULES
Air Traffic Service Routes:
Western United States, 41182–41183
Airworthiness Directives:
The Boeing Company Airplanes, 41179–41182
NOTICES
Reduction of Remote Communications Outlets Used by Flight Service Stations in Conterminous United States, 41304–41306

Federal Energy Regulatory Commission
NOTICES
Applications:
Tallgrass Interstate Gas Transmission, LLC, 41256
Filings:
Great River Energy, 41255

Federal Maritime Commission
NOTICES
Agreements Filed, 41259

Federal Reserve System
NOTICES
Requests for Information:
Production of Rates, 41259–41262

Fish and Wildlife Service
RULES
Permits for Eagle Incidental Take and Take of Eagle Nests; Correction, 41177–41178
NOTICES
Permit Applications:
Foreign Endangered and Threatened Species, 41281–41282

Food and Drug Administration
NOTICES
Determinations of Regulatory Review Periods for Purposes of Patent Extensions:
KENGREAL, 41274–41276
XTORO, 41271–41273
Determinations that Products were Not Withdrawn from Sale for Reasons of Safety or Effectiveness:
CENESTIN (estrogens, conjugated synthetic A) Tablets, 0.3 Milligrams, 0.45 Milligrams, 0.625 Milligrams, 0.9 Milligrams, and 1.25 Milligrams, 41273–41274
Guidance:
Product-Specific Guidance for Digoxin, 41270–41271
New Drug Applications:
Upsher-Smith Laboratories, Inc.; Withdrawal of Approval for PROPRANOLOL HYDROCHLORIDE, 41273

Foreign-Trade Zones Board
NOTICES
Production Activities:
DPT Laboratories, Ltd., Foreign-Trade Zone 80, San Antonio, TX, 41209
Pfizer, Inc., Foreign-Trade Zone 43, Battle Creek, MI, 41207–41208
Valeo North America, Inc., Foreign-Trade Zone 39, Dallas-Fort Worth, TX, 41208
Proposed Production Activities:
Nisshinbo Automotive Manufacturing, Inc., Foreign-Trade Zone 26, Atlanta, GA, 41208–41209
Subzone Expansions; Approvals:
5.11, Inc. Modesto, Lathrop and Manteca, CA, 41208
Subzone Status; Approvals:
MTD Consumer Group, Inc., Martin, TN, 41209

Geological Survey
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Ferrous Metals Surveys, 41282–41283

Gulf Coast Ecosystem Restoration Council
NOTICES
Initial Funded Priorities List; Proposed Amendments, 41262–41263

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health

Health Resources and Services Administration
NOTICES
Meetings:
Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment, 41276–41277

Homeland Security Department
See Coast Guard
See U.S. Customs and Border Protection

Interior Department
See Fish and Wildlife Service
See Geological Survey
See Land Management Bureau
See National Park Service
See Reclamation Bureau

Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 41307–41308

International Trade Administration
NOTICES
Annual Listing of Foreign Government Subsidies; Quarterly Updates:
Articles of Cheese Subject to In-Quota Rate of Duty, 41209–41210
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Ripe Olives from Spain, 41210

International Trade Commission
NOTICES
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain Personal Transporters, Components Thereof, and Packaging and Manuals Therefor; Certain Personal Transporters and Components Thereof, 41287–41288
Paper Clips from China, 41288

Labor Department
See Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Escape and Evacuation Plans, 41291–41292
Events Registration Platform, 41291
Nondiscrimination Compliance Information Reporting, 41289–41290
Request for Examination and/or Treatment, 41288–41289
Rock Burst Control Plan, 41290–41291

Land Management Bureau
NOTICES
Plats of Surveys:
Idaho, 41283
Public Land Orders:
Sacramento Peak Observatory, New Mexico, 41283–41284

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 41296–41297

National Highway Traffic Safety Administration
NOTICES
Environmental Impact Statements; Availability, etc.:
Model Year 2022–2025 Corporate Average Fuel Economy Standards, 41306

National Institute of Standards and Technology
NOTICES
Meetings:
Federated Cloud Public Working Group, 41210–41211
Requests for Information:
Development of Organization of Scientific Area Committees for Forensic Science 2.0, 41211–41213

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 41277–41279
Eunice Kennedy Shriver National Institute of Child Health and Human Development; Correction, 41279
National Heart, Lung, and Blood Institute, 41277, 41279
National Institute of Allergy and Infectious Diseases, 41277

National Oceanic and Atmospheric Administration
RULES
Fisheries of Exclusive Economic Zone Off Alaska:
Pacific Ocean Perch in Bering Sea and Aleutian Islands Management Area, 41178
PROPOSED RULES
Fisheries of Caribbean, Gulf of Mexico, and South Atlantic:
Reef Fish Fishery of Gulf of Mexico; Gray Triggerfish Management Measures; Amendment 46, 41205–41206
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 41213–41214
Environmental Assessments; Availability, etc.:
National Data Buoy Center, 41214–41215
Takes of Marine Mammals Incidental to Specified Activities:
Biorka Island Dock Replacement Project, 41229–41255
Central Bay Operations and Maintenance Facility Project, 41215–41229

National Park Service
NOTICES
Repatriations of Cultural Items:
Science Museum of Minnesota, St. Paul, MN, 41285–41286
U.S. Department of Agriculture, Forest Service, Tonto National Forest, Phoenix, AZ, 41284–41285

Nuclear Regulatory Commission
NOTICES
Guidance:
Preparation of Petitions for Rulemaking and Preparation and Submission of Proposals for Regulatory Guidance Documents; Withdrawal, 41297

Occupational Safety and Health Administration
PROPOSED RULES
Operator Certification Extensions:
Cranes and Derricks in Construction, 41184–41193
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Voluntary Protection Programs Information, 41294–41296
Expansion of Recognition; Applications:
Intertek Testing Services NA, Inc., 41292–41294

Presidential Documents
PROCLAMATIONS
Special Observances:
Women's Equality Day (Proc. 9631), 41315–41318
ADMINISTRATIVE ORDERS
Armed Forces:
Transgender Individuals; Policy on Service in the Military (Memorandum of August 25, 2017), 41319–41320

Reclamation Bureau
NOTICES
Central Valley Project Improvement Act Water Management Plans, 41286–41287

Securities and Exchange Commission
NOTICES
Self-Regulatory Organizations; Proposed Rule Changes:
NASDAQ Stock Market, LLC, 41298–41300
New York Stock Exchange, LLC, 41300

Small Business Administration
NOTICES
Disaster Declarations:
Louisiana, 41301–41302
Oklahoma, 41300
Pennsylvania, 41302–41303
Tennessee, 41301
Wisconsin, 41300–41301

State Department
RULES
United States Munitions List:
Temporary Modification of Category XI, 41172–41173
NOTICES
Culturally Significant Objects Imported for Exhibition:
Renoir and Friends: Luncheon of the Boating Party, 41303
Determinations:
Department of State, Foreign Operations, and Related Programs Appropriations Act, 41303

Surface Transportation Board
NOTICES
Meetings:
CSX Transportation, Inc.'s Rail Service Issues, 41303–41304

Transportation Department
See Federal Aviation Administration
See National Highway Traffic Safety Administration

Treasury Department
See Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 41310–41312
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Capital Magnet Fund Forms, 41310

U.S. Customs and Border Protection
NOTICES
Commercial Gaugers and Laboratories; Accreditations and Approvals:
Intertek USA, Inc., 41280–41281

Veterans Affairs Department
NOTICES
Exclusive Licenses; Approvals:
Arizona Board of Regents, 41312–41313

Separate Parts In This Issue

Part II

Presidential Documents, 41315–41320

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Proclamations:
9631 41317

Administrative Orders:
Memorandums:
Memorandum of August 25, 2017 41319

10 CFR
611 41157

Proposed Rules:
431 41179

12 CFR
1026 41158

14 CFR
39 41160

Proposed Rules:
39 41179
71 41182

16 CFR
1308 41163

22 CFR
121 41172

29 CFR

Proposed Rules:
1926 41184

33 CFR
117 (2 documents) 41173, 41174
165 41174

34 CFR

Proposed Rules:
Ch. VI 41194

40 CFR

Proposed Rules:
52 41197

50 CFR
13 41177
679 41178

Proposed Rules:
622 41205

Rules and Regulations

Federal Register
Vol. 82, No. 167
Wednesday, August 30, 2017

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

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

DEPARTMENT OF ENERGY

10 CFR Part 611

Advanced Technology Vehicles Manufacturer Assistance Program

AGENCY: Loan Programs Office, Department of Energy.

ACTION: Interpretive rule.

SUMMARY: The Department of Energy (''DOE'') is adopting an interpretive rule to clarify its interpretation of Section 136 of the Energy Independence and Security Act of 2007, as amended (''EISA'') and its implementing regulations for the Advanced Technology Vehicle Manufacturing Loan Program (the ''ATVM Loan Program'') authorized by Section 136. Section 136(f), which establishes requirements for the administrative costs associated with loans under the ATVM Loan Program, was implemented by DOE pursuant to a 2008 interim final rule governing the operation of the ATVM Program. The implementing regulation in part provided that the borrower would be required to pay at the time of the closing of the loan, an ''Administrative Fee'' equal to 10 basis points of the principal amount of the loan. DOE is adopting this interpretive rule to explain its view that the administrative costs imposed by Congress under Section 136(f) is separate from the cost of the outside advisors engaged by DOE in connection with the review and processing of their respective loan applications, negotiation of conditional commitments, and closing of loans.

DATES: This interpretive rule is effective on August 30, 2017.

FOR FURTHER INFORMATION CONTACT: Herbert A. Glaser, Chief Counsel, Loan Programs Office, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585–0121, email: *lgprogram@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background
II. Approval of the Office of the Secretary

I. Introduction and Background

Section 136 of EISA authorizes the Secretary of Energy (the ''Secretary'') to issue grants and direct loans to applicants for the costs of reequipping, expanding, or establishing manufacturing facilities in the United States to produce qualified advanced technology vehicles, or qualifying components. Section 136 also authorizes the Secretary to issue grants and direct loans for the costs of engineering integration performed in the United States of qualifying advanced technology vehicles and qualifying components. DOE promulgated regulations implementing Section 136 at 10 CFR part 611, 73 FR 66721 (November 12, 2008). The regulations included implementation of Section 136(f), ''Fees,'' which specifies that administrative costs shall be no more than $100,000 or 10 basis points of the loan. This statutory requirement is implemented at 10 CFR 611.107(e), which states that ''[t]he Borrower will be required to pay at the time of the closing of the loan a fee equal to 10 basis points of the principal amount of the loan.'' This payment is referred to as the ''Administrative Fee.''

Although the Administrative Fee has been the sole fee imposed by DOE under the ATVM Loan Program to date, DOE does not interpret Section 136(f) as restricting its ability to assess other fees and charges on borrowers or other applicants, as defined in the implementing regulation at 10 CFR 611.2. Moreover, DOE does not interpret Section136(f) as limiting the Secretary's discretion to impose on borrowers or other applicants the cost of outside advisors engaged by DOE in connection with the processing and review of their respective loan applications or the negotiation and closing of their respective loan commitments and closings (collectively, ''Transaction Advisory Costs''). In the 2008 rulemaking, DOE discussed its interpretation of Section 136(f), explaining that DOE interprets the statute as authorizing DOE to charge borrowers an administrative fee and as providing DOE with the flexibility to choose either monetary option set forth in the statute. DOE decided in the 2008 rulemaking that administrative costs imposed on each borrower will be 10 basis points of the loan, to be paid by the borrower on the closing date of the loan. DOE based its decision on the need for fairness among borrowers and the belief that administrative costs for a loan would be in excess of 10 basis points, and by selecting 10 basis points as the fee for all loans, DOE ensured that borrowers of smaller loans would pay smaller Administrative Fees. Nothing in the rulemaking sought to define ''administrative costs,'' nor did it suggest that Section 136(f) limited DOE's authority to recover costs not considered ''administrative costs.'' In this regard, the preamble to the 2008 interim final rule refers to a ''fee'', but does not suggest that the fee is exclusive. Moreover, both Section 136(f) and the implementing regulations are silent as to the allocation, between DOE and applicants, of Transaction Advisory Costs or other costs that fall outside of the scope of administrative costs.

Generally, the costs incurred by DOE to date to carry out the ATVM Loan Program can be divided into two categories: Those costs attributable generally to the overall administration of the ATVM Program, including payroll and other overhead costs of the Loan Programs Office ATVM Division, which are incurred irrespective of the volume or complexity of loan applications (''Category I Costs''), and those costs attributable directly to the review, processing, closing and management of specific loan transactions, including Transaction Advisory Costs (''Category II Costs''). Transaction Advisory Costs and other Category II Costs vary significantly in relation to the maturity and organization of the applicant and the complexity of the proposed project, among other factors.

In this rulemaking, DOE interprets ''administrative costs'' as used in Section 136(f) not to include Category II Costs, including Transactional Advisory Costs. DOE interprets Section 136(f) to instead establish a limit on the Category I Costs of the ATVM Loan Program that can be recovered through the imposition of the Administrative Fee. Allocating to the applicant the responsibility for Transaction Advisory Costs associated with the applicant's transaction is consistent with the prevailing practices of similar federal financing programs and commercial lenders in similar transactions. Accordingly, DOE does not interpret either Section 136(f) or the

implementing regulations to restrict DOE's ability to allocate the Transaction Advisory Costs or other Category II Costs associated with a particular application to the relevant applicant.

Based on its interpretation of the statute as explained in this rule, applicants for ATVM loans can bear all Transaction Advisory Costs associated with their respective applications. Applicants would pay Transaction Advisory Costs pursuant to direct agreements executed by and between the applicant and each relevant outside transaction advisor, in a form acceptable to DOE and each such transaction advisor, no later than the date determined by DOE in its discretion with respect to such pending application.

II. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this interpretive rule.

List of Subjects in 10 CFR Part 611

Administrative practice and procedure, Loan programs—energy, Reporting and recordkeeping requirements.

Issued in Washington, DC, on August 24, 2017.

John Sneed,

Executive Director, Loan Programs Office.

[FR Doc. 2017–18400 Filed 8–29–17; 8:45 am]

BILLING CODE 6450–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

Truth in Lending (Regulation Z) Annual Threshold Adjustments (Credit Cards, HOEPA, and ATR/QM)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official interpretation.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is issuing this final rule amending the official interpretations for Regulation Z, which implements the Truth in Lending Act (TILA). The Bureau is required to calculate annually the dollar amounts for several provisions in Regulation Z; this final rule revises, as applicable, the dollar amounts for provisions implementing TILA and amendments to TILA, including under the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act), the Home Ownership and Equity Protection Act of 1994 (HOEPA), and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The Bureau is adjusting these amounts, where appropriate, based on the annual percentage change reflected in the Consumer Price Index (CPI) in effect on June 1, 2017.

DATES: This final rule is effective January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Jaclyn Maier, Counsel, Office of Regulations, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552 at (202) 435–7700.

SUPPLEMENTARY INFORMATION: The Bureau is amending the official interpretations for Regulation Z, which implements TILA, to update the dollar amounts of various thresholds that are adjusted annually based on the annual percentage change in the CPI as published by the Bureau of Labor Statistics (BLS). Specifically, for open-end consumer credit plans under TILA, the threshold that triggers requirements to disclose minimum interest charges will remain unchanged at $1.00 in 2018. For open-end consumer credit plans under the CARD Act amendments to TILA, the adjusted dollar amount for the safe harbor for a first violation penalty fee will remain unchanged at $27 in 2018 and the adjusted dollar amount for the safe harbor for a subsequent violation penalty fee will remain unchanged at $38 in 2018. For HOEPA loans, the adjusted total loan amount threshold for high-cost mortgages in 2018 will be $21,032. The adjusted points and fees dollar trigger for high-cost mortgages in 2018 will be $1,052. For the general rule to determine consumers' ability to repay mortgage loans, the maximum thresholds for total points and fees for qualified mortgages in 2018 will be 3 percent of the total loan amount for a loan greater than or equal to $105,158; $3,155 for a loan amount greater than or equal to $63,095 but less than $105,158; 5 percent of the total loan amount for a loan greater than or equal to $21,032 but less than $63,095; $1,052 for a loan amount greater than or equal to $13,145 but less than $21,032; and 8 percent of the total loan amount for a loan amount less than $13,145.

I. Background

A. Credit Card Annual Adjustments

Minimum Interest Charge Disclosure Thresholds

Sections 1026.6(b)(2)(iii) and 1026.60(b)(3) of the Bureau's Regulation Z implement sections 127(a)(3) and 127(c)(1)(A)(ii)(II) of TILA. Sections 1026.6(b)(2)(iii) and 1026.60(b)(3) require the disclosure of any minimum interest charge exceeding $1.00 that could be imposed during a billing cycle and provide that, for open-end consumer credit plans, the minimum interest charge thresholds will be re-calculated annually using the CPI that was in effect on the preceding June 1; the Bureau uses the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W) for this adjustment. When the cumulative change in the adjusted minimum value derived from applying the annual CPI–W level to the current amounts in §§ 1026.6(b)(2)(iii) and 1026.60(b)(3) has risen by a whole dollar, the minimum interest charge amounts set forth in the regulation will be increased by $1.00. The BLS publishes consumer-based indices monthly but does not report a CPI change on June 1; adjustments are reported in the middle of the month. This adjustment analysis is based on the CPI–W index in effect on June 1, 2017, which was reported by BLS on May 12, 2017, and reflects the percentage change from April 2016 to April 2017. The CPI–W is a subset of the Consumer Price Index for All Urban Consumers (CPI–U) index and represents approximately 28 percent of the U.S. population. The adjustment analysis accounts for a 2.1 percent increase in the CPI–W from April 2016 to April 2017. This increase in the CPI–W when applied to the current amounts in §§ 1026.6(b)(2)(iii) and 1026.60(b)(3) did not trigger an increase in the minimum interest charge threshold of at least $1.00, and the Bureau is therefore not amending §§ 1026.6(b)(2)(iii) and 1026.60(b)(3).

Safe Harbor Penalty Fees

Section 1026.52(b)(1)(ii)(A) and (B) of the Bureau's Regulation Z implements section 149(e) of TILA, established by the CARD Act.[1] Section 1026.52(b)(1)(ii)(D) provides that the safe harbor provision, which establishes the permissible penalty fee thresholds in § 1026.52(b)(1)(ii)(A) and (B), will be re-calculated annually using the CPI that was in effect on the preceding June 1; the Bureau uses the CPI–W for this adjustment. The BLS publishes consumer-based indices monthly but does not report a CPI change on June 1; adjustments are reported in the middle of the month. The CPI–W is a subset of the CPI–U index and represents approximately 28 percent of the U.S. population. When the cumulative change in the adjusted value derived

[1] Credit Card Accountability Responsibility and Disclosure Act of 2009, Public Law 111–24, 123 Stat. 1734 (2009).

from applying the annual CPI–W level to the current amounts in § 1026.52(b)(1)(ii)(A) and (B) has risen by a whole dollar, those amounts will be increased by $1.00. Similarly, when the cumulative change in the adjusted value derived from applying the annual CPI–W level to the current amounts in § 1026.52(b)(1)(ii)(A) and (B) has decreased by a whole dollar, those amounts will be decreased by $1.00. See comment 52(b)(1)(ii)–2. The 2018 adjustment analysis is based on the CPI–W index in effect on June 1, 2017, which was reported by BLS on May 12, 2017, and reflects the percentage change from April 2016 to April 2017. The 2.1 percent increase in the CPI–W from April 2016 to April 2017 did not trigger an increase in the first violation safe harbor penalty fee of $27 or the subsequent violation safe harbor penalty fee of $38, and the Bureau is therefore not amending § 1026.52(b)(1)(ii)(A) and (B) for the 2018 calendar year.

B. HOEPA Annual Threshold Adjustments

Section 1026.32(a)(1)(ii) of the Bureau's Regulation Z implements section 1431 of the Dodd-Frank Act,[2] which amended the HOEPA points and fees coverage test. Under § 1026.32(a)(1)(ii)(A) and (B), when determining whether a transaction is a high-cost mortgage, the determination of the applicable points and fees coverage test is based upon whether the total loan amount is for $20,000 or more, or for less than $20,000. Section 1026.32(a)(1)(ii) provides that this threshold amount be recalculated annually using the CPI index in effect on June 1; the Bureau uses the CPI–U for this adjustment. The CPI–U is based on all urban consumers and represents approximately 88 percent of the U.S. population. The BLS publishes consumer-based indices monthly but does not report a CPI change on June 1; adjustments are reported in the middle of each month. The 2018 adjustment is based on the CPI–U index in effect on June 1, which was reported by BLS on May 12, 2017, and reflects the percentage change from April 2016 to April 2017. The adjustment to the $20,000 figure being adopted here reflects a 2.2 percent increase in the CPI–U index for this period and is rounded to whole dollars for ease of compliance.

Under § 1026.32(a)(1)(ii)(B) the HOEPA points and fees dollar trigger is $1,000. Section 1026.32(a)(1)(ii)(B) provides that this threshold amount will be recalculated annually using the CPI index in effect on June 1; the Bureau uses the CPI–U for this adjustment. The 2018 adjustment is based on the CPI–U index in effect on June 1, which was reported by BLS on May 12, 2017, and reflects the percentage change from April 2016 to April 2017. The adjustment to the $1,000 figure being adopted here reflects a 2.2 percent increase in the CPI–U index for this period and is rounded to whole dollars for ease of compliance.

C. Ability To Repay and Qualified Mortgages Annual Threshold Adjustments

The Bureau's Regulation Z implements sections 1411 and 1412 of the Dodd-Frank Act, which generally require creditors to make a reasonable, good faith determination of a consumer's ability to repay any consumer credit transaction secured by a dwelling, and establishes certain protections from liability under this requirement for qualified mortgages. Under § 1026.43(e)(3)(i), a covered transaction is not a qualified mortgage if the transaction's points and fees exceed: 3 Percent of the total loan amount for a loan amount greater than or equal to $100,000; $3,000 for a loan amount greater than or equal to $60,000 but less than $100,000; 5 percent of the total loan amount for loans greater than or equal to $20,000 but less than $60,000; $1,000 for a loan amount greater than or equal to $12,500 but less than $20,000; or 8 percent of the total loan amount for loans less than $12,500. Section 1026.43(e)(3)(ii) provides that the limits and loan amounts in § 1026.43(e)(3)(i) are recalculated annually for inflation using the CPI–U index in effect on June 1. The CPI–U is based on all urban consumers and represents approximately 88 percent of the U.S. population. The BLS publishes consumer-based indices monthly but does not report a CPI change on June 1; adjustments are reported in the middle of each month. The 2018 adjustment is based on the CPI–U index in effect on June 1, which was reported by BLS on May 12, 2017, and reflects the percentage change from April 2016 to April 2017. The adjustment to the 2017 figures being adopted here reflects a 2.2 percent increase in the CPI–U index for this period and is rounded to whole dollars for ease of compliance.

II. Adjustment and Commentary Revision

A. Credit Card Annual Adjustments

Minimum Interest Charge Disclosure Thresholds—§§ 1026.6(b)(2)(iii) and 1026.60(b)(3)

The minimum interest charge amounts for §§ 1026.6(b)(2)(iii) and 1026.60(b)(3) will remain unchanged at $1.00 for the year 2018. Accordingly, the Bureau is not amending these sections of Regulation Z.

Safe Harbor Penalty Fees—§ 1026.52(b)(1)(ii)(A) and (B)

The safe harbor penalty fee amounts remain unchanged at $27 for § 1026.52(b)(1)(ii)(A) (first violation safe harbor penalty fee) and $38 for § 1026.52(b)(1)(ii)(B) (subsequent violation safe harbor penalty fee) for the year 2018. Accordingly, the Bureau is not amending these sections of Regulation Z. The Bureau is amending comment 52(b)(1)(ii)–2.i to preserve a list of the historical thresholds for this provision.

B. HOEPA Annual Threshold Adjustment—Comments 32(a)(1)(ii)–1 and –3

Effective January 1, 2018, for purposes of determining under § 1026.32(a)(1)(ii) the points and fees coverage test under HOEPA to which a transaction is subject, the total loan amount threshold is $21,032, and the adjusted points and fees dollar trigger under § 1026.32(a)(1)(ii)(B) is $1,052. When the total loan amount for a transaction is $21,032 or more, and the points and fees amount exceeds 5 percent of the total loan amount, the transaction is a high-cost mortgage. When the total loan amount for a transaction is less than $21,032, and the points and fees amount exceeds the lesser of the adjusted points and fees dollar trigger of $1,052 or 8 percent of the total loan amount, the transaction is a high-cost mortgage. The Bureau is amending comments 32(a)(1)(ii)–1 and –3, which list the adjustments for each year, to reflect for 2018 the new loan amount dollar threshold and the new points and fees dollar trigger, respectively.

C. Ability To Repay and Qualified Mortgages Annual Threshold Adjustments

Effective January 1, 2018, for purposes of determining whether a covered transaction is a qualified mortgage under § 1026.43(e), a covered transaction is not a qualified mortgage if, pursuant to § 1026.43(e)(3), the transaction's total points and fees exceed 3 percent of the total loan

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

amount for a loan amount greater than or equal to $105,158; $3,155 for a loan amount greater than or equal to $63,095 but less than $105,158; 5 percent of the total loan amount for loans greater than or equal to $21,032 but less than $63,095; $1,052 for a loan amount greater than or equal to $13,145 but less than $21,032; or 8 percent of the total loan amount for loans less than $13,145. The Bureau is amending comment 43(e)(3)(ii)–1, which lists the adjustments for each year, to reflect the new dollar threshold amounts for 2018.

III. Procedural Requirements

A. Administrative Procedure Act

Under the Administrative Procedure Act, notice and opportunity for public comment are not required if the Bureau finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). Pursuant to this final rule, in Regulation Z, comments 32(a)(1)(ii)–1.iv and –3.iv, 43(e)(3)(ii)–1.iv, and 52(b)(1)(ii)–2.i.E in supplement I are added to update the exemption thresholds. The amendments in this final rule are technical and non-discretionary, as they merely apply the method previously established in Regulation Z for determining adjustments to the thresholds. For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. The amendments therefore are adopted in final form.

B. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a).

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR part 1320), the Bureau reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

List of Subjects in 12 CFR Part 1026

Advertising, Consumer protection, Credit, Credit unions, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau amends Regulation Z, 12 CFR part 1026, as set forth below:

PART 1026—TRUTH IN LENDING (REGULATION Z)

■ 1. The authority citation for part 1026 continues to read as follows:

Authority: 12 U.S.C. 2601, 2603–2605, 2607, 2609, 2617, 3353, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 *et seq.*

■ 2. In Supplement I to part 1026—Official Interpretations:

■ a. Under *Section 1026.32—Requirements for High-Cost Mortgages,* under *32(a) Coverage,* under *Paragraph 32(a)(1)(ii),* paragraphs 1.iv and 3.iv are added.

■ b. Under *Section 1026.43—Minimum Standards for Transactions Secured by a Dwelling,* under *43(e) Qualified mortgages,* under *Paragraph 43(e)(3)(ii),* paragraph 1.iv is added.

■ c. Under *Section 1026.52—Limitations on Fees,* under *52(b) Limitations on Penalty Fees,* under *52(b)(1)(ii) Safe harbors,* paragraph 2.i.E is added.

The additions read as follows:

Supplement I to Part 1026—Official Interpretations

* * * * *

Subpart E—Special Rules for Certain Home Mortgage Transactions

* * * * *

Section 1026.32—Requirements for Certain Closed-End Home Mortgages

32(a) Coverage

* * * * *

Paragraph 32(a)(1)(ii).

1. * * *

iv. For 2018, $1,052, reflecting a 2.2 percent increase in the CPI–U from June 2016 to June 2017, rounded to the nearest whole dollar.

* * * * *

3. * * *

iv. For 2018, $21,032, reflecting a 2.2 percent increase in the CPI–U from June 2016 to June 2017, rounded to the nearest whole dollar.

* * * * *

Section 1026.43—Minimum Standards for Transactions Secured by a Dwelling

* * * * *

43(e) Qualified mortgages.

* * * * *

Paragraph 43(e)(3)(ii).

1. * * *

iv. For 2018, reflecting a 2.2 percent increase in the CPI–U that was reported on the preceding June 1, a covered transaction is not a qualified mortgage unless the transaction's total points and fees do not exceed:

A. For a loan amount greater than or equal to $105,158: 3 percent of the total loan amount;

B. For a loan amount greater than or equal to $63,095 but less than $105,158: $3,155;

C. For a loan amount greater than or equal to $21,032 but less than $63,095: 5 percent of the total loan amount;

D. For a loan amount greater than or equal to $13,145 but less than $21,032: $1,052;

E. For a loan amount less than $13,145: 8 percent of the total loan amount.

* * * * *

Subpart G—Special Rules Applicable to Credit Card Accounts and Open-End Credit Offered to College Students

* * * * *

Section 1026.52—Limitations on Fees

* * * * *

52(b) Limitations on Penalty Fees

* * * * *

52(b)(1)(ii) Safe harbors

* * * * *

2. * * *

i. * * *

E. Card issuers were permitted to impose a fee for violating the terms of an agreement if the fee did not exceed $27 under § 1026.52(b)(1)(ii)(A) and $38 under § 1026.52(b)(1)(ii)(B), through December 31, 2017.

* * * * *

Dated: July 25, 2017.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2017–18003 Filed 8–29–17; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0503; Product Identifier 2017–NM–032–AD; Amendment 39–19009; AD 2017–17–19]

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 all The Boeing Company Model DC–9–81 (MD–

81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes, and Model MD–88 airplanes. This AD was prompted by reports of cracking of various structures in the bulkhead. This AD requires an inspection for cracking in these structures, and corrective actions if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 4, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 4, 2017.

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, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0509.

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–2017–0503; 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 final rule, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: 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 all The Boeing Company Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes, and Model MD–88 airplanes. The NPRM published in the **Federal Register** on June 2, 2017 (82 FR 25547). The NPRM was prompted by reports of cracking of various structures in the bulkhead. The NPRM proposed to require an inspection for cracking in these structures, and corrective actions if necessary. We are issuing this AD to detect and correct cracking at the cant station 1463 bulkhead and cant station 1254 bulkhead, which could result in reduced 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.

Support for the NPRM

Boeing stated that it appreciates the credit for actions done prior to the effective date of the AD specified in paragraph (i) of the proposed AD.

Request To Clarify Location of Crack Findings

Boeing requested that we revise the Discussion section to add the vertical stabilizer location in the sentence ''The cracks were in the upper left area of the bulkhead, between longerons L–2 and L–3, in the frame web, horizontal stiffeners, lower frame cap, [vertical stabilizer] rear spar cap, and spar cap web.''

We partially agree with Boeing's request. The added wording does accurately indicate the cracking location. However, this description is not repeated in this final rule. Therefore, no change is needed in this regard.

Requests To Revise Inspection Locations for Affected Airplanes

Boeing and Delta Airlines (DAL) requested that we revise paragraph (g) of the proposed AD to include Model MD–88 airplanes in the cant station 1463 bulkhead group instead of the cant station 1254 bulkhead group. The commenters explained that Model MD–88 airplanes share the same fuselage length (and hence, station numbers) as Model DC–9–81, DC–9–82, and DC–9–83 airplanes. The commenters also request that, with the requested change to paragraph (g) of the proposed AD, we remove paragraph (h)(1) of the proposed AD since there would be no need for that exception to the service information.

We agree with the commenters' requests. The cant station 1463 bulkhead is correct for Model MD–88 airplanes. This group revision does not change the overall scope of the actions required for Model MD–88 airplanes. We agree that the service information exception in paragraph (h)(1) of the proposed AD is no longer needed. We have revised the Model MD–88 grouping in paragraph (g) of this AD, removed paragraph (h)(1) of the proposed AD, and redesignated paragraph (h)(2) of the proposed AD as paragraph (h) in this AD.

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 correcting 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 MD80–53A316, dated December 15, 2016. The service information describes procedures for a detailed inspection on the left and right sides of the forward and aft surfaces of cant station 1463 bulkhead and cant station 1254 bulkhead for cracking in the upper caps, upper cap doublers, bulkhead webs and doublers, stiffeners, lower caps, and vertical stabilizer rear spar caps and webs, between longerons L–11L through L–11R, and corrective 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 will affect 361 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
Inspection	3 work-hours × $85 per hour = $255	$0	$255	$92,055

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 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):

2017–17–19 The Boeing Company: Amendment 39–19009; Docket No. FAA–2017–0503; Product Identifier 2017–NM–032–AD.

(a) Effective Date

This AD is effective October 4, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes, and Model MD–88 airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of cracking of various structures at the cant station 1463 bulkhead and at the cant station 1254 bulkhead. We are issuing this AD to detect and correct cracking at the cant station 1463 bulkhead and cant station 1254 bulkhead, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Inspection and Corrective Action

Within 700 flight cycles or 6 months after the effective date of this AD, whichever occurs first, do a detailed inspection for cracking on the left and right sides of the forward and aft surfaces of the cant station 1463 bulkhead (for Model DC–9–81 (MD–81), DC–9–82 (MD–82), and DC–9–83 (MD–83) airplanes, and Model MD–88 airplanes) and cant station 1254 bulkhead (for Model DC–9–87 (MD–87) airplanes); and do all applicable corrective actions; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD80–53A316, dated December 15, 2016, except as required in paragraph (h) of this AD. Do all applicable corrective actions before further flight.

(h) Exception to Service Information

Where Boeing Alert Service Bulletin MD80–53A316, dated December 15, 2016, specifies to contact Boeing for appropriate action and specifies that action as ''RC'' (Required for Compliance): Before further flight, repair the cracking using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(i) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Multi Operator Message MOM–MOM–16–0684–01B, dated October 7, 2016.

(j) Special Flight Permit

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), may be issued to operate the airplane to a location where the requirements of this AD can be accomplished, but concurrence by the Manager, Los Angeles ACO Branch, FAA, is required before issuance of the special flight permit.

(k) 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 (l) 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) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (k)(4)(i) and (k)(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.

(l) Related Information

(1) 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*.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(3) and (m)(4) of this AD.

(m) 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 MD80–53A316, dated December 15, 2016.

(ii) Reserved.

(3) For 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, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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

Issued in Renton, Washington, on August 17, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–18165 Filed 8–29–17; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1308

[Docket No. CPSC–2016–0017]

Prohibition of Children's Toys and Child Care Articles Containing Specified Phthalates: Determinations Regarding Certain Plastics

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission (Commission, or CPSC) is issuing a final rule that determines that certain plastics with specified additives would not contain the specified phthalates prohibited in children's toys and child care articles. Based on these determinations, the specified plastics with specified additives will not require third party testing for compliance with the mandatory prohibitions on children's toys and child care articles containing phthalates.

DATES: The rule is effective on September 29, 2017.

FOR FURTHER INFORMATION CONTACT: John W. Boja, Lead Compliance Officer, Regulatory Enforcement, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway Bethesda, MD 20814–4408; telephone: 301–504–7300; email: *jboja@cpsc.gov*.

SUPPLEMENTARY INFORMATION:

A. Background

1. Third Party Testing and Burden Reduction

Section 14(a) of the Consumer Product Safety Act, (CPSA), as amended by the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires that manufacturers of products subject to a consumer product safety rule or similar rule, ban, standard, or regulation enforced by the CPSC, must certify that the product complies with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a). For children's products, certification must be based on testing conducted by a CPSC-accepted third party conformity assessment body. *Id.* Public Law 112–28 (August 12, 2011) amended the CPSA and directed the CPSC to seek comment on ''opportunities to reduce the cost of third party testing requirements consistent with assuring compliance with any applicable consumer product safety rule, ban, standard, or regulation.'' Public Law 112–28 also authorized the Commission to issue new or revised third party testing regulations if the Commission determines ''that such regulations will reduce third party testing costs consistent with assuring compliance with the applicable consumer product safety rules, bans, standards, and regulations.'' 15 U.S.C. 2063(d)(3)(B).

2. Prohibitions in Section 108 of the CPSIA

Section 108(a) of the CPSIA permanently prohibits the manufacture for sale, offer for sale, distribution in commerce, or importation into the United States of any ''children's toy or child care article'' that contains concentrations of more than 0.1 percent of di(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), or butyl benzyl phthalate (BBP). 15 U.S.C. 2057c(a). Section 108(b)(1) prohibits on an interim basis (*i.e.,* until the Commission promulgates a final rule), the manufacture for sale, offer for sale, distribution in commerce, or importation into the United States of ''any children's toy that can be placed in a child's mouth'' or ''child care article'' containing concentrations of more than 0.1 percent of diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-*n*-octyl phthalate (DNOP). 15 U.S.C. 2057c(b)(1). Children's toys and child care articles subject to the content limits in section 108 of the CPSIA require third party testing for compliance with the phthalate content limits before the manufacturer can issue a Children's Product Certificate (CPC) and enter the children's toys or child care articles into commerce.

The CPSIA required the Commission to appoint a Chronic Hazard Advisory Panel (CHAP) to ''study the effects on children's health of all phthalates and phthalate alternatives as used in children's toys and child care articles.'' 15 U.S.C. 2057c(b)(2). The CHAP issued

its report in July 2014.[1] Based on the CHAP report, the Commission published a notice of proposed rulemaking (NPR),[2] proposing to permanently prohibit children's toys and child care articles containing concentrations of more than 0.1 percent of DINP, and proposing to lift the interim statutory prohibitions with respect to DIDP and DnOP. In addition, the NPR proposed adding four new phthalates, DIBP, DPENP, DHEXP, and DCHP, to the list of phthalates that cannot exceed 0.1 percent concentration in accessible component parts of children's toys and child care articles. The Commission has not finalized its proposal on phthalates in children's toys and child care articles. As the determinations NPR noted, the research providing the basis for the determinations covers the six phthalates subject to the statutory prohibition, as well as the additional phthalates the Commission proposed to prohibit in children's toys and child care articles. This determinations final rule lists only the six phthalates subject to the statutory prohibition. However, when the Commission issues a final rule for the specified prohibited phthalates in children's toys and child care articles, the Commission will revise the list of prohibited phthalates in children's toys and child care articles to reflect the phthalates prohibited in the final rule.

B. The Proposed Rule

On August 17, 2016, the Commission published an NPR in the **Federal Register**, which proposed determinations that polypropylene (PP), polyethylene (PE), high-impact polystyrene (HIPS), and acrylonitrile butadiene styrene (ABS), with specified additives, would not contain the specified phthalates prohibited in children's toys and child care articles. *See* 81 FR 54754. A determination means that third party testing of the specified plastics with specified additives is not required to demonstrate compliance with the phthalates prohibitions on children's toys and child care articles. The NPR describes the CPSC's contracts with Toxicology Excellence for Risk Assessment (TERA) to conduct research on phthalates and provide CPSC with two research reports on phthalates that are the primary basis for the determinations.

[1] *http://www.cpsc.gov/PageFiles/169902/CHAP-REPORT-With-Appendices.pdf.*

[2] *https://www.federalregister.gov/articles/2014/12/30/2014-29967/prohibition-of-childrens-toys-and-child-care-articles-containing-specified-phthalates.*

C. Comments on the NPR

CPSC received 11 comments on the NPR. Below, we summarize the key issues raised by the comments and provide responses.

1. General and Technical Comments

Some commenters express support for the proposed rule as a means to reduce third party testing costs.

Comment 1: A commenter asserts that the proposed rule erroneously listed a catalyst as an additive. The commenter notes that a catalyst is not an additive and should not have been listed as such in the proposed rule.

Response 1: The commenter is correct that a catalyst is not an additive, but rather, is used to accelerate chemical reactions, and therefore, is not intended to be an additive that provides a feature (*e.g.,* color, flame resistance) to a plastic. However, plastic manufacturing processes can leave small amounts of catalyst in the resultant resin. These unrecovered catalysts can be considered trace materials or nonfunctional additives. Consequently, the Commission has changed ''catalyst,'' used in the text of the proposed rule, to ''unrecovered catalyst'' in the text of the final rule, to more precisely identify any catalysts that remain in the plastic resin after manufacture.

Comment 2: Commenters suggest several editorial changes to the Task 12 report and the preamble of the final rule. The commenters suggested the following changes, among others, to the preamble of the rule:

- Use ''propylene'' instead of ''PP monomer'';
- Use ''ethylene'' instead of ''PE monomer'';
- Note that many additives are not added to virgin PE, and not all additives will be included in most plastic used by manufacturers;
- No longer list benzene as a raw material for HIPS; and
- No longer state that Ziegler-Natta catalysts are not directly used in the production of HIPS.

The commenters' did not suggest changes to the codified text of the rule.

Response 2: The Task 12 report is a completed work product that TERA produced under contract to the CPSC, and is not subject to modification. However, because the proposed rule was based on information in this report, and in the Task 11 report, we appreciate the technical comments and corrections. To the extent that the NPR relied on imprecise terminology, the preamble to the final rule uses the commenters' suggested changes in terminology. The Commission notes that several of the suggested changes to the Task 12 report have no bearing on the rule, and as such, no changes to the preamble to the rule are necessary.

Comment 3: A commenter suggests that the CPSC should list all the different types of plastics that qualify for a determination by their Chemical Abstracts Service Registry Number (CASRN) because the lack of this type of helpful guidance may lead to uncertainty and confusion over which plastics qualify for a determination. The commenter adds that many plastics have different types, not all of which may qualify for a determination that third party testing is not required.

Response 3: The Task 11 and Task 12 reports used both specific CASRNs and common chemical names (*e.g.,* polyethylene, polypropylene, HIPS, and ABS). Therefore, CPSC considers that a CASRN or a common chemical name is acceptable for use as a plastic identifier because the contractor's research indicates that none of the terms for the plastics researched showed that these plastics contain the specified phthalates in concentrations greater than 0.1 percent.

Suppliers may use the common name and not the CASRN to identify the plastics sold to component part manufacturers or children's product manufacturers. Additionally, a rule listing only CASRNs could be unnecessarily restrictive, excluding versions of the specified plastics that are equally expected always to comply with the phthalates content limits. Conceivably, a plastic resin plus a specific combination of these additives could be assigned a unique CASRN, and would be excluded from using the third party testing determinations, if the determinations were limited to a defined set of CASRNs.

2. Contamination Risk and Continued Testing

Comment 4: A commenter states that molded plastics may become contaminated with phthalates if the molding machine used phthalate-containing plastics and the molds were not cleaned before the new plastics were introduced. The commenter provides a theoretical example of polyvinyl chloride (PVC) production followed by production using one of the specified plastics. The commenter did not provide data regarding the possible levels of phthalate transfer.

Another commenter states that hard plastics are at high risk of contamination with phthalates. The commenter asserts that they have measured the commenter has measured ''high'' concentrations of phthalates on

ABS plastic during laboratory testing. The commenter did not provide any data or other specific information.

Response 4: These commenters appear to describe contamination, not intentional use of the specified phthalates in the plastics that are the subject of the current determinations proceeding. Neither commenter provides information about manufacturing ABS or other plastics to contradict the findings in the Task 12 report. Thus, we are unable to evaluate the commenters' claim.

Comment 5: A commenter suggests that the CPSC should conduct or procure ''unbiased testing on the relevant plastics'' to assure that none of the prohibited phthalates is present in the plastics. The commenter suggests that if CPSC does not conduct such testing, then the current third party testing requirements should be maintained.

Response 5: The Commission's determination that the specified plastics do not contain the specified phthalates at concentrations above 0.1 percent is based on data and information about raw materials and manufacturing processes that show that phthalates are not used to, or not present at, concentrations above 0.1 percent in the finished plastic. Staff has not conducted a study specifically to test products made with the specified plastics for the presence of the specified phthalates. However, staff's experience with testing and screening of plastic products supports the conclusion, based on the raw material and manufacturing process information that the specified plastics do not contain the specified phthalates.

The final rule is based on information about the use and production of phthalates and about the production of the specific plastics. Therefore, a testing study is not necessary. The information shows that phthalates are not used as plasticizers for the specified plastics and do not have other uses that would result in phthalate content in the plastics at levels exceeding the specified limit for children's toys and child care articles. Thus, the final rule is not based on manufacturers' choices or promises to use non-phthalate formulations, but rather, the rule is based on technical studies demonstrating that phthalates have no function or value in the specified plastics.

3. Exclude Other Materials From Required Third Party Testing

Comment 6: A commenter states that phthalates are incompatible with polyolefins, and that the phthalates' cost will restrict their use to materials ''absolutely necessary to make certain materials flexible when this cannot be achieved by other means.''

Response 6: We agree that the available information supports a determination that the polyolefins do not contain phthalates. The rule specifically includes determinations for the polyolefins, polyethylene, and polypropylene.

Comment 7: A commenter recommends that the Commission include rigid vinyl in future assessments of whether specified plastics can be determined not to contain the specified phthalates in concentrations above 0.1 percent. The commenter states that rigid vinyl typically has a hardness of 70 or higher as measured using the Shore D durometer test method.

Another commenter suggests that the final rule incorporate a provision that plastics meeting a hardness specification are exempt from third party testing requirements. According to the commenter, because rigid plastics' hardness would be compromised by the addition of phthalates, plastics with Shore A hardness of 90 or greater are unlikely to contain any prohibited phthalate in concentrations above 0.1 percent with a high degree of assurance.

Response 7: The hardness of a plastic is not sufficient to determine the plastic's compliance to the prohibitions in section 108 of the CPSIA. The Shore A and D hardness tests were never intended to be used as indicators of the presence of phthalates at low concentrations in plastics. As noted in Tab B of the staff's briefing package, otherwise rigid plastics can be noncompliant with the 0.1 percent content limit for the specified phthalates. *See https://www.cpsc.gov/s3fs-public/Plastics-Determinations-Final-Rule-August-16-2017.pdf?wF38T29pcl.Z5lMna6tu4Yo2HxWEZwb5.*

Plasticized polyvinyl chloride (PVC) typically contains phthalates in concentrations up to 40 percent or more. ''Rigid'' PVC has been shown to be noncompliant to the content limit of 0.1 percent. Furthermore, PVC is often recycled into new PVC products. Recycling of PVC provides a path for plasticized PVC to be used in a new ''rigid'' product that is noncompliant with the prohibitions in section 108 of the CPSIA. The determinations in the final rule for materials that do not, and will not, contain the specified phthalates at concentrations exceeding 0.1 percent are based on information about raw materials and manufacturing processes. Physical characteristics about finished products are not sufficient information to indicate that a plastic complies with the prohibitions of section 108 of the CPSIA.

Comment 8: Two commenters request that the CPSC exclude other plastic materials from required third party testing. The commenters request that the Commission determine that the materials in the following list do not contain any prohibited phthalates in concentrations above 0.1 percent, and thus, are not subject to third party testing for certification purposes, preferably by issuing a rule to that effect. The commenters provide no additional data to support the assertions that the materials on the list do not contain any prohibited phthalates:

- 1,3,5-trioxane, copolymer with 1,3-dioxolane (acetal/polyoxymethylene (POM) copolymer)
- 2,5-Furandione polymer with 1-propene (maleic anhydride grafted PP)
- 2,5-Furandione polymer with ethane (maleic anhydride grafted PE)
- Acetal/polyoxymethylene (POM) homopolymer
- Acrylic (polymethylmethacrylate and polyacrylonitrile)
- Ionomers
- Liquid crystal polymers (hydroxybenzoic acid copolymers)
- Nylon/polyamide
- Olefin thermoplastic elastomers (such as EPDM)
- Polybutene
- Polybutylene terephthalate
- Polycarbonate
- Polyesters
- Polyethylene terephthalate
- Polylactic acid
- Polyphenylene sulfide
- Polystyrene, including crystal and general-purpose (GPPS), medium-impact (MIPS) and super-high-impact (SHIPS) grades
- Polytetramethylene glycol-dimethyl terephthalate-1,4-butanediol copolymer (polyester elastomer)
- Silicone rubber (pure)
- Styrene-butadiene copolymers
- Styrene-butadiene-styrene rubbers (SBS/SBR)
- Styrene-acrylonitrile copolymers (SAN)
- Vinylidene chloride/methyl acrylate copolymers
- CMYK Process Inks
- Butadiene-ethylene resins
- Butene-ethylene copolymers
- Ethylene copolymers
- Ethylene acrylic acid copolymers
- Ethylene-propylene copolymers
- Ethylene vinyl acetate copolymers
- Ethylene vinyl acetate vinyl alcohol copolymers
- Ethylene vinyl alcohol copolymers
- Propylene-ethylene copolymers.

One of these commenters specifically requests that the Commission extend the exclusion for high-impact polystyrene (HIPS) to crystal and general-purpose polystyrene (GPPS, or GPS), medium-impact polystyrene (MIPS), and super-high-impact polystyrene (SHIPS) grades.

Another commenter urges the CPSC to continue to review other plastics for exemptions from required third party testing for phthalate content. Finally, a commenter suggests that the Commission allow suppliers of novel resin and additive combinations to warrant that the materials comply with the requirements of the CPSIA to a high degree of assurance. The commenter suggests that a third party testing exception could be granted based on ''demonstrated data.''

Response 8: The commenters provided no information to support their claim that the plastics they listed do not contain phthalates as a part of their manufacture or as an additive. The Commission cannot make determinations without such information.

However, after submission of the NPR to the Commission, CPSC's contractor completed another report (the Task 16 report), which included information about the additional polystyrene-based plastics, GPPS, MIPS, and SHIPS, mentioned by the commenter. [3] The Task 16 report contains information regarding the potential for GPPS, MIPS, SHIPS, and other plastics to contain any of the specified phthalates.

Staff examined the Task 16 report and determined that GPPS, MIPS, SHIPS, and HIPS can be considered members of a family of polystyrene plastics. GPPS is the polystyrene component of HIPS, MIPS, and SHIPS, as described in the Task 12 and Task 16 reports. GPPS does not involve the use of phthalates in its manufacture, or as an additive. Because GPPS is brittle, polybutadiene rubber is added as a ''shock absorber,'' to increase the impact resistance of the polystyrene-butadiene mixture. In the manufacturing of polybutadiene, Ziegler-Natta catalysts, which can include DBP, DIBP, and DEHP, are used, raising the possibility that these phthalate components of the catalysts could remain in the processed plastics. However, catalysts are washed from the polybutadiene, and the remaining phthalate concentrations are not likely to exceed the 0.1 percent limit.[4]

Medium-impact polystyrene consists of GPPS with about two to five percent butadiene added.[5] HIPS typically contains 6 to 12 percent butadiene.[6] The concentration of butadiene in SHIPS ranges from 40 to 60 percent.[7] All of these polystyrenes use the same materials as HIPS in their manufacture and use the same additives to achieve desired finished component part characteristics.

The Task 16 report largely referred to the information about HIPS summarized in the previous Task 12 report because of the lack of additional references for the specific polystyrene materials and the similarities among the various polystyrene materials described in the general references. No specific reference in the Task 16 report identified the use of phthalates in production of GPPS, MIPS, HIPS, or SHIPS for consumer products. Additional research by staff did not discover any more information, suggesting that phthalates may be used to produce these polystyrene-based materials.

Because the Task 12 and 16 reports and staff's research show that phthalates are not used in GPPS, MIPS, and SHIPS (except as a catalyst to make the butadiene component), and the final concentration of phthalates in the polystyrene-based materials are likely to be well below 0.1 percent, the Commission agrees with the commenter that these materials can be included in the determination, along with HIPS. The codified text of the final rule adds GPPS, MIPS, and SHIPS to HIPS and the accompanying additives.

Regarding the commenter's suggestion to allow suppliers of novel resin and additive combinations to warrant that the materials comply with the requirements of the CPSIA, section 14 of the CPSA does not allow warrants to substitute for required third party testing. The Commission could consider determinations regarding third party testing requirements for new plastics or other materials in the future, if sufficient data and other information show that third party testing is not required to assure compliance. Currently, the Commission lacks those data.

Comment 9: A commenter request that the Commission ''publicly identify the many types of plastic materials that will not contain the restricted phthalates in excess of 0.1 percent and that can thus be excluded from third-party testing requirements.'' The commenter also suggests that the Commission consider identifying the very few types of plastic materials that may contain the specified phthalates, and presumably, restrict required third party testing to those materials only. The commenter asserts that either approach would ''offer added certainty to both testing laboratories and customers, of critical importance due to the high cost of phthalates testing.''

Response 9: In this rulemaking, the Commission identifies several specific plastics that do not contain the specified phthalates in concentrations greater than 0.1 percent, based on information about raw materials, manufacturing processes, and other relevant factors. Any additional recommendations for determinations would similarly require data and other information to support a conclusion that the material does not, and will not, contain the specified phthalates. At this time, staff does not have evidence supporting additional plastics determinations, and therefore, the Commission cannot make determinations for additional plastics.

Furthermore, although we understand the typical uses of phthalates and generally the types of products that may contain phthalates in concentrations exceeding 0.1 percent, we do not agree that specifying a list of products and materials that would have to be tested (as opposed to specifying materials that do not require testing to demonstrate conformance with the standard) is practical, given the range of materials that may contain phthalates and the possibility of future development of novel uses for the specified phthalates.

4. Rule Contrary to CPSC 2009 Statement of Policy and Public Law 112–28

Comment 10: A commenter asserts that the proposed rule is contrary to section 108(c) of the CPSIA (as amended by Pub. L. 112–28). The commenter points to a sentence in the proposed rule at § 1308.2(c):

Accessible component parts of children's toys and child care articles made with a plastic or additives not listed in paragraph (a) of this section are required to be third party tested pursuant to section 14(a)(2) of the CPSA and 16 CFR part 1107.

Section 108(c) of the CPSIA states:

[3] *Exposure Assessment: Potential for the Presence of Phthalates in Specified Materials at Concentrations Above 0.1 Percent,* Task Order 16, Contract Number CPSC–D–12–0001, August 8, 2016, Final Report. Prepared by: Toxicology Excellence for Risk Assessment (TERA) University of Cincinnati. Available at: *https://www.cpsc.gov/s3fs-public/ThePotentialforPhthalatesinSelectedPlastics.pdf.*

[4] Borealis, A.G. 2014. Polypropylene Products: Borealis' Position on Phthalates in PP Catalysts. Vienna, Austria. Available at: *http://www.borealisgroup.com/Global/Company/Sustainability/polypropylene-products.pdf.*

[5] Sastri, Vinny R., (2013). *Plastics in Medical Devices: Properties, Requirements, and Applications.* William Andrew, publisher, ISBN 0323265634, 9780323265638. P 107.

[6] Ibid.

[7] Deanin, Rudolph D., Crugnola Aldo M. (1976). *Toughness and Brittleness of Plastics.* American Chemical Society, ISBN13: 9780841202214. eISBN: 9780841223356. P239.

APPLICATION.—Effective on the date of enactment of this Act, subsections (a) and (b)(1) and any rule promulgated under subsection (b)(3) shall apply to any plasticized component part of a children's toy or child care article or any other component part of a children's toy or child care article that is made of other materials that may contain phthalates.

The commenter asserts that because this language limited required third party testing for phthalate content to accessible *plasticized* component parts, and to component parts that *may contain phthalates,* required third party testing is limited ''to only component parts that have had a plasticizer added to it or to component parts that could contain phthalates.'' The commenter adds that required third party testing is therefore not required for component parts that have not been plasticized and materials that may not contain phthalates. The commenter states that the aforementioned sentence in the proposed rule creates a new scope by applying required phthalate testing to all plastics not specifically listed in the determinations.

The commenter suggests that the language in proposed § 1308.2(c) should state:

Accessible component parts of children's toys and child care articles made with a plastic or additives not listed in paragraph (a) of this section must still be comprised of compliant materials pursuant to section 108 of CPSIA, Public Law 110–314 as amended by H.R. 2714, Public Law 112–28.

The commenter asserts that this change to the language recommended above will reflect Congressional intent and be consistent with CPSC phthalate testing policy that has been effectively used by some companies to eliminate phthalate testing on materials known to be compliant.

Response 10: The commenter is correct that section 108(c) of the CPSIA applies to this rule and that compliance to section 108 of the CPSIA is limited to plasticized component parts and other materials that may contain phthalates. As noted in the NPR preamble, children's toys and child care articles are always required to comply with the requirements of section 108 of the CPSIA, regardless of any exceptions to required third party testing under section 14 of the CPSA.

We acknowledge that § 1308.2(c) of the proposed rule could be interpreted as conflicting with section 108(c) of the CPSIA. Thus, we have revised § 1308.2(c) in the final rule to clarify that the rule concerns accessible component parts of children's toys and child care articles made from materials that are plasticized or may contain phthalates.

We are making this change because, if a manufacturer or importer (*i.e.,* a certifier) of a children's toy or child care article has accessible component parts that have been plasticized, or are composed of a material that may contain phthalates, third party testing is required to assure compliance to section 108 of the CPSIA. Examples of materials that may contain phthalates include, but are not limited to, plastics (for which a determination has not been made), inks, solvents, surface coatings, adhesives, and some rubberized materials.

Comment 11: Two commenters claim that the NPR reverses the Commission's 2009 *Statement of Policy,* which, according to the commenters, lists a number of plastic materials other than the four plastics in the NPR that are not subject to third party testing for certification purposes. Another commenter states that the proposed rule ''appears to negate the flexibility afforded in the 2009 *Statement of Policy* document on phthalates.'' The commenter suggests that ''the flexibility granted by the CPSC's *Statement of Policy* should be maintained.'' The commenter asserts that this flexibility allows suppliers with supply chain knowledge to use their discretion when determining which materials to subject to third party testing.

Response 11: The Commission's 2009 guidance document, *Statement of Policy: Testing of Component Parts With Respect To Section 108 of the Consumer Product Safety Improvement Act,*[8] was intended to provide general guidance. It listed a number of materials that *might not* require third party testing. In contrast, the determination rule specifies that third party testing is not required for specified plastics with accompanying additives. The determination does not remove flexibility, but provides a clear pathway for manufacturers to know that third party testing is not required if they use the specific plastics and additives listed in the determination.

5. Due Care and Certification

Comment 12: A commenter suggests that the Commission state whether a Certificate of Compliance (COC) is required for plastics for which a third party testing determination has been made. The commenter states that if a COC is required when third party testing is not necessary, additional due diligence would be needed to ensure that the plastic material qualifies for a determination. The commenter suggests adding to the final rule a ''due care'' provision, similar to the provision in 16 CFR part 1109 (the component part testing rule).[9] The commenter contends that the due care requirement should apply to the phthalates determinations because of the inherent complexity involved with properly identifying the specific plastics and additives that would be exempt from testing.

Another commenter states that importers often have limited knowledge of their products' materials and lack the evidence to demonstrate compliance without testing. The commenter suggests that manufacturers use an Attenuated Total Reflectance (ATR) sensor to identify materials that do not contain prohibited phthalates.

The commenter requested that the preamble clarify that manufacturers must use due diligence to ensure that their products only have plastics that are covered by the determination. The commenter states that screening tests, conducted on a first party basis, would reduce third party testing costs while ensuring compliance to the CPSIA.

Response 12: The final rule addresses third party testing requirements for specified plastics to assure compliance to section 108 of the CPSIA. Certification of products subject to a children's product safety rule is required, regardless of whether third party testing is required. A certifier or testing party must exercise due care to ensure that no action or inaction after testing, and before distribution in commerce, would affect compliance, including contamination or degradation, while a component part or finished product is in its custody. Thus, the component part testing rule establishes due care requirements for certifiers or testing parties. To repeat the requirements in this rule would be redundant and unnecessary.

Comment 13: A commenter suggests that the final rule clarify that when certifying parties are relying on third party testing determinations for certification purposes, laboratories do not have the responsibility for:

- Determining the type of plastic;
- Verifying that the plastic is what a supplier declares;
- Confirming that there has been no contamination; and

[8] *https://cpsc.gov/s3fs-public/pdfs/blk_media_componenttestingpolicy.pdf.*

[9] *http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title16/16cfr1109_main_02.tpl,* Section 1109.4 (g) states: ''Due care means the degree of care that a prudent and competent person engaged in the same line of business or endeavor would exercise under similar circumstances. Due care does not permit willful ignorance.''

• Confirming there have been no material changes through supply chain traceability and production safeguards.

The commenter asserts that these responsibilities reside with the certifying party (domestic manufacturer or importer).

Response 13: We agree with the commenter that the manufacturer or importer of a children's product is responsible for the product's certification. Laboratories have limited responsibilities regarding certification issues. Unless a laboratory, on behalf of a manufacturer or importer, voluntarily chooses to be a children's product or component part certifier, the laboratory is not responsible for the compliance of a tested product to the applicable children's product safety rules. The manufacturer or importer is responsible for meeting the requirements of 16 CFR parts 1107 and 1109, which generally include the responsibilities listed by the commenter.

6. Research Does Not Demonstrate High Degree of Assurance

Comment 14: A commenter asserts that the research does not provide a high degree of assurance that the specified plastics do not contain any of the specified phthalates in concentrations above 0.1 percent because data are lacking on how phthalates are used, where they occur, and their migration. The commenter also expresses concern about phthalates in recycled materials.

The commenter provides as examples:

• The presence or concentration of the specified phthalates in polyethylene was not reported in TERA report.

• Other studies cited in the Task 12 report and patents for toys and child care products did not include information on the presence of phthalates in ABS.[10]

• Zeigler-Natta catalysts (which can contain the prohibited phthalates) could remain in high-impact polystyrene at a concentration of 0.0001 percent, but no test data had been supplied to support that claim.

• There is a lack of information on phthalates in recycled plastics; and

• Information on the possibility of a plastic's contamination with a specified phthalate is also lacking.

Response 14: CPSC disagrees with the assertion that data are lacking to support the determination. The available information identifies how and where phthalates are used, and also shows the chemicals and processes used to manufacture the specified plastics. Therefore, the Commission considers the available information provides support for the conclusion that the specified plastics do not contain phthalates at levels exceeding the specified limit for children's toys and child care articles.

We agree that few studies directly measured phthalate content in the specified plastics. However, we expected that such studies might be rare, given that the available information does not indicate that phthalates might be present.

We acknowledge that the literature on recycling is not as extensive as the data on phthalates and plastics manufacturing. Nonetheless, we consider all of the information about phthalates' use and occurrence to indicate that recycling could result in plastics that contain traces of phthalates. We expect that residual levels would be well below the maximum-allowed concentration in children's toys and child care articles.

In work done by a contractor and presented in the Task 12 and 16 reports, the contractor was faced with ''proving a negative,'' *i.e.,* showing that phthalates are not present in the specified plastics. The contractor employed a tiered approach to research the specified plastics. This approach narrowed the field of possible sources and assisted in identifying information that was not available (data gaps) so that focused efforts could be directed in those areas. In the Task 12 report, from a ''universe'' of more than 109 million sources, the contractor screened 119,800 articles for relevant information on the four plastics and phthalates. The contractor states:

> Given the search strategy and its success at getting the other information, we can be confident that if there had been information on the phthalate content of the four plastics we would have found it. In fact, the consistent lack of information amongst the many places we searched, both secondary authoritative web and library sources and primary literature sources made us highly confident that there was very little information on the specified phthalates in the four plastics.[11]

In the Task 16 report, the contractor screened more than 179,000 sources for relevant information on the specified plastics and phthalates in a nonbiased manner that was representative of the world wide literature on this subject matter. As in the Task 12 report, the contractor states that its Task 16 report search strategy and its success at obtaining other information gives them confidence that, if there had been information on the phthalate content of the specified plastics, then they would have found it.

Thus, for the reasons discussed above, CPSC considers the Task 12 and 16 reports to provide a high degree of assurance that the specified plastics do not contain any prohibited phthalates in concentrations above 0.1 percent.

Comment 15: A commenter recommends that the Commission exercise ''extreme caution and skepticism with unproved claims of compliance with CPSC requirements.'' The commenter expresses concern about unintentional or unknown factors that could result in the presence of phthalates. The commenter claims that many toys have disconnected and global supply chains, and that as a consequence, U.S. toy importers often rely on laboratory test results from foreign suppliers. The commenter cites the alleged failure of an importer to meet a state standard as evidence that CPSC should exercise caution and skepticism.

Response 15: The rule is primarily based on information in the TERA Task 11, 12, and 16 reports about use and production of phthalates, and about the production of specified plastics. The available information shows that phthalates are not used as plasticizers for the specified plastics, and are not otherwise found in the plastics at levels exceeding the specified limits for children's toys and child care articles. The determinations in this rule are not based on suppliers' assertions, manufacturer's laboratory test results, or other industry attestations. We consider the information in the TERA Task 12 and 16 reports, and the additional staff research, to be sufficient to make a determination with a high degree of assurance that the specified plastics are compliant with section 108 prohibitions without requiring third party testing.

Regarding the commenter's concerns about unintentional or unknown factors, we note that manufacturers and importers are required to have a high degree of assurance that their products are compliant to the applicable children product safety rules. Furthermore, manufacturers and importers are responsible for exercising due care to ensure their children's products comply with the applicable children's product safety rules. 16 CFR 1109.5(b)(3).

Comment 16: A commenter states that the contractor (TERA) engaged by the CPSC to study phthalate use and investigate the presence of phthalates in four specified plastics may have a conflict of interest. The commenter notes TERA's past litigation support for regulated industries. The commenter asserts TERA's potential conflict of

[10] TERA Task 12 report, page 57.

[11] Tera Task 12 report, page 55.

interest is exemplified in a 2016 paper sponsored by a chemical manufacturers' trade group.[12]

The commenter adds that TERA is a founding member of the Alliance for Risk Assessment (ARA). The ARA's Standing Panel includes the TERA founder, two industry consultants, employees of Dow Chemical and ExxonMobil, and two government employees. The commenter alleges that, in light of TERA's relationship with ExxonMobil, TERA's conclusions should be viewed with caution.

Response 16: We consider TERA to be an independent organization [13] that focuses on advancing the science of toxicology and risk assessment. We do not agree that work by TERA or individual TERA staff in scientific projects, workshops, or publications concerning industrial chemicals or products or that include chemical firms, industry employees, or trade organizations necessarily indicates unreliable performance or improper influence in CPSC contract work.

As standard procedure, CPSC reviews potential conflicts of interest before awarding a contract or task order. We did not identify any conflicts for TERA related to the investigation of the production and use of phthalates or the production of the specified plastics.

We do not agree that the membership in ARA is evidence of a potential conflict of interest. Rather, we consider ARA to be a transparent, multi-stakeholder scientific collaboration to develop risk assessment information to advance public health activities. Furthermore, the commenter does not specify any projects by the ARA that suggest that the contracted TERA work is affected by potential conflicts of interest.

In summary, the commenter did not provide any specific information that shows that the reports produced by TERA under contract with CPSC have been affected by potential conflicts of interest. Nor did the commenter show that the reports contain inaccurate or misleading data or information.

7. Out of Scope Comments

We also received comments on issues such as random spot checking for certificates of compliance, developing a procedure for petitioning the Commission for determinations, identifying statistical averaging and margins of error under which products could still be considered compliant, allowing other techniques beyond materials determinations for lead content testing that could reduce third party testing costs, asking Congress for authority to implement commenter's suggestions, determinations for lead content, and the inclusion of supply chain controls when noncompliant products are found. This rulemaking is limited to determinations regarding phthalate content in specified plastics. The aforementioned comments are outside the scope of this rulemaking.

D. Determinations for Specified Plastics With Certain Additives

1. Legal Requirements for a Determination

As noted above, section 14(a)(2) of the CPSA requires third party testing for children's products that are subject to a children's product safety rule. 15 U.S.C. 2063(a)(2). Children's toys and child care articles must comply with the phthalates prohibitions in section 108 of the CPSIA. 15 U.S.C. 2057c. In response to statutory direction, the Commission has investigated approaches that would reduce the burden of third party testing while also assuring compliance with CPSC requirements. As part of that endeavor, the Commission has considered whether certain materials used in children's toys and child care articles would not require third party testing.

To issue a determination that a plastic (including specified additives) does not require third party testing, the Commission must have sufficient evidence to conclude that the plastic and specified additives would consistently comply with the CPSC requirement to which the plastic (and specified additives) is subject so that third party testing is unnecessary to provide a high degree of assurance of compliance. Under 16 CFR 1107.2, ''a high degree of assurance'' is defined as ''an evidence-based demonstration of consistent performance of a product regarding compliance based on knowledge of a product and its manufacture.''

For a material determination, a ''high degree of assurance of compliance'' means that the material will comply with the specified chemical limits due to the nature of the material or due to a processing technique that reduces the chemical concentration below its limit. For materials determined to comply with a chemical limit, the material must continue to comply with that limit if it is used in a children's product subject to that requirement. A material on which a determination has been made cannot be altered or adulterated to render it noncompliant and then used in a children's product.

The determinations will only relieve the manufacturer's obligation to have the specified plastics and accompanying additives tested by a CPSC-accepted third party conformity assessment body. Children's toys and child care articles must still comply with the substantive phthalates content limits in section 108 of the CPSIA, regardless of any relief from third party testing requirements. Additionally, the manufacturer must issue a certificate stating that the product complies with CPSC requirements.

Phthalates are not naturally occurring materials, but are intentionally created and used in specific applications (*e.g.,* plastics, surface coatings, solvents, inks, adhesives, and some rubberized materials). One application of phthalates in children's toys and child care articles is as a plasticizer, or softener for plastic component parts.[14] The addition of a plasticizer converts an otherwise rigid plastic into a more flexible form, such as in a child's rubber duck or a soft plastic doll. Because plastics used in children's toys and child care articles can contain the prohibited phthalates, third party testing is required before a CPC can be issued for children's toys and child care articles with accessible plastic component parts. However, some specific plastics with certain additives might not use any of the prohibited phthalates as a plasticizer, or for any other purpose. For these specific plastics and accompanying additives, compliance with the requirements of section 108 of the CPSIA can be assured without requiring third party testing. To reduce the third party testing burden on children's product certifiers while continuing to assure compliance, the CPSC has determined with a high degree of assurance that the specified plastics with certain additives comply with the phthalate content requirements of section 108 of the CPSIA, based on evidence indicating that such materials will not contain the prohibited phthalates. These determinations mean that third party testing for compliance with the phthalates prohibitions is not required for certification purposes for the specified four plastics. The Commission makes these

[12] *Approaches for describing and communicating overall uncertainty in toxicity characterizations: U.S. Environmental Protection Agency's Integrated Risk Information System (IRIS) as a case study.* The publication can be found at: *https://www.ncbi.nlm.nih.gov/pubmed/26827183.*

[13] Staff notes that after the contract work discussed here, TERA reorganized as the Risk Science Center at the University of Cincinnati: *https://med.uc.edu/eh/centers/rsc.*

[14] The Merriam-Webster online dictionary defines a plasticizer as ''a chemical added especially to rubbers and resins to impart flexibility, workability, or stretchability.''

determinations to reduce the third party testing burden on children's product certifiers while continuing to assure compliance.

2. Statutory Authority

Section 3 of the CPSIA grants the Commission general rulemaking authority to issue regulations, as necessary, to implement the CPSIA. Public Law 110–314, sec. 3, Aug. 14, 2008. As noted previously, section 14 of the CPSA, as amended by the CPSIA, requires third party testing for children's products subject to a children's product safety rule. 15 U.S.C. 2063(a)(2). Section 14(d)(3)(B) of the CPSA, as amended by Public Law 112–28, gives the Commission the authority to ''prescribe new or revised third party testing regulations if it determines that such regulations will reduce third party testing costs consistent with assuring compliance with the applicable consumer product safety rules, bans, standards, and regulations.'' *Id.* 2063(d)(3)(B). These statutory provisions authorize the Commission to issue a rule determining that specified plastics and additives will not exceed the phthalates prohibitions of section 108 of the CPSIA, and therefore, specified plastics do not require third party conformity assessment body testing to assure compliance with the phthalates limits in section 108 of the CPSIA.

The determinations will relieve the specified plastics and accompanying additives from the third party testing requirement of section 14 of the CPSA to support the required certification. However, the determinations would not apply to any other plastic or additives beyond those listed in the rule.

3. Description of the Final Rule

The rule creates a new part 1308 for ''Prohibition of Children's Toys and Child Care Articles Containing Specified Phthalates: Determinations Regarding Certain Plastics.'' The rule determines that the specified plastics and accompanying additives do not contain the statutorily prohibited phthalates (DEHP, DBP, BBP, DINP, DIDP, DnOP) in concentrations above 0.1 percent, and thus, are not required to be third party tested to assure compliance with section 108 of the CPSIA.

Section 1308.1 of the rule explains the statutorily created requirements for children's toys and child care articles under section 108 of the CPSIA and the third party testing requirements for children's products. This section is unchanged from the proposed rule. As discussed in section A.2 of the preamble, currently, the agency is involved in rulemaking to determine whether to continue the interim prohibitions in section 108 and whether to prohibit any other children's products containing any other phthalates. At the time of publication of this final rule in the **Federal Register**, the Commission has not issued a final rule in the phthalates rulemaking. Therefore, this determinations rule lists the phthalates that are statutorily prohibited from being in children's toys and child care articles under section 108 of the CPSIA.

Section 1308.2(a) of the rule establishes the Commission's determinations that the following seven plastics do not exceed the phthalates content limits with a ''high degree of assurance'' as that phrase is defined in 16 CFR part 1107. Section 1308.2(a) of the rule is being finalized as proposed, except for the following changes. The final rule:

- Adds ''naphthenic oil'' to the list of PP plasticizers in § 1308.2(a)(1)(i). Naphthenic oil is a nonphthalate plasticizer listed with paraffinic and mineral plasticizing oils in a Task 12 report reference and should have been included in the proposed rule but was inadvertently omitted;
- Adds the word ''unrecovered'' before ''catalysts'' in §§ 1308.2(a)(1)(iii), (a)(2)(iv), (a)(3)(i), (a)(4)(vii) of the final rule to clarify that this additive refers to small amounts of catalyst that may remain in a plastic resin after manufacture;
- Adds general purpose polystyrene (GPPS), medium-impact polystyrene (MIPS), and super high-impact polystyrene (SHIPS) to § 1308.2(a)(3), to high-impact polystyrene (HIPS) that was listed in the proposed rule, to the list of materials that can be determined not to require third party testing in order to assure compliance with section 108 of the CPSIA. This change is made based on a commenter's suggestion and supporting information from the Task 16 report. These three plastics, along with HIPS, can be considered members of a family of polystyrene plastics manufactured with the same raw materials and processes. The potential additives for GPPS, MIPS, and SHIPS are the same as those for HIPS;
- Replaces the term ''phosphate esters'' in § 1308.2(a)(4)(i) with ''hydrocarbon processing oil, triphenyl phosphate, resorcinol bis(diphenyl phosphate), and oligomeric phosphate'' to more precisely identify the ABS plasticizers listed. The specific phosphate esters added were listed and discussed in the preamble of the NPR and the underlying staff briefing package, but were inadvertently left out of the codified text in the NPR; and
- Deletes ''hydrocarbon solvents'' from the list of additives for PP in § 1308.2(a)(1)(ii) and ABS in § 1308.2(a)(4)(ii) because hydrocarbon solvents are not additives but rather are used in the production of resin. The list of additives in §§ 1308.2(a)(1)(ii) and (a)(4)(ii) has been renumbered to reflect this change.

Section 1308.2(b) of the rule states that accessible component parts of children's toys and child care articles made with the specified plastics, and specified additives listed in paragraph (a) of this section, are not required to be third party tested pursuant to section 14(a)(2) of the CPSA and 16 CFR part 1107. Section 1308.2(b) is included in the rule to make clear that when the listed plastics and accompanying additives are used in children's toys and child care articles, manufacturers and importers are not required to conduct the third party testing required in section 14(a)(2) of the CPSA and 16 CFR part 1107. This provision is unchanged from the proposed rule.

Section 1308.2(c) of the rule has been revised to add the phrase ''that are plasticized or may contain phthalates'' between ''in paragraph (a) of this section'' and ''are required to be third party tested.'' The new language tracks the statutory language of section 108(c) of the CPSIA regarding component parts of children's toys or child care articles that are plasticized or may contain phthalates. If a manufacturer or importer (*i.e.,* a certifier) of a children's toy or child care article has accessible component parts that have been plasticized, or are composed of a material that may contain phthalates, third party testing is required to assure compliance to section 108 of the CPSIA. This change has been made because the language of § 1308.2(c) of the proposed rule could be interpreted as conflicting with section 108(c) of the CPSIA.

E. Effective Date

The Administrative Procedure Act (APA) generally requires that a substantive rule must be published not less than 30 days before its effective date. 5 U.S.C. 553(d)(1). The Commission proposed a 30-day effective date because the rule provides relief from existing testing requirements under the CPSIA. No comments were received regarding the effective date. The effective date for the rule is 30 days from the date of publication of the rule in in the **Federal Register**.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires agencies to consider the impact of proposed and final rules on small entities, including small businesses. Section 604 of the RFA requires that agencies prepare a final regulatory flexibility analysis (FRFA) when promulgating final rules, unless the head of the agency certifies that the rule will not have a significant impact on a substantial number of small entities. The FRFA must describe the impact of the rule on small entities. CPSC staff prepared a FRFA. *See* Tab C of staff's briefing package at *https://www.cpsc.gov/s3fs-public/Plastics-Determinations-Final-Rule-August-16-2017.pdf?wF38T29pcl.Z5lMna6tu4Yo2HxWEZwb5*. We provide a summary below.

The rule is intended to reduce the burden of third party testing on manufacturers of children's toys and child care articles consistent with assuring compliance with CPSC requirements under section 14 of the CPSA, as amended by section 2 of Public Law 112–28. The final rule would reduce the burden of third party testing on manufacturers and importers of children's toys and child care articles by establishing determinations for certain plastics (PP, PE, GPPS, MIPS, HIPS, SHIPS, and ABS) and accompanying additives. Based on these determinations, the specified plastics with specified additives will not require third party testing for compliance with the mandatory prohibitions on children's toys and child care articles containing phthalates.

Although comprehensive estimates of the number of products that contain components made from the specified plastics are not available, there is some evidence that these plastics are extensively used in children's toys. One source stated that polypropylene and high-density polyethylene are used in 38 and 25 percent, respectively, of injection-molded toys.[15] The same source also stated that low-density polyethylene, polystyrene, and acrylonitrile butadiene styrene, are each used in less than 10 percent of injection-molded toys.

Based on the number of domestic toy manufacturers that are classified as small businesses by the U.S. Bureau of the Census, and evidence that the specified plastics are used extensively in toys, staff believes a substantial number of small entities would be impacted positively by this regulation.

[15] Donald V. Rosato, *Plastics End Use Applications,* Springer, New York, (2011).

The impact of the determinations on small businesses would be to reduce the burden of third party testing for phthalate content and would be expected to be entirely beneficial. The cost of third party testing for phthalates is between approximately $125 and $350 per test, depending on where the testing is conducted and any discounts that might be applicable.[16] Because one product might have several component parts that require testing, the cost to test a finished product for phthalate content may be substantially higher. To the extent that small entities have lower production volumes than larger entities, these determinations would be expected to have a disproportionately beneficial impact on small entities because the costs of the tests are distributed over fewer units. Additionally, some laboratories may offer their larger customers discounts that might not be available to small entities that need fewer third party tests. However, the benefit of making the determinations could be less than might be expected. For example, some manufacturers might have already substantially reduced their third party phthalate testing costs by using the component part testing under 16 CFR part 1109. Therefore, the marginal benefit that might be derived from making the determinations might be low. Some importers might not be certain of what materials are actually being used in each component part and might not be able to use the determinations without testing.

Under section 604 of the Regulatory Flexibility Act, a FRFA should include a ''statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.'' The final rule is itself, the result of CPSC's efforts to reduce third party testing costs consistent with assuring compliance with all applicable consumer product safety rules. Therefore, CPSC considered few alternatives, other than expanding the list of plastics for which determinations could be made. We note that the final rule includes determinations for three additional polystyrenes (GPPS, MIPS, and SHIPS) that were not included in the NPR.

G. Environmental Considerations

The Commission's regulations provide a categorical exclusion for Commission rules from any requirement to prepare an environmental assessment or an environmental impact statement because they ''have little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required. The Commission's regulations state that safety standards for products normally have little or no potential for affecting the human environment. 16 CFR 1021.5(c)(1). Nothing in this rule alters that expectation.

[16] The cost estimates of third party phthalate testing are based on information provided both by consumer product manufacturers and by testing laboratories.

List of Subjects in 16 CFR Part 1308

Business and industry, Consumer protection, Imports, Infants and children, Product testing and certification, Toys.

Accordingly, the Commission amends title 16 of the Code of Federal Regulations by adding part 1308 to read as follows:

PART 1308—PROHIBITION OF CHILDREN'S TOYS AND CHILD CARE ARTICLES CONTAINING SPECIFIED PHTHALATES: DETERMINATIONS REGARDING CERTAIN PLASTICS

Sec.

1308.1 Prohibited children's toys and child care articles containing specified phthalates and testing requirements.
1308.2 Determinations for specified plastics.

Authority: Sec. 3, Pub. L. 110–314, 122 Stat. 3016; 15 U.S.C. 2063(d)(3)(B).

§ 1308.1 Prohibited children's toys and child care articles containing specified phthalates and testing requirements.

Section 108(a) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) permanently prohibits any children's toy or child care article that contains concentrations of more than 0.1 percent of di-(2-ethylhexl) phthalate (DEHP), dibutyl phthalate (DBP), or benzyl butyl phthalate (BBP). Section 108(b)(1) of the CPSIA prohibits on an interim basis any children's toy that can be placed in a child's mouth or child care article that contains concentrations of more than 0.1 percent of diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP). Materials used in children's toys and child care articles subject to section 108(a) and (b)(1) of the CPSIA must comply with the third party testing requirements of section 14(a)(2) of the Consumer Product Safety Act (CPSA), unless listed in § 1308.2.

§ 1308.2 Determinations for specified plastics.

(a) The following plastics do not exceed the phthalates content limits with a high degree of assurance as that term is defined in 16 CFR part 1107:

(1) Polypropylene (PP), with any of the following additives:

(i) The plasticizers polybutenes, dioctyl sebacate, isooctyl tallate, paraffinic, naphthenic, and mineral plasticizing oils, and polyol;

(ii) Unrecovered catalysts;

(iii) Fillers;

(iv) Primary and secondary antioxidants;

(v) Neutralizing agents;

(vi) Antistatic agents;

(vii) Slip agents;

(viii) Metal deactivators;

(ix) Quenchers;

(x) UV stabilizers;

(xi) Nucleating agents;

(xii) Flame retardants;

(xiii) Blowing or foaming agents;

(xiv) Antiblocking agents;

(xv) Lubricants; or

(xvi) Colorants.

(2) Polyethylene (PE), with any of the following additives:

(i) The plasticizers glyceryl tribenzoate, polyethylene glycol, sunflower oil, paraffin wax, paraffin oil, mineral oil, glycerin, EPDM rubber, and EVA polymer;

(ii) Initiators;

(iii) Promoters;

(iv) Unrecovered catalysts;

(v) Fillers;

(vi) Antistatic agents;

(vii) Flame retardants;

(viii) Anti-blocking agents;

(ix) Slip agents;

(x) Blowing agents;

(xi) Cross-linking agents;

(xii) Antioxidants;

(xiii) Carbon black; or

(xiv) Colorants.

(3) General purpose polystyrene (GPPS), medium-impact polystyrene (MIPS), high-impact polystyrene (HIPS), and super high-impact polystyrene (SHIPS) with any of the following additives:

(i) Unrecovered catalysts;

(ii) Internal lubricants;

(iii) Chain transfer/transition agents;

(iv) Stabilizers;

(v) Diluents;

(vi) Colorants;

(vii) Aluminum chloride, ethyl chloride, hydrochloric acid;

(viii) Iron oxide, potassium oxide, chromium oxide; or

(ix) Bifunctional peroxides.

(4) Acrylonitrile butadiene styrene (ABS), with any of the following additives:

(i) The plasticizers hydrocarbon processing oil, triphenyl phosphate, resorcinol bis(diphenyl phosphate), oligomeric phosphate, long chain fatty acid esters and aromatic sulfonamide;

(ii) Stabilizers;

(iii) Lubricants;

(iv) Antioxidants;

(v) Molecular weight regulators;

(vi) Initiators/unrecovered catalysts,

(vii) Activators;

(viii) Emulsifiers; or

(ix) Colorants.

(b) Accessible component parts of children's toys and child care articles made with the specified plastics, and specified additives, listed in paragraph (a) of this section are not required to be third party tested pursuant to section 14(a)(2) of the CPSA and 16 CFR part 1107.

(c) Accessible component parts of children's toys and child care articles made with a plastic or additives not listed in paragraph (a) of this section that are plasticized or may contain phthalates are required to be third party tested pursuant to section 14(a)(2) of the CPSA and 16 CFR part 1107.

Dated: August 25, 2017.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2017–18387 Filed 8–29–17; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF STATE

22 CFR Part 121

[Public Notice 10082]

RIN 1400–AE43

Temporary Modification of Category XI of the United States Munitions List

AGENCY: Department of State.

ACTION: Final rule; notice of temporary modification.

SUMMARY: The Department of State, pursuant to its regulations and in the interest of the security of the United States, temporarily modifies Category XI of the United States Munitions List (USML).

DATES: Amendatory instructions 1 and 2 are effective August 30, 2017. Amendatory instruction No. 3 is effective August 30, 2018.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Monjay, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663–2817; email *monjayr@state.gov*. ATTN: Temporary Modification of Category XI.

SUPPLEMENTARY INFORMATION: On July 1, 2014, the Department published a final rule revising Category XI of the USML, 79 FR 37536, effective December 30, 2014. That final rule, consistent with the two prior proposed rules for USML Category XI (78 FR 45018, July 25, 2013 and 77 FR 70958, November 28, 2012), revised paragraph (b) of Category XI to clarify the extent of control and maintain the existing scope of control on items described in paragraph (b) and the directly related software described in paragraph (d). The Department has determined that exporters may read the revised control language to exclude certain intelligence-analytics software that has been and remains controlled on the USML. Therefore, the Department determined that it is in the interest of the security of the United States to temporarily revise USML Category XI paragraph (b), pursuant to the provisions of 22 CFR 126.2, while a long-term solution is developed. The Department will publish any permanent revision to USML Category XI paragraph (b) addressing this issue as a proposed rule for public comment.

This temporary revision clarifies that the scope of control in existence prior to December 30, 2014 for USML paragraph (b) and directly related software in paragraph (d) remains in effect. This clarification is achieved by reinserting the words ''analyze and produce information from'' and by adding software to the description of items controlled.

The Department previously published a final rule on July 2, 2015 (80 FR 37974) that temporarily modified USML Category XI(b) until December 29, 2015. The Department published a final rule on December 16, 2015 (80 FR 78130) that continued the July 2, 2015 modification to August 30, 2017. This final rule extends the July 2, 2015 modification to August 30, 2018 to allow the U.S. government to review USML Category XI in full and publish proposed and final rules.

Regulatory Findings

Administrative Procedure Act

The Department is publishing this rule as a final rule based upon good cause, and its determination that delaying the effect of this rule during a period of public comment would be impractical, unnecessary and contrary to public interest. 5 U.S.C. 553(b)(3)(B). In addition, the Department is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from sections 553 (rulemaking) and 554 (adjudications) of the Administrative Procedure Act (APA).

Regulatory Flexibility Act

Since the Department is of the opinion that this rule is exempt from the provisions of 5 U.S.C. 553, there is no requirement for an analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not involve a mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

The Department does not believe this rulemaking is a major rule under the criteria of 5 U.S.C. 804.

Executive Orders 12372 and 13132

This rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866 and 13563

The Department believes that benefits of the rulemaking outweigh any costs, which are estimated to be insignificant. This rulemaking is not an economically significant rule under the criteria of Executive Order 12866, and is consistent with the provisions of Executive Order 13563.

Executive Order 12988

The Department of State has reviewed this rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rulemaking does not impose or revise any information collections subject to 44 U.S.C. chapter 35.

Executive Order 13771

This rule is not subject to the requirements of EO 13771 (82 FR 9339, February 3, 2017) because it is issued with respect to a foreign affairs function of the United States.

List of Subjects in 22 CFR Part 121

Arms and munitions, Classified information, Exports.

For reasons stated in the preamble, the State Department amends 22 CFR part 121 as follows:

PART 121—THE UNITED STATES MUNITIONS LIST

■ 1. The authority citation for part 121 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 2. In § 121.1, under Category XI, revise paragraph (b), effective August 30, 2017, to read as follows:

§ 121.1 The United States Munitions List.

* * * * *

Category XI—Military Electronics

* * * * *

*(b) Electronic systems, equipment or software, not elsewhere enumerated in this subchapter, specially designed for intelligence purposes that collect, survey, monitor, or exploit, or analyze and produce information from, the electromagnetic spectrum (regardless of transmission medium), or for counteracting such activities.

* * * * *

■ 3. In § 121.1, under Category XI, revise paragraph (b), effective August 30, 2018, to read as follows:

§ 121.1 The United States Munitions List.

* * * * *

Category XI—Military Electronics

* * * * *

*(b) Electronic systems or equipment, not elsewhere enumerated in this subchapter, specially designed for intelligence purposes that collect, survey, monitor, or exploit the electromagnetic spectrum (regardless of transmission medium), or for counteracting such activities.

* * * * *

Rex W. Tillerson,

Secretary of State, U.S. Department of State.

[FR Doc. 2017–18482 Filed 8–29–17; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0785]

Drawbridge Operation Regulation; Upper Mississippi River, Rock Island, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Rock Island Railroad and Highway Drawbridge across the Upper Mississippi River, mile 482.9, at Rock Island, Illinois. The deviation is necessary to repair the bridge for safe continued operation. This deviation allows the bridge to remain in the closed-to-navigation position for approximately three (3) hours on one day until the repair is completed.

DATES: This deviation is effective from 6 a.m. through 9 a.m. on September 9, 2017.

ADDRESSES: The docket for this deviation, (USCG–2017–0785) 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 Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314–269–2378, email *Eric.Washburn@uscg.mil*.

SUPPLEMENTARY INFORMATION: The U.S. Army Rock Island Arsenal requested a temporary deviation for the Rock Island Railroad and Highway Drawbridge, across the Upper Mississippi River, mile 482.9, at Rock Island, Illinois. The bridge has a vertical clearance of 23.8 feet above normal pool in the closed-to-navigation position. This bridge is governed by 33 CFR 117.5.

This deviation allows the bridge to remain in the closed-to-navigation

position from 6 a.m. through 9 a.m. on September 9, 2017. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This temporary deviation has been coordinated with waterway users. No objections were received.

The bridge will not be able to open for emergencies and there are no alternate routes for vessels transiting this section of the Upper Mississippi River. The Coast Guard will inform users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so the vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: August 25, 2017.

Eric A. Washburn,

Bridge Administrator, Western Rivers.

[FR Doc. 2017–18406 Filed 8–29–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0687]

Drawbridge Operation Regulation; St. Croix River, Stillwater, MN

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from drawbridge regulations; request for comments.

SUMMARY: The Coast Guard has issued a deviation from the operating schedule that governs the Stillwater Highway Bridge across the St. Croix River, mile 23.4, at Stillwater, Minnesota. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed.

DATES: This deviation is effective without actual notice from August 30, 2017 through 11:59 p.m. October 15, 2017. For the purposes of enforcement, actual notice will be used from 8 a.m. on August 25, 2017, until August 30, 2017.

Comments and related material must reach the Coast Guard on or before November 28, 2017.

ADDRESSES: You may submit comments identified by docket number USCG–2017–0687 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 test deviation, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314–269–2378, email *Eric.Washburn@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Stillwater Highway Bridge, across the St. Croix River, mile 23.4, at Stillwater, Minnesota, has been modified in its use from motorized vehicle traffic to pedestrian and bicycle use only. The existing operation schedule of the bridge is no longer necessary as it had been created solely to reduce the impact of drawspan openings on motorized vehicle traffic. This test deviation requires the bridge to open daily, every 30 minutes from 8 a.m. until midnight, and upon two hours notice from midnight until 8 a.m. This test deviation is effective from 8 a.m. on August 25, 2017 through 11:59 p.m. on October 15, 2017.

The Stillwater Highway Bridge currently operates in accordance with 33 CFR 117.667(b).

The Stillwater Highway Bridge provides a vertical clearance of 10.9 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial sightseeing/dinner cruise boats and recreational watercraft and will not be significantly impacted.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

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.

Documents mentioned in this notice as being available in this docket and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

Dated: August 25, 2017.

Eric A. Washburn,

Bridge Administrator, Western Rivers.

[FR Doc. 2017–18443 Filed 8–29–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0348]

RIN 1625–AA–00

Safety Zone; Wando River, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is extending the duration of a temporary safety zone for navigable waters of the Wando River within a 500-yard radius of the SC–41 Bridge, vessels and machinery in Charleston, South Carolina. The safety zone is needed to ensure the safety of persons, vessels, and the marine environment from potential hazards created by demolition work on the SC–41 Bridge. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of

the Port Charleston or a designated representative.

DATES: This rule is effective from August 30, 2017 through November 30, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0348 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 Lieutenant Justin Heck, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *Justin.C.Heck@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
OMB Office of Management and Budget

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to protect the public from the hazards associated with the demolition of the SC–41 Bridge. On August 11, 2017, the Coast Guard published a temporary final rule, entitled ''Safety Zone; Demolition of SC–41 Bridge, Wando River, Charleston, SC'' in the **Federal Register** (82 FR 37515) establishing a temporary safety zone for the demolition work on the SC–41 Bridge in Charleston, South Carolina. The safety zone is scheduled to expire on August 30, 2017, but the demolition company has requested additional time to complete the demolition work. This rule extends the duration of the existing safety zone from August 30, 2017 to November 30, 2017 to ensure, to the extent practicable, that there continues to be protections for the safety of personnel, vessels, and the marine environment from the potential hazards created by the demolition work on the SC–41 Bridge, which was unable to be completed during the original time frame. It would be impracticable and contrary to the public interest for the existing safety zone to lapse when the demolition work needs to continue past the expiration date of the existing safety zone.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to respond to the potential safety hazards associated with the demolition work on the SC–41 Bridge.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. On August 11, 2017, the Coast Guard published a temporary final rule, entitled ''Safety Zone; Demolition of SC–41 Bridge, Wando River, Charleston, SC'' in the **Federal Register** (82 FR 37515) establishing a temporary safety zone for the demolition work on the SC–41 Bridge in Charleston, South Carolina. The safety zone is scheduled to expire on August 30, 2017, but the demolition company has requested additional time to complete the demolition work. The Captain of the Port (COTP) Charleston has determined that potential hazards associated with the bridge demolition will be a safety concern for anyone within a 500-yard radius of the bridge, vessels, and machinery. Through this rule, the COTP Charleston has determined it necessary to extend the duration of the safety zone from August 30, 2017 until November 30, 2017 because the safety zone is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the demolition is in progress.

IV. Discussion of the Rule

This rule extends the duration of the temporary safety zone on the waters of the Wando River in Charleston, South Carolina during the SC–41 bridge demolition. The company conducting the demolition contacted the Coast Guard asking for more time to complete the demolition. The demolition will take over two separate demolition periods between August 31, 2017 and November 30, 2017, during which the safety zone will be enforced for approximately six hours each. The safety zone will cover all navigable waters within 500 yards of the bridge, vessels, and machinery being used for the demolition of the SC–41 Bridge. No vessel or person will be permitted to enter, transit through, anchor in, or remain within the safety zone without obtaining permission from the Captain of the Port Charleston or a designated representative. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative. The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, 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 following reasons: (1) The safety zone will only be enforced for a total of twelve hours; (2) although persons and vessels may not enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Charleston or a designated representative, they may operate in the surrounding area during the enforcement period; and (3) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have 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 safety zone that will prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area surrounding the SC–41 Bridge on the waters of the Wando River for two six hour periods. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Record of Environmental Consideration are available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; and Department of Homeland Security Delegation No. 0170.

■ 2. Revise § 165.T07–0348 to read as follows:

§ 165.T07–0348 Safety Zone; Demolition SC–41 Bridge Demolition Phase Two, Wando River, Charleston, SC.

(a) *Location.* All waters of the Wando River encompassed within a 500-yard radius of the SC–41 Bridge, vessels and machinery.

(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 Charleston in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Charleston 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 Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of

the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement period.* This rule will be enforced from August 4, 2017 through November 30, 2017, during demolition activity.

Dated: August 25, 2017.

G.G. Stump,

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

[FR Doc. 2017–18432 Filed 8–29–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 13

[Docket No. FWS–R9–MB–2011–0094; FF09M20300–167–FXMB123109EAGLE]

RIN 1018–AY30

Eagle Permits; Revisions to Regulations for Eagle Incidental Take and Take of Eagle Nests; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Correcting amendments.

SUMMARY: We, the U.S. Fish and Wildlife Service, published a final rule to revise our regulations regarding permits that we issue for certain activities involving eagles. In that final rule, we revised the permit application fees for certain eagle permits. These permits are included in a table of permit application fees for numerous Service programs. Because of a formatting error in the rule, the revisions to the fee table were not incorporated into the Code of Federal Regulations (CFR) as intended. With this document, we correct the formatting error to properly reflect current application fees for eagle permits in the CFR and also remove two entries in the fee table pertaining to permits that no longer exist. This rule is purely an administrative action and does not affect the provisions of the original rule in any substantive way.

DATES: This correction is effective August 30, 2017.

FOR FURTHER INFORMATION CONTACT: Susan Wilkinson, Division of Policy, Performance, and Management Programs; 703–358–2506.

SUPPLEMENTARY INFORMATION:

Background

On December 16, 2016, the U.S. Fish and Wildlife Service published a final rule (81 FR 91494) to revise the regulations in title 50 of the Code of Federal Regulations (CFR) authorizing certain activities involving eagles. These regulations are in parts 13 and 22 of title 50. While the majority of the changes in the rule were to the regulations in part 22, we also revised application fees associated with some part 22 eagle permits and the administration fee for eagle permits over 5 years and incorporated those changes into the permit fee table at 50 CFR 13.11(d)(4), which sets forth user fees for permits issued by several Service programs.

The amendatory instruction that published in that final rule to revise the table in 50 CFR 13.11(d)(4) would have reduced the number of columns in the table from five to four. Because one column (the ''Administration fee'' column) had an entry for only one type of permit, we intended to remove that column and insert the information regarding the administration fee for that permit as a footnote to the table. While the Office of the Federal Register (OFR) allowed the final rule to be published with that instruction, upon reviewing the rule for codification into the Code of Federal Regulations, OFR decided that the amendatory instruction removing the Administration fee column was inappropriate. Instead of revising the table as we intended, OFR left the table unchanged and instead included this footnote to the table in 50 CFR 13.11(d)(4): ''Editorial Note: At 81 FR 91549, Dec. 16, 2016, § 13.11 was amended; however, the amendment could not be incorporated due to inaccurate amendatory instruction.''

This rule corrects the amendatory instruction in the December 16, 2016, final rule (81 FR 91494), so that the CFR properly incorporates all the revisions made by that rule.

We are also taking this opportunity to correct two longstanding errors in the table at § 13.11(d)(4). In the section ''Migratory Bird Treaty Act'' is an entry for ''Falconry,'' and in the section ''Bald and Golden Eagle Protection Act'' is an entry for ''Eagle falconry.'' We are removing both of these entries from the table as they remain there in error: They should have been removed via a former rulemaking action. On October 8, 2008, we published a final rule (73 FR 59448) that revised the regulations pertaining to falconry. In that rule, we stated that Federal permitting for falconry would cease as of January 1, 2014, and, as of that date, States, territories, and Tribes would be responsible for issuing falconry permits. The rule revised pertinent sections of 50 CFR parts 21 and 22 but failed to make the necessary corresponding changes to the fee table in part 13. Accordingly, since we no longer issue Federal permits for falconry, we hereby remove two entries regarding application fees for falconry permits from the table in § 13.11(d)(4).

Authority: We issue this final rule under the authority of the Bald and Golden Eagle Protection Act (16 U.S.C. 668–668d).

List of Subjects in 50 CFR Part 13

Administrative practice and procedure, Exports, Fish, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

For the reasons described in the preamble, we hereby amend subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 13—GENERAL PERMIT PROCEDURES

■ 1. The authority citation for part 13 continues to read as follows:

Authority: 16 U.S.C. 668a, 704, 712, 742j–l, 1374(g), 1382, 1538(d), 1539, 1540(f), 3374, 4901–4916; 18 U.S.C. 42; 19 U.S.C. 1202; 31 U.S.C. 9701.

■ 2. Amend the table in § 13.11(d)(4) by:

■ a. Removing the entry ''Falconry'' under the section ''Migratory Bird Treaty Act''; and

■ b. Revising the section ''Bald and Golden Eagle Protection Act'' and footnote 1 to read as follows:

§ 13.11 Application procedures.

* * * * *

(d) * * *

(4) * * *

Type of permit	CFR citation	Permit application fee	Administration fee [1]	Amendment fee
* * *	*	*	*	*
Bald and Golden Eagle Protection Act				
Eagle Scientific Collecting	50 CFR part 22 ..	100		50
Eagle Exhibition	50 CFR part 22 ..	75		
Eagle—Native American Religion	50 CFR part 22 ..	No fee		
Eagle Take permits—Depredation and Protection of Health and Safety	50 CFR part 22 ..	100		
Golden Eagle Nest Take	50 CFR part 22 ..	100		50
Eagle Transport—Scientific or Exhibition	50 CFR part 22 ..	75		
Eagle Transport—Native American Religious Purposes	50 CFR part 22 ..	No fee		
Eagle Incidental Take—Up to 5 years, Commercial	50 CFR part 22 ..	2,500		500
Eagle Incidental Take—Non-commercial	50 CFR part 22 ..	500		150
Eagle Incidental Take—5–30 years	50 CFR part 22 ..	36,000	[1] 8,000	
Eagle Incidental Take—Transfer of a permit	50 CFR part 22 ..	1,000		
Eagle Nest Take—Single nest, Commercial	50 CFR part 22 ..	2,500		500
Eagle Nest Take—Single nest, Non-commercial	50 CFR part 22 ..	500		150
Eagle Nest Take—Multiple nests	50 CFR part 22 ..	5,000		500
Eagle Take—Exempted under ESA	50 CFR part 22 ..	No fee		
* * *	*	*	*	*

[1] An additional Administration Fee of $8,000 will be assessed every 5 years for permits with durations longer than 5 years for permit review.

* * * * *

Dated: August 25, 2017.

Tina A. Campbell,

Chief, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service.

[FR Doc. 2017–18414 Filed 8–29–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161020985–7181–02]

RIN 0648–XF646

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Aleutian district (WAI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access fishery. This action is necessary to prevent exceeding the 2017 total allowable catch (TAC) of Pacific ocean perch in this area allocated to vessels participating in the BSAI trawl limited access fishery.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 25, 2017, through 2400 hrs, A.l.t., December 31, 2017.

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

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

The 2017 TAC of Pacific ocean perch, in the WAI, allocated to vessels participating in the BSAI trawl limited access fishery was established as a directed fishing allowance of 161 metric tons by the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826; February 27, 2017).

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

After the effective dates of this closure, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the Pacific ocean perch directed fishery in the WAI for vessels participating in the BSAI trawl limited access fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 22, 2017. The Acting AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

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

Dated: August 25, 2017.

Alan D. Risenhoover,

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

[FR Doc. 2017–18442 Filed 8–25–17; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 167
Wednesday, August 30, 2017

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

DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2017–BT–TP–0047]

Energy Conservation Program: Test Procedure for Small Electric Motors and Electric Motors

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for information; extension of public comment period.

SUMMARY: On July 31, 2017, the U.S. Department of Energy (DOE) published a request for information (RFI) pertaining to the test procedures for small electric motors and electric motors. The notice provided an opportunity for submitting written comments, data, and information by August 30, 2017. This document announces an extension of the comment period until September 13, 2017.

DATES: The comment period for the RFI, published on July 31, 2017 (82 FR 35468), is extended. DOE will accept written comments, data, and information in response to the RFI received no later than September 13, 2017.

ADDRESSES: Interested persons are encouraged to submit comments by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov*. Follow the instructions for submitting comments.
- *Email: SmallElectricMotors2017TP0047@ee.doe.gov*. Include docket number EERE–2017–BT–TP–0047 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.
- *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., 6th Floor, Washington, DC 20024. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on the rulemaking process, see section III of this document.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov*. All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket Web page can be found at *http://www.regulations.gov/#!docketDetail;D=EERE-2017-BT-TP-0047.* The docket Web page will contain simple instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–5B 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9870. Email: *ApplianceStandardsQuestions@ee.doe.gov*.

Mary Greene, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–1817. Email: *mary.greene@hq.doe.gov*.

For further information on how to submit a comment, review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov*.

SUPPLEMENTARY INFORMATION: DOE published a RFI pertaining to the test procedure for small electric motors and electric motors on July 31, 2017. 82 FR 35468. The RFI initiated a data collection process to consider whether to amend DOE's test procedures for small electric motors and electric motors, and whether new test procedures are needed for motors beyond those subject to the existing Federal test procedures. DOE requested written comment, data, and information pertaining to these test procedures by August 30, 2017.

The National Electrical Manufacturers Association (NEMA), an interested party in the matter, requested a two-week extension of the public comment period for the RFI published in the **Federal Register** on August 17, 2017. (NEMA, No. 6, at p. 1)

DOE believes that extending the comment period to allow additional time for interested parties to submit comments is appropriate. Therefore, DOE is extending the comment period until September 13, 2017 to provide interested parties additional time to prepare and submit comments. Accordingly, DOE will consider any comments received by September 13, 2017 to be timely submitted.

Issued in Washington, DC, on August 23, 2017.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2017–18408 Filed 8–29–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0807; Product Identifier 2017–NM–080–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all The

Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This proposed AD was prompted by reports of cracking in the webs of the stub beams at certain fuselage stations. These cracks are the result of fatigue caused by cyclical loading from pressurization, wing loads, and landing loads. This proposed AD would require repetitive inspections for cracking of the webs of the stub beams at certain fuselage stations, and applicable on-condition actions. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by October 16, 2017.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* 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 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 referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0807.

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–2017–0807; 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 Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Galib Abumeri, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5324; fax: 562–627–5210; email: *galib.abumeri@faa.gov*.

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–2017–0807; Product Identifier 2017–NM–080–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 because of 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 proposed AD.

Discussion

We have received reports of cracking in the webs of the stub beams at fuselage station (STA) 685, STA 695, and STA 706. These cracks are a result of fatigue caused by cyclical loading from pressurization, wing loads, and landing loads.

Cracks have occurred in the stub beam webs at STA 685 on the left and right sides of airplanes, with total flight cycles ranging between 21,673 and 45,892 at the time of the crack finding. Cracks have occurred in the stub beam webs at STA 695 on the left and right sides of airplanes, with total flight cycles ranging between 49,572 and 56,712 at the time of crack findings. Cracks have also occurred in the stub beam webs at STA 706 on the left and right sides of airplanes with total flight cycles ranging between 12,017 and 64,392 at the time of crack findings.

Cracking in the stub beam webs at certain fuselage stations, if not corrected, could result in the loss of structural integrity of the airframe during flight, collapse of the main landing gear, and failure of the pressure deck.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–53A1364, dated May 24, 2017. The service information describes procedures for doing high frequency eddy current and detailed inspections for cracking of the fuselage stub beam webs below the passenger floor at STA 685, STA 695, and STA 706, 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.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type designs.

Proposed AD Requirements

This proposed AD would require accomplishment of the actions identified as ''RC'' (required for compliance) in the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1364, dated May 24, 2017, described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0807.

Costs of Compliance

We estimate that this proposed AD affects 160 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
Inspections ..	Up to 13 work-hours × $85 per hour = $1,105 per inspection cycle.	$0	Up to $1,105 per inspection cycle ..	Up to $176,800 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 proposed 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 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):

The Boeing Company: Docket No. FAA–2017–0807; Product Identifier 2017–NM–080–AD.

(a) Comments Due Date

We must receive comments by October 16, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of cracking in the webs of the stub beams at certain fuselage stations. These cracks are the result of fatigue caused by cyclical loading from pressurization, wing loads, and landing loads. We are issuing this AD to detect and correct cracking in the webs of the stub beams at certain fuselage stations, which if not corrected, could result in the loss of structural integrity of the airframe during flight, collapse of the main landing gear, and failure of the pressure deck.

(f) Compliance

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

(g) Required Actions for Group 1 Airplanes

For airplanes identified as Group 1 in Boeing Alert Service Bulletin 737–53A1364, dated May 24, 2017, within 120 days after the effective date of this AD, inspect the stub beam webs for any cracking, and do all applicable on-condition actions, using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(h) Required Actions for Group 2, 3, 4, 5, and 6 Airplanes

Except as required by paragraph (i) of this AD: For Group 2, 3, 4, 5, and 6 airplanes as identified in Boeing Alert Service Bulletin 737–53A1364, dated May 24, 2017: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1364, dated May 24, 2017, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Service Bulletin Boeing Alert Service Bulletin 737–53A1364, dated May 24, 2017.

(i) Exceptions to Service Information Specifications

(1) For purposes of determining compliance with the requirements of this AD, the phrase ''the effective date of this AD'' may be substituted for ''the original issue date of this service bulletin,'' which is specified in Boeing Alert Service Bulletin 737–53A1364, dated May 24, 2017.

(2) Where Boeing Alert Service Bulletin 737–53A1364, dated May 24, 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.

(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)(1) of this AD. Information may be emailed to: *9-ANM-LAAC-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 (i)(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

(1) For more information about this AD, contact Galib Abumeri, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5324; fax: 562–627–5210; email: *galib.abumeri@faa.gov*.

(2) For 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*. You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 22, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–18389 Filed 8–29–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0344; Airspace Docket No. 17–AWP–11]

Proposed Modification of Air Traffic Service (ATS) Routes; Western United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify VOR Federal Airways V–113 and V–244 which caused navigational aid gaps due to the decommissioning of Manteca and Maxwell VORs.

DATES: Comments must be received on or before October 16, 2017.

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–2017–0344 and Airspace Docket No. 17–AWP–11 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1 (800) 647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.11A, 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 7400.11A at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html*.

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System (NAS).

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 (FAA Docket No. FAA–2017–0344 and Airspace Docket No. 17–AWP–11) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2017–0344, and Airspace Docket No. 17–AWP–11.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. 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 **ADDRESSES** section for 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 office of the Western Service Center, Operations

Support Group, Federal Aviation Administration, 1601 Lind Ave. SW., Renton, WA 98057.

Availability and Summary of Documents for Incorporation by Reference

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

Background

On January 5, 2017, the FAA published in the **Federal Register** an NPRM (82 FR 1279), Docket No. FAA–2016–9264, proposing to modify and establish several airways due to the decommissioning of Manteca and Maxwell VOR facilities. Among those airways, the FAA proposed modifications to V–113 and V–244.

In the final rule, published on April 20, 2017, the FAA decided to delay the proposed changes to V–244 because more coordination was required. (82 FR 18551), Docket No. FAA–2016–9264. The FAA finalized V–113 as proposed in the NPRM with a gap in the route structure between Panoche, California and Linden, California. Prior to the effective date of June 22, 2017, and without notification to the public, the FAA inadvertently published navigational charts that reflected the gap in V–113 had been filled. Because this portion of the airway reflected on the chart was not properly established by rule, the FAA issued an out-of-service NOTAM for this segment until a rulemaking action could be completed.

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to modify V–113 and V–244. The proposed route changes are outlined below.

V–244: The FAA proposes to relocate the segment of the route from Oakland, CA by rerouting the airway approximately 10 nautical miles north of the previous airway until tied back into the previous route at Coaldale, NV. New legal description: From Oakland, CA; INT Oakland 077°(T) 060°(M) and Linden, CA, 246°(T) 229°(M) radials; Linden; 30 miles, 153 MSL, INT Linden 094°(T) 077°(M) and Hangtown, CA, 157°(T) 140°(M) radials; 58 miles, 153 MSL, INT Coaldale, CA, 267°(T) 250°(M) and Friant, CA, 022°(T) 005°(M) radials; 23 miles, 153 MSL, INT Coaldale 267°(T) 250°(M) and Bishop, CA, 337°(T) 322°(M) radials; 43 miles, 125 MSL, Coaldale, NV. The remaining portion of the route (from Coaldale, NV to Salina, KS) would be unchanged.

V–113: The FAA proposes fill the gap between Panoche, CA to Linden, CA by revising the legal description as follows. From Morro Bay, CA; Paso Robles, CA; Priest, CA; Panoche, CA; INT Modesto 208°(T) 191°(M) and El Nido 277°(T) 262°(M) radials; Modesto, CA; Linden, CA; NT Linden 046°(T) 029°(M) and Mustang, NV, 208°(T) 192°(M) radials; Mustang; 42 miles, 24 miles, 115 MSL, 95 MSL, Sod House, NV; 67 miles, 95 MSL, 85 MSL, Rome, OR; 61 miles, 85 MSL, Boise, ID; Salmon, ID; Coppertown, MT; Helena, MT; to Lewistown, MT.

VOR federal airways are published in paragraph 6010(a) of FAA Order 7400.11A dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The VOR federal airways listed in this document will be subsequently published 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. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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, will 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

In consideration of the foregoing, 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 part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6010 Domestic VOR Federal Airways.

V–113 (Amended)

From Morro Bay, CA; Paso Robles, CA; Priest, CA; Panoche, CA; INT Modesto 208°(T) 191°(M) and El Nido 277°(T) 262°(M) radials; Modesto, CA; Linden, CA; INT Linden 046°(T) 029°(M) and Mustang, NV, 208°(T) 192°(M) radials; Mustang; 42 miles, 24 miles, 115 MSL, 95 MSL, Sod House, NV; 67 miles, 95 MSL, 85 MSL, Rome, OR; 61 miles, 85 MSL, Boise, ID; Salmon, ID; Coppertown, MT; Helena, MT; to Lewistown, MT.

* * * * *

V–244 (Amended)

From Oakland, CA; INT Oakland 077°(T) 060°(M) and Linden, CA, 246°(T) 229°(M) radials; Linden; 30 miles, 153 MSL, INT Linden 094°(T) 077°(M) and Hangtown, CA, 157°(T) 140°(M) radials; 58 miles, 153 MSL, INT Coaldale, CA, 267°(T) 250°(M) and Friant, CA, 022°(T) 005°(M) radials; 23 miles, 153 MSL, INT Coaldale 267°(T) 250°(M) and Bishop, CA, 337°(T) 322°(M) radials; 43 miles, 125 MSL, Coaldale, NV; Tonopah, NV; 40 miles, 115 MSL, Wilson Creek, NV; 28 miles, 115 MSL, Milford, UT; Hanksville, UT; 63 miles, 13 miles, 140 MSL, 36 miles, 115 MSL, Montrose, CO; Blue Mesa, CO; 33 miles, 122 MSL, 27 miles, 155 MSL, Pueblo, CO; 18 miles, 48 miles, 60 MSL, Lamar, CO; 20 miles, 116 miles, 65 MSL, Hays, KS; to Salina, KS. The airspace within R–2531A and R–2531B is excluded.

Issued in Washington, DC, on August 22, 2017.

Rodger A. Dean Jr.,

Manager, Airspace Policy Group.

[FR Doc. 2017–18325 Filed 8–29–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket ID–OSHA–2007–0066]

RIN 1218–AC86

Cranes and Derricks in Construction: Operator Certification Extension

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: Under OSHA's standard for cranes and derricks used in construction work, crane operators are to be certified by November 10, 2017. Until that date, employers also have duties under the standard to ensure that crane operators are trained and competent to operate the crane safely. The Agency delayed the deadline for operator certification by three years to November 10, 2017, and extended the existing employer duties for the same period. The Agency is proposing to delay the deadline and extend the existing employer duty to ensure that operators of equipment covered by this standard are competent to operate the equipment safely for one year to November 17, 2018.

DATES: Submit comments to this proposed rule, including comments to the information collection (paperwork) determination (described under the section titled ''Agency Determinations''), hearing requests, and other information by September 29, 2017. All submissions must bear a postmark or provide other evidence of the submission date.

ADDRESSES: Submit comments, hearing requests, and other material, identified by Docket No. OSHA–2007–0066, using any of the following methods:

Electronically: Submit comments and attachments, as well as hearing requests and other information, electronically at *http://www.regulations.gov,* which is the Federal e-Rulemaking Portal. Follow the instructions online for submitting comments. Note that this docket may include several different **Federal Register** notices involving active rulemakings, so it is extremely important to select the correct notice or its ID number when submitting comments for this rulemaking. After accessing the docket (OSHA–2007–0066), check the ''proposed rule'' box in the column headed ''Document Type,'' find the document posted on the date of publication of this document, and click the ''Submit a Comment'' link. Additional instructions for submitting comments are available from the *regulations.gov* homepage.

Facsimile: OSHA allows facsimile transmission of comments that are 10 pages or fewer in length (including attachments). Fax these documents to the OSHA Docket Office at (202) 693–1648. OSHA does not require hard copies of these documents. Instead of transmitting facsimile copies of attachments that supplement these documents (*e.g.,* studies, journal articles), commenters must submit these attachments to the OSHA Docket Office, Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210. These attachments must clearly identify the sender's name, the date, subject, and the docket number (OSHA–2007–0066) so that the Docket Office can attach them to the appropriate document.

Regular mail, express delivery, hand delivery, and messenger (courier) service: Submit comments and any additional material to the OSHA Docket Office, RIN No. 1218–AC86, Technical Data Center, Room N–3508, OSHA, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–2350. (OSHA's TTY number is (877) 889–5627). Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express delivery, hand delivery, and messenger service. The Docket Office will accept deliveries (express delivery, hand delivery, messenger service) during the Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.s.t.

Instructions: All submissions must include the Agency's name, the title of the rulemaking (Cranes and Derricks in Construction: Operator Certification Extension), and the docket number (*i.e.,* OSHA Docket No. OSHA–2007–0066). OSHA will place comments and other material, including any personal information, in the public docket without revision, and the comments and other material will be available online at *http://www.regulations.gov*. Therefore, OSHA cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or to the OSHA Docket Office at the above address. The electronic docket for this proposed rule established at *http://www.regulations.gov* contains most of the documents in the docket. However, some information (*e.g.,* copyrighted material) is not available publicly to read or download through this Web site. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

FOR FURTHER INFORMATION CONTACT:

General information and press inquiries: Mr. Frank Meilinger, OSHA Office of Communications; telephone: (202) 693–1999; email: *Meilinger.Francis2@dol.gov*.

Technical inquiries: Mr. Vernon Preston; telephone: (202) 693–2020; fax: (202) 693–1689; email: *Preston.Vernon@dol.gov*.

Copies of this ***Federal Register*** *notice and news releases:* Electronic copies of these documents are available at OSHA's Web page at *http://www.osha.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary and Explanation of the Proposed Amendments to the Standard

A. Introduction

OSHA is publishing this Notice of Proposed Rulemaking to extend for one year the employer duty to ensure crane operator competency for construction work, from November 10, 2017, to November 10, 2018. OSHA also is proposing to delay the enforcement date for crane operator certification for one year from November 10, 2017, to November 10, 2018. This would be the second delay of the enforcement date, which OSHA needs to address stakeholder concerns over the operator certification requirements in the 2010 cranes and derricks in construction standard.

B. Summary of Economic Impact

This proposed rule is not economically significant. OSHA proposes to revise 29 CFR 1926.1427(k) (competency assessment and training) to delay the deadline for compliance with the operator certification requirement in its construction standard for cranes and derricks, and to extend the existing employer duties for the same period. OSHA's preliminary economic analysis shows that delaying the date for operator certification and employers' assessment of crane operators, rather than allowing both provisions to expire on November 10, 2017, will result in a net cost savings for the affected industries. Delaying the compliance date for operator certification results in estimated cost savings that exceed the estimated new costs for employers to continue to assess crane operators to

ensure their competent operation of the equipment in accordance with 1926.1427(k). The detailed preliminary economic analysis is in the ''Agency Determinations'' section of this preamble.

C. Background

1. Operator Certification Options

OSHA developed the final rule for cranes and derricks in construction (29 CFR subpart CC, referred to as ''the crane standard'' hereafter) through a negotiated rulemaking process. OSHA established a federal advisory committee, the Cranes and Derricks Negotiated Rulemaking Advisory Committee (C–DAC), to develop a draft proposed rule. C–DAC met in 2003 and 2004 and developed a draft proposed rule (which included the provisions concerning crane operator certification at issue in this rulemaking) that it provided to OSHA. The rule OSHA subsequently proposed closely followed C–DAC's draft proposal (73 FR 59718).

The Agency initiated a Small Business Advocacy Review Panel in 2006. The Agency published the proposed rule for cranes in construction in 2008, received public comment on the proposal, and conducted a public hearing. Among many other provisions, OSHA's final rule incorporated, with minor changes, the four-option certification scheme that C–DAC had recommended and the Agency had proposed. Accordingly, in § 1926.1427, as originally promulgated, OSHA required employers to ensure that their crane operators are certified under at least one of four options by November 10, 2014:

Option 1. Certification by an independent testing organization accredited by a nationally recognized accrediting organization;

Option 2. Qualification by an employer's independently audited program;

Option 3. Qualification by the U.S. military;

Option 4. Compliance with qualifying state or local licensing requirements (where mandatory).

The third-party certification option in § 1926.1427(b)—Option 1—is the only certification option that is ''portable,'' meaning that any employer who employs an operator may rely on that operator's certification as evidence of compliance with the crane standard's operator certification requirement. This certification option also is the only one that is available to all employers; it is the option that OSHA, and the parties that participated in the rulemaking, believed would be the one most widely used. In this regard, OSHA is not aware of an audited employer qualification program among construction industry employers (Option 2), and the crane standard limits the U.S. military crane operator certification programs (Option 3) to federal employees of the Department of Defense or the armed services. While state and local governments certify some crane operators (Option 4), the vast majority of operators who become certified do so through Option 1—by third-party testing organizations accredited by a nationally recognized accrediting organization.

Under Option 1, a third party performs testing. Before a testing organization can issue operator certifications, paragraph 1427(b)(1) of the crane standard provides that a nationally recognized accrediting organization must accredit the testing organizations. To accredit a testing organization, the accrediting agency must determine that the testing organization meets industry-recognized criteria for written testing materials, practical examinations, test administration, grading, facilities and equipment, and personnel. The testing organization must administer written and practical tests that:

- Assess the operator's knowledge and skills regarding subjects specified in the crane standard;
- provide different levels of certification based on equipment capacity and type;
- have procedures to retest applicants who fail; and
- have testing procedures for recertification.

Paragraph 1427(b)(2) of the final crane standard also specifies that, for the purposes of compliance with the crane standard, an operator is deemed qualified to operate a particular piece of equipment only if the operator is certified for that *type and capacity* of equipment or for higher-capacity equipment of that type. It further provides that, if no testing organization offers certification examinations for a particular equipment type and/or capacity, the operator is deemed qualified to operate that equipment if the operator is certified for the type/capacity of equipment that is most similar to that equipment, and for which a certification examination is available.

2. Overview of § 1926.1427(k) (Phase-in Provision)

The final crane standard replaced provisions in 29 CFR 1926 subpart N—Cranes, Derricks, Hoists, Elevators, and Conveyors, of the construction safety standards. Provisions for employers to ensure that operators of equipment, including cranes, are trained and qualified to safely operate that equipment are available elsewhere in the construction safety standards (see, for example, § 1926.20(b)(4) and (f)(2)).

OSHA delayed the effective date of the operator certification requirement for four years, until November 10, 2014 (see § 1427(k)(1)). To make sure that crane operators knew how to operate equipment safely during this phase-in period, the Agency required employers to ''ensure that operators of equipment covered by this standard are competent to operate the equipment safely'' (§ 1926.1427(k)(2)(i)). When the operator ''assigned to operate machinery does not have the required knowledge or ability to operate the equipment safely,'' the standard requires employers to train and evaluate the operator (§ 1926.1427(k)(2)(ii)).

3. Post-Final Rule Developments

After OSHA issued the final rule, it continued to receive feedback from members of the regulated community and conducted stakeholder meetings on April 2 and 3, 2013, to give interested members of the public the opportunity to express their views. Participants included construction contractors, labor unions, crane manufacturers, crane rental companies, accredited testing organizations, one of the accrediting bodies, insurance companies, crane operator trainers, and military employers. Detailed notes of participants' comments are available at OSHA–2007–0066–0539. Various parties informed OSHA that, in their opinion, the operator certification option would not adequately ensure that crane operators could operate their equipment safely. They said a certified operator would need additional training, experience, and evaluation, beyond the training and evaluation required to obtain certification, to ensure that he or she could operate a crane safely.

OSHA also received information that two (of a total of four) accredited testing organizations have been issuing certifications only by ''type'' of crane, rather than by the ''type and capacity'' of crane, as the crane standard requires. As a result, those certifications do not meet the standard's requirements and operators who obtained certifications from only those organizations cannot, under OSHA's crane standard, operate cranes on construction sites after the new requirements become effective. Some stakeholders in the crane industry requested that OSHA remove the capacity requirement.

Most of the participants in the stakeholder meetings expressed the

opinion that an operator's certification by an accredited testing organization did not mean that the operator was fully competent or experienced to operate a crane safely on a construction work site. The participants likened operator certification to a new driver's license, or a learner's permit, to drive a car. Most participants said that the operator's employer should retain the responsibility to ensure that the operator was qualified for the particular crane work assigned. Some participants wanted certification to be, or viewed to be, sufficient to operate a crane safely. Stakeholders noted that operator certification was beneficial in establishing a minimum threshold of operator knowledge and familiarity with cranes.

D. Three-Year Extension

In order to address the issues raised by industry stakeholders after publication of the final rule, OSHA proposed a rule delaying the compliance date for the operator certification requirements of the crane standard, and extending the employer duty to ensure that the operator was qualified for the particular crane work assigned, by three years until November 10, 2014, (79 FR 7611). Subsequently, OSHA conducted a hearing on the rulemaking on May 19, 2014, gathering more comments on the proposed extension (OSHA–2007–0066–0521).

On September 26, 2014, OSHA issued a final rule delaying the compliance date for operator certification for three years until November 10, 2017, (79 FR 57785). After publication of the final rule, OSHA began conducting site visits with a variety of stakeholders and the Agency drafted regulatory text with the purpose of addressing the capacity issue and the employer duty concerns.

On March 31 and April 1, 2015, OSHA convened a special meeting of Advisory Committee on Construction Safety and Health in which both ACCSH members and non-member industry stakeholders provided feedback on the draft regulatory text.[1] Prior to the meeting, OSHA made available the draft regulatory text,[2] an overview of the draft regulatory text,[3] and a summary of the site visits with stakeholders.[4] OSHA received many comments and suggestions for revising the regulatory text at the ACCSH meeting. Since that meeting, the Agency has worked to re-draft the regulatory text and preamble for the proposed rule. To ensure the Agency has enough time to propose and finalize the rulemaking, OSHA is proposing this one-year extension of the certification requirement compliance date. Just as with the previous extension, OSHA is also proposing an extension of the existing employer assessment duty for the same time period.

E. Explanation of Proposed Action and Request for Comment

The effective dates of the operator certification requirement and the other ''phase in'' of employer duties are in 29 CFR 1926.1427(k)(1). The Agency is proposing to revise § 1427(k)(1) to delay the deadline for operator certification by one year from November 10, 2017, to November 10, 2018, to provide additional time for the Agency to propose and finalize a rulemaking that addresses stakeholders' concerns. The Agency also is proposing to extend the current employer duties in § 1926.1427(k)(2)(i) and (ii) to ensure there is no reduction in worker protection during this three-year period. When OSHA included these employer duties in the final crane standard in 2010, these duties were to be a ''phase in'' to certification (75 FR 48027). By extending the date to November 10, 2018, as proposed in this notice, the requirements would continue to serve that purpose and preserve the status quo.

Without an extension, the certification requirements from the crane standard will prevent operators without certification by crane capacity from operating cranes, potentially disrupting the construction industry by creating a large number of crane operators without compliant certifications. Without the extension, after November 10, 2017, there would not be any duty for employers to ensure that their operators are competent to operate the equipment safely. This could diminish the effectiveness of the final rule which OSHA previously estimated to prevent 22 fatalities per year (75 FR 47914).

OSHA seeks comment on this approach, including the duration of the proposed extension of the operator certification deadline and the existing employer duties. OSHA encourages commenters to include a rationale for any alternatives that they propose. OSHA also requests comment on the ''Agency Determinations'' section that follows, including the preliminary economic analysis, paperwork requirements, and other regulatory impacts of this rule on the regulated community.

II. Agency Determinations

A. Preliminary Economic Analysis and Regulatory Flexibility Analysis

When it issued the final crane rule in 2010, OSHA prepared a final economic analysis (2010 FEA) as required by the Occupational Safety and Health Act of 1970 (OSH Act; 29 U.S.C. 651 *et seq.*) and Executive Orders 12866 (58 FR 51735) (Sept. 30, 1993) and 13563 (76 FR 3821 (Jan. 21, 2011)). OSHA also published a Final Regulatory Flexibility Analysis as required by the Regulatory Flexibility Act (5 U.S.C. 601–612). On September 26, 2014, the Agency included a separate FEA (2014 FEA) when it published a final rule delaying until November 10, 2017, the deadline for all crane operators to become certified, and extending the employer duty to ensure operator competency for the same period (79 FR 57785). The preliminary economic analysis (PEA) for this rulemaking relies on the methodology of the 2014 FEA, which in turn is based on estimates from the 2010 FEA, along with public comments and testimony and other documents in the 2014 rulemaking record. In this document OSHA has summarized some of the information from the 2014 FEA and noted where the current analysis differs from the previous FEA. Additional background on the analysis in this PEA may be found in the 2014 FEA.

Because OSHA estimates this rule will have a cost savings for employers of $4.4 million using a discount rate of 3 percent for the one year of the extension, this final rule is not economically significant within the meaning of Executive Order 12866, or a major rule under the Unfunded Mandates Reform Act or Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*).

This PEA focuses solely on costs, and not on any changes in safety and benefits resulting from extending the certification deadline and the employer duties under § 1926.1427(k)(2). OSHA previously provided its assessment of the benefits of the crane standard in the 2014 FEA of that standard. As noted elsewhere in this preamble, the primary rationale for this proposal is to maintain the status quo—including preservation of the employer duty to ensure that crane operators are competent—while providing OSHA additional time to conduct rulemaking on the crane

[1] Transcript for March 31: *https://www.osha.gov/doc/accsh/transcripts/accsh_20150331.pdf;* transcript for April 1: *https://www.osha.gov/doc/accsh/transcripts/accsh_20150401.pdf.*

[2] *https://www.osha.gov/doc/accsh/accshcrane.pdf.*

[3] *https://www.osha.gov/doc/accsh/proposed_crane.html.*

[4] *https://www.osha.gov/doc/accsh/summary_crane.html.*

operator requirements in response to stakeholder concerns.

Extending the employer's requirement to ensure an operator's competency during this period means taking the same approach of the previous extension: Continuing measures in existence since OSHA published the crane standard in 2010. As OSHA stated in the preamble to the 2010 final rule, the interim measures in paragraph (k) ''are not significantly different from requirements that were effective under subpart N of this part at former § 1926.550, § 1926.20(b)(4) ('the employer shall permit only those employees qualified by training or experience to operate equipment and machinery'), and § 1926.21(b)(2) ('the employer shall instruct each employee in the recognition and avoidance of unsafe conditions . . .')'' (75 FR 48027).

Delaying the operator certification requirement defers a regulatory requirement and produces cost savings for employers. There will, however, be continuing employer costs for extending the requirement to assess operators under existing § 1926.1427(k)(2); if OSHA does not extended these requirements, they will expire on November 10, 2017, and employers would not incur these costs after 2017. With the extension, these continuing employer costs will be offset by a reduction in expenses that employers would otherwise have been required to incur to ensure that their operators are certified before the existing November 2017 deadline.

Overview

In the following analysis, OSHA examines costs and savings to determine the net economic effect of the rule. By comparing the additional assessment costs to the certification cost savings across two scenarios—scenario 1 in which there is no extension of the 2017 deadline, and scenario 2 in which there is an extension until 2018—OSHA estimates that the extension will produce a net savings for employers of $4.4 million per year using a discount rate of 3 percent ($5.2 million per year using an interest rate of 7 percent).[5]

OSHA's analysis follows the steps below to reach its estimate of an annual net $4.4 million in savings:

(1) Estimate the annual assessment costs for employers;

(2) Estimate the annual certification costs for employers; and

(3) Estimate the year-by-year cost differential for extending the certification deadline to 2018.[6]

The methodology used here is substantially the same as used in the 2014 extension FEA. Table 1 below summarizes these costs and the differentials across the two scenarios. The major differences are updated wages and a revised forecast of the composition of the operator pool across certification levels. The 2014 FEA analysis addressed a 3-year extension, so it gradually increased the number of operators without any certification during that period. The model in this PEA addresses an extension of just a single year, so it holds the number of operators with each certification level constant. The latter significantly simplifies the analysis versus that presented in the 2014 FEA extension.

a. Annual Assessment Costs

OSHA estimated the annual assessment costs using the following three steps: First, determine the unit costs of meeting this requirement; second, determine the number of assessments that employers will need to perform in any given year (this determination includes estimating the affected operator pool as a preliminary step); and finally, multiply the unit costs of meeting the requirement by the number of operators who must meet it in any given year.

Unit assessment costs. OSHA's unit cost estimates for assessments take into account the time needed for the assessment, along with the wages of both the operator and the personnel who will perform the assessment. OSHA based the time requirements on crane operator certification exams currently offered by nationally accredited testing organizations. OSHA determined the time needed for various certification tests from the 2014 extension, drawing primarily from the public stakeholder meetings.

The Agency estimates separate assessment costs for three types of affected operators, which together comprise all affected operators: Those who have a certificate that is in compliance with the existing crane standard; those who have a certificate that is not in compliance with the existing crane standard; and those who have no certificate.[7] As it did in the previous extension, OSHA uses certification status as a proxy of competence in estimating the amount of assessment time needed for different operators. OSHA expects that an operator already certified to operate equipment of a particular type and capacity will require less assessment time than an operator certified by type but not capacity, who in turn will require less time than an operator who is not certified. In deriving these estimates, OSHA determined that operators who have a certificate that is compliant with the crane standard would have to complete a test that is the equivalent of the practical part of the standard crane operator test. The Agency estimates that it would take an operator one hour to complete this test. Operators who have a certificate that is not in compliance with the crane standard would have to complete a test that is equivalent to both a written general test and a practical test of the standard crane operator test. OSHA estimated that the written general test would take 1.5 hours to complete, for a total test time of 2.5 hours of testing for each operator (1.5 hours for the written general test and 1.0 hour for the practical test). Finally, operators with no certificate would have to complete a test that is equivalent to the standard written test for a specific crane type (also lasting 1.5 hours), as well as the written general test and the practical test, for a total test time of 4.0 hours (1.5 hours for the test on a specific crane type, 1.5 hours for the written general test, and 1.0 hour for the practical test).

The wages used for the crane operator and assessor come from the BLS Occupational Employment Survey for May 2016 (BLS 2017a), which is an updated version of the same source used in the 2014 extension. From this survey a crane operator's (Standard Occupational Classification (SOC) 53–7021 Crane and Tower Operators) average hourly wage is $26.58. The full cost to the employer includes all benefits as well as the wage. From the BLS Employer Costs For Employee Compensation for December 2016 (BLS 2017b) the average percentage of benefits in total for the construction sector is 30.2%, giving a markup of the wage to the total compensation of 1.43

[5] As explained in the following discussion, OSHA typically calculates the present value of future costs and benefits using two interest rate assumptions, 3% and 7%, as recommended by OMB Circular A–4 of September 17, 2003. All dollar amounts unless otherwise stated are in 2016 dollars.

[6] Though this is a single year extension, the analysis needs to extend over several future years. For convenience, OSHA refers to the annual time period as a ''Certification Year'' (CY) in this economic analysis, which OSHA defines as ending November 10 of the calendar year; *e.g.,* CY 2017 runs from November 10, 2016, to November 9, 2017.

[7] OSHA is not making any determination about whether a specific certification complies with the requirements of the crane standard. For the purposes of this analysis only, OSHA will treat certificates that do not include a multi-capacity component as not complying with the crane standard, and certificates that include both a type and multi-capacity component as complying with the crane standard.

(1/(1–0.302)). Hence the ''loaded'' total hourly cost of an operator is $38.08 (1.43 × $26.58), including a markup for benefits.[8] Relying on the same sources, the wage of the assessor is estimated to be the same as the average wage of a construction supervisor (53–1031 First-Line Supervisors of Transportation and Material-Moving Machine and Vehicle Operators) of $28.75, while the total hourly cost is $41.19 (1.43 × $28.75). Below these total hourly costs will be referred to as the respective occupation's ''wage.'' For assessments performed by an employer of a prospective employee (*i.e.,* a candidate), OSHA uses these same operator and assessor wages and the above testing times to estimate the cost of assessing prospective employees.

Multiplying the wages of operators, assessors, and candidates by the time taken for each type of assessment provides the cost for each type of assessment. Hence, the cost of assessing an operator already holding a certificate that complies with the standard (both type and capacity) is one hour of both the operator's and assessor's time: $79.27 ($38.08 + $41.19). For an operator with a certificate for crane type only (not crane capacity), the assessment time is 2.5 hours for a cost of $198.17 (2.5 × ($38.08 + $41.19)). Finally, for an operator with no certificate, the assessment time is 4.0 hours for a cost of $317.48 (4.0 × ($38.08 + $41.19)).

Besides these assessment costs, OSHA notes that § 1427(k)(2)(ii) requires employers to provide training to employees if they are not already competent to operate their assigned equipment. To determine whether an operator is competent, the employer must first perform an assessment. Only if an operator fails the assessment must the employer provide additional operator training required by § 1427(k)(2)(ii).

However, in determining this cost, OSHA made a distinction between a nonemployee candidate for an operator position and an operator who is currently an employee. For an employer assessing a nonemployee candidate, OSHA assumed, based on common industry practice, that the employer will not hire a nonemployee candidate who fails the assessment. In the second situation, an employee qualified to operate a crane fails a type and/or capacity assessment for a crane that differs from the crane the employee currently operates. In this situation, the cost-minimizing action for the employer is not to assign the employee to that type and/or capacity crane, thereby avoiding training costs. While the Agency acknowledges that there will be cases in which the employer will provide this training, it believes these costs to be minimal and, therefore, is not estimating costs for the training. OSHA made the same determinations in the 2014 PEA and did not receive public comment on them.

Number of assessments and number of affected operators. The number of assessments is difficult to estimate due to the heterogeneity of the crane industry. Many operators work continuously for the same employer, already have had their assessment, and do not need reassessment, so the number of new assessments required by the crane standard for these operators will be zero. Some companies will rent both a crane and an operator employed by the crane rental company to perform crane work, in which case the rental crane company is the operator's employer and responsible for operator assessment. In such cases there is no requirement for the contractor who is renting the crane service to conduct an additional operator assessment. Assuming that employers already comply with the assessment and training requirements of the existing § 1427(k)(2), employers only need to assess a subset of operators: New hires; employees who will operate equipment that differs by type and/or capacity from the equipment on which they received their current assessment; and operators who indicate they no longer possess the required knowledge or skill necessary to operate the equipment.

To calculate the estimated annual number of assessments, OSHA first estimated the current number of crane operators affected by the crane standard. The 2014 FEA estimated 117,130 operators and this PEA also uses this estimate. The Agency solicits comment and additional data on this estimate.

For the purpose of determining the number of assessments required each year under this proposal, OSHA is relying on the 23% turnover rate for operators originally identified in the 2008 PEA for the crane rule and used most recently in the extension 2014 FEA (79 FR 57793). This turnover rate includes all types of operators who would require assessment: Operators moving between employers; operators moving between different types and/or capacities of equipment; and operators newly entering the occupation. OSHA estimated that 26,940 assessments occur each year based on turnover (*i.e.,* 117,130 operators × 0.23 turnover rate). In addition, just as it did with the previous extension, OSHA assumed that 15% of operators involved in assessments related to turnover would fail the first test administration and need reassessment (79 FR 57793). Therefore, OSHA added 4,041 reassessments (26,940 assessments × 0.15) to the number of reassessments resulting from turnover, for an annual total of 30,981 assessments resulting from turnover and test failure (26,940 + 4,041).

Annual assessment costs. OSHA must determine the annual base amount for the two scenarios: (1) Retaining the original 2017 deadline (status quo); and (2) extending the deadline to 2018 (NPRM).

The first part of the calculation is the same under both scenarios. Because the annual assessment costs vary by the different levels of assessment required (depending on the operator's existing level of certification), OSHA grouped the 117,130 operators subject to the crane standard into three classifications: Operators with a certificate that complies with the standard; operators with a certificate only for crane type; and operators with no certification. In order to simplify the estimation for this one-year extension (the 2014 extension was for 3 years) and reflect the last hard data point the Agency has, the Agency is using a static crane operator pool and the composition of the base operator population used in the 2014 deadline extension: 15,000 Crane operators currently have a certificate that complies with the existing crane standard, 71,700 have a certificate for crane type only (but not capacity), leaving 30,430 crane operators with no crane certification (117,130 total operators—(15,000 operators with compliant certification + 71,700 operators with certification for type only)).

Assuming the turnover rate of 23% and the failure rate of 15% for turnover-related assessments are distributed proportionally across the three types of operators, then the number of assessments for operators with compliant certification is 3,968 ((0.23 + (0.23 × 0.15)) × 15,000), the number of assessments for operators with type-only certification is 18,965 ((0.23 + (0.23 × 0.15)) × 71,700), and the number of assessments for operators with no certification is 8,049 ((0.23 + (0.23 × 0.15)) × 30,430).

Under scenario 2 there is an extension and employers would not certify all of their operators during CY 2017. OSHA estimated the CY 2017 assessment costs for scenario 2 by multiplying the assessment numbers for each type of

[8] Calculations in the text may not exactly match due to rounding for presentation purposes. All final costs are exact, with no rounding.

operator by the unit costs, resulting in a cost of $6,624,861 (($79.27 × 3,968) + ($198.17 × 18,965) + ($317.08 × 8,049)). Under scenario 1, the employer-assessment requirement will be in effect for all of CY 2017, while employers would be gradually certifying all of their operators during CY 2017. As a result, the CY 2017 assessment costs identified for scenario 2 would decrease to $4,540,348 from $6,624,861 in scenario 1. This is because, as compared to scenario 2, there will be more operators who will have a compliant certificate, and therefore under the approach described above the employer assessment will require less time. This reduction in the estimated time, and therefore unit cost, lowers the overall assessment cost (see discussion in the 2014 deadline extension FEA for more details about this methodology).

Under both scenarios, once the 2010 rule comes into effect the employer duty to assess the crane operator no longer is in effect and so assessment costs are zero. Thus, in CY 2018, the assessment costs under scenario 1 would be zero. Under scenario 2, the assessment costs for CY 2018 would be the same as those under scenario 1 for CY 2017, because employers would be gradually certifying operators over the course of that year.

b. Annual Certification Costs

OSHA estimated the annual certification costs using the three steps: first, determine the unit costs of meeting this requirement; second, determine the number of affected operators; and, finally, multiply the unit costs of meeting the requirement by the number of operators who must meet them. In this PEA, following the same methodology as in the 2014 FEA, OSHA estimates that all certifications occur in the year prior to the deadline, hence in CY 2017 in scenario 1, while in CY2018 for the one-year extension in scenario 2. As in the annual assessment-cost analysis described above, OSHA provides the calculations for CY 2017 under the existing 2017 deadline (scenario 1), and then presents the certification costs for CY 2018 that would apply if OSHA extends the certification requirement to November 2018 (scenario 2).

Unit certification costs. Unit certification costs vary across the three different types of operators in the operator pool (operators with compliant certification; operators with type-only certification; and operators with no certification). Among operators without certification there is a further distinction with different unit certification costs: Experienced operators without certification and operators who have only limited experience. Therefore, there are different unit certification costs for four different types of operators. There also are ongoing certification costs due to the following two conditions: The requirement for re-certification every five years and the need for some certified operators to obtain additional certification to operate a crane that differs by type and/or capacity from the crane on which they received their current certification.

OSHA estimated these different unit certification costs using substantially the same unit-cost assumptions used in the FEA for the 2010 crane standard (and exactly the same as the FEA of the 2014 deadline extension.) In those previous FEAs, OSHA estimated that training and certification costs for an operator with only limited experience would consist of $1,500 for a 2-day course (including tests) and 18 hours of the operator's time, for a total cost of $2,185.44 ($1,500 + (18 hours × $38.08)) (see 75 FR 48096–48097). OSHA continues to use a cost of $250 for the tests taken without any training (a constant fixed fee irrespective of the number of tests (75 FR 48096)), and the same number of hours used for each test that it used in the assessment calculations provided above (which the Agency based on certification test times). Accordingly, OSHA estimates the cost of a certificate compliant with the standard for an operator who has a type-only certificate to be $345.20 (*i.e.,* 1 type/capacity-specific written test at 1.5 hours and 1 practical test at 1.0 hours (2.5 hours total), plus the fixed $250 fee for the tests (2.5 hours × $38.08) + $250). For an experienced operator with no certificate, the cost is $402.32 (*i.e.,* the same as the cost for an operator with a type-only certificate plus the cost of an added general written test of 1.5 hours (4.0 hours × $38.08) + $250)).[9]

For Scenario 1, § 1926.1427(b)(4) specifies that a certificate is valid for five years. OSHA estimates the recertification unit cost would be the same as the assessment for an operator with compliant certification (*i.e.,* $79.27). In the 2014 extension, OSHA assumed that employers would pay a reduced fee for the recertification testing as opposed to the cost of a full first-time examination. Because OSHA lacked data on exactly how much the fee would be reduced, it used the assessment cost as a proxy for the cost of recertification (79 FR 57794). OSHA did not receive any comment on that approach and is retaining it for this rulemaking.

Finally, there will be certified operators who must obtain certification when assigned to a crane that differs by type and/or capacity from the crane on which they received their current certification. This situation requires additional training, but less training than required for a ''new'' operator with only limited experience. Accordingly, OSHA estimated the cost for these operators as one half of the cost of training and certifying a new operator, or $1,092.72 ($2,185.44/2).

Number of certifications. After establishing the unit certification costs, OSHA had to determine how many certifications are necessary to ensure compliance with OSHA's standard. In doing so, the Agency uses the 5% new-hire estimate from the FEA discussed above to calculate the number of new operators; therefore, of the 117,130 operators affected by the standard, 5,857 (0.05 × 117,130) would be new operators who would require two days for training and certification each year. As discussed earlier, OSHA estimated that 71,700 operators have type-only certification, 15,000 operators have certification that complies with the existing crane standard, and the remaining 24,574 operators (117,130 − (71,700 + 15,000 + 5,857)) are experienced operators without certification.

[9] There are no certification costs for operators who already have a certificate that complies with the crane standard.

Under scenario 1 (no extension), after all operators attain certification by November 2017 there will still be ongoing certification costs each year. With a constant total number of operators, the same number of operators (5,857) will be leaving the profession each year and will not require recertification when their current 5-year certification ends. This leaves 111,274 operators (117,130 − 5,857) who will need such periodic recertification. If we approximate the timing of requirements for recertification as distributed proportionally across years, then 20% of all operators with a 5-year certificate (22,255 operators (.20 × 111,274)) would require recertification each year.

A final category of unit certification costs involves the continuing need for certified operators to obtain further certification when assigned to a crane that differs by type and/or capacity from the crane on which they received their current certification. This situation arises for both operators working for a single employer and operators switching employers.

The operators who will not need multiple certifications in the post-deadline period are operators with certification who move to a new employer and operate a crane with the same type and capacity as the crane on which they received certification while with their previous employer. These operators will not need multiple certifications because operator certificates are portable across employers, as specified by the crane standard (see § 1427(b)(3)). For an employer looking to hire an operator for a specific crane, this option will minimize cost, and OSHA assumes employers will choose this option when possible.

After the certification deadline, OSHA estimates that each year 23% of the 117,130 operators (26,940 = 0.23 × 117,130) will enter the workforce, change employers, or take on new positions that require one or more additional certifications to operate different types and/or capacities of cranes. Of these 26,940 operators, OSHA estimates 5 of the total 23%, or 5,857 (0.05 × 117,130), will result from new operators entering the occupation each year; 9%, or 10,542 (0.09 × 117,130), will result from operators switching employers but operating a crane of the same type and capacity as the crane they operated previously (*i.e.,* no certification needed because certification is portable in this case); and the remaining 9%, or 10,542, changing jobs or positions and requiring one or more additional certification to operate a crane that differs by type and/or capacity from the crane they operated previously. These percentages are identical to those in the 2014 FEA.

Annualized certification costs. To estimate the annual base cost for the first scenario, OSHA calculates the certification costs for CY 2017 because that is the remaining period before the existing deadline. The total cost for certifying all operators in CY 2017 in accordance with the existing crane standard using the above unit-cost estimates and numbers of operators is $47,436,368 ((71,700 operators with type-only certification × $345.20) + (24,574 experienced operators without certification × $402.32) + (5,857 operators with no experience or certification × $2,185.44)). The Agency, following the previous FEAs (75 FR 48096 and 79 FR 57795), annualized this cost for the five-year period during which operator certification remains effective, resulting in an annualized cost of $7,563,216. In section c below, OSHA uses this amount in calculating the annual certification costs under scenario 1.

To determine the annual amount used in calculations for the second scenario (the extension to 2018), OSHA examines the costs in CY 2017 because that is the first year with certification costs. All numbers are the same, just shifted forward a year, so the total cost for having all crane operators certified in CY 2018 is $47,436,368 (in 2018 dollars).

c. Year-by-Year Cost Differential for Extending the Certification Deadline to 2018 and Preserving the Employer Assessment Duty Over That Same Period

The ultimate goal of this analysis is to determine the annualized cost differential between scenario 1 (the status quo) and scenario 2 (the extensions of the certification date and the employer assessment duty), so the final part of this PEA compares the yearly assessment and certification costs employers will incur under the two scenarios. Because the assessment and certification costs change across years under each scenario, OSHA must compare the cost differential in each year separately to determine the annual cost savings for each year attributable to scenario 2. OSHA calculated the present value of each year's differential, which provides a consistent basis for comparing the cost differentials over the extended compliance period. OSHA then annualized the present value of each differential to identify an annual amount that accounts for the discounted costs over this period. Table 1 below summarizes these calculations.

Table 1 shows that assessment and certification costs are just shifted out another year. As noted earlier, OSHA estimated the overall cost differential between these two scenarios by calculating the difference in total (assessment and certification) costs each year across the two scenarios. The net employer cost savings in current dollars attributable to adopting the second scenario are, for each certification year: 2017, $18.2 million; 2018, $8.7 million; 2019–2021, $0; 2022, − $7.5 million.[10]

TABLE 1—YEAR-BY-YEAR COST DIFFERENTIAL IF OSHA EXTENDS THE CERTIFICATION DEADLINE TO 2018

Certification Year	2017	2018	2019	2020	2021	2022	2023
Operator Pool							
Scenario 1 (no deadline extension)							
operators with non-compliant certification	71,700	0	0	0	0	0	0
operators with compliant certification	15,000	111,274	111,274	111,274	111,274	111,274	111,274
operators with no certification	24,574	0	0	0	0	0	0
new operators	5,857	5,857	5,857	5,857	5,857	5,857	5,857

[10] A positive cost differential indicates cost savings and a negative cost differential indicates net costs. Savings in the first two years are due to the lower cost of assessments versus certification. Then net costs in year 2022 are due to the last year of annualized certification costs for scenario 2, while this cost ends in year 2021 for scenario 1.

TABLE 1—YEAR-BY-YEAR COST DIFFERENTIAL IF OSHA EXTENDS THE CERTIFICATION DEADLINE TO 2018—Continued

Certification Year	2017	2018	2019	2020	2021	2022	2023
Scenario 2 (deadline extension)							
operators with non-compliant certification	71,700	71,700	0	0	0	0	0
operators with compliant certification	15,000	15,000	111,274	111,274	111,274	111,274	111,274
operators with no certification	24,574	24,574	0	0	0	0	0
new operators	5,857	5,857	5,857	5,857	5,857	5,857	5,857
Costs							
Scenario 1 (no deadline extension)							
Total assessment costs	4,540,348	0	0	0	0	0	0
Total certification costs	20,362,269	33,645,533	33,645,533	33,645,533	33,645,533	26,082,317	26,082,317
Total costs	24,902,617	33,645,533	33,645,533	33,645,533	33,645,533	26,082,317	26,082,317
Scenario 2 (deadline extension)							
Total assessment costs	6,624,861	4,540,348	0	0	0	0	0
Total certification costs	0	20,362,269	33,645,533	33,645,533	33,645,533	33,645,533	26,082,317
Total costs	6,624,861	24,902,617	33,645,533	33,645,533	33,645,533	33,645,533	26,082,317
Cost Differential (Scenario 2 − Scenario 1)	(18,277,756)	(8,742,916)	.....	.....	.....	7,563,216	.....

Source: OSHA, ORA Calculations.

OSHA next determined the present value of these cost differentials between the two scenarios. OSHA calculated the present value of future costs using two interest rates assumptions, 3 percent and 7 percent, which follow the OMB guidelines specified by Circular A–4. At an interest rate of 3 percent, the present value of the cost differentials for CY 2017 onwards results in an estimated savings of $20.2 million ($21.3 million using the 7 percent rate). Finally, annualizing the present value over five years results in an annualized cost differential (*i.e.,* net employer cost savings) of $4.4 million per year ($5.2 million per year using the 7 percent rate).

The Agency notes that it did not include an overhead labor cost in the Preliminary Economic Analysis (PEA) for this rule. It is important to note that there is not one broadly accepted overhead rate and that the use of overhead to estimate the marginal costs of labor raises a number of issues that should be addressed before applying overhead costs to analyze the costs of any specific regulation. There are several approaches to look at the cost elements that fit the definition of *overhead* and there are a range of overhead estimates currently used within the federal government—for example, the Environmental Protection Agency has used 17 percent,[11] and government contractors have been reported to use an average of 77 percent.[12] [13] Some overhead costs, such as advertising and marketing, may be more closely correlated with output rather than with labor. Other overhead costs vary with the number of new employees. For example, rent or payroll processing costs may change little with the addition of 1 employee in a 500-employee firm, but those costs may change substantially with the addition of 100 employees. If an employer is able to rearrange current employees' duties to implement a rule, then the marginal share of overhead costs such as rent, insurance, and major office equipment (*e.g.,* computers, printers, copiers) would be very difficult to measure with accuracy (*e.g.,* computer use costs associated with 2 hours for rule familiarization by an existing employee).

If OSHA had included an overhead rate when estimating the marginal cost of labor, without further analyzing an appropriate quantitative adjustment, and adopted for these purposes an overhead rate of 17 percent on base wages, as was done in a sensitivity analysis in the FEA in support of OSHA's 2016 final rule on Occupational Exposure to Respirable Crystalline Silica, the overhead costs would increase cost savings from $4.4 million to $4.5 million at a discount rate of 3 percent, an increase of 1.8 percent, and would increase cost savings from $5.2 million to $5.3 million at a discount rate of 7 percent, an increase of 1.9 percent.

d. Certification of No Significant Impact on a Substantial Number of Small Entities

Most employers will have savings resulting from the one-year extension, particularly employers that planned to pay for operator certification in the year before the existing 2017 deadline. The only entities likely to see a net cost will be entities that planned to hire an operator with compliant certification after November 10, 2017. Without the one-year extension, these entities will have no separate assessment duty, but under the one-year extension they will have the expense involved in assessing operator competency. As noted above, however, OSHA estimated the maximum cost for such an assessment (for operators with no certification) to be $317.08 per certified operator.

Small businesses will, by definition, have few operators, and OSHA believes the $317.08 cost will be well below 1% of revenues, and well below 5% of profits, in any industry sector using cranes. OSHA does not consider such small amounts to represent a significant impact on small businesses in any industry sector. Hence, OSHA certifies this final rule will not have a significant impact on a substantial number of small

[11] U.S. Environmental Protection Agency, ''Wage Rates for Economic Analyses of the Toxics Release Inventory Program,'' June 10, 2002.

[12] Grant Thornton LLP, *2015 Government Contractor Survey.* (*https://www.grantthornton.com/~/media/content-page-files/public-sector/pdfs/surveys/2015/Gov-Contractor-Survey.ashx.*)

[13] For a further example of overhead cost estimates, please see the Employee Benefits Security Administration's guidance at *https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/rules-and-regulations/technical-appendices/labor-cost-inputs-used-in-ebsa-opr-ria-and-pra-burden-calculations-august-2016.pdf.*

entities. After providing relatively similar estimates in the 2014 FEA, OSHA made the same certification in the 2014 FEA and did not receive any adverse comment on either the certification or its underlying rationale.

B. Paperwork Reduction Act

When OSHA issued the final rule on August 9, 2010, it submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) titled *Cranes and Derricks in Construction (29 CFR part 1926, subpart CC)*.[14] On November 1, 2010, OMB approved the ICR under OMB Control Number 1218–0261, with an expiration date of November 30, 2013. On April, 25, 2017, OMB's approval of the ICR was extended to April 30, 2020.

This proposed rule contains no collection of information needing OMB approval. OSHA welcomes commenters to submit their comments on this determination to the rulemaking docket (OSHA–2007–0066), along with their other comments on the proposed rule. For instructions on submitting these comments to the docket, see the sections of this **Federal Register** notice titled **DATES** and **ADDRESSES**.

OSHA notes that a Federal agency cannot conduct or sponsor a collection of information unless OMB approves it under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), and the agency displays a currently valid OMB control number. The public need not respond to a collection of information requirement unless the agency displays a currently valid OMB control number, and, notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information requirement if the requirement does not display a currently valid OMB control number.

C. Federalism

OSHA reviewed this proposed rule in accordance with the Executive Order on Federalism (Executive Order 13132, 64 FR 43255, August 10, 1999), which requires that Federal agencies, to the extent possible, refrain from limiting state policy options, consult with states prior to taking any actions that would restrict state policy options, and take such actions only when clear constitutional authority exists and the problem is national in scope. Executive Order 13132 provides for preemption of state law only with the expressed consent of Congress. Federal agencies must limit any such preemption to the extent possible.

Under Section 18 of the Occupational Safety and Health Act of 1970 (OSH Act; 29 U.S.C. 651 *et seq.*), Congress expressly provides that states and U.S. territories may adopt, with Federal approval, a plan for the development and enforcement of occupational safety and health standards. OSHA refers to such states and territories as ''State Plan States.'' Occupational safety and health standards developed by State Plan States must be at least as effective in providing safe and healthful employment and places of employment as the Federal standards. 29 U.S.C. 667. Subject to these requirements, State Plan States are free to develop and enforce under state law their own requirements for safety and health standards.

OSHA previously concluded from its analysis that promulgation of subpart CC complies with Executive Order 13132 (75 FR 48128–29). In states without an OSHA-approved State Plan, any standard developed from this proposed rule would limit state policy options in the same manner as every standard promulgated by OSHA. For State Plan States, Section 18 of the OSH Act, as noted in the previous paragraph, permits State-Plan States to develop and enforce their own crane standards provided these requirements are at least as effective in providing safe and healthful employment and places of employment as the requirements specified in this proposal.

D. State Plans

When Federal OSHA promulgates a new standard or more stringent amendment to an existing standard, State Plans must amend their standards to reflect the new standard or amendment, or show OSHA why such action is unnecessary, *e.g.,* because an existing state standard covering this area is ''at least as effective'' as the new Federal standard or amendment (29 CFR 1953.5(a)). The state standard must be at least as effective as the final Federal rule. State Plans must adopt the Federal standard or complete their own standard within six months of the promulgation date of the final Federal rule. When OSHA promulgates a new standard or amendment that does not impose additional or more stringent requirements than an existing standard, State Plans do not have to amend their standards, although OSHA may encourage them to do so. The 21 states and 1 U.S. territory with OSHA-approved occupational safety and health plans covering private sector and state and local government are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. Connecticut, Illinois, Maine, New Jersey, New York, and the Virgin Islands have OSHA-approved State Plans that apply to state and local government employees only.

The proposed amendments to OSHA's crane standard preserve the status quo and would not impose any new requirements on employers. Accordingly, State Plans would not have to amend their standards to delay the effective date of their operator certification requirements, but they may do so if they so choose. However, if they choose to delay the effective date of their certification requirements, they also would need to include a corresponding extension of the employer duty to assess and train operators that is equivalent to § 1427(k)(2).

E. Unfunded Mandates Reform Act

When OSHA issued the final rule for cranes and derricks in construction, it reviewed the rule according to the Unfunded Mandates Reform Act of 1995 (UMRA; 2 U.S.C. 1501 *et seq.*) and Executive Order 13132 (64 FR 43255 (Aug. 10, 1999). OSHA concluded that the final rule did not meet the definition of a ''Federal intergovernmental mandate'' under the UMRA because OSHA standards do not apply to state or local governments except in states that voluntarily adopt State Plans. OSHA further noted that the rule imposed costs of over $100 million per year on the private sector and, therefore, required review under the UMRA for those costs, but that its final economic analysis met that requirement.

As discussed above in Section IV.A (Preliminary Economic Analysis and Regulatory Flexibility Analysis) of this preamble, this proposed extension does not impose any costs on private-sector employers beyond those costs already identified in the final rule for cranes and derricks in construction and the 2014 extension. Because OSHA reviewed the total costs of this final rule under the UMRA, no further review of those costs is necessary. Therefore, for the purposes of the UMRA, OSHA certifies that this proposed rule does not mandate that state, local, or tribal governments adopt new, unfunded regulatory obligations, or increase expenditures by the private sector of more than $100 million in any year.

[14] The ICR is available at ID–0425 at *www.regulations.gov* and at *www.reginfo.gov* (OMB Control Number 1218–0261).

F. Consultation and Coordination With Indian Tribal Governments

OSHA reviewed this proposed rule in accordance with Executive Order 13175 (65 FR 67249) and determined that it does not have ''tribal implications'' as defined in that order. As proposed, the rule does not 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.

G. Consultation With the Advisory Committee on Construction Safety and Health

Under 29 CFR parts 1911 and 1912, OSHA must consult with the Advisory Committee on Construction Safety and Health (ACCSH or Committee), established pursuant to Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 *et seq.*), in setting standards for construction work. Specifically, § 1911.10(a) requires the Assistant Secretary to provide the ACCSH with a draft proposed rule (along with pertinent factual information) and give the Committee an opportunity to submit recommendations. *See* also § 1912.3(a) (''[W]henever occupational safety or health standards for construction activities are proposed, the Assistant Secretary [for Occupational Safety and Health] shall consult the Advisory Committee'').

On June 20, 2017, ACCSH unanimously recommended that OSHA delay, for one additional year until November 10, 2018, the compliance date for the crane operator certification and extend the employer duty for the same period. [Include citation to ACCSH docket, OSHA–2017–0007–####]

H. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

Consistent with EO 13771 (82 FR 9339, February 3, 2017), OSHA has estimated the annualized cost savings over 10 years for this proposed rule to range from $4.4 million to $5.2 million, depending on the discount rate. This proposed rule is expected to be an EO 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the rule's economic analysis.

I. Legal Considerations

The purpose of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*) is ''to assure so far as possible every working man and woman in the nation safe and healthful working conditions and to preserve our human resources.'' 29 U.S.C. 651(b). To achieve this goal, Congress authorized the Secretary of Labor to promulgate and enforce occupational safety and health standards. 29 U.S.C. 654(b), 655(b). A safety or health standard is a standard ''which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment or places of employment.'' 29 U.S.C. 652(8). A standard is reasonably necessary or appropriate within the meaning of Section 652(8) when a significant risk of material harm exists in the workplace and the standard would substantially reduce or eliminate that workplace risk. See *Industrial Union Department, AFL–CIO* v. *American Petroleum Institute,* 448 U.S. 607 (1980). In the crane rulemaking, OSHA made such a determination with respect to the use of cranes and derricks in construction (75 FR 47913, 47920–21). This proposed rule does not impose any new requirements on employers. Therefore, this proposal does not require an additional significant risk finding (see *Edison Electric Institute* v. *OSHA,* 849 F.2d 611, 620 (D.C. Cir. 1988)).

In addition to materially reducing a significant risk, a safety standard must be technologically feasible. See *UAW* v. *OSHA,* 37 F.3d 665, 668 (D.C. Cir. 1994). A standard is technologically feasible when the protective measures it requires already exist, when available technology can bring the protective measures into existence, or when that technology is reasonably likely to develop (see *American Textile Mfrs. Institute* v. *OSHA,* 452 U.S. 490, 513 (1981); *American Iron and Steel Institute* v. *OSHA,* 939 F.2d 975, 980 (D.C. Cir. 1991)). In the 2010 Final Economic Analysis for the crane standard, OSHA found the standard to be technologically feasible (75 FR 48079). OSHA also found the previous extension to be technologically feasible (79 FR 57798). This proposed rule would, therefore, be technologically feasible as well because it would not require employers to implement any additional protective measures; it would simply extend the duration of existing requirements.

List of Subjects in 29 CFR Part 1926

Construction industry, Cranes, Derricks, Occupational safety and health, Safety.

Signed at Washington, DC, on August 25, 2017.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

Amendments to Standards

For the reasons stated in the preamble of this proposed rule, OSHA proposes to amend 29 CFR part 1926 as follows:

PART 1926—[AMENDED]

Subpart CC—Cranes and Derricks in Construction

■ 1. The authority citation for subpart CC of 29 CFR part 1926 continues to read as follows:

Authority: 40 U.S.C. 3701 *et seq.;* 29 U.S.C. 653, 655, 657; and Secretary of Labor's Orders 5–2007 (72 FR 31159) or 1–2012 (77 FR 3912), as applicable; and 29 CFR part 1911.

■ 2. Amend § 1926.1427 by revising paragraph (k) to read as follows:

§ 1926.1427 Operator qualification and certification.

* * * * *

(k) *Phase-in.* (1) The provisions of this section became applicable on November 8, 2010, except for paragraphs (a)(2) and (f), which are applicable November 10, 2018.

(2) When § 1926.1427(a)(1) is not applicable, all of the requirements in paragraphs (k)(2)(i) and (ii) of this section apply until November 10, 2018.

(i) The employer must ensure that operators of equipment covered by this standard are competent to operate the equipment safely.

(ii) When an employee assigned to operate machinery does not have the required knowledge or ability to operate the equipment safely, the employer must train that employee prior to operating the equipment. The employer must ensure that each operator is evaluated to confirm that he/she understands the information provided in the training.

[FR Doc. 2017–18441 Filed 8–29–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF EDUCATION

34 CFR Chapter VI

[Docket ID ED–2017–OPE–0076]

RIN 1840–AD26

Negotiated Rulemaking Committees; Negotiator Nominations and Schedule of Committee Meetings—Borrower Defenses, Financial Responsibility, and Gainful Employment

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Intent to establish negotiated rulemaking committees.

SUMMARY: We announce our intention to establish two negotiated rulemaking committees to prepare proposed regulations for the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA). The committees will include representatives of organizations or groups with interests that are significantly affected by the subject matter of the proposed regulations. We request nominations for individual negotiators who represent key stakeholder constituencies for the issues to be negotiated to serve on the committees, and we set a schedule for committee meetings. We also announce the creation of a subcommittee, and request nominations for individuals with pertinent expertise to participate on the subcommittee.

DATES: We must receive your nominations for negotiators to serve on the committees on or before September 29, 2017. The dates, times, and locations of the committee meetings are set out in the *Schedule for Negotiations and Subcommittee Meetings* section in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: Please send your nominations for negotiators to Wendy Macias, U.S. Department of Education, 400 Maryland Ave. SW., Room 6C111, Washington, DC 20202. Telephone: (202) 203–9155 or by email: *negregnominations@ed.gov*.

FOR FURTHER INFORMATION CONTACT: For information about the content of this document, including information about the negotiated rulemaking process or the nomination submission process, contact: Wendy Macias, U.S. Department of Education, 400 Maryland Ave. SW., Room 6C111, Washington, DC 20202. Telephone: (202) 203–9155 or by email: *Wendy.Macias@ed.gov*.

For information about negotiated rulemaking in general, see *The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions* at *www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html* or contact: Wendy Macias, U.S. Department of Education, 400 Maryland Ave. SW., Room 6C111, Washington, DC 20202. Telephone: (202) 203–9155 or by email: *Wendy.Macias@ed.gov*.

If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On June 16, 2017, we published a document in the **Federal Register** (82 FR 27640) announcing our intent to establish two negotiated rulemaking committees under section 492 of the HEA to develop proposed regulations to (1) revise the gainful employment regulations published by the Department on October 31, 2014 (79 FR 64889), and (2) revise the regulations on borrower defenses to repayment of Federal student loans and other matters, and on the authority of guaranty agencies in the Federal Family Education Loan (FFEL) Program to charge collection costs under 34 CFR 682.410(b)(6) to a defaulted borrower who enters into a repayment agreement with the guaranty agency. We also announced two public hearings at which interested parties could comment on the topics suggested by the U.S. Department of Education (Department) and suggest additional topics for consideration for action by the negotiated rulemaking committees. Those hearings were held on July 10, 2017, in Washington, DC, and on July 12, 2017, in Dallas, Texas. We invited parties to comment and submit topics for consideration in writing as well. Transcripts from the public hearings are available at *www2.ed.gov/policy/highered/reg/hearulemaking/2017/index.html*. Written comments submitted in response to the June 16, 2017, document may be viewed through the Federal eRulemaking Portal at *www.regulations.gov*. Instructions for finding comments are available on the site under ''How to Use Regulations.gov'' in the Help section. Individuals can enter docket ID ED–2017–OPE–0076 in the search box to locate the appropriate docket.

Regulatory Issues

After considering the information received at the public hearings and the written comments, we have decided to establish the following two negotiating committees:

Committee 1—Borrower Defenses and Financial Responsibility Issues

Committee 2—Gainful Employment Issues

We list the specific topics the committees are likely to address under *Committee Topics,* below.

We intend to select negotiators for the committees who represent the interests significantly affected by the topics proposed for negotiations. In so doing, we will follow the requirement in section 492(b)(1) of the HEA that the individuals selected must have demonstrated expertise or experience in the relevant topics proposed for negotiations. We will also select individual negotiators who reflect the diversity among program participants, in accordance with section 492(b)(1) of the HEA. Our goal is to establish committees that will allow significantly affected parties to be represented while keeping the committee size manageable.

We generally select a primary and alternate negotiator for each constituency represented on a committee. The primary negotiator participates for the purpose of determining consensus. The alternate participates for the purpose of determining consensus in the absence of the primary. Either the primary or the alternate may speak during the negotiations.

A committee may create subgroups on particular topics that may involve individuals who are not members of the committee. In addition, individuals who are not selected as members of the committee will be able to observe the committee meetings, will have access to the individuals representing their constituencies, and may be able to participate in informal working groups on various issues between the meetings.

Committee Topics

The topics the committees are likely to address are:

Committee 1—Borrower Defenses and Financial Responsibility Issues

1. Revisions to the regulations on borrower defenses to repayment of Federal student loans and other matters:

- Borrower Defense (34 CFR 685.206);
- Misrepresentation (34 CFR 668 subpart F);
- Program Participation Agreement (34 CFR 668.14(b));
- Closed School Discharge (34 CFR 682.402, 34 CFR 685.214);
- False Certification (34 CFR 685.215);
- Financial Responsibility and Administrative Capability (34 CFR 668 subpart L, 34 CFR 668.16); and
- Arbitration and class action lawsuits.

2. Revisions to regulations that will address whether and to what extent guaranty agencies may charge collection

costs under 34 CFR 682.410(b)(6) to a defaulted borrower who enters into a loan rehabilitation or other repayment agreement within 60 days of being informed that the guaranty agency has paid a claim on the loan.

As part of the negotiated rulemaking process, we are forming a Financial Responsibility Subcommittee for Committee 1 to have preliminary discussions of whether or how the Financial Accounting Standards Board's (FASB) recent changes to the accounting standards for financial reporting (see FASB Accounting Standards Update (ASU) 2016–14 ''Presentation of Financial Statement of Not-for-Profit Entities'' at *http://fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1176168381847&acceptedDisclaimer=true*) necessitate modifications to the Department's financial responsibility regulations with respect to the calculation of the Primary Reserve Ratio, the Equity Ratio, and the Net Income Ratio that are used to calculate an institution's composite score, as well as whether clarifications of terms used in the Primary Reserve, Equity, and Net Income ratio calculations in appendix B to 34 CFR part 668, subpart L, are needed as a result of changes in the financial accounting standards, including:

- For the Primary Reserve Ratio: (1) Changes to the definition of ''expendable net assets'' in the numerator to conform to new terminology; (2) changes to the definition of ''total expenses'' in the denominator to conform to new terminology; and (3) clarification of the treatment of endowment losses, terms of endowments, retirement liabilities, long-term debt, and construction-in-progress.
- For the Equity Ratio, changes to the definition of ''modified net assets'' in the numerator to conform to new terminology.
- For the Net Income Ratio: (1) Changes to the definition of ''change in unrestricted net assets'' in the numerator to conform to new terminology; (2) the addition of losses from underwater endowments to the numerator to reflect changes in treatment; (3) changes to the definition of ''total unrestricted revenue'' in the denominator to conform to new terminology; (4) clarification of the treatment of other investment and pension trust fund losses; and (5) changes to the treatment of leases.

Subcommittees are formed to address specified issues and to make recommendations to the committee. Subcommittees are not authorized to make decisions for the committee. The Financial Responsibility Subcommittee may be comprised of some Committee 1 members (negotiators) as well as individuals who are not committee members, but who have expertise that will be helpful in developing proposed regulations. Therefore, in addition to asking for nominations for individual negotiators who represent key stakeholder constituencies for the issues to be negotiated to serve on this committee (see *Constituencies for Negotiator Nominations*), we are asking for nominations for individuals with specific types of expertise to serve on the Financial Responsibility Subcommittee (see *Areas of Expertise for Financial Responsibility Subcommittee*). The topics for the subcommittee are primarily focused on issues affecting non-profits, but may touch issues that affect other sectors, so we welcome nominees with expertise across institution types. The subcommittee meetings will be held between committee meetings (see *Schedule for Negotiations and Subcommittee Meetings*). Before the conclusion of the negotiations, the Financial Responsibility Subcommittee will present any recommendations for changes to Committee 1 for its consideration.

Committee 2—Gainful Employment Issues

Revisions to the gainful employment regulations in 34 CFR part 668, subpart Q, including, but not limited to, the debt-to-earnings rates measure, sanctions, and reporting and disclosure of information, as well as related reporting and disclosure regulations in 34 CFR 668.41.

Topics for both committees may be added or removed as the process continues.

Constituencies for Negotiator Nominations

We have identified the following constituencies as having interests that are significantly affected by the topics proposed for negotiations. The Department plans to seat as negotiators individuals from organizations or groups representing these constituencies.

Committee 1—Borrower Defenses and Financial Responsibility Issues

- Students and former students.
- Consumer advocacy organizations.
- Legal assistance organizations that represent students and former students.
- Groups representing U.S. military service member or veteran Federal student loan borrowers.
- Financial aid administrators at postsecondary institutions.
- General counsels/attorneys and compliance officers at postsecondary institutions to address issues related to establishing a process for reviewing borrower defense claims and determining institutional liabilities associated with such claims, as well as administrative repayment liabilities for this topic through program reviews and audit determinations under the Department's regulations.
- Chief financial officers and experienced business officers at postsecondary institutions to address issues such as institutional financing and liability, as opposed to student billing.
- State attorneys general and other appropriate State officials.
- State higher education executive officers.
- Institutions of higher education eligible to receive Federal assistance under title III, parts A, B, and F, and title V of the HEA, which include Historically Black Colleges and Universities, Hispanic-Serving Institutions, American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, Predominantly Black Institutions, and other institutions with a substantial enrollment of needy students as defined in title III of the HEA.
- Two-year public institutions of higher education.
- Four-year public institutions of higher education.
- Private, nonprofit institutions of higher education.
- Private, for-profit institutions of higher education with an enrollment of 450 students or less.
- Private, for-profit institutions of higher education with an enrollment of 451 students or more.
- FFEL Program lenders and loan servicers.
- FFEL Program guaranty agencies and guaranty agency servicers (including collection agencies).
- Accrediting agencies.

Committee 2—Gainful Employment Issues

- Students and former students.
- Consumer advocacy organizations.
- Legal assistance organizations that represent students and former students.
- Groups representing U.S. military service member or veteran Federal student loan borrowers.
- Financial aid administrators at postsecondary institutions.
- General counsels/attorneys and compliance officers at postsecondary institutions.

- Chief financial officers and experienced business officers at postsecondary institutions.
- State attorneys general and other appropriate State officials.
- State higher education executive officers.
- Business and industry (for example, labor economists or data experts).
- Institutions of higher education eligible to receive Federal assistance under title III, parts A, B, and F, and title V of the HEA, which include Historically Black Colleges and Universities, Hispanic-Serving Institutions, American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, Predominantly Black Institutions, and other institutions with a substantial enrollment of needy students as defined in title III of the HEA.
- Two-year public institutions of higher education.
- Four-year public institutions of higher education.
- Private, nonprofit institutions of higher education.
- Private, for-profit institutions of higher education with an enrollment of 450 students or less.
- Private, for-profit institutions of higher education with an enrollment of 451 students or more.
- Accrediting agencies.

The goal of each committee is to develop proposed regulations that reflect a final consensus of the committee. Consensus means that there is no dissent by any member of a negotiating committee, including the committee member representing the Department. An individual selected as a negotiator is expected to represent the interests of his or her organization or group and participate in the negotiations in a manner consistent with the goal of developing proposed regulations on which the committee will reach consensus. If consensus is reached, all members of the organization or group represented by a negotiator are bound by the consensus and are prohibited from commenting negatively on the resulting proposed regulations. The Department will not consider any such negative comments on the proposed regulations that are submitted by members of such an organization or group.

Areas of Expertise for Subcommittee on Financial Responsibility

The Department plans to select individuals from organizations or groups with expertise in both financial accounting standards and the Department's financial responsibility standards for institutions for participation on the Financial Responsibility Subcommittee, which is part of Committee 1. Nominations must include evidence of the nominee's specific knowledge in these areas. Such individuals from organizations or groups may include, but are not limited to, representatives of:

- Private, nonprofit institutions of higher education, with knowledge of the accounting standards and title IV financial responsibility requirements for the private, nonprofit sector.
- Private, for-profit institutions of higher education, with knowledge of the accounting standards and title IV financial responsibility requirements for the for-profit sector.
- Accrediting agencies.
- Chief financial officers (to include experienced business officers and bursars) at postsecondary institutions.
- Associations or organizations that provide accounting guidance to auditors and institutions.
- Certified public accountants or firms who conduct financial statement audits of title IV participating institutions.
- The Financial Accounting Standards Board (FASB), with expertise in the applicable financial accounting and reporting standards set by FASB.

Nominations

Nominations should include:

- The committee (Borrower Defenses and Financial Responsibility or Gainful Employment) or subcommittee (Financial Responsibility) for which the nominee is nominated.
- The name of the nominee, the organization or group the nominee represents, and a description of the interests that the nominee represents.
- Evidence of the nominee's expertise or experience in the topics proposed for negotiations.
- Evidence of support from individuals or groups within the constituency or area of expertise that the nominee will represent.
- The nominee's commitment that he or she will actively participate in good faith in the development of the proposed regulations.
- The nominee's contact information, including address, phone number, and email address.

For a better understanding of the negotiated rulemaking process, prior to committing to participate, nominees should review *The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions* at *www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html*.

Nominees will be notified whether or not they have been selected as soon as the Department's review process is completed.

Schedule for Negotiations and Subcommittee Meetings

Committee 1—Borrower Defenses and Financial Responsibility Issues committee will meet for three sessions on the following dates:

Session 1: November 13–15, 2017
Session 2: January 8–11, 2018
Session 3: February 12–15, 2018

Sessions will run from 9 a.m. to 5 p.m.

The November committee meetings will be held at the Holiday Inn Washington Capitol at: 550 C Street SW., Congressional II Room, Washington, DC 20024.

The January committee meetings will be held at the U.S. Department of Education at: Union Center Plaza (UCP) Center, 830 First Street NE., Lobby Level, Washington, DC 20002.

The February committee meetings will be held at the U.S. Department of Education at: Barnard Auditorium, 400 Maryland Ave. SW., Washington, DC 20202.

The committee meetings are open to the public.

The Financial Responsibility Subcommittee will meet on the following dates:

Meeting 1: November 16–17, 2017
Meeting 2: January 4–5, 2018
Meeting 3: January 29–30, 2018

Meetings will run from 9 a.m. to 5 p.m.

The subcommittee meetings will be held at the U.S. Department of Education: Training and Development Center, First floor, 400 Maryland Ave. SW., Washington, DC 20202.

The November 16–17, 2016, meeting will be held in room 1W103. The January 4–5, 2017, meeting will be held in room 1W128. The January 29–30, 2017, meeting will be held in Room 1W103. Arrangements will be made to allow members to attend remotely.

The subcommittee meetings are not open to the public.

Committee 2—Gainful Employment Issues committee will meet for three sessions on the following dates:

Session 1: December 4–7, 2017
Session 2: February 5–8, 2018
Session 3: March 12–15, 2018

Sessions will run from 9 a.m. to 5 p.m.

The December committee meetings will be held at the U.S. Department of Education at: Union Center Plaza (UCP) Learning Center, 830 First Street NE., Lobby Level, Washington, DC 20002.

The February committee meetings will be held at the U.S. Department of Education: Barnard Auditorium, 400 Maryland Ave. SW., Washington, DC 20202.

The March committee meetings will be held at the U.S. Department of Education at: Potomac Center Plaza Auditorium, 550 12th Street SW., Washington, DC 20202.

The committee meetings are open to the public.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting Wendy Macias, U.S. Department of Education, 400 Maryland Ave. SW., Room 6C111, Washington, DC 20202. Telephone: (202) 203–9155 or by email: *Wendy.Macias@ed.gov*.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C. 1098a.

Kathleen A. Smith,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 2017–18510 Filed 8–29–17; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0151; FRL–9967–06–Region 1]

Air Plan Approval; Rhode Island; Infrastructure Requirement for the 2010 Sulfur Dioxide and 2010 Nitrogen Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve an October 15, 2015 State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision addresses the interstate transport requirements of the Clean Air Act (CAA), referred to as the good neighbor provision, with respect to the 2010 primary sulfur dioxide (SO_2) and 2010 primary nitrogen dioxide (NO_2) national ambient air quality standards (NAAQS). This action proposes to approve Rhode Island's demonstration that the state is meeting its obligations regarding the transport of SO_2 and NO_2 emissions into other states. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before September 29, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2017–0151 at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Donald Dahl, (617) 918–1657; or by email at *dahl.donald@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. Organization of this document. The following outline is provided to aid in locating information in this preamble.

Table of Contents

I. Background
II. State Submittal
III. Summary of the Proposed Action
IV. Section 110(a)(2)(D)(i)(I)—Interstate Transport
A. General Requirements and Historical Approaches for Criteria Pollutants
B. Approach for Addressing the Interstate Transport Requirements of the 2010 Primary SO_2 NAAQS in Rhode Island
C. Approach for Addressing the Interstate Transport Requirements of the 2010 Primary NO_2 NAAQS in Rhode Island
V. Interstate Transport Demonstration for SO_2 Emissions
A. Prong 1 Analysis—Significant Contribution to SO_2 Nonattainment
1. SO_2 Emissions Trends
2. SO_2 Ambient Air Quality
3. Federally Enforceable Regulations Specific to SO_2 and Permitting Requirements
4. Conclusion
B. Prong 2 Analysis—Interference with Maintenance of the SO_2 NAAQS
VI. Significant Contribution to Nonattainment and Interference with Maintenance of the NO_2 NAAQS
VII. Proposed Action
VIII. Statutory and Executive Order Reviews

I. Background

On February 9, 2010 (75 FR 6474), EPA promulgated a revised primary NAAQS for NO_2 at a level of 100 ppb, based on a 3-year average of the annual 98th percentile of 1-hour daily maximum concentrations. On June 22, 2010 (75 FR 35520), EPA promulgated a revised primary NAAQS for SO_2 at a level of 75 ppb, based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS, or within such shorter period as EPA may prescribe.[1] These SIPs, which EPA has historically referred to as ''infrastructure SIPs,'' are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS, and the requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. A detailed history, interpretation, and rationale of these SIPs and their requirements can be found in, among other documents, EPA's May 13, 2014 proposed rule titled, ''Infrastructure SIP requirements for the 2008 Lead NAAQS,'' in the section ''What is the scope of this rulemaking?'' (*see* 79 FR 27241 at 27242–27245). As noted above, section 110(a) of the CAA imposes an

[1] This requirement applies to both primary and secondary NAAQS, but EPA's approval in this notice applies only to the 2010 primary NAAQS for SO_2 and NO_2 because EPA did not establish in 2010 a new secondary NAAQS for SO_2 and NO_2.

obligation upon states to submit to EPA a SIP submission for a new or revised NAAQS. The content of individual state submissions may vary depending upon the facts and circumstances, and may also vary depending upon what provisions the state's approved SIP already contains.

On January 2, 2013 and on June 27, 2014, the Rhode Island Department of Environmental Management (RI DEM) submitted proposed revisions to its SIP, certifying that its SIP meets most of the requirements of section 110(a)(2) of the CAA with respect to the 2010 primary NO_2 and 2010 primary SO_2 NAAQS, respectively. However, these two submittals did not address the transport elements of CAA section 110(a)(2)(D)(i)(I). On April 20, 2016 (81 FR 23175), EPA approved RI DEM's certification that its SIP was adequate to meet most of the program elements required by section 110(a)(2) of the CAA. However, EPA conditionally approved the State's submission in relation to subsections (C), (D), and (J) of CAA section 110(a)(2) in relation to the prevention of significant deterioration permit program, and disapproved the State's submission in relation to subsection (H) of CAA section 110(a)(2) in relation to the requirement to revise its SIP when appropriate. On October 15, 2015, RI DEM submitted the transport elements of CAA section 110(a)(2)(D)(i)(I) for the 2010 primary NO_2 and 2010 primary SO_2 NAAQS.

II. State Submittal

Rhode Island presented several facts in its SIP submission on the effect of SO_2 and NO_X emissions from sources within Rhode Island on downwind and adjacent states' SO_2 and NO_2 nonattainment areas and those states' ability to maintain the 2010 SO_2 and 2010 NO_2 NAAQS. With regards to the 2010 NO_2 NAAQS, Rhode Island noted that EPA had designated the entire country as unclassifiable/attainment for the 2010 NO_2 NAAQS. Rhode Island also stated that recent data from all ambient monitors within New England continue to show levels less than 50% of the 2010 NO_2 NAAQS.

Similarly, the SIP submission notes SO_2 ambient monitoring data in Rhode Island and in downwind and adjacent states were substantially below the 2010 SO_2 NAAQS. For the only SO_2 nonattainment area within New England, Rhode Island noted the monitor design value in the Central New Hampshire nonattainment area has declined over time, with the 2012–2014 design value being 31% of the NAAQS. Rhode Island concludes in its submittal that, ''since there are no large sources of SO_2 emissions in Rhode Island and monitored SO_2 levels in adjacent and downwind states are substantially below the 2010 SO_2 NAAQS, Rhode Island clearly is not contributing to nonattainment or interfering with maintenance of attainment in downwind and adjacent states.''

III. Summary of the Proposed Action

This proposed approval of Rhode Island's October 15, 2015 SIP submission addressing interstate transport of SO_2 and NO_2 is intended to show that the State is meeting its obligations regarding CAA section 110(a)(2)(D)(i)(I) relative to the 2010 primary SO_2 and 2010 primary NO_2 NAAQS.[2] Interstate transport requirements for all NAAQS pollutants prohibit any source, or other type of emissions activity, in one state from emitting any air pollutant in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in another state. As part of this analysis, and as explained in detail below, EPA has taken several approaches to addressing interstate transport in other actions based on the characteristics of the pollutant, the interstate problem presented by emissions of that pollutant, the sources that emit the pollutant, and the information available to assess transport of that pollutant.

Despite being emitted from a similar universe of point and nonpoint sources, interstate transport of SO_2 is unlike the transport of fine particulate matter ($PM_{2.5}$) or ozone that EPA has addressed in other actions, in that SO_2 is not a regional mixing pollutant that commonly contributes to widespread nonattainment of the SO_2 NAAQS over a large, multi-state area. While in certain respects transport of SO_2 is more analogous to the transport of lead (Pb) because SO_2's and Pb's physical properties result in localized impacts very near the emissions source, in another respect the physical properties and release height of SO_2 are such that impacts of SO_2 do not experience the same sharp decrease in ambient concentrations as rapidly and as nearby as they do for Pb. While emissions of SO_2 travel farther and have sufficiently wider ranging impacts than emissions of Pb such that it is reasonable to require a different approach for assessing SO_2 transport than assessing Pb transport, the differences are not significant enough to treat SO_2 in a manner similar to the way in which EPA treats and analyzes regional transport pollutants such as ozone or $PM_{2.5}$.

Put simply, a different approach is needed for interstate transport of SO_2 than the approach used for the other pollutants identified above: The approaches EPA has adopted for Pb transport are too tightly circumscribed to the source, and the approaches for ozone or $PM_{2.5}$ transport are too regionally focused. SO_2 transport is therefore a unique case, and EPA's evaluation of whether Rhode Island has met its transport obligations in relation to SO_2 was accomplished in several discrete steps.

First, EPA evaluated the universe of sources in Rhode Island likely to be responsible for SO_2 emissions that could contribute to interstate transport. An assessment of the 2014 National Emissions Inventory (NEI) for Rhode Island made it clear that the vast majority of SO_2 emissions in Rhode Island are from fuel combustion at point and nonpoint sources,[3] and therefore it would be reasonable to evaluate the downwind impacts of emissions from these two fuel combustion source categories, combined, in order to help determine whether the State has met its transport obligations.

Second, EPA selected a spatial scale—essentially, the geographic area and distance around the point sources in which we could reasonably expect SO_2 impacts to occur—that would be appropriate for its analysis, ultimately settling on utilizing an ''urban scale'' with dimensions from 4 to 50 kilometers from point and nonpoint sources, given the usefulness of that range in assessing trends in both area-wide air quality and the effectiveness of large-scale pollution control strategies. As such, EPA utilized an assessment up to 50 kilometers from fuel-combustion sources in order to assess trends in area-wide air quality that might have an impact on the transport of SO_2 from Rhode Island to downwind states.

[2] This proposed approval of Rhode Island's SIP submission under CAA section 110(a)(2)(D)(i)(I) is based on the information contained in the administrative record for this action, and does not prejudge any other future EPA action that may make other determinations regarding Rhode Island's air quality status. Any such future actions, such as area designations under any NAAQS, will be based on their own administrative records and EPA's analyses of information that becomes available at those times. Future available information may include, and is not limited to, monitoring data and modeling analyses conducted pursuant to EPA's Data Requirements Rule (80 FR 51052, August 21, 2015) and information submitted to EPA by states, air agencies, and third party stakeholders such as citizen groups and industry representatives.

[3] *See* EPA's Web page *https://www.epa.gov/air-emissions-inventories/national-emissions-inventory-nei* for a description of what types of sources of air emissions are considered point and nonpoint sources.

Third, EPA assessed all available data at the time of this rulemaking regarding SO_2 emissions in Rhode Island and their possible impacts in downwind states, including: (1) SO_2 ambient air quality; (2) SO_2 emissions and SO_2 emissions trends; (3) SIP-approved SO_2 regulations and permitting requirements; and (4) other SIP-approved or federally-promulgated regulations which may yield reductions of SO_2 at Rhode Island's fuel-combustion point and nonpoint sources.

Fourth, using the universe of information identified in steps 1–3 (*i.e.,* emissions sources, spatial scale and available data, and enforceable regulations), EPA then conducted an analysis under CAA section 110(a)(2)(D)(i)(I) to evaluate whether or not fuel-combustion sources in Rhode Island would significantly contribute to SO_2 nonattainment in other states, and then whether emissions from those sources would interfere with maintenance of the SO_2 NAAQS in other states.

EPA took a different approach that is more appropriate for NO_2. EPA analyzed the effects of transport by taking into account: (1) Rhode Island's and the surrounding states' designations for the 2010 NO_2 NAAQS; (2) ambient monitoring of NO_2 concentrations in Rhode Island and surrounding states; (3) the fact that total NO_X[4] emissions in Rhode Island and surrounding states are trending downward; and (4) the fact that there are SIP-approved state regulations in place to control NO_X emissions in Rhode Island.

Based on the analysis provided by the State in its October 15, 2015 SIP submission and EPA's assessment of the information discussed at length below, EPA proposes to find that sources or other emissions activity within Rhode Island will not contribute significantly to nonattainment, nor will they interfere with maintenance of, the 2010 primary SO_2 NAAQS and the 2010 primary NO_2 NAAQS in any other state.

IV. Section 110(a)(2)(D)(i)(I)—Interstate Transport

A. General Requirements and Historical Approaches for Criteria Pollutants

Section 110(a)(2)(D)(i)(I) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from emitting any air pollutant in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in another state. The two clauses of this section are referred to as prong 1 (significant contribution to nonattainment) and prong 2 (interference with maintenance of the NAAQS).

EPA's most recent infrastructure SIP guidance, the September 13, 2013 ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' did not explicitly include criteria for how the Agency would evaluate infrastructure SIP submissions intended to address section 110(a)(2)(D)(i)(I).[5] With respect to certain pollutants, such as ozone and particulate matter, EPA has addressed interstate transport in eastern states in the context of regional rulemaking actions that quantify state emission reduction obligations.[6] In other actions, such as EPA action on western state SIPs addressing ozone and particulate matter, EPA has considered a variety of factors on a case-by-case basis to determine whether emissions from one state interfere with the attainment and maintenance of the NAAQS in another state. In such actions, EPA has considered available information such as current air quality, emissions data and trends, meteorology, and topography.[7]

For other pollutants such as Pb, EPA has suggested the applicable interstate transport requirements of section 110(a)(2)(D)(i)(I) can be met through a state's assessment as to whether or not emissions from Pb sources located in close proximity to its borders have emissions that impact a neighboring state such that they contribute significantly to nonattainment or interfere with maintenance in that state. For example, EPA noted in an October 14, 2011 memorandum titled, ''Guidance on Infrastructure SIP Elements Required Under Sections 110(a)(1) and 110(a)(2) for the 2008 Pb NAAQS,'' [8] that the physical properties of Pb prevent its emissions from experiencing the same travel or formation phenomena as $PM_{2.5}$ or ozone, and there is a sharp decrease in Pb concentrations, at least in the coarse fraction, as the distance from a Pb source increases. Accordingly, while it may be possible for a source in a state to emit Pb in a location and in quantities that may contribute significantly to nonattainment in, or interfere with maintenance by, any other state, EPA anticipates that this would be a rare situation, *e.g.,* where large sources are in close proximity to state boundaries.[9] Our rationale and explanation for approving the applicable interstate transport requirements under section 110(a)(2)(D)(i)(I) for the 2008 Pb NAAQS, consistent with EPA's interpretation of the October 14, 2011 guidance document, can be found in, among other instances, the proposed approval and a subsequent final approval of interstate transport SIPs submitted by Illinois, Michigan, Minnesota, and Wisconsin.[10]

B. Approach for Addressing the Interstate Transport Requirements of the 2010 Primary SO_2 NAAQS in Rhode Island

This notice describes EPA's evaluation of Rhode Island's conclusion contained in the State's October 15, 2015 infrastructure SIP submission that the State satisfies the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2010 SO_2 NAAQS.[11]

[4] The NO_2 NAAQS is designed to protect against exposure to the entire group of nitrogen oxides (NO_X). NO_2 is the component of greatest concern and is used as the indicator for the larger group of NO_X.

[5] At the time the September 13, 2013 guidance was issued, EPA was litigating challenges raised with respect to its Cross State Air Pollution Rule (''CSAPR''), 76 FR 48208 (Aug. 8, 2011), designed to address the CAA section 110(a)(2)(D)(i)(I) interstate transport requirements with respect to the 1997 ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS. CSAPR was vacated and remanded by the D.C. Circuit in 2012 pursuant to *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7. EPA subsequently sought review of the D.C. Circuit's decision by the Supreme Court, which was granted in June 2013. As EPA was in the process of litigating the interpretation of section 110(a)(2)(D)(i)(I) at the time the infrastructure SIP guidance was issued, EPA did not issue guidance specific to that provision. The Supreme Court subsequently vacated the D.C. Circuit's decision and remanded the case to that court for further review. 134 S.Ct. 1584 (2014). On July 28, 2015, the D.C. Circuit issued a decision upholding CSAPR, but remanding certain elements for reconsideration. 795 F.3d 118.

[6] NO_X SIP Call, 63 FR 57371 (October 27, 1998); Clean Air Interstate Rule (CAIR), 70 FR 25172 (May 12, 2005); CSAPR, 76 FR 48208 (August 8, 2011).

[7] *See, e.g.,* Approval and Promulgation of Implementation Plans; State of California; Interstate Transport of Pollution; Significant Contribution to Nonattainment and Interference With Maintenance Requirements, Proposed Rule, 76 FR 146516, 14616–14626 (March 17, 2011); Final Rule, 76 FR 34872 (June 15, 2011); Approval and Promulgation of State Implementation Plans; State of Colorado; Interstate Transport of Pollution for the 2006 24-Hour $PM_{2.5}$ NAAQS, Proposed Rule, 80 FR 27121, 27124–27125 (May 12, 2015); Final Rule, 80 FR 47862 (August 10, 2015).

[8] *https://www3.epa.gov/ttn/naaqs/aqmguide/collection/cp2/20111014_page_lead_caa_110_infrastructure_guidance.pdf.*

[9] Id. at pp 7–8.

[10] *See* 79 FR 27241 at 27249 (May 13, 2014) and 79 FR 41439 (July 16, 2014).

[11] EPA notes that the evaluation of other states' satisfaction of section 110(a)(2)(D)(i)(I) for the 2010 SO_2 NAAQS can be informed by similar factors found in this proposed rulemaking, but may not be identical to the approach taken in this or any future rulemaking for Rhode Island, depending on available information and state-specific circumstances.

As previously noted, section 110(a)(2)(D)(i)(I) requires an evaluation of any source or other type of emissions activity in one state and how emissions from these sources or activities may impact air quality in other states. As the analysis contained in Rhode Island's submittal demonstrates, a state's obligation to demonstrate that it is meeting section 110(a)(2)(D)(i)(I) cannot be based solely on the fact that there are no DRR sources within the state. Therefore, EPA believes that a reasonable starting point for determining which sources and emissions activities in Rhode Island are likely to impact downwind air quality with respect to the SO_2 NAAQS is by using information in the NEI.[12] The NEI is a comprehensive and detailed estimate of air emissions of criteria pollutants, criteria precursors, and hazardous air pollutants from air emissions sources, and is updated every three years using information provided by the states. At the time of this rulemaking, the most recently available dataset is the 2014 NEI, and the state summary for Rhode Island is included in the table below.

TABLE 1—SUMMARY OF 2014 NEI SO_2 DATA FOR RHODE ISLAND

Category	Emissions (tons per year)
Fuel Combustion: Electric Utilities	33
Fuel Combustion: Industrial	599
Fuel Combustion: Other	2,757
Petroleum and related Industries	6
Waste Disposal and Recycling	140
Highway Vehicles	75
Off-Highway	178
Miscellaneous	2
Total	3,790

The EPA observes that according to the 2014 NEI, the vast majority of SO_2 emissions in Rhode Island originate from fuel combustion at point and nonpoint sources. Therefore, an assessment of Rhode Island's satisfaction of all applicable requirements under section 110(a)(2)(D)(i)(I) of the CAA for the 2010 SO_2 NAAQS may reasonably be based upon evaluating the downwind impacts of emissions from the combined fuel combustion categories (*i.e.,* electric utilities, industrial processes, and other sources [13]).

The definitions contained in Appendix D to 40 CFR part 58 are helpful indicators of the travel and formation phenomenon for SO_2 originating from stationary sources in its stoichiometric gaseous form in the context of the 2010 primary SO_2 NAAQS. Notably, section 4.4 of this appendix titled, ''Sulfur Dioxide (SO_2) Design Criteria'' provides definitions for SO_2 Monitoring Spatial Scales for microscale, middle scale, neighborhood, and urban scale monitors. The microscale includes areas in close proximity to SO_2 point and area sources, and those areas extend approximately 100 meters from a facility. The middle scale generally represents air quality levels in areas 100 meters to 500 meters from a facility, and may include locations of maximum expected short-term concentrations due to the proximity of major SO_2 point, area, and non-road sources. The neighborhood scale characterizes air quality conditions between 0.5 kilometers and 4 kilometers from a facility, and emissions from stationary and point sources may under certain plume conditions, result in high SO_2 concentrations at this scale. Lastly, the urban scale is used to estimate concentrations over large portions of an urban area with dimensions of 4 to 50 kilometers from a facility, and such measurements would be useful for assessing trends and concentrations in area-wide air quality, and hence, the effectiveness of large-scale pollution control strategies. Based on these definitions contained in EPA's own regulations, we believe that it is appropriate to examine the impacts of emissions from electric utilities and industrial processes in Rhode Island in distances ranging from 0 km to 50 km from the facility. In other words, SO_2 emissions from stationary sources in the context of the 2010 primary NAAQS do not exhibit the same long-distance travel, regional transport or formation phenomena as either ozone or $PM_{2.5,}$ but rather, these emissions behave more like Pb with localized dispersion. Therefore, an assessment up to 50 kilometers from potential sources would be useful for assessing trends and SO_2 concentrations in area-wide air quality.[14]

The largest category of SO_2 emissions in Table 1 is for ''other'' fuel combustion sources. The majority of emissions in this category is from residential fuel combustion (2,561 tons per year), or 68% of the total statewide SO_2 emissions for 2014. Residential homes combusting fuel are considered nonpoint sources. For any state where the SO_2 contribution from nonpoint sources make up a majority of all statewide SO_2 emissions, EPA believes it is reasonable to evaluate any regulations intended to address fuel oil, specifically with respect to the sulfur content in order to determine interstate transport impacts from the category of ''other'' sources of fuel combustion.

Our current implementation strategy for the 2010 primary SO_2 NAAQS includes the flexibility to characterize air quality for stationary sources via either data collected at ambient air quality monitors sited to capture the points of maximum concentration, or air dispersion modeling.[15] Our assessment of SO_2 emissions from fuel combustion categories in the state and their potential on neighboring states are informed by all available data at the time of this rulemaking, and include: SO_2 ambient air quality; SO_2 emissions and SO_2 emissions trends; SIP-approved SO_2 regulations and permitting requirements; and, other SIP-approved or federally promulgated regulations which may yield reductions of SO_2.

C. Approach for Addressing the Interstate Transport Requirements of the 2010 Primary NO_2 NAAQS in Rhode Island

This notice also describes EPA's evaluation of Rhode Island's conclusion contained in the State's October 15, 2015 infrastructure SIP submission that the State satisfies the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2010 NO_2 NAAQS.[16]

EPA and the State's approach to assessing impacts from the transportation of NO_2 emissions is similar, but different, from the approach discussed above for SO_2 emissions. As previously noted, the approach used to analyze the effects of transport for NO_2 emissions in Rhode Island consists of four elements: (1) The area designation for the 2010 NO_2 NAAQS, (2) ambient monitoring of NO_2 concentrations; (3) the fact that total NO_X emissions in the State and surrounding states are

[12] *https://www.epa.gov/air-emissions-inventories/national-emissions-inventory.*

[13] The ''other'' category of fuel combustion in Rhode Island is comprised almost entirely of residential heating through fuel oil combustion.

[14] EPA recognizes in Appendix A.1 titled, ''AERMOD (AMS/EPA Regulatory Model) –'' of Appendix W to 40 CFR part 51 that the model is appropriate for predicting SO_2 up to 50 kilometers.

[15] *https://www.epa.gov/so2-pollution/2010-1-hour-sulfur-dioxide-so2-primary-national-ambient-air-quality-standards-naaqs*

[16] EPA notes that the evaluation of other states' satisfaction of section 110(a)(2)(D)(i)(I) for the 2010 NO_2 NAAQS can be informed by similar factors found in this proposed rulemaking, but may not be identical to the approach taken in this or any future rulemaking for Rhode Island, depending on available information and state-specific circumstances.

trending downward; and (4) the fact that there are SIP-approved state regulations in place to control NO_X emissions in the State.

V. Interstate Transport Demonstration for SO_2 Emissions

A. Prong 1 Analysis—Significant Contribution to SO_2 Nonattainment

Prong 1 of the good neighbor provision requires state plans to prohibit emissions that will significantly contribute to nonattainment of a NAAQS in another state. In order to evaluate Rhode Island's satisfaction of prong 1, EPA evaluated the State's SIP submission in relation to the following four factors: (1) SO_2 emission trends for Rhode Island and neighboring states; (2) SO_2 ambient air quality; (3) SIP-approved regulations specific to SO_2 emissions and permit requirements; and (4) other SIP-approved or federally-enforceable regulations that, while not directly intended to address or reduce SO_2 emissions, may yield reductions of the pollutant. A detailed discussion of each of these factors is below.

1. SO_2 Emissions Trends

As noted above, EPA's approach for addressing the interstate transport of SO_2 in Rhode Island is based upon emissions from fuel combustion at electric utilities, industrial sources, and residential heating. As part of the SIP submittal, Rhode Island observed that, in accordance with the most recently available designations guidance at the time,[17] there were no facilities in Rhode Island with reported actual emissions greater than or equal to 100 tons per year (tpy) of SO_2 in 2014.

According to the 2014 NEI data, the highest SO_2 emissions from a single point source was 60 tons from Rhode Island Hospital. Also during 2014, the largest industrial or electric generating facility was Rhode Island LFG Genco, LLC which emitted 33 tons of SO_2.

As demonstrated by the data in Table 2, statewide SO_2 emissions in Rhode Island and in its three neighboring states, Connecticut, Massachusetts and New York, have significantly decreased over the last several years. This decreasing trend should continue into the near future as all four states have adopted strategies to lower fuel oil's sulfur content by weight.[18] By July 1, 2018, the home heating oil in all four states will be limited to 15 parts per million (ppm) of sulfur by weight.

TABLE 2—STATEWIDE SO_2 DATA (TONS PER YEAR) FOR RHODE ISLAND, CONNECTICUT, AND MASSACHUSETTS [19]

State	2000	2005	2010	2016
Rhode Island	8,976	7,356	4,416	3,639
Connecticut	60,309	34,638	16,319	10,953
Massachusetts	208,146	139,937	57,892	13,518
New York	543,868	386,568	170,247	59,520

2. SO_2 Ambient Air Quality

Data collected at ambient air quality monitors indicate the monitored values of SO_2 in the State have remained below the NAAQS. Relevant data from Air Quality Standards (AQS) Design Value (DV) [20] reports for recent and complete 3-year periods are summarized in the table below.

TABLE 3—TREND IN SO_2 DESIGN VALUES FOR AQS MONITORS IN RHODE ISLAND

AQS Monitor Site	Monitor location	2012–2014 DV (ppb)	2013–2015 DV (ppb)	2014–2016 DV (ppb)
44–007–0012	Brown University, Providence	11	8	7
44–007–1010	Francis School, East Providence	14	10	7

As shown in Table 3 above, the DVs for the two monitoring sites for all years between 2012 and 2016 have decreased between each of the 3-year blocks shown in the table. The highest valid DV in Rhode Island for 2014–2016 is 7 ppb, which is 83% below the NAAQS.

While the monitor (AQS Site ID 44–007–0012) closest to Rhode Island Hospital (the largest SO_2 emitter in 2014) may not be sited in the area to capture points of maximum concentration from the facility, the monitor is located in the neighborhood spatial scale in relation to the facility, *i.e.,* emissions from stationary and point sources may under certain plume conditions, result in high SO_2 concentrations at this scale. Forty CFR part 58, Appendix D, section 4.4.4(3) defines neighborhood scale as ''[t]he neighborhood scale would characterize air quality conditions throughout some relatively uniform land use areas with dimensions in the 0.5 to 4.0 kilometer range.''

However, the absence of a violating ambient air quality monitor within the State is insufficient to demonstrate that Rhode Island has met its interstate transport obligation. While the decreasing DVs and their associated spatial scales may help to assist in characterizing air quality within Rhode Island, prong 1 of section 110(a)(2)(D)(i)(I) specifically addresses the effects that sources within Rhode Island have on air quality in neighboring states. Therefore, an evaluation and analysis of SO_2 emissions data from facilities within the State, together with the potential effects of such emissions on ambient data in neighboring states, is appropriate.

[17] March 24, 2011 guidance document titled, ''Area Designations for the 2010 Revised Primary Sulfur Dioxide National Ambient Air Quality Standards.'' *See, e.g. http://dnr.wi.gov/topic/AirQuality/documents/SO2DesignationsGuidance2011.pdf.*

[18] On October 7, 2015, EPA approved Rhode Island's low sulfur fuel regulation. *See* 80 FR 60541. On May 25, 2016 and June 3, 2016, EPA approved Connecticut's low sulfur fuel regulations. *See* 81 FR 33134 and 81 FR 35636, respectively. On September 19, 2013, EPA approved Massachusetts' low sulfur fuel regulation. *See* 78 FR 57487. On August 8, 2012, EPA approved New York's low sulfur fuel statute. *See* 77 FR 51915.

[19] *See* Air Pollution Emissions Trend Data at *https://www.epa.gov/air-emissions-inventories/air-pollutant-emissions-trends-data.*

[20] A ''Design Value'' is a statistic that describes the air quality status of a given location relative to the level of the NAAQS. The interpretation of the 2010 primary SO_2 NAAQS (set at 75 parts per billion [ppb]) including the data handling conventions and calculations necessary for determining compliance with the NAAQS can be found in Appendix T to 40 CFR part 50.

As previously discussed, EPA's definitions of spatial scales for SO_2 monitoring networks indicate that the maximum impacts from stationary sources can be expected within 4 kilometers of such sources, and that distances up to 50 kilometers would be useful for assessing trends and concentrations in area-wide air quality. The only nearby states within 50 km of a source in Rhode Island are Massachusetts, Connecticut, and New York. As a result, no further analysis of other Northeast states was conducted for assessing the impacts of the interstate transport of SO_2 pollution from facilities located in Rhode Island.

There are no ambient SO_2 monitors operating in Connecticut or New York within 50 km of Rhode Island's border [21]. There are four such monitors in Massachusetts, which are identified in Table 4, below, along with those monitors' DVs for SO_2 for the last three year periods. As shown in Table 4, SO_2 DVs for these monitors are decreasing, with the highest DV for 2014–2016 being 13% of the NAAQS.

TABLE 4—TREND IN SO_2 DESIGN VALUES FOR AQS MONITORS IN MASSACHUSETTS WITHIN 50 KM OF RHODE ISLAND

AQS Monitor Site	Monitor Location	2012–2014 DV (ppb)	2013–2015 DV (ppb)	2014–2016 DV (ppb)
25–025–0042	Dudley Square, Roxbury	12	11	9
25–025–0002	Kenmore Square, Boston	12	9	6
25–027–0023	Worcester	9	7	6
25–005–1004	Fall River	47	28	10

3. Federally Enforceable Regulations Specific to SO_2 and Permitting Requirements

The State has various regulations to ensure that SO_2 emissions are not expected to substantially increase in the future. One notable example consists of the federally-enforceable conditions contained in Rhode Island's Air Pollution Control Regulation (APCR) No. 8, ''Sulfur Content of Fuels.'' This regulation, last approved by EPA into the SIP on October 7, 2015 (80 FR 60541) limits the amount of sulfur by weight in fuel oil. As discussed earlier in this notice, the 2014 NEI indicates that the single largest, albeit diffuse, source category of SO_2 emissions in Rhode Island is from fuel combustion for residential heating (2,561 tpy). Starting on July 1, 2014 the sulfur content for home heating oil in Rhode Island was lowered to 500 parts per million (ppm), or 0.05% by weight. An additional reduction in the amount of SO_2 emissions from the use of home heating oil will occur after July 1, 2018 when the sulfur content will be reduced from 500 ppm to 15 ppm or 0.0015% by weight, representing a 97% decrease in SO_2 emissions from this source category.

In addition, for the purposes of ensuring that SO_2 emissions at new or modified stationary sources in Rhode Island do not adversely impact air quality, the State's SIP-approved nonattainment new source review (NNSR) and prevention of significant deterioration (PSD) programs are contained in APCR, No. 9, ''Air Pollution Control Permits.'' This regulation ensures that SO_2 emissions due to new facility construction or to modifications at existing facilities will not adversely impact air quality in Rhode Island and will likely not adversely impact air quality in neighboring states.

Finally, in addition to the State's SIP-approved regulations, EPA observes that facilities in Rhode Island are also subject to the federal requirements contained in regulations such as the National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters. This regulation reduces acid gases, which includes reductions in SO_2 emissions.

4. Conclusion

As discussed in more detail above, EPA has considered the following information in evaluating the State's satisfaction of the requirements of prong 1 of CAA section 110(a)(2)(D)(i)(I):

(1) EPA has not identified any current air quality problems in neighboring states (*i.e.,* Connecticut, Massachusetts and New York) relative to the 2010 primary SO_2 NAAQS;

(2) Past and projected future SO_2 emission trends demonstrate that SO_2 air quality problems in other neighboring states are unlikely to occur due to sources in Rhode Island; and

(3) Current SIP provisions and other federal programs will further reduce SO_2 emissions from sources within Rhode Island.

Based on the analysis provided by the State in its October 15, 2015 SIP submission and based on each of the factors listed above, EPA proposes to find that any sources or other emissions activity within the State will not contribute significantly to nonattainment of the 2010 primary SO_2 NAAQS in any other state.

B. Prong 2 Analysis—Interference With Maintenance of the SO_2 NAAQS

Prong 2 of the good neighbor provision requires state plans to prohibit emissions that will interfere with maintenance of a NAAQS in another state. Given the continuing trend of decreased emissions from sources within Rhode Island, EPA believes that reasonable criteria to ensure that sources or other emissions activity originating within Rhode Island do not interfere with its neighboring states' ability to maintain the NAAQS consists of evaluating whether these decreases in emissions can be maintained over time.

As shown in Table 2, above, state-wide SO_2 emissions in Rhode Island, and the three neighboring states, Massachusetts, Connecticut and New York, have significantly decreased since 2000. All four of these states have adopted low sulfur fuel oil requirements, requiring the sulfur content in home heating oil and other sources using distillate oil to be lowered by 97% by July 1, 2018.[22] According to the 2014 NEI data, home heating oil is the largest category of SO_2 emissions in three of the states, Rhode Island, Massachusetts, and Connecticut. Home heating oil in 2014 was not the largest category of SO_2 emissions in New York because the sulfur content in home

[21] The closest ambient SO_2 monitors in Connecticut and New York with recent valid design values are in New Haven and Suffolk Counties, respectively. The 2014–2016 design value at each of these monitors (*i.e.,* 09–009–0027 and 36–103–0009) is below 10 ppb. See *https://www.epa.gov/air-trends/air-quality-design-values.*

[22] *See* 80 FR 60541 (October 15, 2015) for Rhode Island, 78 FR 57487 (September 19, 2013) for Massachusetts, and 81 FR 35636 (June 3, 2016) for Connecticut.

heating oil was reduced to 15 ppm as of July 1, 2012.

Utilizing United States census data and EPA emission factors, future SO_2 emissions from home heating oil can be forecasted in each of the three states where the reduction in sulfur content to 15 ppm does not take effect until 2018. According to EPA's guidance titled ''Air Emission Factors and Quantification AP 42, Compilation of Air Pollutant Emission Factors'' Chapter 1.3 titled, ''Fuel Oil Combustion,'' [23] more than 95% of the sulfur in fuel is converted to SO_2. The Census Bureau provides state specific data for the year 2000 regarding the number of homes using oil for heating purposes.[24] Finally, it is not uncommon for typical households in the southern New England states to use 800 gallons of fuel oil per season.[25] Table 5 provides both the census data and current and future SO_2 emission estimates for each of the three relevant states.

TABLE 5—ESTIMATED FUTURE SO_2 EMISSIONS FROM HOME HEATING OIL

State	Number of households using oil for heat	Estimate of SO_2 emissions (tons) from households using oil (2016)	Estimate of SO_2 emissions (tons) from households using oil (2019)
Rhode Island	168,400	478.2	14
Connecticut	681,200	1,935	58
Massachusetts	945,600	2,686	81

While EPA does not currently have a way to quantify the impacts of multiple small sources of SO_2 (the current estimate is approximately 6 pounds of SO_2 per year per household that uses 800 gallons of fuel oil) in neighboring states, the drastic decrease in the allowable sulfur content in fuel oil and the associated reductions in SO_2 emissions, combined with the diffuse nature of these emissions, make it unlikely that the current and future emissions from residential combustion of fuel oil are likely to lead to an exceedance of the NAAQS in a neighboring state. Specifically, by 2018, the yearly SO_2 emissions per household using fuel oil will drop to under 0.20 pounds per year.

As shown in Table 2, above, statewide SO_2 emissions in Rhode Island have decreased over time. A number of factors are involved that caused this decrease in emissions, including the effective date of APCR No. 8, ''Sulfur Content of Fuels,'' and the change in capacity factors at EGUs over time due to increased usage of natural gas to generate electricity. The EPA believes that since actual SO_2 emissions from the facilities currently operating in Rhode Island have decreased between 2000 and 2015, this trend shows that emissions originating in Rhode Island are not expected to interfere with the neighboring states' ability to maintain the 2010 SO_2 NAAQS.

EPA expects SO_2 from point sources combusting fuel oil in Rhode Island will be lower in the future. In 2014, the state adopted lower sulfur-in-fuel limits for all stationary sources (APCR No. 8). These new limits were approved by EPA into the SIP in 2015. The sulfur-in-fuel limits contained in APCR No. 8 will limit stationary sources combusting residual fuel oil with a sulfur content of 0.5% or less by weight and distillate fuel oil of 0.0015% or less by weight as of July 1, 2018.

Lastly, any future large sources of SO_2 emissions will be addressed by Rhode Island's SIP-approved Prevention of Significant Deterioration (PSD) program. Future minor sources of SO_2 emissions will be addressed by the State's minor new source review permit program. The permitting regulations contained within these programs, along with the other factors already discussed, are expected to help ensure that ambient concentrations of SO_2 in Massachusetts or Connecticut are not exceeded as a result of new facility construction or modification occurring in Rhode Island.

It is also worth noting air quality trends for concentrations of SO_2 in the Northeastern United States.[26] This region has experienced a 77% decrease in the annual 99th percentile of daily maximum 1-hour averages between 2000 and 2015 based on 46 monitoring sites, and the most recently available data for 2015 indicates that the mean value at these sites was 17.4 ppb, or less than 25% of the NAAQS. When this trend is evaluated alongside the monitored SO_2 concentrations within the State of Rhode Island as well as the SO_2 concentrations recorded at monitors in Massachusetts and Connecticut, EPA does not believe that sources or emissions activity from within Rhode Island are significantly different than the overall decreasing monitored SO_2 concentration trend in the Northeast region. As a result, EPA finds it unlikely that sources or emissions activity from within Rhode Island will interfere with other states' ability to maintain the 2010 primary SO_2 NAAQS.

Based on each of factors contained in the prong 2 maintenance analysis above, EPA proposes to find that sources or other emissions activity within the State will not interfere with maintenance of the 2010 primary SO_2 NAAQS in any other state.

VI. Significant Contribution to Nonattainment and Interference With Maintenance of the NO_2 NAAQS

Rhode Island's October 15, 2015 infrastructure SIP submission addressing the good neighbor requirements of CAA section 110(a)(2)(D)(i)(I) notes that on January 20, 2012, EPA designated all areas of the country as ''unclassifiable/attainment'' for the 2010 primary NO_2 NAAQS. EPA did this because DVs for the 2008–2010 period at all monitored sites met the NAAQS. Measurements from 2013–2015 indicate continued attainment of the 2010 primary NO_2 NAAQS throughout the country.[27] Rhode Island currently operates four NO_2 monitors, two in Providence, one in East Providence, and one in West Greenwich. The DV is based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. Table 6 contains the design values for the two monitors with complete, valid data.

[23] *https://www3.epa.gov/ttn/chief/ap42/ch01/final/c01s03.pdf.*

[24] *https://www.census.gov/hhes/www/housing/census/historic/fuels.html.*

[25] *See* 82 FR 21351 (May 8, 2017).

[26] *See https://www.epa.gov/air-trends/sulfur-dioxide-trends.*

[27] *See https://www.epa.gov/air-trends/air-quality-design-values* for NO_2 design values.

TABLE 6—NO_2 DESIGN VALUES IN RHODE ISLAND

AQS Monitor site	Monitor location	2013–2015 DV (ppb)	2014–2016 DV (ppb)
44–007–0012	Brown University, Providence	46	45
44–007–1010	Francis School, East Providence	39	38

As shown in Table 6, the DVs are significantly less than the national ambient air quality standard for NO_2, which is 100 ppb. However, the absence of a violating ambient air quality monitor within the State is insufficient by itself to demonstrate that Rhode Island has met its interstate transport obligation. While the DV may help to assist in characterizing air quality within Rhode Island, section 110(a)(2)(D)(i)(I) specifically addresses the effects that sources within Rhode Island have on air quality in neighboring states. Therefore, an evaluation and analysis of DV's in neighboring states is appropriate.

Table 7 contains the highest NO_2 DVs for the three states neighboring Rhode Island, *i.e.,* Massachusetts, Connecticut, and New York.

TABLE 7—HIGHEST NO_2 DESIGN VALUES IN PPB FOR AQS MONITORS IN MASSACHUSETTS AND CONNECTICUT

State	AQS monitor site	Monitor location	Design value (2014–2016)
Connecticut	09–009–0027	Criscuolo Park-New Haven	53
Massachusetts	25–025–0002	Kenmore Square, Boston	51
	25–025–0042	Dudley Square, Roxbury	51
	25–027–0023	Worcester	51
New York	36–005–0110	Bronx	64

As shown by the chart above, the highest NO_2 DV in each neighboring state is significantly less than the NO_2 NAAQS.

Lastly, APCR No. 27 ''Control of Nitrogen Oxide Emissions,'' among other regulations, contains NO_X emissions limits for existing sources. For ensuring that new or modified sources of NO_2 emissions in Rhode Island do not adversely impact air quality, the State's SIP-approved nonattainment new source review (NNSR) and prevention of significant deterioration (PSD) programs are contained in APCR, No. 9, ''Air Pollution Control Permits.'' This regulation ensures that NO_2 emissions due to new facility construction or modifications at existing facilities will not adversely impact air quality in Rhode Island or in neighboring states.

EPA also notes that NO_X emissions have been declining, with total statewide NO_X emissions from Rhode Island sources dropping from 38,308 tons in 2000 to 19,680 tons in 2016. In light of the above analysis, EPA is approving Rhode Island's October 15, 2015 infrastructure submittal for the 2010 primary NO_2 NAAQS as it pertains to section 110(a)(2)(D)(i)(I) of the CAA. Based on the analysis provided by the State in its October 15, 2015 SIP submission and based on each of the factors listed above, for the 2010 primary NO_2 NAAQS EPA proposes to find that any sources or other emissions activity within the State will not contribute significantly to nonattainment in, or interfere with maintenance by, any other state.

VII. Proposed Action

In light of the above analysis, EPA is proposing to approve Rhode Island's October 15, 2015 infrastructure submittal for the 2010 primary SO_2 and 2010 primary NO_2 NAAQS as it pertains to Section 110(a)(2)(D)(i)(I) of the CAA. EPA is soliciting public comments on the issues discussed in this notice. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this **Federal Register** or by submitting comments electronically, by mail, or through hand delivery/courier following the directions in the **ADDRESSES** section of this **Federal Register**.

VIII. Statutory and Executive Order Reviews

Under the Clean Air Act, the 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, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed 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 proposed 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);
- 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 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 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur oxides, Nitrogen oxides.

Dated: August 15, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

[FR Doc. 2017–18419 Filed 8–29–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–BG87

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Gray Triggerfish Management Measures; Amendment 46

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

ACTION: Notification of availability; request for comments.

SUMMARY: The Gulf of Mexico (Gulf) Fishery Management Council (Council) has submitted Amendment 46 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), for review, approval, and implementation by NMFS. Amendment 46 would establish the rebuilding time period for the Gulf gray triggerfish stock. Amendment 46 would also revise the recreational fixed closed season, recreational bag limit, recreational minimum size limit, and commercial trip limit. The purpose of Amendment 46 is to implement management measures to assist in rebuilding the Gulf gray triggerfish stock and to achieve optimum yield (OY).

DATES: Written comments must be received on or before October 30, 2017.

ADDRESSES: You may submit comments on the amendment identified by ''NOAA–NMFS–2017–0080'' by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0080,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Lauren Waters, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

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

Electronic copies of Amendment 46, which includes an environmental assessment, a fishery impact statement, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at: *http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2017/am46_gray_trigger/documents/pdfs/gulf_reef_am46_gray_trigg_final.pdf.*

FOR FURTHER INFORMATION CONTACT: Lauren Waters, Southeast Regional Office, NMFS, telephone: 727–824–5305; email: *Lauren.Waters@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, publish an announcement in the **Federal Register** notifying the public that the FMP or amendment is available for review and comment.

The FMP being revised by Amendment 46 was prepared by the Council and implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the OY from Federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to rebuild overfished stocks.

The first Southeast Data, Assessment, and Review (SEDAR) benchmark stock assessment for gray triggerfish was completed in 2006 (SEDAR 9). SEDAR 9 indicated that the gray triggerfish stock was both overfished and possibly undergoing overfishing. Subsequently, Amendment 30A to the FMP established a gray triggerfish rebuilding plan beginning in the 2008 fishing year (73 FR 3813; July 3, 2008). In 2011, a SEDAR 9 update stock assessment for gray triggerfish determined that the gray triggerfish stock was still overfished and was undergoing overfishing, and had not made adequate progress toward rebuilding. As a result of the SEDAR 9 update and to end overfishing, the final rule for Amendment 37 to the FMP revised the gray triggerfish commercial and recreational sector annual catch limits (ACLs) and annual catch targets (ACTs), revised the gray triggerfish recreational sector accountability measures (AMs), revised the gray triggerfish recreational bag limit, established a commercial trip limit for gray triggerfish, and established a fixed closed season for the gray triggerfish commercial and recreational sectors (78 FR 27084; May 5, 2013). Additionally, Amendment 37 revised the rebuilding plan and projected that the stock would be rebuilt in 5 years, or by the end of 2017 fishing year.

Since implementation of Amendment 37 in 2013, commercial harvest has not exceeded the commercial ACL, while the recreational sector has exceeded the recreational ACL or adjusted recreational ACL (that resulted from a ACL overage adjustment) in the 2013, 2014, 2015, and 2016 fishing years. The most recent stock assessment for gray triggerfish was completed and reviewed by the Council's Scientific and Statistical Committee (SSC) in October 2015 (SEDAR 43). SEDAR 43 indicated that the gray triggerfish stock was not experiencing overfishing but remained overfished and would not be rebuilt by

the end of 2017 as previously projected. On November 2, 2015, NMFS notified the Council that the gray triggerfish stock was not making adequate progress toward rebuilding and the Council subsequently began development of Amendment 46 to establish a new rebuilding time period and other management measures to achieve OY and rebuild the stock.

Actions Contained in Amendment 46

Amendment 46 includes measures to set a rebuilding time period, revise the recreational fixed closed season, revise the recreational bag limit, revise the recreational minimum size limit, and revise the commercial trip limit. Additionally, Amendment 46 considers alternatives to the commercial and recreational ACLs and ACTs.

Rebuilding Time Period and Commercial and Recreational ACTs and ACLs

Amendment 37 established a 5-year rebuilding time period, expiring in 2017, and the current gray triggerfish commercial and recreational ACTs and ACLs. The current commercial ACT is 60,900 lb (27,624 kg), round weight, and the commercial ACL is 64,100 lb (29,075 kg), round weight. The current recreational ACT is 217,000 lb (98,475 kg), round weight, and the recreational ACL is 242,200 lb (109,406 kg), round weight. Amendment 46 would establish a new rebuilding time period for the Gulf gray triggerfish stock as a result of the stock status determined through SEDAR 43, and maintain the current commercial and recreational ACLs and ACTs.

The Council's SSC reviewed SEDAR 43 and recommended alternative rebuilding time periods of 8, 9, or 10 years and the acceptable biological catch (ABC) yield streams for each period. There is a 60 percent probability of rebuilding the stock within these time periods if landings are appropriately constrained to the recommended catch levels. In Amendment 46, the Council considered these rebuilding time periods and their associated catch levels, as well as a 6-year period, which would be the time needed to rebuild the stock in the absence of fishing mortality. The Council determined that the 9-year rebuilding time period was as short as possible, taking into account the status and biology of the stock and the needs of the associated fishing communities. Although the ABC recommendation associated with the 9-year time period allowed for an increase in harvest, the Council chose to adopt a more conservative approach and maintain the current commercial and recreational ACLs and ACTs for gray triggerfish that were set through the final rule for Amendment 37 (78 FR 27084, May 9, 2013).

Recreational Seasonal Closure

The current recreational seasonal closure for gray triggerfish in the Gulf is from June 1 through July 31, and was established in Amendment 37 to protect gray triggerfish during the peak spawning season and help constrain landings to the recreational ACT (78 FR 27084; May 5, 2013). However, as explained above, recreational landings have exceeded the recreational ACL or adjusted ACL the last four years. Amendment 46 would establish an additional recreational fixed closed season for gray triggerfish from January 1 through the end of February, which is expected to reduce recreational landings and help rebuild the stock within the rebuilding time period established in Amendment 46.

Recreational Bag Limit

The current recreational bag limit was set in Amendment 37 and is a 2-fish per person per day limit within the overall 20-fish aggregate reef fish bag limit. Amendment 46 would reduce the recreational gray triggerfish bag limit to 1 fish per person per day within the 20-fish aggregate reef fish bag limit.

As described in Amendment 46, from 2013 through 2015, approximately 10 percent of recreational trips with reef fish landings harvested 2 gray triggerfish within the 20-fish aggregate bag limit. NMFS expects the proposed change to the bag limit to reduce recreational landings by 15 percent, which will help constrain harvest to the recreational ACT to allow the sector to remain open through the end of the fishing year.

Recreational Size Limit

The current recreational minimum size limit for gray triggerfish is 14 inches (35.6 cm), FL, and was established in Amendment 30A to the FMP (73 FR 38139, July 3, 2008). Amendment 46 would increase the minimum size limit to 15 inches (38.1 cm), FL.

Increasing the recreational minimum size limit is expected to increase the gray triggerfish spawning potential by maintaining larger-sized fish, which are more fecund, in the stock, and is expected to help slow recreational harvest.

Commercial Trip Limit

The current commercial trip limit is 12 fish per trip, and was established in Amendment 37 to constrain commercial harvest to the commercial ACT and avoid an in-season closure (78 FR 27084, May 5, 2013). Amendment 46 would increase the commercial trip limit to 16 fish per trip.

As described in Amendment 46, since implementation of the 12-fish commercial trip limit in 2013, commercial landings have been consistently below the commercial ACT. Analysis of commercial trips demonstrated that 80 percent of trips caught 10 gray triggerfish or less. This indicates that gray triggerfish is primarily a non-target species by the commercial sector and that increasing the commercial trip limit would likely result in only a small change in the weight projected to be landed during a fishing year. However, increasing the commercial trip limit would allow those fishermen who encounter the species the opportunity to harvest more fish. This would help achieve OY for the stock while continuing to constrain commercial landings to the commercial ACT.

Proposed Rule for Amendment 46

A proposed rule that would implement Amendment 46 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council has submitted Amendment 46 for Secretarial review, approval, and implementation. Comments on Amendment 46 must be received by October 30, 2017. Comments received during the respective comment periods, whether specifically directed to Amendment 46 or the proposed rule, will be considered by NMFS in its decision to approve, partially approve, or disapprove Amendment 46 and will be addressed in the final rule.

All comments received by NMFS on Amendment 46 or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: August 25, 2017.

Alan D. Risenhoover,

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

[FR Doc. 2017–18417 Filed 8–25–17; 4:15 pm]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 82, No. 167
Wednesday, August 30, 2017

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 24, 2017

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

Comments regarding this information collection received by September 29, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

Animal and Plant Health Inspection Service

Title: Importation of Animals and Poultry, Animal and Poultry Products, Certain Animal Embryos, Semen, and Zoological Animals.

OMB Control Number: 0579–0040.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 (7 U.S.C. 8301), is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. The agency charged with carrying out this disease prevention mission is the Animal and Plant Health Inspection Service (APHIS). Disease prevention is the most effective method for maintain a healthy animal population and enhancing APHIS' ability to compete globally in animal and animal product trade. APHIS' Veterinary Services (VS) unit is responsible for, among other things, preventing the introduction of foreign or certain other communicable animal diseases into the United States; and for rapidly identifying, containing, eradicating, or otherwise mitigating such diseases when feasible. In connection with this mission, APHIS collects information from individuals, businesses, and farms who are involved with importation of animals or poultry, animal or poultry products, or animal germplasm (semen, ooycysts, and embryos, including eggs for hatching) into the United States as well as from foreign countries and States to support these imports.

Need and Use of the Information: APHIS will collect information from foreign animal health authorities as well as U.S. importers; foreign exporters; veterinarians and animal health technicians in other countries; State animal health authorities; shippers; owners and operators of foreign processing plants and farms; USDA-approved zoos, laboratories, and feedlots; private quarantine facilities; and other entities involved (directly or indirectly) in the importation of animal and poultry, animals and poultry products, zoological animals, and animal germplasm.

Some of the information collection activities include: Agreements; permits; application and space reservation requests; inspections; registers; declarations of importation; requests for hearings; daily logs; additional requirements; application for permits; export health certificates; letters; written notices; daily record of horse activities; written requests; opportunities to present views; reporting; applications for approval of facilities; certifications; arrival notices; on-hold shipment notifications; reports; affidavits; animal identification; written plans; checklists; specimen submissions; emergency action notifications; refusal of entry and order to dispose of fish; premises information; recordkeeping; and application of seals. APHIS needs this information to help ensure that these imports do not introduce foreign animal diseases into the United States.

Description of Respondents: Business or other for-profit; Farms; Individuals and Households; Federal Governments; and State, Local, and Tribal Governments.

Number of Respondents: 8,412.

Frequency of Responses: Recordkeeping; Third Party Disclosure; Reporting: On occasion.

Total Burden Hours: 313,851.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–18326 Filed 8–29–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–27–2017]

Foreign-Trade Zone (FTZ) 43—Battle Creek, Michigan; Authorization of Production Activity, Pfizer, Inc., (Pharmaceutical Products), Kalamazoo, Michigan

On April 12, 2017, Pfizer, Inc., submitted a notification of proposed production activity to the FTZ Board within Subzone 43E, in Kalamazoo, Michigan.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting

public comment (82 FR 26433, June 7, 2017). On August 15, 2017, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: August 24, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–18439 Filed 8–29–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–102–2017]

Approval of Expanded Subzone Status, 5.11, Inc.; Modesto, Lathrop and Manteca, California

On June 29, 2017, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Port of Stockton, grantee of FTZ 231, requesting expanded subzone status subject to the existing activation limit of FTZ 231, on behalf of 5.11, Inc., in Manteca, California.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (82 FR 31291, July 6, 2017). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to expand Subzone 231B was approved on August 17, 2017, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 231's 2,000-acre activation limit.

Dated: August 24, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–18435 Filed 8–29–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–25–2017]

Foreign-Trade Zone (FTZ) 39—Dallas-Fort Worth, Texas; Authorization of Production Activity, Valeo North America, Inc., d/b/a Valeo Compressor North America (Motor Vehicle Air-Conditioner Compressors), Dallas, Texas

On April 12, 2017, Valeo North America, Inc. d/b/a Valeo Compressor North America, submitted a notification of proposed production activity to the FTZ Board within FTZ 39—Site 1, in Dallas, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (82 FR 26435, June 7, 2017). On August 15, 2017, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: August 24, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–18440 Filed 8–29–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–053–2017]

Foreign-Trade Zone (FTZ) 26—Atlanta, Georgia; Notification of Proposed Production Activity; Nisshinbo Automotive Manufacturing, Inc. (Automotive Brake Linings, Pads, and Disc Pads Assembly and Production); Covington, Georgia

The Georgia Foreign Trade Zone, Inc., grantee of FTZ 26, submitted a notification of proposed production activity to the FTZ Board on behalf of Nisshinbo Automotive Manufacturing, Inc. (Nisshinbo), located in Covington, Georgia. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on August 10, 2017.

The Nisshinbo facility is located within Site 33 of FTZ 26. The facility will be used to assemble and produce automotive brake pads. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Nisshinbo from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Nisshinbo would be able to choose the duty rates during customs entry procedures that apply to: Brake linings and pads, and brake disc pads (duty rate ranging from free to 2.5%). Nisshinbo would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include: Natural graphite powder; natural graphite; kaolinite clay; magnesium oxide; slaked lime; mica powder; vermiculite; synthetic zeolite; antimony trisulfide; carbon black; carbon fiber; crystalline silica, quartz; spherical silica powder; zinc powder; white fused alumina; aluminum oxide; black iron oxide; zirconium oxide; antimony trioxide; calcium fluoride; zinc sulfide; barium sulfate; calcium carbonate; rubber with calcium carbonate; sepiolite; calcium silicate; potassium titanate; salts of inorganic acids; calcium hydride; dicumyl peroxide with calcium carbonate; stearic acid from saturated acyclic monocarboxylic acids (zinc stearic acid); paints and varnishes (including enamels and lacquers) based on synthetic polymers in a non-aqueous medium hematite; artificial graphite plates, rods, powder and other forms for manufacturing pitch cokes; artificial graphite powder; silicone rubber coated cashew particle; phenolic resin; synthetic-amorphous silica; black silicon carbide; silicone rubber; cashew dust from cashew nut shell; friction dust from manufacturing grinding process; cellulose fiber; acrylonitrile/butadiene; tire rubber crumb—ground tires through a special milling procedure; rubber powder; styrene-butadiene rubber; rock wool fiber; brake linings (not mounted); ceramic fiber; microblast of other mineral substances; glass chopped strand; chopped stainless steel wire fiber; copper powder; copper fiber; bronze fiber; aluminum grain; alumina powder; atomized tin powder; tin sulfide powder; zirconium silicate; zircon flour; and, backing plates/disc pads (duty rate ranges from free to 6.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is October 10, 2017.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Juanita Chen at *juanita.chen@trade.gov* or (202) 482–1378.

Dated: August 24, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–18438 Filed 8–29–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–26–2017]

Foreign-Trade Zone (FTZ) 80—San Antonio, Texas; Authorization of Production Activity; DPT Laboratories, Ltd. (Pharmaceutical Products); San Antonio, Texas

On April 17, 2017, DPT Laboratories, Ltd., submitted a notification of proposed production activity to the FTZ Board within Subzone 80F, in San Antonio, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (82 FR 26434, June 7, 2017). On August 15, 2017, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: August 24, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–18436 Filed 8–29–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–99–2017]

Approval of Subzone Status; MTD Consumer Group Inc., Martin, Tennessee

On June 29, 2017, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Northwest Tennessee Regional Port Authority, grantee of FTZ 283, requesting subzone status subject to the existing activation limit of FTZ 283, on behalf of MTD Consumer Group Inc., in Martin, Tennessee.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (82 FR 31044–31045, July 5, 2017). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 283A was approved on August 16, 2017, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 283's 2,000-acre activation limit.

Dated: August 24, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–18437 Filed 8–29–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

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

DATES: August 30, 2017.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Ave. NW., Washington, DC 20230, telephone: (202) 482–3692.

SUPPLEMENTARY INFORMATION: Section 702 of the Trade Agreements Act of 1979 (as amended) (the Act) requires the Department of Commerce (the Department) to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h) of the Act, and to publish quarterly updates to the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies on articles of cheese that were imported during the periods January 1, 2017, through March 31, 2017.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies, as defined in section 702(h) of the Act, being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available. The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Ave. NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: August 24, 2017.

Gary Taverman,

Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross [1] subsidy ($/lb)	Net [2] subsidy ($/lb)
28 European Union Member States [3]	European Union Restitution Payments	$0.00	$0.00
Canada	Export Assistance on Certain Types of Cheese	0.46	0.46

SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY—Continued

Country	Program(s)	Gross [1] subsidy ($/lb)	Net [2] subsidy ($/lb)
Norway	Indirect (Milk) Subsidy	0.00	0.00
	Consumer Subsidy	*0.00*	*0.00*
Total		0.00	0.00
Switzerland	Deficiency Payments	0.00	0.00

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).
[3] The 28 member states of the European Union are: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

[FR Doc. 2017–18433 Filed 8–29–17; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–469–818]

Ripe Olives From Spain: Postponement of Preliminary Determination in the Countervailing Duty Investigation

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

DATES: August 30, 2017.

FOR FURTHER INFORMATION CONTACT: Mary Kolberg at (202) 482–1785, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On July 12, 2017, the Department of Commerce (Department) initiated a countervailing duty investigation on ripe olives from Spain.[1] Currently, the preliminary determination is due no later than September 15, 2017.

Postponement of the Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a countervailing duty investigation within 65 days after the date on which the Department initiated the investigation. However, section 703(c)(1) of the Act permits the Department to postpone the preliminary determination until no later than 130 days after the date on which the Department initiated the investigation if: (A) The petitioner [2] makes a timely request for a postponement; or (B) the Department concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. The Department will grant the request unless it finds compelling reasons to deny the request.

On August 7, 2017, the petitioner submitted a timely request that we postpone the preliminary CVD determination.[3] The petitioner stated that it requests postponement because the Department continues to gather ''questionnaire responses from the Government of Spain, the European Union, and the mandatory respondents in this investigation. Thus, extra time is needed to permit the Department . . . to analyze fully the questionnaire responses, request any necessary clarifications, and determine the extent to which countervailable subsidies have been bestowed on the respondents.'' [4] In accordance with 19 CFR 351.205(e), the petitioner has stated the reasons for requesting a postponement of the preliminary determination, and the Department finds no compelling reason to deny the request. Therefore, pursuant to section 703(c)(1)(A) of the Act, we are extending the due date for the preliminary determination to no later than 130 days after the date on which this investigation was initiated, *i.e.,* to November 20, 2017.[5] Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination will continue to be 75 days after the date of the preliminary determination.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(l).

Dated: August 24, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–18430 Filed 8–29–17; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Federated Cloud Public Working Group

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice; announcement of working group teleconference.

SUMMARY: The NIST Cloud Computing Program (NCCP) announces the reconstitution of its Federated Cloud Public Working Group. The Working Group's activities will resume and initiate work to develop a vocabulary of terms to support federated cloud and federated cloud environments, as well as a conceptual architecture for federated cloud. Participation in the

[1] *See Ripe Olives from Spain: Initiation of Countervailing Duty Investigation,* 82 FR 33050 (July 19, 2017).

[2] In this investigation, the petitioner is the Coalition for Fair Trade in Ripe Olives and its individual members, Bell-Carter Foods, Inc. and Musco Family Olive Co.

[3] *See* Letter from the petitioner, ''Ripe Olives from Spain—Request for Postponement of Preliminary Determination'' (August 7, 2017).

[4] *Id.*

[5] The 130th day falls on Sunday, November 19, 2017. The Department's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005). Therefore, the deadline for the preliminary determination is November 20, 2017.

Working Group is open to all interested parties.

DATES: An initial teleconference will take place on Thursday, August 31, 2017, at 10:00 a.m. Eastern Time. The goal for completion of the work is June 30, 2018.

FOR FURTHER INFORMATION CONTACT: Robert Bohn, National Institute of Standards and Technology, 100 Bureau Drive, Gaithersburg, Maryland 20899–4800, telephone number 301–975–4731, email: *robert.bohn@nist.gov.*

SUPPLEMENTARY INFORMATION: The NCCP announces the reconstitution of its Federated Cloud Public Working Group (Working Group). The Working Group was formed to address Requirement #5 of NIST's US Government Cloud Computing Technology Roadmap (NIST SP 500–293) (Cloud Computing Roadmap), ''Frameworks to Support Federated Community Clouds.'' This requirement calls for ''frameworks to support seamless implementation of federated community cloud environments.'' The Working Group's activities will resume and initiate work to try and fully understand and describe the elements of federated cloud computing. Assorted topics include developing and gaining consensus on a common federated cloud computing vocabulary, as well as developing an underlying conceptual model of what federated cloud computing is, its major components, and users/stakeholders.

An initial teleconference will take place on Thursday, August 31, 2017, at 10:00 a.m. Eastern Time. The dial-in number is 1–877–953–0273, and the passcode is 456–4979. Members of the public who wish to participate in the teleconference should provide their name and email address to *fedcloud@nist.gov,* no later than 5:00 p.m. Eastern Time on Thursday, August 24, 2017. Responses received after the deadline will also be added to the group's mailing list, but they may not receive initial documentation prior to the first meeting. Members of the public who provide their email addresses but who cannot participate in the initial teleconference will still be notified about subsequent meetings. It is anticipated that there will be subsequent monthly meetings by teleconference on the fourth Thursday of every month from either 11:00 a.m. to 1:00 p.m. Eastern Time or 1:30 p.m. to 3:00 p.m. Eastern Time. A schedule of meeting times will be provided to all participants who submit their name and email address as provided above. Participation in the Working Group is open to all interested parties; there is no fee to participate. Standing Rules Documents explaining how the group will be run will be made available at the first meeting to all Working Group members. Final technical recommendations from the Working Group will be made publicly accessible on the NIST Cloud Computing Portal, and NIST may make the results of this Working Group available to Standards Developing Organizations and other interested parties.

Background

The Cloud Computing Roadmap is being used industry-wide to advance the rapid adoption of cloud computing. Two of the 10 requirements (numbers 5 and 8) in the Cloud Computing Roadmap point to the next generation of cloud computing which will be focused on the concept of federated clouds. Federated clouds represent a future where there is seamless integration between multiple cloud service providers. Fulfilling this vision of the future of cloud computing will require a foundational effort to understand all the technological and standards-based obstacles that will need to be addressed to build the necessary underlying architecture.

Scope

The scope of the project is to fully understand and describe the elements of federated cloud computing. This will involve developing and gaining consensus on a common federated cloud computing vocabulary, as well as developing an underlying conceptual model of what federated cloud computing is, its major components, and users/stakeholders. The Working Group will then use that conceptual model to map out an implementation strategy including a gap analysis to identify the missing technologies and standards needed to cultivate a seamless system of systems. The anticipated results are:

- Federated Cloud Computing Vocabulary;
- Conceptual Model of Federated Clouds; and
- Technology Gap Analysis.

The Working Group will also investigate and identify the needed technologies, tools, and standards to enable these environments. They will use material from NIST's Cloud Computing Reference Architecture (NIST SP 500–292) and materials located at the group's public twiki site: *http://collaborate.nist.gov/twiki-cloud-computing/bin/view/CloudComputing/RATax_FedCommunity.*

The Working Group will work in a coordinated effort with the IEEE ICWG/2302 WG—Intercloud Working Group to produce an implementation of this reference material and create a compliant technical standard. A list of NIST's Cloud Computing Working Groups can be found at *http://collaborate.nist.gov/twiki-cloud-computing/bin/view/CloudComputing/WebHome#Working_Groups_of_NIST_Cloud_Com.* The work of the NIST Cloud Computing Working Groups is interrelated, and this Working Group will also liaise with other working groups as needed.

Authority: 15 U.S.C. 272(b)(3) & (c)(12).

Kevin Kimball,

NIST Chief of Staff.

[FR Doc. 2017–18354 Filed 8–29–17; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 170717677–7677–01]

Request for Information on the Development of the Organization of Scientific Area Committees (OSAC) for Forensic Science 2.0

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice; request for information.

SUMMARY: The National Institute of Standards and Technology (NIST) and the Department of Justice (DOJ) established the Organization of Scientific Area Committees (OSAC) for Forensic Science in 2013 as part of a larger effort to strengthen forensic science in the United States. NIST has primary responsibility to support the OSAC and has publicly announced its intention to transition the administration of the OSAC to another host within five to ten years. NIST made a commitment to the forensic science community (community) that OSAC 2.0 will ensure the continued scientific integrity and stability of the organization. NIST publishes this notice to request information for consideration in the development of a comprehensive transition plan for the OSAC that meets the needs of the community and ensures that transition is conducted in a manner that safeguards the efficiency and effectiveness of the OSAC.

DATES: NIST will accept written responses to this request for information until 11:59 p.m. Eastern Time on October 30, 2017.

ADDRESSES: Responses to this request for information must be made electronically through the *Federal*

eRulemaking Portal: https://www.regulations.gov/. Follow the instructions for submitting comments. Please include your name, organization's name (if any) and cite ''Response to OSAC Request for Information'' in all correspondence.

All responses, including attachments, will be posted to the docket at *https://www.regulations.gov/* without change or redaction. Accordingly, respondents should not include information they do not wish to be posted (*e.g.,* personal or confidential business information). Responses that contain profanity, vulgarity, threats, or other inappropriate language will not be posted or considered.

FOR FURTHER INFORMATION CONTACT: Ms. Grace Hao, (301) 975–4752 or *Grace.Hao@NIST.gov.*

SUPPLEMENTARY INFORMATION: In February 2013, DOJ and NIST announced a partnership that included the formation of the OSAC. As is stated in the OSAC Charter, the purpose of the OSAC is to strengthen the Nation's use of forensic science by: Providing technical leadership necessary to facilitate the development and promulgation of consensus-based documentary standards and guidelines for forensic science; promoting standards and guidelines that are fit-for-purpose and based on sound scientific principles; promoting the use of OSAC standards and guidelines by accreditation and certification bodies; and establishing and maintaining working relationships with other similar organizations. The OSAC Charter and Bylaws are available online at: *https://www.nist.gov/topics/forensic-science/about-osac.*

These purposes of the OSAC are achieved through the OSAC Registry, the repository for all standards and guidelines. A standard or guideline is posted on the OSAC Registry only after the validity of any methods it contains has been assessed by forensic practitioners, academic researchers, measurement scientists, and statisticians through a consensus development process that allows participation and comment from all relevant stakeholders. NIST retains ultimate authority over posting of standards and responsibility for support of the OSAC Registry.

The OSAC Charter states that the aims of the OSAC are to: Populate the OSAC Registry; develop and maintain the Principles of Professional Practice; compile and update the forensic science catalog of standards and related documents; maintain Priority Action Plan documents on OSAC strategic objectives and associated goals and intended actions; promote and improve the communication, dissemination and use of forensic science standards, accreditation, and personnel competencies; encourage forensic science service providers in the United States to implement guidelines and standards (*e.g.,* ISO/IEC 17025, etc.) for quality and competency; provide insight on each forensic science discipline's research and measurement standard needs; and enlist stakeholder involvement from a broad community to provide public comment on OSAC outputs.

Under the OSAC Charter, NIST has primary responsibility to coordinate development of a quality infrastructure for forensic science standards development and to support the OSAC. NIST envisioned the OSAC as a multi-level organization consisting of five Scientific Area Committees (SACs) that report to a Forensic Science Standards Board (FSSB). Each of the five SACs oversees discipline-specific subcommittees. In addition, there are three Resource Committees that provide input to the FSSB, SACs, and SAC Subcommittees. DOJ funds the OSAC through appropriated funds that are transferred to NIST. While DOJ personnel participate as members of OSAC committees and subcommittees, DOJ itself does not review or approve OSAC standards prior to posting on the Registry.

Both NIST and DOJ recognized from the outset that the OSAC would be realigned over time to ensure continuous improvement and better realize its purpose and objectives. NIST has publicly announced its intention to transition the administration of the OSAC to another host within five to ten years. NIST's goals in this transition process are to establish the next generation of OSAC (OSAC 2.0) that strengthens forensics science, follows American National Standards Institute principles for standards development, and promotes a collaborative process that actively involves practitioners and researchers. NIST notes that, as a non-regulatory research and development agency, it does not contemplate undertaking any a regulatory or quasi-regulatory function in connection with OSAC 2.0. NIST is open to maintaining elements of the current OSAC structure, to modifications to the structure, as well as to substantially different structural concepts, including several examples of concepts at: *https://www.nist.gov/topics/forensic-science/potential-concepts-osac-20.* NIST notes its continuing commitment to the forensic science community, that OSAC 2.0 will promote the continued scientific integrity and stability of the organization.

NIST is now in the process of developing a process for the transition of OSAC 1.0 to an OSAC 2.0 structure that will accomplish these goals and safeguard the efficiency and effectiveness of the organization. To ensure that the transition plan is comprehensive and meets the needs of the community, NIST, in collaboration with DOJ, requests from the public, comments on the questions below, which will inform the approach to an OSAC 2.0 in the following six areas: (A) Purpose, (B) oversight and independence, (C) work product and aims, (D) structure, (E) participation, and (F) funding.

(A) *Purpose:* As stated above, the OSAC charter identifies four purposes. (See section 1.1: *https://www.nist.gov/sites/default/files/documents/2017/03/16/fssb_osac_charter_and_bylaws_v_1.3.pdf*). What is your opinion regarding whether the OSAC is fulfilling these purposes under the current structure? What is your opinion regarding whether these purposes/functions are appropriate for the OSAC and whether the purposes should be modified in any way? What is your opinion regarding what role, if any, the OSAC should be playing in addressing the recommendations of the 2009 National Academies of Sciences report, ''Strengthening Forensic Science in the United States: A Path Forward'' (*https://www.nap.edu/read/12589/chapter/1*)?

(B) *Oversight and independence:* Please provide your views regarding what type of entity should host the OSAC (*e.g.,* governmental, professional association, etc.). What is your opinion about the preferred characteristics of a host organization for an effective OSAC? What are your views as to the type of organization that should provide oversight to the OSAC? Do you believe that the OSAC should have more/less independence from a host organization?

(C) *Work products and aims:* As stated above, the OSAC Charter identifies eight aims. (See section 1.2: *https://www.nist.gov/sites/default/files/documents/2017/03/16/fssb_osac_charter_and_bylaws_v_1.3.pdf.*) What is your opinion regarding whether the OSAC is fulfilling these aims as structured? Do you believe that the OSAC is addressing the correct aims? What are your views as to the type of work products the OSAC should produce? What do you believe are the essential elements of work products? Please provide your opinion as to whether there should be implementation/enforcement of the

work products. Do you believe that the OSAC should develop ''best practices'' and other materials that are not formal ''standards''?

(D) *Structure:* What are your views as to whether the current the OSAC structure works efficiently? Do you believe that another structure should be utilized? Please provide your opinion about whether there are any issues in the current work product development process that should be addressed structurally. In your view, does the reliance on standards development organizations function as intended (please include the reasons for your opinion)?

(E) *Participation:* What are your views as to the community the OSAC should serve? In your opinion, what stakeholders must be a part of the OSAC (*e.g.,* practitioners, researchers, forensic science societies, accreditation bodies, scientific societies, human factors experts, metrologists, standards development organizations, legal practitioners)? If you think that any of these entities should be excluded, please explain why and identify other venues for the views of the excluded entities to be incorporated into forensic practice, if appropriate. In your view, should some stakeholders serve more limited roles and, if so, how and why?

(F) *Funding:* What is your opinion as to the funding model that the OSAC should employ—Entirely funded by the Federal government, by non-Federal funds, or a combination of funding sources? (Please include your thoughts on the role of funding sources such as membership fees, certification fees, and meeting registration fees.) What are your views about the implications of funding models for the other traits, particularly oversight and independence?

Response to this request for information (RFI) is voluntary, and comments are not limited to the specific questions posed. Respondents need not reply to all questions; however, it is requested that they clearly indicate the letter of each question to which they are responding. All responses to this RFI must be submitted electronically through *www.regulations.gov*.

All responses received will be posted on *www.regulations.gov* without making any changes to the responses or redacting any information, including any personally identifiable information provided. It is the responsibility of the respondent to safeguard personally identifiable information. You are not required to submit personally identifying information in order to respond and it is recommended that respondents' personally identifiable information not be included. Responses may be provided anonymously, but those respondents who do share contact information are requested to include brief background information regarding the respondent's subject-matter experience and expertise. Responses submitted through *www.regulations.gov* will not include the email address of the respondent unless the respondent chooses to include that information as part of the response.

Authority: 15 U.S.C. 272(b)(10).

Kevin Kimball,

NIST Chief of Staff.

[FR Doc. 2017–18355 Filed 8–29–17; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Southeast Region IFQ Programs

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before October 30, 2017.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *pracomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Adam Bailey, National Marine Fisheries Service (NMFS) Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701, (727) 824–5303, or *adam.bailey@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension and revision of a currently approved information collection under the Office of Management and Budget's (OMB) Control Number 0648–0551, Southeast Region IFQ (individual fishing quota) Programs. The NMFS Southeast Regional Office manages three commercial IFQ and individual transferable quota (ITQ) programs in the Southeast Region under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* The IFQ programs for red snapper, and grouper and tilefish occur in Federal waters of the Gulf of Mexico, and the ITQ program for wreckfish occurs in Federal waters of the South Atlantic.

This collection of information tracks the transfer and use of IFQ and ITQ shares, and IFQ allocation and landings necessary to operate, administer, and review management of the IFQ and ITQ programs. Regulations for the IFQ and ITQ programs are located at 50 CFR part 622.

The NMFS Southeast Regional Office also proposes to revise parts of the information collection approved under OMB Control Number 0648–0551 to account for updates to burden time and cost estimates, as well as administrative updates to online and paper forms. NMFS intends the revisions would make instructions and data collection requirements clearer and easier to understand, resulting in more accurate and efficient information available for use by fishery managers.

II. Method of Collection

Information for the Gulf red snapper, and grouper and tilefish IFQ programs is collected electronically via a web-based system, through satellite-linked vessel monitoring systems, through a 24-hour call line, and with paper form submission for landing corrections, closing an account, and account applications, as well as landing transactions under catastrophic circumstances.

The share transfer process in the wreckfish ITQ program requires the signatures of witnesses on paper forms. The ITQ program remains paper based until the South Atlantic Fishery Management Council and NMFS consider whether to implement an electronic system.

III. Data

OMB Control Number: 0648–0551.

Form Number(s): None.

Type of Review: Regular submission (extension and revision of a currently approved information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,059.

Estimated Time per Response: Share Transfer Receipt form, Cost Recovery Fee Submission form, 1 minute; Share Transfer form, IFQ Close Account form, Cost Recovery Fee Submission form, Landing Transaction Correction Request form, Landing Location Submission form, Transfer Allocation form, Cost Recovery Fee payment through *pay.gov,* 3 minutes; Notification of Landing form, 5 minutes; Landing Transaction Report form, 6 minutes; IFQ Online Account Application form, 15 minutes; Wreckfish Quota Share Transfer form, 18 minutes.

Estimated Total Annual Burden Hours: 2,322.

Estimated Total Annual Cost to Public: $150 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 25, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–18372 Filed 8–29–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

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 (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Greater Atlantic Observers Providers' Requirements.

OMB Control Number: 0648–0546.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 515.

Average Hours per Response: Application for approval of observer service provider and applicant response to denial of application for approval of observer service provider, 10 hours each; observer service provider request for observer training, 30 minutes; observer deployment report and observer availability reports, 10 minutes each; safety refusal report, 30 minutes; submission of raw observer data and biological samples, 5 minutes each; observer debriefing, 2 hours; rebuttal of pending removal from list of approved observer service providers, 8 hours; vessel request to observer service provider for procurement of a certified observer, 25 minutes; vessel request for waiver of observer coverage requirement and observer contact list updates, 5 minutes each; observer availability updates, 1 minute; service provider material submissions and service provider contracts, 30 minutes each.

Burden Hours: 5,250.

Needs and Uses: This request is for extension of a currently approved information collection.

Under the Magnuson-Stevens Fishery Conservation and Management Act, the Secretary of Commerce (Secretary) has the responsibility for the conservation and management of marine fishery resources. Much of this responsibility has been delegated to the National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service (NMFS). Under this stewardship role, the Secretary was given certain regulatory authorities to ensure the most beneficial uses of these resources. One of the regulatory steps taken to carry out the conservation and management objectives is to collect data from users of the resource.

Regulations at 50 CFR 648.11(g) require observer service providers to comply with specific requirements in order to operate as an approved provider in the Atlantic sea scallop (scallop) fishery. Observer service providers must comply with the following requirements: Submit applications for approval as an observer service provider; formally request observer training by the Northeast Fisheries Observer Program (NEFOP); submit observer deployment reports and biological samples; give notification of whether a vessel must carry an observer within 24 hours of the vessel owner's notification of a prospective trip; maintain an updated contact list of all observers that includes the observer identification number; observer's name mailing address, email address, phone numbers, homeports or fisheries/trip types assigned, and whether or not the observer is ''in service.'' The regulations also require observer service providers submit any outreach materials, such as informational pamphlets, payment notification, and descriptions of observer duties as well as all contracts between the service provider and entities requiring observer services for review to NMFS/NEFOP. Observer service providers also have the option to respond to application denials, and submit a rebuttal in response to a pending removal from the list of approved observer providers. These requirements allow NMFS/NEFOP to effectively administer the scallop observer program.

Affected Public: Business and other for-profit organizations.

Frequency: Daily and on occasion.

Respondent's Obligation: Mandatory.

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.

Dated: August 25, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–18371 Filed 8–29–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

Notice of Availability of a Draft Programmatic Environmental; Assessment for the National Oceanic and Atmospheric, Administration National Data Buoy Center

AGENCY: National Weather Service (NWS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Request for public comments.

DATES: The Draft PEA is available for public review and comment for 30 days after posting. It can be accessed at *http://www.ndbc.noaa.gov/pea/ndbc_draft_pea.pdf.*

ADDRESSES: If you wish to comment on the Draft PEA, please send comments via email to Joe Swaykos, NDBC Chief Scientist, at *joe.swaykos@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Joe Swaykos, National Data Buoy Center, Bldg 3205, Stennis Space Center, MS 39529; phone (228) 688–4766; fax (228)688–1364; email *joe.swaykos@noaa.gov.*

SUPPLEMENTARY INFORMATION: The National Oceanic and Atmospheric Administration (NOAA) National Data Buoy Center (NDBC), a part of the National Weather Service (NWS), designs, develops, operates, and maintains a network of moored buoys and coastal stations throughout the world's oceans, seas, and lakes for the purpose of civil earth marine observations. NDBC has prepared a Programmatic Environmental Assessment (PEA) to analyze the continued operational activities of its network of moored buoys and coastal stations.

NDBC provides high quality ocean and coastal observations for public safety use in direct support of short range and extended range NWS forecasts, warnings, and watches. NDBC provides essential real-time oceanographic and meteorological observation data to stakeholders in key U.S. Economic Sectors, such as, Trade and Retail (*i.e.,* maritime transportation) and Commercial sectors (*i.e.,* energy, fishing, and agriculture). This valuable data provides users with up to the minute decision-making observations needed for safe commercial and marine recreation activities.

NDBC operates a network composed of four formal NOAA Observing Systems of Record: (1) Coastal Weather Buoys (CWB); (2) the land-based Coastal-Marine Automated Network (C–MAN); (3) Tropical Atmosphere Ocean Array (TAO) and (4) Deep-ocean Assessment and Reporting of Tsunamis (DART). Currently, NDBC's network consists of 200 buoys and 46 C–MAN stations that transmit observations and data (*i.e.,* wind speed and direction, barometric pressure, air temperature; sea surface temperatures, wave height and period, water currents, and conductivity) via satellite that are processed and quality-controlled, and then disseminated for public release in near real-time.

In-situ real-time oceanographic and meteorological observations are critical to a wide variety of users such as federal, state, academic, and private industry stakeholders. These observations add value to a diverse spectrum of civil use applications including severe and routine weather forecasting; improved coastal ocean circulation models; commercial and recreational marine transportation and fishing; and environmental monitoring and research. The societal benefits of ocean observations are interconnected at local, regional, national, and international scales. The *National Plan for Civil Earth Observations* and the *National Strategy for Sustained Network of Coastal Moorings* identify the Societal Benefit Areas (SBAs) supported by NDBC ocean observations. These SBAs include scientific research, economic activities, and environmental and social domains. Many involve critical government functions, such as the protection of life and property (NSTC 2014). The nine SBAs that are applicable to NDBC are: Climate; Coastal and Marine Hazards and Disasters; Ocean and Coastal Energy and Mineral Resources; Human Health; Ocean and Coastal Resources and Ecosystems; Marine Transportation; Water Resources; Coastal and Marine Weather; and Reference Measurements.

Ocean observations are an indispensable component to measure and monitor our progress towards addressing societal challenges. Among the diverse sources of ocean observations, data buoys provide unique and invaluable information to support critical government functions, such as the protection of life and property. NDBC data are accessed on a daily basis, by millions of national and international stakeholders and assimilated into a myriad products and services.

Dated: August 22, 2017.

David Holst,

Acting Chief Financial Officer/CAO, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2017–18415 Filed 8–29–17; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF457

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Central Bay Operations and Maintenance Facility Project

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

ACTION: Notice; Issuance of an Incidental Harassment Authorization.

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 San Francisco Water Emergency Transportation Authority (WETA) to incidentally harass, by Level A and Level B harassment, marine mammals during in-water construction activities associated with the Central Bay Operations and Maintenance Facility Project in Alameda, CA.

DATES: This Authorization is valid from August 1, 2017 through July 31, 2018.

FOR FURTHER INFORMATION CONTACT: Laura McCue, 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 online at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (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.

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 environmental consequences on the human environment.

This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review and signed a Categorical Exclusion memo in August 2017.

Summary of Request

On May 3, 2017, NMFS received a request from WETA for an IHA to take marine mammals incidental to pile driving and removal in association with the Central Bay Operations and Maintenance Facility Project (Project) in Alameda, California. WETA's request is for take of seven species by Level A and Level B harassment. Neither WETA nor NMFS expect mortality to result from this activity and, therefore, an IHA is appropriate.

This is the second year of a 2-year project. In-water work associated with the second year of construction is expected to be completed within 22 days. This proposed IHA is for the second phase of construction activities (August 1, 2017 through November 30, 2017). WETA received authorization for take of marine mammals incidental to these same activities for the first phase of construction in 2016 (80 FR 10060; February 25, 2015). In addition, similar construction and pile driving activities in San Francisco Bay have been authorized by NMFS in the past. These projects include construction activities at the San Francisco Ferry Terminal (81 FR 43993, July 6, 2016); Exploratorium (75 FR 66065, October 27, 2010); Pier 36 (77 FR 20361, April 4, 2012); and the San Francisco-Oakland Bay Bridge (71 FR 26750, May 8, 2006; 72 FR 25748, August 9, 2007; 74 FR 41684, August 18, 2009; 76 FR 7156, February 9, 2011; 78 FR 2371, January 11, 2013; 79 FR 2421, January 14, 2014; and 80 FR 43710, July 23, 2015). This IHA is valid from August 1, 2017, through July 31, 2018.

Description of the Specified Activity

Overview

WETA is constructing a Central Bay Operations and Maintenance Facility to serve as the central San Francisco Bay base for WETA's ferry fleet, Operations Control Center (OCC), and Emergency Operations Center (EOC). The Project will provide maintenance services such as fueling, engine oil changes, concession supply, and light repair work for WETA ferry boats operating in the central San Francisco Bay. In addition, the project will be the location for operational activities of WETA, including day-to-day management and oversight of services, crew, and facilities. In the event of a regional disaster, the facility will also function as an EOC, serving passengers and sustaining water transit service for emergency response and recovery. A detailed description of the planned construction project is provided in the **Federal Register** notice for the proposed IHA (82 FR 29486; June 29, 2017). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS's proposal to issue an IHA to WETA was published in the **Federal Register** on 82 FR 29486; June 29, 2017). That notice described, in detail, WETA'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 a letter from the Marine Mammal Commission and a group of private citizens. The Marine Mammal Commission noted they look forward to working with NMFS regarding rounding in take estimation.

Comment 1: The group of private citizens recommend reviewing the construction process to ensure the maximum number of pilings is installed each day.

Response: NMFS has reviewed the number of pilings that were proposed by WETA and while the goal is to install as many piles per day as possible, it was determined that the duration and number of piles were the most realistic scenario for this project. A total of 22 days of construction is expected, which NMFS considers to be short and will not have excessive impacts to marine mammals.

Comment 2: The group of private citizens recommend that NMFS conduct more primary research on TTS and PTS thresholds in marine mammals using a study design that NMFS finds appropriate.

Response: As required, NMFS used the best available science available when determining acoustic impacts to marine mammals from WETA's construction project. Any new research on marine mammal TTS and PTS thresholds will be considered in future authorizations.

Comment 3: The group of private citizens recommend that NMFS require enhanced and continued monitoring even after pier construction and into ferry operations and further recommend that NMFS encourage WETA to install a second floating platform for harbor seals.

Response: NMFS believes that the monitoring proposed by WETA is sufficient to not only document take, but to also increase our knowledge of the species during project activities. Additional research on harbor seal use of the haul out or associated harbor seal activities, or construction of a second is not required for the WETA Central Bay project.

Description of Marine Mammals in the Area of the Specified Activity

There are seven marine mammal species that may inhabit or may likely transit through the waters nearby the project area, and are expected to potentially be taken by the specified activity. These include the Pacific harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), northern elephant seal (*Mirounga angustirostris*), northern fur seal (*Callorhinus ursinus*), harbor porpoise (*Phocoena phocoena*), gray whale (*Eschrichtius robustus*), and bottlenose dolphin (*Tursiops truncatus*). Multiple additional marine mammal species may occasionally enter the activity area in San Francisco Bay but would not be expected to occur in shallow nearshore

waters of the action area. Guadalupe fur seals (*Arctocephalus philippii townsendi*) generally do not occur in San Francisco Bay, however, there have been recent sightings of this species due to an El Niño event. Only single individuals of this species have occasionally been sighted inside San Francisco Bay, and their presence near the action area is considered unlikely. No takes are requested for this species, and a shutdown zone will be in effect for this species if observed approaching the Level B harassment zone. Although it is possible that a humpback whale (*Megaptera novaeangliae*) may enter San Francisco Bay and find its way into the project area during construction activities, their occurrence is unlikely, since humpback whales very rarely enter the San Francisco Bay area. No takes are requested for this species, and a delay and shutdown procedure will be in effect for this species if observed approaching the Level B harassment zone.

Table 1 lists all species with expected potential for occurrence in San Francisco Bay near Alameda Point and summarizes information related to the population or stock, including potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2016). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality are included here as gross indicators of the status of the species and other threats.

A detailed description of the of the species likely to be affected by WETA's 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, were provided in the **Federal Register** notice for the proposed IHA (82 FR 29486; June 29, 2017); since that time, 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 that **Federal Register** notice for these descriptions. Please also refer to NMFS' Web site (*www.nmfs.noaa.gov/pr/species/mammals/*) for generalized species accounts.

Species that could potentially occur in the proposed survey areas, but are not expected to have reasonable potential to be harassed by in-water construction, include extralimital species, which are species that do not normally occur in a given area but for which there are one or more occurrence records that are considered beyond the normal range of the species (*e.g.,* humpback whales and Guadalupe fur seal). All other species in Table 1 may occur in the project area and we therefore have authorized take for them.

TABLE 1—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF ALAMEDA POINT

Species	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Relative occurrence in San Francisco Bay; season of occurrence
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)					
Family Phocoenidae (porpoises)					
Harbor porpoise (*Phocoena phocoena*).	San Francisco-Russian River.	-; N	9,886 (0.51; 6,625; 2011)	66	Common.
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)					
Family Delphinidae (dolphins)					
Bottlenose dolphin [4] (*Tursiops truncatus*).	California coastal	-; N	453 (0.06; 346; 2011)	2.4	Rare.
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)					
Family Eschrichtiidae					
Gray whale (*Eschrichtius robustus*).	Eastern N. Pacific	-; N	20,990 (0.05; 20,125; 2011)	624	Rare.
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)					
Family Balaenopteridae					
Humpback whale (*Megaptera novaeangliae*).	California/Oregon/Washington stock..	[5] T; S	1,918 (0.05; 1,876; 2014)	11	Unlikely.
Order Carnivora—Superfamily Pinnipedia					
Family Otariidae (eared seals and sea lions)					
California sea lion (*Zalophus californianus).*	U.S.	-; N	296,750 (n/a; 153,337; 2011).	9,200	Common.
Guadalupe fur seal [5] (*Arctocephalus philippii townsendi).*	Mexico to California	T; S	20,000 (n/a; 15,830; 2010) ..	91	Unlikely.

TABLE 1—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF ALAMEDA POINT—Continued

Species	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Relative occurrence in San Francisco Bay; season of occurrence
Northern fur seal (*Callorhinus ursinus*).	California stock	-;N	14,050 (n/a; 7,524; 2013)	451	Unlikely.
Family Phocidae (earless seals)					
Harbor seal (*Phoca vitulina*)	California	-; N	30,968 (n/a; 27,348; 2012) ..	1,641	Common; Year-round resident.
Northern elephant seal (*Mirounga angustirostris*).	California breeding stock	-; N	179,000 (n/a; 81,368; 2010)	4,882	Rare.

[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] 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.

[3] 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).

[4] Abundance estimates for these stocks are greater than eight years old and are, therefore, not considered current. PBR is considered undetermined for these stocks, as there is no current minimum abundance estimate for use in calculation. We nevertheless present the most recent abundance estimates and PBR values, as these represent the best available information for use in this document.

[5] The humpback whales considered under the MMPA to be part of this stock could be from any of three different DPSs. In CA, it would be expected to primarily be whales from the Mexico DPS but could also be whales from the Central America DPS.

Potential Effects of the Specified Activity on Marine Mammals and Their Habitat

The effects of underwater noise from WETA's pile driving and removal activities for the Central Bay Operations and Maintenance Project have the potential to result in behavioral harassment of marine mammals in the vicinity of the action area. The **Federal Register** notice for the proposed IHA (82 FR 29486; June 29, 2017) included a discussion of the effects of anthropogenic noise on marine mammals, therefore that information is not repeated here; please refer to that **Federal Register** notice for that information.

Estimated Take by Incidental Harassment

This section provides an estimate of the number of incidental takes authorized through this IHA, which informed 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 are by Level A and Level B harassment, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to vibratory and impact pile driving and removal, and potential permanent threshold shift (PTS) for harbor seals that may transit through the Level A zone to their haulout. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.,* bubble curtain, soft start, *etc.*—discussed in detail below in *Mitigation* section), Level A harassment is neither anticipated nor proposed to be authorized for all other species.

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

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

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

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2011). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 decibels (dB) re 1 microPascal (µPa) (root mean square

(rms)) for continuous (*e.g.,* vibratory pile-driving, drilling) and above 160 dB re 1 µPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

WETA's proposed activities include the use of continuous (vibratory pile driving) and impulsive (impact pile driving) sources, and therefore the 120 and 160 dB re 1 µPa (rms) are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Technical Guidance 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). WETA's proposed activity includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving) sources.

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—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-frequency cetaceans	*Cell 1:* Lpk,flat: 219 dB; LE,LF,24h: 183 dB	*Cell 2:* LE,LF,24h: 199 dB.
Mid-frequency cetaceans	*Cell 3:* Lpk,flat: 230 dB; LE,MF,24h: 185 dB	*Cell 4:* LE,MF,24h: 198 dB.
High-frequency cetaceans	*Cell 5:* Lpk,flat: 202 dB; LE,HF,24h: 155 dB	*Cell 6:* LE,HF,24h: 173 dB.
Phocid Pinnipeds (underwaters)	*Cell 7:* Lpk,flat: 218 dB; LE,PW,24h: 185 dB	*Cell 8:* LE,PW,24h: 201 dB.
Otariid Pinnipeds (underwater)	*Cell 9:* Lpk,flat: 232 dB; LE,OW,24h: 203 dB	*Cell 10:* LE,OW,24h: 219 dB.

[1] NMFS 2016.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds.

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

$TL = B * \log_{10}(R_1/R_2)$, where

R_1 = the distance of the modeled sound pressure level (SPL) from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement.

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20*log[range]). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10*log[range]). A practical spreading value of 15 is often used under conditions, such as at the Central Bay operations and maintenance facility, where water increases with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading loss (4.5 dB reduction in sound level for each doubling of distance) is assumed here.

Underwater Sound—The intensity of pile driving and removal sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. A number of studies, primarily on the west coast, have measured sound produced during underwater pile driving projects. These data are largely for impact driving of steel pipe piles and concrete piles as well as vibratory driving of steel pipe piles.

In order to determine reasonable source levels and their associated effects on marine mammals that are likely to result from vibratory or impact pile driving or removal at the Project area, we considered existing measurements from similar physical environments (*e.g.,* substrate of bay mud and water depths ranging from 14 to 38 feet).

Level A Isopleths (Table 3)

The values used to calculate distances at which sound would be expected to exceed the Level A thresholds for impact driving of and 36-inch (in) and 42-in piles include peak values of 210 dB and anticipated SELs for unattenuated impact pile-driving of 183 dB, and peak values of 203 dB and SEL values of 177 for 24-in piles (Caltrans 2015a). Bubble curtains will be used during the installation of these piles, which is expected to reduce noise levels by about 10 dB rms (Caltrans 2015a), which are the values used in Table 3. Vibratory driving source levels include 175 dB RMS for 42-in piles, 170 dB RMS for 36-in piles, 160 dB RMS for 24-in piles, and 150 dB RMS for 14-in H piles (Caltrans 2015a). The inputs for the user spreadsheet from NMFS' Guidance are as follows: For impact driving, 450 strikes per pile with 3 piles per day for 24-in piles, and 600 strikes per pile with 2 piles per day for 36-in and 42-in piles. The total duration for vibratory driving of 14-in, 24-in, 36-in, and 42-in piles were all approximately 10 minutes (0.166666, 0.1708333 hours, 0.16666 hours, and 0.177777 hours, respectively).

TABLE 3—EXPECTED PILE-DRIVING NOISE LEVELS AND DISTANCES OF LEVEL A THRESHOLD EXCEEDANCE WITH IMPACT AND VIBRATORY DRIVER

Project element requiring pile installation	Source levels at 10 meters (dB)			Distance to Level A threshold in meters				
	Peak	SEL	RMS	Phocids	Otariids	LF* cetaceans	MF* cetaceans	HF* cetaceans
42-in steel piles—Vibratory Driver	-	-	175	11.3	0.8	18.5	1.6	27.4
42-in steel piles—Impact Driver (BCA)[1]	200	173	-	130	9.5	243	8.6	289.4
36-in Steel Piles—Vibratory Driver	-	-	170	5	0.4	8.2	0.7	12.2
36-in Steel Piles—Impact Driver (BCA)[1]	200	173	.....	130	9.5	243	8.6	289.4
24-in Steel Piles—Vibratory Driver	-	-	160	1.1	0.1	1.8	0.2	2.7
24-in Steel Piles—Impact Driver (BCA)[1]	193	167	-	56	4.1	104.6	3.7	124.6
14-in H-piles—Vibratory Driver	-	-	150	0.2	0	0.4	0	0.6
14-in H-piles—Vibratory Extraction	-	-	150	0.2	0	0.4	0	0.6

*Low frequency (LF) cetaceans, Mid frequency (MF) cetaceans, High frequency (HF) cetaceans.
[1]Bubble curtain attenuation (BCA). A bubble curtain will be used for impact driving and is assumed to reduce the source level by 10 dB. Therefore, source levels were reduced by this amount for take calculations.

Level B Isopleths (Table 4)

Approximately 15 steel piles, 42-in in diameter, will be installed, with approximately 2 installed per day over 8 days. The source level for this pile size during impact driving came from the Caltrans summary table (Caltrans 2015a) for ''loudest'' values for 36 in piles at approximately 10 m depth.

Approximately 6 steel piles, 36-in in diameter, will be installed, with approximately 2 installed per day over 3 days. The source level for this pile size during impact driving came from the Caltrans summary table (Caltrans 2015a) for ''typical'' values for 36 in piles at approximately 10 m depth.

Approximately 8 steel piles, 24-in in diameter, will be installed, with approximately 3 installed per day over 3 days. The source level for this pile size during impact driving came from the Caltrans summary table (Caltrans 2015a) for 24 in piles at approximately 5 meter depth. The source level for this pile size during vibratory driving came from the Caltrans table for the Trinidad Pier Reconstruction project (Caltrans 2015a).

Approximately 20 14-in H piles (10 temporary and 10 permanent), with approximately 5 installed or removed per day over 8 days. The source level for this pile size during impact and vibratory driving came from the Caltrans summary table (Caltrans 2015a) for 10 in H piles.

Tables 3 and 4 show the expected underwater sound levels for pile driving activities and the estimated distances to the Level A (Table 3) and Level B (Table 4) thresholds.

When NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which will result in some degree of overestimate of Level A take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D-modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources (such as WETA's Project), NMFS User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS. Inputs used in the User Spreadsheet, and the resulting isopleths are reported below.

TABLE 4—EXPECTED PILE-DRIVING NOISE LEVELS AND DISTANCES OF LEVEL B THRESHOLD EXCEEDANCE WITH IMPACT AND VIBRATORY DRIVER

Project element requiring pile installation	Source levels at 10 m (dB rms)	Distance to Level B threshold, in meters	Area of potential Level B threshold exceedance in square kilometers)[1]
		160/120 dB RMS (Level B)[1]	
42-in steel piles—Vibratory Driver	175	46,416	12.97
42-in steel piles—Impact Driver (BCA)[1]	[2]183	341	0.27
36-in Steel Piles—Vibratory Driver	170	21,544	12.97
36-in Steel Piles—Impact Driver (BCA)[2]	[2]183	341	0.27
24-in Steel Piles—Vibratory Driver	160	4,642	4.92
24-in Steel Piles—Impact Driver (BCA)[2]	[2]180	215	0.13
14-in H Piles—Vibratory Driver	150	1,000	1.01
14-in H Piles—Vibratory Extraction	150	1,000	1.01

[1]For underwater noise, the Level B harassment (disturbance) threshold is 160 dB for impulsive noise and 120 dB for continuous noise.
[2]Bubble curtain attenuation (BCA). A bubble curtain will be used for impact driving and is expected to reduce the source level by 10 dB.

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.

At-sea densities for marine mammal species have been determined for harbor seals and California sea lions in San Francisco Bay based on marine mammal monitoring by Caltrans for the San Francisco-Oakland Bay Bridge Project from 2000 to 2015 (Caltrans 2016); all other estimates here are determined by using observational data taken during marine mammal monitoring associated with the Richmond-San Rafael Bridge retrofit project, the San Francisco-Oakland Bay Bridge (SFOBB), which has been ongoing for the past 15 years, and anecdotal observational reports from local entities.

Take Calculation and Estimation

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

All estimates are conservative and include the following assumptions:

- All pilings installed at each site would have an underwater noise disturbance equal to the piling that causes the greatest noise disturbance *(i.e.,* the piling farthest from shore) installed with the method that has the largest zone of influence (ZOI). The largest underwater disturbance (Level B) ZOI would be produced by vibratory driving steel piles; therefore take estimates were calculated using the vibratory pile-driving ZOIs. The ZOIs for each threshold are not spherical and are truncated by land masses on either side of the project area, which would dissipate sound pressure waves.
- Exposures were based on an estimated total of 22 work days. Each activity ranges in amount of days needed to be completed.
- In the absence of site specific underwater acoustic propagation modeling, the practical spreading loss model was used to determine the ZOI.
- All marine mammal individuals potentially available are assumed to be present within the relevant area, and thus incidentally taken;
- An individual can only be taken once during a 24-hour period; and,
- Exposures to sound levels at or above the relevant thresholds equate to take, as defined by the MMPA.

The estimation of marine mammal takes typically uses the following calculation:

For California sea lions: Level B exposure estimate = D (density) * Area of ensonification * Number of days of noise generating activities.

For harbor seals: Level B exposure estimate = ((D * area of ensonification) + 15) * number of days of noise generating activities.

For all other marine mammal species: Level B exposure estimate = N (number of animals) in the area * Number of days of noise generating activities.

To account for the increase in California sea lion density due to El Niño, the daily take estimated from the observed density has been increased by a factor of 10 for each day that pile driving or removal occurs.

There are a number of reasons why estimates of potential instances of take may be overestimates of the number of individuals taken, assuming that available density or abundance estimates and estimated ZOI areas are accurate. We assume, in the absence of information supporting a more refined conclusion, that the output of the calculation represents the number of individuals that may be taken by the specified activity. In fact, in the context of stationary activities such as pile driving and in areas where resident animals may be present, this number represents the number of instances of take that may accrue to a smaller number of individuals, with some number of animals being exposed more than once per individual. While pile driving and removal can occur any day throughout the in-water work window, and the analysis is conducted on a per day basis, only a fraction of that time (typically a matter of hours on any given day) is actually spent pile driving/removal. The potential effectiveness of mitigation measures in reducing the number of takes is typically not quantified in the take estimation process. For these reasons, these take estimates may be conservative, especially if each take is considered a separate individual animal, and especially for pinnipeds.

Description of Marine Mammals in the Area of the Specified Activity

Harbor Seals

Monitoring of marine mammals in the vicinity of the SFOBB has been ongoing for 15 years; from those data, Caltrans has produced at-sea density estimates for Pacific harbor seal of 0.83 animals per square kilometer for the fall season (Caltrans 2016). Since the construction of the new pier that is currently being used as a haul out for harbor seals, there are additional seals that need to be taken into account for the take calculation. The average number of seals that use the haulout at any given time is 15 animals; therefore, we would add an additional 15 seals per day. Using this density and the additional 15 animals per day, the potential average daily take for the areas over which the Level B harassment thresholds may be exceeded are estimated in Table 5.

TABLE 5—TAKE CALCULATION FOR HARBOR SEAL

Activity	Pile type	Density	Area (km^2)	Number of days of activity	Take estimate
Vibratory driving	36-in and 42-in steel pile	0.83 animal/km^2	12.97	3; 8	77; 206
Vibratory driving	24-in steel pile	0.83 animal/km^2	4.92	3	57
Vibratory driving and removal	14-in steel H piles	0.83 animal/km^2	1.01	8	127

A total of 467 harbor seal takes are estimated for 2017 (Table 7). Because seals may traverse the Level A zone when going to and from the haul out that is approximately 300 m from the project area, it would not be practicable to shutdown every time. Therefore 18 Level A takes are requested for this species by assuming 1.6 harbor seals per day over 11 days of impact driving of 36-in and 42-in piles may enter the zone (see the *Description of Marine Mammals in the Area of the Specified Activity* for information on seal occurrence per day). If the 18 Level A takes have been met, WETA will then shutdown for all harbor seals within the Level A zones (Table 8). There will be two marine mammal observers (MMO) monitoring the zone in the most advantageous locations to spot marine mammals to initiate a shutdown to avoid take by Level A harassment.

California Sea Lion

Monitoring of marine mammals in the vicinity of the SFOBB has been ongoing

for 15 years; from those data, Caltrans has produced at-sea density estimates for California sea lion of 0.09 animal per square kilometer for the post-breeding season (Caltrans 2016). Using this density, the potential average daily take for the areas over which the Level B harassment thresholds may be exceeded is estimated in Table 6.

TABLE 6—TAKE CALCULATION FOR CALIFORNIA SEA LION

Activity	Pile type	Density	Area (km^2)	Number of days of activity	Take estimate^
Vibratory driving	36-in and 42-in steel pile	0.09 animal/km^2	12.97	3; 8	35; 93
Vibratory driving	24-in steel pile	0.09 animal/km^2	4.92	3	13
Vibratory driving	14-in steel H piles	0.09 animal/km^2	1.01	8	7

* All California sea lion estimates were multiplied by 10 to account for the increased occurrence of this species due to El Niño.
^ Total take number is 149, not 148 because we round at the end, whereas here, it shows rounding per day.

All California sea lion estimates were multiplied by 10 to account for the increased occurrence of this species due to El Niño. A total of 149 California sea lion takes is estimated for 2017 (Table 7). Level A take is not expected for California sea lion based on area of ensonification and density of the animals in that area.

Northern Elephant Seal

Monitoring of marine mammals in the vicinity of the SFOBB has been ongoing for 15 years; from those data, Caltrans has produced an estimated at-sea density for northern elephant seal of 0.03 animal per square kilometer (Caltrans 2016). Most sightings of northern elephant seal in San Francisco Bay occur in spring or early summer, and are less likely to occur during the periods of in-water work for this project (June through November). As a result, densities during pile driving and removal for the proposed action would be much lower. Therefore, we estimate that it is possible that a lone northern elephant seal may enter the Level B harassment area once per week during pile driving or removal, for a total of 18 takes in 2017 (Table 7). Level A take of Northern elephant seal is not requested, nor is it authorized because although one animal may approach the large Level B zones, it is not expected that it will continue in the area of ensonification into the Level A zone. Further, if the animal does approach the Level A zone, construction will be shut down.

Northern Fur Seal

During the breeding season, the majority of the worldwide population is found on the Pribilof Islands in the southern Bering Sea, with the remaining animals spread throughout the North Pacific Ocean. On the coast of California, small breeding colonies are present at San Miguel Island off southern California, and the Farallon Islands off central California (Carretta *et al.,* 2014). Northern fur seal are a pelagic species and are rarely seen near the shore away from breeding areas. Juveniles of this species occasionally strand in San Francisco Bay, particularly during El Niño events, for example, during the 2006 El Niño event, 33 fur seals were admitted to the Marine Mammal Center (TMMC 2016). Some of these stranded animals were collected from shorelines in San Francisco Bay. Due to the recent El Niño event, northern fur seals were observed in San Francisco bay more frequently, as well as strandings all along the California coast and inside San Francisco Bay (TMMC, personal communication); a trend that may continue this summer through winter if El Niño conditions occur. Because sightings are normally rare; instances recently have been observed, but are not common, and based on estimates from local observations (TMMC, personal communication), it is estimated that ten northern fur seals will be taken in 2017 (Table 7). Level A take is not requested or authorized for this species.

Harbor Porpoise

In the last six decades, harbor porpoises were observed outside of San Francisco Bay. The few harbor porpoises that entered were not sighted past central Bay close to the Golden Gate Bridge. In recent years, however, there have been increasingly common observations of harbor porpoises in central, north, and south San Francisco Bay. Porpoise activity inside San Francisco Bay is thought to be related to foraging and mating behaviors (Keener 2011; Duffy 2015). According to observations by the Golden Gate Cetacean Research team as part of their multi-year assessment, over 100 porpoises may be seen at one time entering San Francisco Bay; and over 600 individual animals are documented in a photo-ID database. However, sightings are concentrated in the vicinity of the Golden Gate Bridge and Angel Island, north of the project area, with lesser numbers sighted south of Alcatraz and west of Treasure Island (Keener 2011). Harbor porpoise generally travel individually or in small groups of two or three (Sekiguchi 1995).

Monitoring of marine mammals in the vicinity of the SFOBB has been ongoing for 15 years; from those data, Caltrans has produced an estimated at-sea density for harbor porpoise of 0.021 animal per square kilometer (Caltrans 2016). However, this estimate would be an overestimate of what would actually be seen in the project area since it is a smaller area than the monitoring area of SFOBB. In order to estimate a more realistic take number, we assume it is possible that a small group of individuals (five harbor porpoises) may enter the Level B harassment area on as many as two days of pile driving or removal, for a total of ten harbor porpoise takes per year (Table 7). It is possible that harbor porpoise may enter the Level A harassment zone for high frequency cetaceans; however, 2 MMOs will be monitoring the area and WETA would implement a shutdown for the entire zone if a harbor porpoise (or any other marine mammal) approaches the Level A zone; therefore Level A take is not being requested, nor authorized for this species.

Gray Whale

Historically, gray whales were not common in San Francisco Bay. The Oceanic Society has tracked gray whale sightings since they began returning to San Francisco Bay regularly in the late 1990s. The Oceanic Society data show that all age classes of gray whales are entering San Francisco Bay, and that they enter as singles or in groups of up to five individuals. However, the data do not distinguish between sightings of gray whales and number of individual whales (Winning 2008). Caltrans Richmond-San Rafael Bridge project monitors recorded 12 living and two dead gray whales in the surveys performed in 2012. All sightings were in either the central or north Bay; and all but two sightings occurred during the

months of April and May. One gray whale was sighted in June, and one in October (the specific years were unreported). It is estimated that two to six gray whales enter San Francisco Bay in any given year. Because construction activities are only occurring during a maximum of 22 days in 2017, it is estimated that two gray whales may potentially enter the area during the construction period, for a total of 2 gray whale takes in 2017 (Table 7).

Bottlenose Dolphin

Since the 1982–83 El Niño, which increased water temperatures off California, bottlenose dolphins have been consistently sighted along the central California coast (Carretta *et al.,* 2008). The northern limit of their regular range is currently the Pacific coast off San Francisco and Marin County, and they occasionally enter San Francisco Bay, sometimes foraging for fish in Fort Point Cove, just east of the Golden Gate Bridge. Members of this stock are transient and make movements up and down the coast, and into some estuaries, throughout the year. Bottlenose dolphins are being observed in San Francisco bay more frequently in recent years (TMMC, personal communication). Groups with an average group size of five animals enter the bay and occur near Yerba Buena Island once per week for a two week stint and then depart the bay (TMMC, personal communication). Assuming groups of five individuals may enter San Francisco Bay approximately three times during the construction activities, and may enter the ensonified area once per week over the two-week stint, for a total of 30 takes of bottlenose dolphins. Additionally, in the summer of 2015, a lone bottlenose dolphin was seen swimming in the Oyster Point area of South San Francisco (GGCR 2016). We estimate that this lone bottlenose dolphin may be present in the project area each day of construction, an additional 22 takes. The 30 takes for a small group, and the 22 takes for the lone bottlenose dolphin equate to 52 bottlenose dolphin takes for 2017 (Table 7).

TABLE 7—CALCULATIONS FOR INCIDENTAL TAKE ESTIMATION

Pile type	Pile-driver type	Number of driving days	Estimated take by Level B harassment						
			Harbor seal	CA sea lion [1]	Northern elephant seal [2]	Harbor porpoise [2]	Gray whale [2]	Northern fur seal [2]	Bottlenose dolphin
42-in steel pile	Vibratory [3]	8	77	35	NA	NA	NA	NA	8
36-in steel	Vibratory [3]	3	206	93	NA	NA	NA	NA	3
24-in steel piles	Vibratory [3]	3	57	13	NA	NA	NA	NA	3
14-in steel H pile	Vibratory	8	127	7	NA	NA	NA	NA	8
Project Total (2017)		22	467	∧149	[2]18	[2]10	[2]2	[2]10	*52

[1] To account for potential El Niño conditions, take calculated from at-sea densities for California sea lion has been increased by a factor of 10.
[2] Take is not calculated by activity type for these species with a low potential to occur, only a yearly total is given.
[3] Piles of this type may also be installed with an impact hammer, which would reduce the estimated take.
* Total take includes an additional 30 takes to account for a transitory group of dolphins that may occur in the project area over the course of the project.
∧ Total take number is 149, not 148 because we round at the end, whereas here, it shows rounding per day.

Mitigation Measures

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 balance two primary factors:

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

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Measurements from similar pile driving events were coupled with practical spreading loss to estimate zones of influence (ZOI; see *Estimated Take by Incidental Harassment*); these values were used to develop mitigation measures for pile driving and removal activities at the Project area. The ZOIs effectively represent the mitigation zone that would be established around each pile to prevent Level A harassment to marine mammals, while providing estimates of the areas within which Level B harassment might occur. In addition to the specific measures described later in this section, WETA would conduct briefings between construction supervisors and crews, marine mammal monitoring team, and WETA staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

Monitoring and Shutdown for Construction Activities

The following measures would apply to WETA's mitigation through shutdown and disturbance zones:

Shutdown Zone—For all pile driving activities, WETA will establish a shutdown zone intended to contain the area in which SPLs equal or exceed the auditory injury criteria for cetaceans and pinnipeds. The purpose of a shutdown zone is to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area), thus

preventing injury of marine mammals (as described previously under *Potential Effects of the Specified Activity on Marine Mammals,* serious injury or death are unlikely outcomes even in the absence of mitigation measures). Modeled radial distances for shutdown zones are shown in Table 8. However, a minimum shutdown zone of 30 meters will be established during all pile driving activities, regardless of the estimated zone.

TABLE 8—SHUTDOWN ZONES FOR IMPACT AND VIBRATORY PILE DRIVING

Hearing group	Impact pile driving shutdown distance (meters)	Vibratory pile driving shutdown distance (meters)
Phocid (Harbor seal) [1]	[1] 30	30
Phocid (Northern elephant seal)	130	30
Otariids and MFC *	30	30
LFC and HFC *	300	30

[1] A minimum shut down zone of 30 meters is established for Pacific harbor seal, in the event that all Level A take authorized for this species is used (18), an exclusion zone of 130 meters for 42- and 36-in piles, and an exclusion zone of 60 meters for 24-in piles will be used for the remainder of impact pile driving.

* MFC = Mid-frequency cetacean, LFC = Low-frequency cetacean, HFC = High-frequency cetacean.

Disturbance Zone—Disturbance zones are the areas in which SPLs equal or exceed 160 and 120 dB rms (for impulse and continuous sound, respectively). Disturbance zones provide utility for monitoring conducted for mitigation purposes (*i.e.,* shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown zone and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting instances of Level B harassment; disturbance zone monitoring is discussed in greater detail later (see *Monitoring and Reporting*). Nominal radial distances for disturbance zones are shown in Table 4.

Given the size of the disturbance zone for vibratory pile driving, it is impossible to guarantee that all animals would be observed or to make comprehensive observations of fine-scale behavioral reactions to sound, and only a portion of the zone (*e.g.,* what may be reasonably observed by visual observers stationed within the bay) would be observed. In order to document observed instances of harassment, monitors record all marine mammal observations, regardless of location. The observer's location, as well as the location of the pile being driven, is known from a GPS. The location of the animal is estimated as a distance from the observer, which is then compared to the location from the pile. It may then be estimated whether the animal was exposed to sound levels constituting incidental harassment on the basis of predicted distances to relevant thresholds in post-processing of observational and acoustic data, and a precise accounting of observed incidences of harassment created. This information may then be used to extrapolate observed takes to reach an approximate understanding of actual total takes.

Monitoring Protocols—Monitoring would be conducted before, during, and after pile driving and vibratory removal activities. In addition, observers shall record all instances of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven. Observations made outside the shutdown zone will not result in shutdown; that pile segment would be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile driving activities would be halted. Monitoring will take place from 30 minutes prior to initiation through thirty minutes post-completion of pile driving and removal activities. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes. Please see the Monitoring Plan (*www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*), developed by WETA in agreement with NMFS, for full details of the monitoring protocols.

The following additional measures apply to visual monitoring:

(1) Monitoring will be conducted by qualified observers, who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. A minimum of two observers will be required for all pile driving/removal activities. MMO requirements for construction actions are as follows:

(a) Independent observers (*i.e.,* not construction personnel) are required;

(b) At least one observer must have prior experience working as an observer;

(c) Other observers (that do not have prior experience) may substitute education (undergraduate degree in biological science or related field) or training for experience;

(d) Where a team of three or more observers are required, one observer should be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer; and

(e) NMFS will require submission and approval of observer CVs.

(2) Qualified MMOs are trained biologists, and need the following additional minimum qualifications:

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

(b) Ability to conduct field observations and collect data according to assigned protocols;

(c) Experience or training in the field identification of marine mammals, including the identification of behaviors;

(d) Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

(e) Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from

construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and

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

(3) Prior to the start of pile driving activity, the shutdown zone will be monitored for thirty minutes to ensure that it is clear of marine mammals. Pile driving will only commence once observers have declared the shutdown zone clear of marine mammals; animals will be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition) and their behavior will be monitored and documented. The shutdown zone may only be declared clear, and pile driving started, when the entire shutdown zone is visible (*i.e.,* when not obscured by dark, rain, fog, *etc.*). In addition, if such conditions should arise during impact pile driving that is already underway, the activity would be halted.

(4) If a marine mammal approaches or enters the shutdown zone during the course of pile driving operations, activity will be halted and delayed until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of small cetaceans and pinnipeds, and thirty minutes for gray whales. Monitoring will be conducted throughout the time required to drive a pile.

(5) Using delay and shut-down procedures, if a species for which authorization has not been granted (including but not limited to Guadalupe fur seals and humpback whales) or if a species for which authorization has been granted but the authorized takes are met, approaches or is observed within the Level B harassment zone, activities will shut down immediately and not restart until the animals have been confirmed to have left the area.

Soft Start

The use of a soft start procedure is believed to provide additional protection to marine mammals by warning or providing a chance to leave the area prior to the hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer at reduced energy followed by a waiting period. This procedure is repeated two additional times. It is difficult to specify the reduction in energy for any given hammer because of variation across drivers and, for impact hammers, the actual number of strikes at reduced energy will vary because operating the hammer at less than full power results in ''bouncing'' of the hammer as it strikes the pile, resulting in multiple ''strikes.'' For impact driving, we require an initial set of three strikes from the impact hammer at reduced energy, followed by a 30-second waiting period, then 2 subsequent 3-strike sets. Soft start will be required at the beginning of each day's impact pile driving work and at any time following a cessation of impact pile driving of 30 minutes or longer.

Sound Attenuation Devices

Two types of sound attenuation devices will be used during impact pile-driving: Bubble curtains and pile cushions. WETA will employ the use of a bubble curtain during impact pile-driving, which is assumed to reduce the source level by 10 dB. WETA will also employ the use of 12-in-thick wood cushion block on impact hammers to attenuate underwater sound levels.

We have carefully evaluated WETA's planned mitigation measures and considered their effectiveness in past implementation to determine whether they are likely to effect the least practicable impact on the affected marine mammal species and stocks and their habitat.

Any mitigation measure(s) we prescribe should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal);

(2) A reduction in the number (total number or number at biologically important time or location) of individual marine mammals exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only);

(3) A reduction in the number (total number or number at biologically important time or location) of times any individual marine mammal would be exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only);

(4) A reduction in the intensity of exposure to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing the severity of behavioral harassment only);

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying particular attention to the prey base, blockage or limitation of passage to or from biologically important areas, permanent destruction of habitat, or temporary disturbance of habitat during a biologically important time; and

(6) For monitoring directly related to mitigation, an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of WETA's planned measures, as well as any other potential measures considered by NMFS, NMFS has determined that the planned mitigation measures provide the means of effecting the least practicable impact on marine mammal 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 action area. Effective reporting is critical to both compliance and 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 in action area (*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) population, species, or stock;
- 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.

WETA's monitoring and reporting is also described in their Marine Mammal Monitoring Plan, online at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

Visual Marine Mammal Observations

WETA will collect sighting data and behavioral responses to construction for marine mammal species observed in the region of activity during the period of activity. All MMOs will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. A minimum of two MMOs will be required for all pile driving/removal activities. WETA will monitor the shutdown zone and disturbance zone before, during, and after pile driving, with observers located at the best practicable vantage points. Based on our requirements, WETA will implement the following procedures for pile driving and removal:

- MMOs will be located at the best vantage point(s) in order to properly see the entire shutdown zone and as much of the disturbance zone as possible;
- During all observation periods, observers will use binoculars and the naked eye to search continuously for marine mammals;
- If the shutdown zones are obscured by fog or poor lighting conditions, pile driving at that location will not be initiated until that zone is visible. Should such conditions arise while impact driving is underway, the activity would be halted; and
- The shutdown and disturbance zones around the pile will be monitored for the presence of marine mammals before, during, and after any pile driving or removal activity.

Individuals implementing the monitoring protocol will assess its effectiveness using an adaptive approach. The monitoring biologists will use their best professional judgment throughout implementation and seek improvements to these methods when deemed appropriate. Any modifications to protocol will be coordinated between NMFS and WETA.

In addition, the MMO(s) will survey the potential Level A and nearby Level B harassment zones (areas within approximately 2,000 feet of the pile-driving area observable from the shore) on 2 separate days—no earlier than 7 days before the first day of construction—to establish baseline observations. Special attention will be given to the harbor seal haul-out sites in proximity to the project (*i.e.,* the harbor seal platform and Breakwater Island). Monitoring will be timed to occur during various tides (preferably low and high tides) during daylight hours from locations that provide the best vantage point available, including the pier, breakwater, and adjacent docks within the harbor. The information collected from baseline monitoring will be used for comparison with results of monitoring during pile-driving activities.

Data Collection

We require that observers use approved data forms. Among other pieces of information, WETA will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, WETA will attempt to distinguish between the number of individual animals taken and the number of incidences of take. We require that, at a minimum, the following information be collected on the sighting forms:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (*e.g.,* percent cover, visibility);
- Water conditions (*e.g.,* sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel, and if possible, the correlation to SPLs;
- Distance from pile driving or removal activities to marine mammals and distance from the marine mammals to the observation point;
- Description of implementation of mitigation measures (*e.g.,* shutdown or delay);
- Locations of all marine mammal observations; and
- Other human activity in the area.

Hydroacousting Monitoring

The monitoring will be done in accordance with the methodology outlined in this Hydroacoustic Monitoring Plan (see Appendix B of WETA's application for more information on this Plan, including the methodology, equipment, and reporting information). The monitoring is based on dual metric criteria that will include the following:

- Establish the distance to the 206-dB peak sound pressure criteria;
- Verify the extent of Level A harassment zones for marine mammals;
- Verify the attenuation provided by bubble curtains; and
- Provide all monitoring data to NMFS. The reports will be submitted bi-weekly, unless WETA proposes to modify the zones based on the hydroacoustic measurement, in which case WETA would report those data before zone modification. The reports would include the following information:

1. Size and type of piles;
2. A detailed description of the noise attenuation device, including design specifications;
3. The impact hammer energy rating used to drive the piles, and the make and model of the hammer and the output energy;
4. The physical characteristics of the bottom substrate into which the piles were driven;
5. The depth of water in which the pile was driven;
6. The depth into the substrate that the pile was driven;
7. A description of the sound monitoring equipment;
8. The distance between hydrophones and pile;
9. The depth of the hydrophones and depth of water at hydrophone locations;
10. The distance from the pile to the water's edge;
11. The total number of strikes to drive each pile and for all piles driven during a 24-hour period;
12. The results of the hydroacoustic monitoring, as described under Signal Processing;
13. The distance at which peak, cumulative SEL, and RMS values exceed the respective threshold values;
14. The 30 second average for the duration of each pile;
15. The spectra graphs for each pile type; and
16. A description of any observable fish, marine mammal, or bird behavior in the immediate area and, if possible, correlation to underwater sound levels occurring at that time.

A minimum of five piles of each size and type of piles to be impact driven will be monitored, including five of the 36-in-diameter donut piles, five of the 42-in-diameter guide piles; and five of the 24-in-diameter dolphin piles; and two piles of the 42-in steel piles and 14-

in H piles to be vibratory driven will be monitored. Piles chosen to be monitored will be representative of the different sizes and range of typical water depths at the project location where piles will be driven with an impact or vibratory hammer.

One hydrophone will be placed at mid-water depth at the nearest distance, approximately 10 meters, from each pile being monitored. An additional hydrophone will be placed at mid-water depth at a distance of 20 to 50 meters from the pile to provide two sound-level readings during ambient and pile driving conditions. A third hydrophone may be deployed at a greater distance (*e.g.,* 100 meters or further) for the purpose of better defining the long-distance sound propagation. Underwater sound levels will be continuously monitored during the entire duration of each pile being driven. The peak, rms (impulse level), and SEL level of each strike will be monitored in real time. The cSEL will also be monitored live, assuming no contamination from other noise sources. Sound levels will be measured in dB re: 1 μPa. For more details on the methodology of WETA's hydroacoustic monitoring, please see Appendix B of their application.

Reporting

A draft report will be submitted to NMFS within 90 days of the completion of marine mammal monitoring, or 60 days prior to the requested date of issuance of any future IHA for projects at the same location, whichever comes first. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving and removal days, and will also provide descriptions of any behavioral responses to construction activities by marine mammals and a complete description of all mitigation shutdowns and the results of those actions and an extrapolated total take estimate based on the number of marine mammals observed during the course of construction. A final report must be submitted within 30 days following resolution of comments on the draft report.

Negligible Impact Analysis and Determinations

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).

Pile driving and removal activities associated with the facility construction project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level A and Level B harassment (PTS and behavioral disturbance, respectively), from underwater sounds generated from pile driving and removal. Potential takes could occur if individuals of these species are present in the ensonified zone when pile driving and removal occurs.

No injury, serious injury, or mortality is anticipated given the nature of the activities and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the construction method and the implementation of the planned mitigation measures. Specifically, vibratory hammers will be the primary method of installation (impact driving is included only as a contingency). Impact pile driving produces short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks. If impact driving is necessary, implementation of soft start and shutdown zones significantly reduces any possibility of injury. Given sufficient ''notice'' through use of soft start (for impact driving), marine mammals are expected to move away from a sound source that is annoying prior to it becoming potentially injurious. WETA will also employ the use of 12-in-thick wood cushion block on impact hammers, and a bubble curtain as sound attenuation devices. Environmental conditions at Alameda Point mean that marine mammal detection ability by trained observers is high, enabling a high rate of success in implementation of shutdowns to avoid injury.

WETA's planned activities are localized and of relatively short duration (a maximum of 22 days for pile driving and removal). The entire project area is limited to the Central Bay operations and maintenance facility area and its immediate surroundings. These localized and short-term noise exposures may cause short-term behavioral modifications in harbor seals, northern fur seals, northern elephant seals, California sea lions, harbor porpoises, bottlenose dolphins, and gray whales. Moreover, the mitigation and monitoring measures are expected to reduce the likelihood of injury and behavior exposures. Additionally, no important feeding and/or reproductive areas for marine mammals are known to be within the ensonified area during the construction time frame.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat. The project activities would not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range. However, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff 2006; Lerma 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected

individuals, and thus would not result in any adverse impact to the stock as a whole. For harbor seals that may transit through the ensonified area to get to their haul out located approximately 300 m from the project area, Level A harassment may occur. However, harbor seals are not expected to be in the injurious ensonified area for long periods of time; therefore, the potential for those seals to actually have PTS is considered unlikely and any PTS they may incur would likely be of a low level.

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 or serious injury is anticipated or authorized;
- Level B harassment may consist of, at worst, temporary modifications in behavior (*e.g.,* temporary avoidance of habitat or changes in behavior);
- Mitigation is expected to minimize the likelihood and severity of the level of harassment;
- The lack of important feeding, pupping, or other areas in the action area; and
- The small percentage of the stock that may be affected by project activities (<11.479 percent for all species).

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from WETA's construction activities 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.

Table 9 details the number of instances that animals could be exposed to received noise levels that could cause Level A and Level B behavioral harassment for the proposed work at the project site relative to the total stock abundance. The numbers of animals authorized to be taken for all species would be considered small relative to the relevant stocks or populations even if each estimated instance of take occurred to a new individual—an extremely unlikely scenario. The total percent of the population (if each instance was a separate individual) for which take is requested is approximately 1.56 percent for harbor seals, approximately 11 percent for bottlenose dolphins, and less than 1 percent for all other species (Table 9). For pinnipeds, especially harbor seals occurring in the vicinity of the project area, there will almost certainly be some overlap in individuals present day-to-day, and the number of individuals taken is expected to be notably lower.

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.

TABLE 9—ESTIMATED NUMBERS AND PERCENTAGE OF STOCK THAT TAKEN

Species	Authorized Level B takes	Authorized Level A takes	Stock(s) abundance estimate [1]	Percentage of total stock
Harbor Seal (*Phoca vitulina*) *California stock*	467	18	30,968	1.56
California sea lion (*Zalophus californianus*) *U.S. Stock*	149	0	296,750	0.05
Northern elephant seal (*Mirounga angustirostris*) *California breeding stock*	18	0	179,000	0.010
Northern fur seal (*Callorhinus ursinus*) *California stock*	10	0	14,050	0.071
Harbor Porpoise (*Phocoena phocoena*) *San Francisco-Russian River Stock*	10	0	9,886	0.101
Gray whale (*Eschrichtius robustus*) *Eastern North Pacific stock*	2	0	20,990	0.009
Bottlenose dolphin (*Tursiops truncatus) California coastal stock*	52	0	453	11.479

[1] All stock abundance estimates presented here are from the 2015 Pacific Stock Assessment Report.

Unmitigable Adverse Impact Analysis and Determination

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

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the West Coast regional Protected Resources Division Office, whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed marine mammal species is authorized or expected to result from these activities. 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 WETA for the potential harassment of small numbers of seven species of marine mammals incidental to the Central Bay Operations and Maintenance Facility Project in Alameda, CA, provided the previously mentioned mitigation, monitoring, and reporting.

Dated: August 24, 2017.

Donna Wieting,

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

[FR Doc. 2017–18349 Filed 8–25–17; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF540

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Biorka Island Dock Replacement Project

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 the Federal Aviation Administration (FAA) for authorization to take marine mammals incidental to construction activities as part of its Biorka Island Dock Replacement Project. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting public comment on its proposal to issue an incidental harassment authorization (IHA) to the FAA to incidentally take marine mammals, by Level A and Level B harassment, during the specified activity. 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 September 29, 2017.

ADDRESSES: Comments on this proposal 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.mccue@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *www.nmfs.noaa.gov/pr/permits/incidental/construction.html* 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: Laura McCue, 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 online at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (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 Incidental Take Authorization (ITA) 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.

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 (NEPA) 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 environmental consequences on the human environment.

This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

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

Summary of Request

On March 31, 2017, NMFS received a request from the FAA for an IHA to take marine mammals incidental to pile driving and removal and down the hole (DTH) drilling in association with the Biorka Island Dock Replacement Project (Project) in Symonds Bay, Alaska. The FAA's request is for take of five species by Level A and Level B harassment. Neither the FAA nor NMFS expect mortality to result from this activity and, therefore, an IHA is appropriate.

In-water work associated with the in-water construction is expected to be completed within 70 days. This proposed IHA is for the 2018 construction window (May 1, 2018 through September 30, 2018). This IHA would be valid from May 1, 2018, through April 30, 2019.

Description of the Specified Activity

Overview

The FAA is constructing a replacement dock on Biorka Island in

Symonds Bay near Sitka, Alaska. The purpose of the Project is to improve and maintain the sole point of access to Biorka Island and the navigational and weather facilities located on the Island. The existing dock is deteriorated and has reached the end of its useful life. Regular and repetitive heavy surging seas, along with constant use have destroyed the face of the existing floating marine dock, and have broken cleats making it difficult to tie a vessel to the existing dock. In its present condition, small vessels cannot use the dock to provide supplies to facilities on the Island. The existing barge landing area is reinforced seasonally by adding fill to the landing at the shoreline, which is periodically washed away by storms and wave action. The Project would reconstruct the deteriorated existing dock and construct an improved barge landing area.

Dates and Duration

The total Project is expected to require a maximum of 70 days of in-water construction activities. In-water activities are limited to occurring between May 1 and September 30 of any year to minimize impacts to special-status and commercially and biologically important fish species. This proposed authorization would be effective from May 1, 2018 through April 30, 2019.

Specific Geographic Region

The Project is located approximately 15 miles (24 kilometers (km)) southwest of Sitka on the northern shore of Biorka Island on land owned by the FAA (see Figure 1–1 of the FAA's application). Biorka Island is the most westerly and largest of the Necker Island group on the west coast of Baranof Island.

Symonds Bay is approximately 0.4 miles wide (east to west direction). Water depths are less than 66 feet (ft) within 1,300 ft of the dock (see Figure 1–2 of the FAA's application). The outer dolphin (see Figure 1–4 of the application) would be located in about 20 ft of water at mean high water. This is the deepest water depth for all piles and, as a precautionary measure, was used as the water depth input for acoustic modeling described later in this document.

On shore at the Project site, bedrock is exposed in many places. The overburden varies from zero to about 15 ft deep and consists of highly fractured weathered bedrock and includes seams of very soft rock or soil. Due to the fractures and seams, it is possible to drive piles into this top layer ''Category 1 intensely fractured bedrock.'' Beneath the top layer, the rock becomes more intact ''Category II intensely to moderately fractured bedrock.'' The seabed composition is important in this Project because it determines the pile-driving methods needed to achieve the required pile penetration.

Detailed Description of Activities

The Project consists of removing the existing dock and associated infrastructure and constructing a new, modern structure to provide continued safe access to Biorka Island facilities. The existing dock is a T-shaped, pile-supported structure consisting of a 170-ft long by 16-ft wide approach trestle with a 51-ft wide by 35-ft long end section. The existing infrastructure also includes a 30-ft by 32-ft floating dock that is accessed by a 5-ft wide by 50-ft long steel gangway, a small 10-ft by 10-ft pre-fabricated building, and an electric hydraulic pedestal crane.

A total of 46 existing piles would be removed (Table 1). The steel and timber piles would be pulled out of the substrate directly with a crane and sling, by using a vibratory hammer, or with a clamshell bucket. The three concrete piles that are located above the high tide were cast in place. The concrete piles are set in bedrock and will be removed at low tide using standard excavation equipment. Therefore, removal of these piles will not produce underwater noise. The construction contractor would determine the exact method for concrete pile removal.

The existing deck and other associated infrastructure would also be disassembled and removed. The existing 4-ton pedestal crane would be salvaged for relocation on the new dock. As necessary, portions of the existing rubble mound/breakwater would be removed to provide enough clearance for construction and then replaced once the dock has been constructed.

TABLE 1—EXISTING PILES TO BE REMOVED

Pile type	Quantity	Size (in)
Concrete	3	24
Steel	14	8
	8	10
	14	12.75
Timber	7	14 [1]
Total	46	

[1] tapering to 8.

Facilities for the new dock consist of three main structures: A barge landing platform, a dock/trestle, and two dolphin fenders located near the dock outer corners (Figure 1–4 of the FAA's application). For these structures, temporary piles would be installed to form a scaffold system (*i.e.,* a template) that permits the permanent piles to be aligned and controlled. With the exception of the temporary piles, which are driven exclusively by vibratory pile driving, the installation of all permanent piles requires a combination of pile driving methods.

Construction of the new dock would begin with the erection of a temporary template. The construction contractor would determine the specific type and size of template piles based on site conditions and availability of materials. The template piles would be driven into the overburden by vibratory hammer and removed after the permanent piles are installed. Table 2 shows the anticipated number of template piles for the Project.

The new trestle approach would be up to 25-ft wide. An 80-ft aluminum gangway connecting to a 15-ft wide by 32-ft long small craft berthing float would also be constructed (see Figure 1–4 of the FAA's application). The face of the dock would be approximately 54-ft long and 35-ft wide. Similar to the trestle, steel pipe pilings would support a precast concrete deck. Two berthing dolphin fenders would be installed, one at each end section of the new dock. These dolphins each consist of one 30-in diameter plumb pile and two 18-in diameter batter piles. Some piles would require internal tension anchors for increased support. A wave barrier, consisting of Z-sheet piles in between steel H piles, would be installed at the face of the dock. Pile counts, sizes, and other details are shown in Table 2.

All permanent pipe piles would be installed using a combination of vibratory and impact hammering methods to drive the pile into the overburden. Pipe piles would then be drilled and socketed into the underlying bedrock using DTH hammering/drilling techniques. DTH equipment breaks up the rock below the pile while simultaneously installing the pile through rock formation. The pile is then set/confirmed with a few strikes of an impact hammer. Sheet piles would be driven into the overburden and set into the top layer of bedrock using a combination of vibratory and impact hammering.

Certain piles would require internal tension anchors. Up to eight of the dock piles and all six piles for the dolphins would require these internal tension anchors. Each pile with a tension anchor would first be drilled, socketed into bedrock, and proof driven with an impact hammer as described above for permanent piles. Then a separate smaller drill would be used to complete

an approximately 5-in diameter hole extending about 30- to 40-ft into bedrock below the tip of the pile. A steel bar would be grouted into this hole. Once the grout sets, a jack would be applied to the top of the bar and the tensioned rod would be locked off to plates at the top of the pile.

The wave barrier consisting of steel H piles with Z sheets in between is located at the face of the dock. The H piles and Z sheets would be initially driven through overlying sediment with a vibratory hammer, and set into the bedrock with an impact hammer. The wave barrier sheet piling would be driven either singly or in preassembled pairs.

The current barge landing is located northwest of the existing dock and is comprised of gravel and cobbles with no formal structure. The uplands area on the west end of the trestle would be slightly graded into the existing terrestrial approach. The existing barge landing would be upgraded to a 30-ft by 90-ft precast concrete plank landing placed over fill, with a perimeter constructed of concrete, sheet piles, and 18-in steel piles (see Table 2). Similar to the wave barrier, the sequence for installing the permanent barge ramp pipe piles would begin with advancement through overlying sediment with a vibratory hammer, followed by use of an impact hammer to drive the piles into bedrock.

TABLE 2—TEMPORARY AND PERMANENT PILE DETAILS

Component	Stage	Type	Quantity	Size
Dock [1] [2]	Template [3]	Steel H or pipe	60	12 in.
	Permanent	Steel pipe	43	18 in.
Wave Barrier	Permanent	Sheet	32	NZ 26.
	Permanent	Steel H	16	W40 x 199.
Dolphin Fenders [4]	Template [3]	Steel H or pipe	4	12 in.
	Permanent	Steel pipe	4	18 in.
	Permanent	Steel pipe	2	30 in.
Barge Landing	Template [3]	Steel H or pipe	20	12 in.
	Permanent	Steel pipe	35	18 in.
	Permanent	Sheet	34	NZ 26.
Total	Template [3]		84	
	Permanent		166	

[1] Includes piles for the approach, end section, platform, and floating dock.
[2] Number of piles for dock is based on 25-ft approach trestle width.
[3] Noise from installation and removal of the template piles is considered in the analysis, therefore template pile count equates to two times 84 or 168 but the actual number of piles to be installed is 84. Template piles were assumed to be 12-in. diameter for modeling.
[4] For two dolphin fender systems.

Vibratory hammers are commonly used in steel pile driving or removal where sediments allow. Generally, the pile is placed into position using a choker and crane, and then vibrated between 1,200 and 2,400 vibrations per minute. The vibrations liquefy the sediment surrounding the pile allowing it to penetrate to the required seating depth, or to be removed.

Impact hammers are used to install plastic/steel core, wood, concrete, or steel piles. An impact hammer is a steel device that works like a piston. The pile is first moved into position and set in the proper location using a choker cable or vibratory hammer. The impact hammer is held in place by a guide (lead) that aligns the hammer with the pile. A heavy piston moves up and down, striking the top of the pile and driving it into the substrate. Once the pile is set in place, pile installation with an impact hammer can take less than 15 minutes under good substrate conditions. However, under poor conditions, such as glacial till and bedrock or exceptionally loose material, piles can take longer to set.

The DTH drill/hammer acts on a shoe at the bottom of the pile and uses a pulsing mechanism to break up rock below the pile while simultaneously installing the pile through the rock formation. Rotating bit wings extend below the pile and remove the broken rock fragments as the pile advances. The pulsing sounds produced by the DTH hydro-hammer method reduces sound attenuation because the noise is primarily contained within the steel pile and below ground rather than impact hammer driving methods which occur at the top of the pile (R&M 2016). Therefore, the pulsing sounds produced by this method are considered less harmful than those produced by impact hammer driving. Table 3 provides a summary of the six methods of construction (''scenarios'') used in the modeling of the zone of influence (ZOI)s for the Biorka Project.

TABLE 3—PILE DRIVING MODELING SCENARIOS FOR THE BIORKA PROJECT

Scenario	Description	Piles installed per day	Vibratory		DTH		Impact		Shift (hr)
			Hours per pile	Total hours per day	Hours per pile	Total ours per day	Hours per pile	Total strikes per day	
S1	Removal of existing piles and installation/removal of temporary piles.	21	0.33	6.93	NA [1]		NA		6.93
S2	Installation of 18-inch pipe piles (dock and dolphin)	3		0.99	2	6	0.17	15	7.49
S3	Installation of 18-inch pipe piles (barge landing)	4		1.32	NA		0.33	2720	2.65

TABLE 3—PILE DRIVING MODELING SCENARIOS FOR THE BIORKA PROJECT—Continued

Scenario	Description	Piles installed per day	Vibratory		DTH		Impact		Shift (hr)
			Hours per pile	Total hours per day	Hours per pile	Total ours per day	Hours per pile	Total strikes per day	
S4	Installation of 30-inch pipe piles (dolphins)	2	.....	0.66	2	4	0.17	10	4.99
S5	Installation of H piles (dock wave barrier)	8	.....	2.64	NA		0.33	5440	5.31
S6	Installation of sheet piles (dock wave barrier and barge landing).	12	.....	3.96	NA		0.25	6120	6.96

[1] NA indicates when a pile driving method was not required in a given scenario.

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 the Specified Activity

There are five marine mammal species that may likely transit through the waters nearby the Project area, and are expected to potentially be taken by the specified activity. These include the Steller sea lion (*Eumetopias jubatus*), harbor seal (*Phoca vitulina*), harbor porpoise (*Phocoena phocoena*), killer whale (*Orcinus orca*), and humpback whale (*Megaptera noviaeangliae*). Multiple additional marine mammal species may occasionally enter Sitka sound but would not be expected to occur in shallow nearshore waters of the action area.

Sections 3 and 4 of the FAA's application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SAR; *www.nmfs.noaa.gov/pr/sars/*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's Web site (*www.nmfs.noaa.gov/pr/species/mammals/*).

Table 4 lists all species with expected potential for occurrence in Symonds Bay and Sitka Sound and summarizes information related to the population or stock, including potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2016). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality are included here as gross indicators of the status of the species and other threats.

Species that could potentially occur in the proposed survey areas, but are not expected to have reasonable potential to be harassed by in-water construction, are described briefly but omitted from further analysis. These include extralimital species, which are species that do not normally occur in a given area but for which there are one or more occurrence records that are considered beyond the normal range of the species. Gray whales are observed in and outside of Sitka Sound during their northward spring migration; however, they occur generally north and west of the Project area in outer shelf waters of Sitka Sound near Kruzof Island during the construction window. Dall's porpoise are observed in mid- to outer-shelf coastal waters of Sitka Sound ranging to the Gulf of Alaska and are not expected to occur in the Project area during the construction window. Pacific white-sided dolphins occur in the outer-shelf slope in the Gulf of Alaska, which is outside of the Project area. During the construction window, they are considered rare in Sitka Sound. Sperm whales generally occur in deeper waters in the Gulf of Alaska, which is outside of the Project area. We do not anticipate gray whales, Dall's porpoise, Pacific white-sided dolphins, or sperm whales to be affected by Project activities; therefore, we do not discuss these species further. For status of species, we provide information regarding U.S. regulatory status under the MMPA and Endangered Species Act (ESA).

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 area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Pacific SARs (Muto *et al.,* 2017). All values presented in Table 4 are the most recent available at the time of publication and are available in the 2016 SARs (Muto *et al.,* 2017).

TABLE 4—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF BIORKA ISLAND

Species	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Annual M/SI [4]	Relative occurrence in Symonds Bay and Sitka Sound; season of occurrence
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Phocoenidae (porpoises)						
Harbor porpoise (*Phocoena phocoena*).	Southeast Alaska	-; Y	11,146 (0.242; n/a; 1997).	Undet.	34	Common.

TABLE 4—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF BIORKA ISLAND—Continued

Species	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Annual M/SI [4]	Relative occurrence in Symonds Bay and Sitka Sound; season of occurrence
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae (dolphins)						
Killer whale (*Orcinus orca*).	Eastern North Pacific Gulf of Alaska, Aleutian Island, and Bering Sea Transient.	-; N	587 (n/a; 587; 2012)	0	0	Infrequent.
	West Coast Transient ...	-; N	243 (n/a; 243; 2009)	2.4	0	
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenopteridae						
Humpback whale [5] (*Megaptera novaeangliae*).	Central North Pacific stock.	-; Y	10,103 (0.300; 7,890; 2006).	83	24	Likely.
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions)						
Steller sea lion (*Eumetopias jubatus).*	Western	E; Y	49,497 (n/a; 49,497; 2014).	297	236	Common.
	Eastern	-; N	60,131 (n/a; 36,551; 2013).	1,645	108	
Family Phocidae (earless seals)						
Harbor seal (*Phoca vitulina*).	Sitka/Chatham	-; N	14,855 (n/a; 13,212; 2011).	155	77	Common.

[1] Endangered Species Act (ESA) status: Yes (Y), No (N), Endangered (E), Threatened (T)/Marine Mammal Protection Act (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] 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.

[3] 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).

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

[5] The humpback whales considered under the MMPA to be part of this stock could be from any of two different DPSs. In Alaska, it would be expected to primarily be whales from the Hawaii DPS but could also be whales from Mexico DPS.

Below, for those species that are likely to be taken by the activities described, we offer a brief introduction to the species and relevant stock. We also provide information regarding population trends and threats, and describe any information regarding local occurrence.

In Southeast Alaska, marine mammal distributions and seasonal increases in their abundance are strongly influenced by seasonal pre-spawning and spawning aggregations of forage fish, particularly Pacific herring (*Clupea pallasii*), eulachon (*Thaleichthys pacificus*) and Pacific salmon (*Onchorynchus spp.*) (Marston *et al.,* 2002, Sigler *et al.,* 2004, Womble *et al.,* 2005; USACE 2013). All five species of salmon are found in Sitka Sound and are preyed upon by Steller sea lions, harbor seals, and killer whales. However, there are no salmon spawning streams in the vicinity of the Project or presence of eulachon or herring during the construction time period that would tend to aggregate foraging marine mammals.

Herring are the keystone species in Southeast Alaska, especially Sitka Sound, serving as a vital link between lower trophic levels, including crustaceans and small fish, and higher trophic levels (NMFS 2014a). Foraging studies of Steller sea lions suggest that during their non-breeding season, they forage on seasonally densely aggregated prey (Sinclair and Zepplin 2002). In southeast Alaska, Pacific herring typically spawn from March to May and attract large numbers of predators (Marston *et al.,* 2002, Womble 2003). The relationship between humpback whales and Steller sea lions and these ephemeral fish runs is so strong in Sitka Sound that the seasonal abundance and distribution of marine mammals reflects the distribution of pre-spawning and spawning herring, and overwintering aggregations of adult herring in Sitka Sound. The largest aggregations of several species of marine mammals in the Action Area target Pacific herring during spring and again in late fall through the winter. Pacific herring are largely absent from Sitka Sound and the Action Area from May, following spawning season, until at least October,

prior to adult overwintering in Sitka Sound (NMFS 2014a).

Steller Sea Lion

Steller sea lions are divided in to two distinct population segments (DPSs): The western DPS (wDPS) and the eastern DPS (eDPS). The wDPS is listed as endangered under the ESA. The wDPS breeds on rookeries located west of 144° W. in Alaska and Russia, whereas the eDPS breeds on rookeries in southeast Alaska through California. The majority of Steller sea lions are part of the non-listed eDPS. The best available information indicates the eDPS has increased at a rate of 4.18 percent per year between 1979 and 2010 (Allen and Angliss 2014). Steller sea lions range from the North Pacific Rim from northern Japan to California, with centers of abundance located in the Gulf of Alaska and Aleutian Islands. Large numbers of individuals disperse widely outside of the breeding season (late May to early July), thus potentially intermixing with animals from other areas to access seasonally important prey resources (Allen and Angliss 2014). The distinction between western and eastern DPS individuals cannot be confirmed unless an animal has been marked, and since guidance on how to otherwise distinguish between the two DPSs is not available, for this IHA it is assumed that 50 percent of the Steller sea lions observed in the Project area are from each DPS.

Critical habitat for Steller sea lions includes designated haulouts within the range of the eDPS, and all marine waters within 20 nautical miles of rookeries and haulouts within the breeding range of the wDPS and within three special aquatic foraging areas in Alaska (NMFS 1993). In identifying aquatic habitats as part of critical habitat, NMFS specifically highlighted several components of such habitats: Nearshore waters around rookeries and haulouts; traditional rafting sites; food resources; and foraging habitats. Adequate food resources are an essential feature of the Steller sea lion's aquatic habitat (NMFS 1993). The closest haulout/rookery to the Project area that has been designated as a Steller sea lion critical habitat is listed as ''Biorka Island'' in the critical habitat descriptions. However, the haulout is actually on Kaiuchali Island, a three-acre rocky islet located slightly less than one mile southwest of Biorka Island, outside of the ZOI for this project.

This species occurs in coastal and nearshore habitats of Sitka Sound, and forage on herring and salmon throughout the Sound. Both DPSs occur in the Project area on a year-round basis. Kaiuchali Island is used as a sea lion rookery in spring-summer and as a haulout during the non-breeding seasons (Fritz *et al.* 2016). Based on results of recent aerial surveys, there has been an increase of sea lions that use Kaiuchali Island during both the breeding and non-breeding seasons. In June 2013, Fritz *et al.,* (2016) documented 22 individuals, none of which were pups. In June 2015, the same study recorded 77 Steller sea lions, including one pup. This limited information shows an increase in the numbers of animals at this location and indicates that the site has become a recently-established eDPS rookery.

The breeding season for Steller sea lions does not overlap with proposed summer construction activity at the Project site, and the location of the rookery at Kaiuchali Island is outside the Project area, opposite Biorka Island. The late fall and overwintering aggregation of adult herring results in hundreds of animals using Kaiuchali Island as a haulout during this period; however, the construction period for the proposed Project would not overlap with the overwintering aggregations of sea lions. Steller sea lions are present in Sitka Sound in very low numbers over the summer months when construction is planned, during the interval between herring spawning and the return of adult herring to Sitka Sound. Prey availability for Steller sea lions in Sitka Sound is limited during this period as compared to other seasons, and they are generally only observed by the whale watch industry as individuals or in small groups of three to five animals. During this period, sea lions tend to forage in the vicinity of recreational and commercial fishing vessels, or scavenge in very shallow waters near the Sitka town docks when the vessels return from fishing.

Harbor Seal

Harbor seals inhabit coastal and estuarine waters off Alaska. Harbor seals in Southeast Alaska are considered non-migratory with local movements attributed to factors such as prey availability, weather, and reproduction. In 2010, NMFS identified 12 stocks of harbor seals in Alaska based on genetic structure (Allen and Angliss 2015). The Sitka/Chatham (S/C) stock is genetically distinct and believed to be year-round residents of the region. Although generally solitary in the water, harbor seals congregate at haulouts to rest, socialize, breed, and molt. Habitats used as haul-out sites include tidal rocks, bayflats, sandbars, and sandy beaches (Zeiner *et al.*, 1990).

Harbor seals are opportunistic feeders that forage on fish and invertebrates and often adjust their distribution to take advantage of locally and seasonally abundant prey. Aggregations of adult herring during spring pre-spawning and spawning runs, and again from October throughout the winter, are a very important seasonal prey species for harbor seals in Sitka Sound. The minimum count of harbor seals within Sitka Sound during the 2011 aerial survey was approximately 900 individuals occupying 25 haulout locations (unpublished data from MML dataset). The largest count of seals in Sitka Sound (n = 745) during the 2011 survey occurred at several adjacent rocky outcroppings and islands (Vitskari Rocks, Vitskari Island and Low Island) located approximately 15 miles (24 km) north of the Project site in northcentral Sitka Sound inside Kruzof Island. This is outside of the Project Area. Prey species moving into Sitka Sound from the Gulf of Alaska move past these islands so pinnipeds aggregate at these rocks to forage. There are six haul-out locations identified in the extreme southern portion of the Sitka Sound, and potentially in the Project Area, including rocky outcroppings near Biorka Island, where seals have been observed in low numbers. Prey resources inside Symonds Bay are limited, particularly when compared to the northern coastal areas of Sitka Sound. While individual seals may occur in Symonds Bay, it is unlikely that seals would be attracted to Symonds Bay to forage. While their occurrence in the Action Area is possible, it is infrequent to uncommon and only small numbers of approximately five animals per day are expected to potentially be in the Project area during the construction window.

Harbor Porpoise

In the Pacific, harbor porpoise are found in coastal and inland waters from Point Conception, California to Alaska and across to Kamchatka and Japan (Gaskin 1984). Harbor porpoise appear to have more restricted movements along the western coast of the continental U.S. than along the eastern coast. In the Gulf of Alaska and Southeast Alaska they are observed most frequently in waters less than 350 ft (107 m) deep (Dahlheim *et al.*, 2009). There are three harbor porpoise stocks in Alaska: The Bering Sea Stock; the Southeast Alaska Stock; and the Gulf of Alaska Stock (Angliss and Allen 2015). Only the Southeast Alaska stock occurs in the Project area. The mean group size of harbor porpoise in Southeast Alaska

is estimated at two to three individuals (Dahlheim *et al.*, 2009).

This species can be found in Sitka Sound throughout the year but individuals are infrequently observed during the summer months by the whale watching industry. Harbor porpoise are infrequently observed in nearshore Sitka Sound areas in summer by hikers on the coastal trails that parallel the coastline near Sitka. At times throughout the year, they likely forage exclusively on herring and may be more abundant when herring are present. During surveys for seabirds, marine mammals and forage fish conducted in Sitka Sound during July 2000, relatively few marine mammals were observed during this period. However, one harbor porpoise was observed in coastal/shelf waters of northeast Sitka Sound (Piatt and Dragoo 2005).

Killer Whale

Killer whales are found throughout the North Pacific. Along the west coast of North America, killer whales occur along the entire Alaskan coast, in British Columbia and Washington inland waterways, and along the outer coasts of Washington, Oregon, and California (Allen and Angliss 2014). Seasonal and year-round occurrence has been documented for killer whales throughout Alaska and in the intra-coastal waterways of British Columbia and Washington State.

Killer whales that are observed in Southeast Alaska could belong to one of three different stocks: Eastern North Pacific Northern Resident Stock (Northern residents); Gulf of Alaska, Aleutian Islands, and Bering Sea Transient Stock (Gulf of Alaska transients); or West Coast Transient Stock. The Gulf of Alaska Transient Stock occupies a range that includes southeastern Alaska. Resident killer whales do not occur in Sitka Sound. However, transient killer whales from either the Gulf of Alaska transient group or West Coast Transient Stock have been observed in the sound. These whales are observed infrequently during summer months with five to six sightings noted throughout the summer by the whale-watching industry. Dahlheim *et al.* (2009) found that transient killer whale mean group size ranged from four to six individuals in Southeast Alaska. Generally, transient killer whales follow movements of, and prey on, Steller sea lions and harbor seals. Killer whales have been observed in the waters outside of Sitka Sound near the haulouts at Kaiuchali Island and outside of Kruzof Island when sea lions are present. This behavioral distribution is characteristic of killer whales and consistent with killer whale sightings around other Steller sea lion haul-out locations in southeast Alaska (Dahlheim *et al.*, 2009). Given the low numbers of Steller sea lions in Sitka Sound during summer, it is consistent that transient killer whales would be considered infrequent to uncommon in the Project area during these months.

Humpback Whale

Humpback whales were listed as endangered under the ESA in 1970. As a result of the ESA listing, the central North Pacific Stock of humpback whale was also designated as depleted under the MMPA. The humpback whale is also considered a strategic stock under the MMPA. NMFS proposed a revised species-wide listing of the humpback whale in 2015 and a revision to the status of humpback whale DPSs was finalized by NMFS on September 8, 2016 (NMFS 2016b), effective October 11, 2016. In the final decision, NMFS recognized the existence of 14 DPSs, classified four of those as endangered and one as threatened, and determined that the remaining nine DPSs do not warrant protection under the ESA. Three DPSs of humpback whales occur in waters off the coast of Alaska: The endangered Western North Pacific (WNP) DPS, the threatened Mexico DPS, and the Hawaii DPS, which is not listed under the ESA. Humpback whales in Southeast Alaska are most likely to be from the Hawaii DPS (93.9 percent probability) (Wade *et al.*, 2016).

The humpback whales of Southeast Alaska and Northern British Columbia form a genetically discrete feeding aggregation and return to specific feeding locations in southeast Alaska including Sitka Sound. Humpback whale seasonal distribution varies from infrequent (very low in number during summer), to common (very abundant during late fall through spring). Humpback whales are most abundant in Sitka Sound from late fall through April when they forage on large densities of herring (Liddle *et al.,* 2015a). The seasonal increase in whale abundance corresponds to increases in Pacific herring biomass during pre-spawning, spawning and overwintering periods (Liddle *et al.,* 2015b). Whales feed on large schools of adult, over-wintering herring throughout winter, and on pre-spawning and spawning aggregations of herring in spring. Sitka Sound is believed to be a last feeding stop for humpback whales as they migrate to winter breeding and calving waters in Hawaii. During winter months, groups of 30 to 40 humpback whales have been observed by the whale watching industry from the coastline of Sitka Sound. However, humpback whales stagger their departure from the feeding grounds, suggesting they also stagger their return. This could create the impression that whales had been present throughout the entire winter in the sound when it is unlikely that any individual whale remains in Sitka Sound throughout the entire winter (Heintz *et al.,* 2010). The abundance of humpbacks in Sitka Sound changes by several orders of magnitude from one season to another in response to dense schools of herring in the sound (Liddle *et al.,* 2015b). They are generally present in large numbers from late fall-early winter through mid- to late-spring, but are infrequent to uncommon during the mid-summer months when herring are absent. During mid-summer, tour boat operators generally observe four to five whales per day near rocky islets in the middle of Sitka Sound.

Potential Effects of the Specified Activity on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity (*e.g.,* sound produced by pile driving and removal) may impact marine mammals and their habitat. The *Estimated Take by Incidental Harassment* section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The *Negligible Impact Analysis* section will consider the content of this section, the *Estimated Take by Incidental Harassment* section and the *Proposed Mitigation* section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Description of Sound Sources

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks of a sound wave; lower frequency sounds have longer wavelengths than higher frequency sounds. Amplitude is the height of the sound pressure wave or the 'loudness' of a sound and is typically measured using the decibel (dB) scale. A dB is the ratio between a measured pressure (with sound) and a reference pressure (sound at a constant pressure, established by scientific standards). It is a logarithmic unit that accounts for large

variations in amplitude; therefore, relatively small changes in dB ratings correspond to large changes in sound pressure. When referring to sound pressure levels (SPLs; the sound force per unit area), sound is referenced in the context of underwater sound pressure to 1 microPascal (µPa). One pascal is the pressure resulting from a force of one newton exerted over an area of one square meter. The source level (SL) represents the sound level at a distance of 1 m from the source (referenced to 1 µPa). The received level is the sound level at the listener's position. Note that all underwater sound levels in this document are referenced to a pressure of 1 µPa and all airborne sound levels in this document are referenced to a pressure of 20 µPa.

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

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

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

- *Wind and waves:* The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient noise for frequencies between 200 Hz and 50 kilohertz (kHz) (Mitson 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Surf noise becomes important near shore, with measurements collected at a distance of 8.5 km from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions.
- *Precipitation:* Sound from rain and hail impacting the water surface can become an important component of total noise at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times.
- *Biological:* Marine mammals can contribute significantly to ambient noise levels, as can some fish and shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz.
- *Anthropogenic:* Sources of ambient noise related to human activity include transportation (surface vessels and aircraft), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Shipping noise typically dominates the total ambient noise for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly (Richardson *et al.,* 1995). Sound from identifiable anthropogenic sources other than the activity of interest (*e.g.,* a passing vessel) is sometimes termed background sound, as opposed to ambient sound.

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

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

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

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI 1995; NIOSH 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems (such as those used by the U.S. Navy). The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Impact hammers operate by repeatedly dropping a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper 2005). Vibratory hammers install piles

by vibrating them and allowing the weight of the hammer to push them into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak SPLs may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.,* 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (Nedwell and Edwards 2002; Carlson *et al.,* 2005).

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals, and exposure to sound can have deleterious effects. To appropriately assess these potential effects, 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 measured or estimated hearing ranges on the basis of available behavioral data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. The lower and/or upper frequencies for some of these functional hearing groups have been modified from those designated by Southall *et al.* (2007). The marine mammal hearing groups and the associated frequencies are indicated below in Table 5 (note that these frequency ranges do not necessarily correspond to the range of best hearing, which varies by species).

TABLE 5—MARINE MAMMAL HEARING GROUPS AND THEIR GENERALIZED HEARING RANGE

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales).	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales).	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* and *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals).	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals).	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.,* 2007) and PW pinniped (approximation).

As mentioned previously in this document, five marine mammal species (three cetaceans and two pinnipeds) may occur in the Project area. Of these three cetaceans, one is classified as a low-frequency cetacean (*i.e.* humpback whale), one is classified as a mid-frequency cetacean (*i.e.,* killer whale), and one is classified as a high-frequency cetacean (*i.e.,* harbor porpoise) (Southall *et al.,* 2007). Additionally, harbor seals are classified as members of the phocid pinnipeds in water functional hearing group, while Steller sea lions are grouped under the Otariid pinnipeds in water functional hearing group. A species' functional hearing group is a consideration when we analyze the effects of exposure to sound on marine mammals.

Acoustic Impacts

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

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

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

When PTS occurs, there is physical damage to the sound receptors in the ear (*i.e.,* tissue damage), whereas TTS represents primarily tissue fatigue and is reversible (Southall *et al.,* 2007). In

addition, other investigators have suggested that TTS is within the normal bounds of physiological variability and tolerance and does not represent physical injury (*e.g.,* Ward 1997). Therefore, NMFS does not consider TTS to constitute auditory injury.

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

Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (*e.g.,* change in dive profile as a result of an avoidance reaction) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007; Zimmer and Tyack 2007). The FAA's activities do not involve the use of devices such as explosives or mid-frequency active sonar that are associated with these types of effects.

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

1. *Temporary threshold shift*—TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals.

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

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin (*Tursiops truncatus*), beluga whale (*Delphinapterus leucas*), harbor porpoise, and Yangtze finless porpoise (*Neophocoena asiaeorientalis*)) and three species of pinnipeds (northern elephant seal, harbor seal, and California sea lion) exposed to a limited number of sound sources (*i.e.,* mostly tones and octave-band noise) in laboratory settings (*e.g.,* Finneran *et al.,* 2002; Nachtigall *et al.,* 2004; Kastak *et al.,* 2005; Lucke *et al.,* 2009; Popov *et al.,* 2011). In general, harbor seals (Kastak *et al.,* 2005; Kastelein *et al.,* 2012a) and harbor porpoises (Lucke *et al.,* 2009; Kastelein *et al.,* 2012b) have a lower TTS onset than other measured pinniped or cetacean species. Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. There are no data available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007) and Finneran and Jenkins (2012).

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

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a ''progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,'' rather than as, more generally, moderation in response to human disturbance (Bejder *et al.,* 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC 2003; Wartzok *et al.,* 2003). Controlled experiments with captive

marine mammals have showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud-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, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart 2007; NRC 2005). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

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

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

Variations in respiration naturally 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 (*Eubalaena glacialis*) have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.,* 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 (*Eschrictius robustus*) 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.

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

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

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

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

4. *Auditory masking*—Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.,* 1995). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is man-made, it may be considered harassment when disrupting or altering critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.,* Clark *et al.,* 2009) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.,* Miller *et al.,* 2000; Foote *et al.,* 2004; Parks *et al.,* 2007b; Di Iorio and Clark 2009; Holt *et al.,* 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.,* 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore 2014). Masking can be tested directly in captive species (*e.g.,* Erbe 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.,* Branstetter *et al.,* 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (*e.g.,* from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

Acoustic Effects, Underwater

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

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

Hearing Impairment and Other Physical Effects—Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shifts. PTS constitutes injury, but TTS does not (Southall *et al.,* 2007). Based on the best scientific information available, the SPLs for the construction activities in this Project are below the thresholds that could cause TTS or the onset of PTS (Table 6).

Non-auditory Physiological Effects—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007). Studies examining such effects are limited. In general, little is known about the potential for pile driving or removal to cause auditory impairment or other physical effects in marine mammals. Available data suggest that such effects, if they occur at all, would presumably be limited to short distances from the sound source and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of pile driving, including some odontocetes and some pinnipeds, are especially unlikely to incur auditory impairment or non-auditory physical effects.

Disturbance Reactions

Responses to continuous sound, such as vibratory pile installation, have not been documented as well as responses to pulsed sounds. With both types of pile driving, it is likely that the onset of pile driving could result in temporary, short term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include (Richardson *et al.,* 1995): Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haul-outs or rookeries). Pinnipeds may increase their haul-out time, possibly to avoid in-water disturbance (Thorson and Reyff 2006). If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals, and if so potentially on the stock or species, could potentially be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart 2007).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, or reproduction. Significant behavioral modifications that could potentially lead to effects on growth, survival, or reproduction include:

- Drastic changes in diving/surfacing patterns (such as those thought to cause beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Longer-term habitat abandonment due to loss of desirable acoustic environment; and
- Longer-term cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.,* 2007).

Auditory Masking

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

vibratory pile driving resulting from this proposed action may mask acoustic signals important to the behavior and survival of marine mammal species, but the short-term duration and limited affected area would result in insignificant impacts from masking. Any masking event that could possibly rise to Level B harassment under the MMPA would occur concurrently within the zones of behavioral harassment already estimated for DTH drilling and vibratory and impact pile driving, and which have already been taken into account in the exposure analysis.

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

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

Anticipated Effects on Habitat

The proposed activities at the Project area would not result in permanent negative impacts to habitats used directly by marine mammals, but may have potential short-term impacts to food sources such as forage fish and may affect acoustic habitat (see masking discussion above). There are no known foraging hotspots or other ocean bottom structure of significant biological importance to marine mammals present in the marine waters of the Project area during the construction window. Therefore, the main impact issue associated with the proposed activity would be temporarily elevated sound levels and the associated direct effects on marine mammals, as discussed previously in this document. The primary potential acoustic impacts to marine mammal habitat are associated with elevated sound levels produced by vibratory and impact pile driving and removal and DTH drilling in the area. However, other potential impacts to the surrounding habitat from physical disturbance are also possible.

In-Water Construction Effects on Potential Prey (Fish)

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

The most likely impact to fish from pile driving and drilling activities at the Project area would be temporary behavioral avoidance of the area. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. In general, impacts to marine mammal prey species are expected to be minor and temporary due to the short timeframe for the Project.

Pile Driving Effects on Potential Foraging Habitat

The area likely impacted by the Project is relatively small compared to the available habitat in Sitka Sound (*e.g.,* most of the impacted area is limited to inside Symonds Bay, and some scenarios include a ZOI that extends several km into Sitka Sound (see the FAA's application)). Avoidance by potential prey (*i.e.,* fish) of the immediate area due to the temporary loss of this foraging habitat is also possible. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity in Sitka Sound.

The duration of the construction activities is relatively short. The construction window is for a maximum of 70 days and each day, construction activities would only occur for a few hours during the day. Impacts to habitat and prey are expected to be minimal based on the short duration of activities.

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

Estimated Take by Incidental Harassment

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

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

not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level A and Level B harassment, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to vibratory and impact pile driving and removal and DTH drilling, and potential PTS for animals that may transit through the Level A zones undetected. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.,* soft start, ramp-up, etc.—discussed in detail below in *Proposed Mitigation* section), Level A harassment is not anticipated; however, a small number of takes by Level A harassment are proposed to be authorized for all species as a precaution if animals go undetected before a shutdown is in place.

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) 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.

The estimation of marine mammal takes typically uses the following calculation since site-specific density is unavailable:

Level B exposure estimate = N (number of animals) in the area * Number of days of noise generating activities.

Acoustic Thresholds

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

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2011). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 µPa (rms) for continuous (*e.g.,* vibratory pile-driving, drilling) and above 160 dB re 1 µPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

The FAA's proposed activities include the use of continuous (vibratory pile driving and DTH drilling) and impulsive (impact pile driving) sources, and therefore the 120 and 160 dB re 1 µPa (rms) are applicable.

Level A harassment for non-explosive sources—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 FAA's proposed activity includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving and DTH drilling) sources.

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 6—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-frequency cetaceans	*Cell 1*, Lpk,flat: 219 dB,LE,LF,24h: 183 dB	*Cell 2*, LE,LF,24h: 199 dB.
Mid-frequency cetaceans	*Cell 3*, Lpk,flat: 230 dB,LE,MF,24h: 185 dB	*Cell 4*, LE,MF,24h: 198 dB.
High-frequency cetaceans	*Cell 5*, Lpk,flat: 202 dB,LE,HF,24h: 155 dB	*Cell 6*, LE,HF,24h: 173 dB.
Phocid Pinnipeds (underwaters)	*Cell 7*, Lpk,flat: 218 dB,LE,PW,24h: 185 dB	*Cell 8*, LE,PW,24h: 201 dB.
Otariid Pinnipeds (underwater)	*Cell 9*, Lpk,flat: 232 dB,LE,OW,24h: 203 dB	*Cell 10*, LE,OW,24h: 219 dB.

* NMFS 2016.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds.

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

$$TL = B * \log_{10}(R_1/R_2),$$

where:

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement.

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the

water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20 * log[range]). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10 * log[range]). A practical spreading value of 15 is often used under conditions, such as at the Biorka Island dock, where water increases with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading loss (4.5 dB reduction in sound level for each doubling of distance) is assumed here.

Underwater Sound—The intensity of pile driving and removal sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. A number of studies, primarily on the west coast, have measured sound produced during underwater pile driving projects. These data are largely for impact driving of steel pipe piles and concrete piles as well as vibratory driving of steel pipe piles.

JASCO Applied Sciences (JASCO) conducted acoustic modeling of pile installation and removal activities planned for the Project, which is included as Appendix A of the FAA's application. To assess potential underwater noise exposure of marine mammals during construction activities, Quijano and Austin (2017) determined source levels for six different construction scenarios (see Table 3). The source levels are frequency-dependent and suitable for modeling underwater acoustic propagation using JASCO's Marine Operations Noise Model (MONM). The modeling predicted the extent of ensonification and the acoustic footprint from construction activities, taking into account the effects of pile driving equipment, bathymetry, sound speed profile, and seabed geoacoustic parameters. Auditory weighting was applied to the modeled sound fields to estimate received levels relative to hearing sensitivities of five marine mammal hearing groups following NMFS 2016 guidance.

The results are based on currently adopted sound level thresholds for auditory injury (Level A) expressed as peak pressure level (PK) and 24-hr sound exposure level (SEL), and behavioral disturbance (Level B) expressed as sound pressure level (SPL). Using these guidelines, Quijano and Austin (2017) calculated the maximum extent (distance and ensonified areas) of the Level A and Level B exposure zones for each marine mammal functional hearing group. This was calculated for both impact and vibratory pile driving of 18- and 30-in piles for each of the following six Project scenarios.

The model required as input, source sound levels in ⅓-octave bands between 10 Hz and 25 kHz. Source levels for sheet pile and H pile installation were obtained from literature, but the available measurements did not cover the full frequency spectrum of interest; data for vibratory installation of sheet and H piles were available to maximum frequencies of 4 kHz and 10 kHz, respectively. Modeling of the six construction scenarios at the Project site on Biorka Island followed three steps:

1. Piles driven into the sediment by impact, vibratory, or downhole drilling were characterized as sound-radiating sources. Source levels in ⅓-octave-bands were obtained by modeling or by adjusting source levels found in the literature. The exact method to obtain the ⅓-octave-band levels depends on the pile geometry and pile driving equipment, and it is described on a case-by-case basis (see Appendix A);

2. Underwater sound propagation was applied to predict how sound propagates from the pile into the water column as a function of range, depth, and azimuthal direction. Propagation depends on several conditions including the frequency content of the sound, the bathymetry, the sound speed in the water column, and sediment geoacoustics; and

3. The propagated sound field was used to compute received levels over a grid of simulated receivers, from which distances to criteria thresholds and maps of ensonified areas were generated.

Modeled results are presented as tables of distances at which SPLs or SELs fell below thresholds defined by criteria. For marine mammal injury, the Level A thresholds considered here follow the NMFS guidelines (NMFS 2016). A detailed description of the modeling process is provided in Appendix A of the FAA's IHA application.

Table 7. Modeled Distances to Level A and Level B Exposure Thresholds from Vibratory and Impulsive Sources Modeled Distances to Exposure Thresholds for Non-Impulsive Sources.

			Distance to Level A Threshold (m)[1]											
			S1[2]		S2		S3		S4		S5		S6	
Functional Hearing Group	Level A Vibratory Threshold (dB re1 µPa²·s)	Level A Impulse Threshold (dB re1 µPa²·s)	Vibratory	Impulse	Vibratory	Impulse	Vibratory	Impulse	Vibratory	Impulse	Vibratory	Impulse	Vibratory	Impulse
LFC[3]	199	183	10	NA	350	30	10	630	260	80	-	670	40	1,360
MFC[4]	198	185	-	NA	10	-	-	10	10	-	-	130	<10	220
HFC[5]	173	155	-	NA	510	50	-	770	360	90	10	2,050	10	2,930
PPW[6]	201	185	-	NA	80	<10	-	200	60	10	-	290	10	770
OPW[7]	219	203	-	NA	-	-	-	10	-	-	-	<10	-	80
	Level B Vibratory Threshold (dB re1 µPa²·s)	Level B Impulse Threshold (dB re1 µPa²·s)	Distance to Level B Threshold (m)[1]											
All marine mammals	120	160	1,800	NA	10,002	710	4,270	550	10,002	1,250	790	430	4,720	790

[1] $R_{95\%}$ as modeled in Appendix A (Quijano and Austin 2017).

[2] Scenario 1 does not include impulsive sources.

[3] Low-frequency cetaceans, humpback whales.

[4] Mid-frequency cetaceans, killer whales.

[5] High-frequency cetaceans, harbor porpoise.

[6] Phocid pinnipeds in water, harbor seals.

[6] Otariid pinnipeds in water, Steller sea lions.

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.

At-sea densities for marine mammal species have not been determined for marine mammals in Sitka Sound; therefore, all estimates here are determined by using observational data from biologists, peer-reviewed literature, and information obtained from personal communication with researchers and state and Federal biologists, and from local charter boat operators.

Harbor Seals

Harbor seals are expected to be in the Project area in low numbers (see *Description of Marine Mammals in the Area of the Specified Activity* Section). We estimate that up to five harbor seals per day may be present in the Project area on all days of construction. Therefore, we propose to authorize 350 takes by Level B harassment. Because the Level A ZOI for harbor seals is nearly 1 km, the FAA requests up to two harbor seal takes by Level A harassment if the animals enter the ZOI undetected and marine mammal observers (MMO)s are not able to request a shutdown prior to the seals being exposed to potential Level A harassment.

Steller Sea Lion

Steller sea lion abundance in the Project area is dependent on prey availability. Prey species are uncommon during the Project window; therefore, sea lion abundance is expected to be low. The FAA estimates that five sea lions may be in the Project area every day (70 days) of construction, therefore, we estimate that 350 sea lions may be taken by Level B harassment. We estimate that these takes would be split equally between the eDPS and wDPS (175 each). The Level A zone is less than 10 m; however, to be conservative, the FAA is requesting a small group of Steller sea lions to be taken by Level A harassment. This would equate to six total animals if split equally by DPS (3 each).

Humpback Whale

Humpback whales are found in Sitka Bay seasonally. During mid-summer, tour boats generally see four to five whales per day, in the middle of Sitka Sound. Therefore, a count of 5 humpback whales per day (70 days) was used to estimate takes per day on every day of construction for a total of 350 takes by Level B harassment. All takes would be from the Central North Pacific stock under the MMPA. For ESA purposes, 93.9 percent would be from the Hawaii DPS (328 animals) and 6.1 percent would be from the Mexico stock (22 animals) based on Wade *et al.,* 2016. The maximum distance at which a humpback whale may be exposed to noise levels that exceed Level A thresholds is 1.4 km during Scenario 6. Even though the ensonified area extends outside of the entrance to Symonds Bay, a MMO stationed near the mouth of the bay at Hanus Point would be able to see a humpback whale outside Symonds Bay before it enters the Level A zone and could shut down the noise producing activity to avoid Level A take. In the unlikely event a whale would go undetected and enter the Level A zone, the FAA has requested three takes by Level A harassment for humpback whales. We estimate that all three humpback whales would be from the Hawaii DPS.

Killer Whale

Generally, transient killer whales follow the movements of Steller sea lions and harbor seals on which they prey. Given the low numbers of Steller sea lions in Sitka Sound during summer, it is consistent that transient killer whales would also be rare or infrequent in the Project area (*e.g.,* killer whales were only observed on five or six days by the whale watching industry). Small groups of 5 to 6 transient killer whales per day could be observed throughout the summer months; therefore, we estimate that a group of 6 animals could enter the Project area on 6 occasions during the construction window, for a total of 36 takes by Level B harassment. No Level A takes of killer whales is proposed to be authorized for this species. The maximum linear distance to the Level A threshold for killer whales is less than 250 m from the source and a MMO would be able to observe animals at this distance and shutdown activities in time to avoid Level A take.

Harbor Porpoise

Harbor porpoise are expected to occur in the Project area in low numbers during the construction window. Sightings during this time period are infrequent; this species is not observed every day. The mean group size of harbor porpoise in Southeast Alaska was estimated to be between 2 to 3 individuals (Dahlheim *et al.,* 2009); therefore, we conservatively estimate that a group of three harbor porpoise may be present every other day of construction for a total of 105 takes by Level B harassment. The distances to Level A thresholds for harbor porpoise (HFC) are largest during impulse driving under Scenarios 5 and 6 (see Table 3), and extend beyond the entrance to Symonds Bay. The duration of Scenarios 5 and 6 is expected to be 21 days (see Table 3); therefore, we expect that a small group of three harbor porpoise may enter the Level A zone on half of the days of Scenarios 5 and 6 (10.5 days) for a total of 32 takes by Level A harassment.

Take Calculation and Estimation

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

All estimates are conservative and include the following assumptions:

- All pilings installed at each site would have an underwater noise disturbance equal to the piling that causes the greatest noise disturbance (*i.e.,* the piling farthest from shore) installed with the method that has the ZOI. The largest underwater disturbance (Level B) ZOI would be produced by DTH drilling; therefore take estimates were calculated using the vibratory pile-driving ZOIs. The ZOIs for each threshold are not spherical and are truncated by land masses on either side of the Project area, which would dissipate sound pressure waves.
- Exposures were based on an estimated total of 70 work days. Each activity ranges in amount of days needed to be completed (Table 3).
- All marine mammal individuals potentially available are assumed to be present within the relevant area, and thus incidentally taken;
- An individual can only be taken once during a 24-hour period; and,
- Exposures to sound levels at or above the relevant thresholds equate to take, as defined by the MMPA.

Estimates of potential instances of take may be overestimates of the number of individuals taken. In the context of stationary activities such as pile driving and in areas where resident animals may be present, this number represents the number of total take that may accrue to a smaller number of individuals, with some number of animals being exposed more than once per individual. While pile driving and removal can occur any day throughout the in-water work window, and the analysis is conducted on a per day basis, only a fraction of that time (typically a matter of hours on any given day) is actually spent pile driving/removal. The potential effectiveness of mitigation measures in reducing the number of takes is typically not quantified in the take estimation process. For these reasons, these take estimates may be conservative.

TABLE 8—CALCULATIONS FOR INCIDENTAL TAKE ESTIMATION

Species	Takes proposed to be authorized by Level A harassment	Takes proposed to be authorized by Level B harassment
Steller sea lion: Eastern and Western stock	6	350
Harbor seal	2	350
Humpback whale	3	350
Killer whale: Eastern North pacific Gulf of Alaska, Aleutian Island, and Bering Sea Transient stock and West Coast Transient stock	0	36
Harbor porpoise	32	105

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 balance two primary factors:

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

(2) The practicability of the measures for applicant implementation, which

may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

The ZOIs were used to develop mitigation measures for pile driving and removal activities at the Project area. The ZOIs effectively represent the mitigation zone that would be established around each pile to prevent Level A harassment to marine mammals, while providing estimates of the areas within which Level B harassment might occur. In addition to the specific measures described later in this section, the FAA would conduct briefings between construction supervisors and crews, marine mammal monitoring team, and staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

Monitoring and Shutdown for Construction Activities

The following measures would apply to the FAA's mitigation through shutdown and disturbance zones:

Shutdown Zone—For all pile driving activities, the FAA will establish a shutdown zone intended to contain the area in which SPLs equal or exceed the auditory injury criteria for cetaceans and pinnipeds. The purpose of a shutdown zone is to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area), thus preventing injury of marine mammals (as described previously under *Potential Effects of the Specified Activity on Marine Mammals,* serious injury or death are unlikely outcomes even in the absence of mitigation measures). Modeled radial distances for shutdown zones are shown in Table 9. However, a minimum shutdown zone of 10 m will be established during all pile driving activities, regardless of the estimated zone; and

Disturbance Zone—Disturbance zones are the areas in which SPLs equal or exceed 160 and 120 dB rms (for impulse and continuous sound, respectively). Disturbance zones provide utility for monitoring conducted for mitigation purposes (*i.e.,* shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the Project area but outside the shutdown zone and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting instances of Level B harassment; disturbance zone monitoring is discussed in greater detail later (see *Proposed Monitoring and Reporting*). Nominal radial distances for disturbance zones are shown in Table 9.

Given the size of the disturbance zone for vibratory pile driving and DTH drilling, it is impossible to guarantee that all animals would be observed or to make comprehensive observations of fine-scale behavioral reactions to sound, and only a portion of the zone (*e.g.,* what may be reasonably observed by visual observers stationed between Symonds Bay and Sitka Sound) would be observed. In order to document observed instances of harassment, monitors record all marine mammal observations, regardless of location. The observer's location, as well as the location of the pile being driven, is known from a GPS. The location of the animal is estimated as a distance from the observer, which is then compared to the location from the pile. It may then be estimated whether the animal was exposed to sound levels constituting incidental harassment on the basis of predicted distances to relevant thresholds in post-processing of observational and acoustic data, and a precise accounting of observed incidences of harassment created. This information may then be used to extrapolate observed takes to reach an approximate understanding of actual total takes.

BILLING CODE 3510–22–P

Table 9. Distances to Level A Shutdown and Level B Exposure Zones.

	Distance to Level A Shutdown zone (m)[1]											
	Scenario 1[2]		Scenario 2[3]		Scenario 3		Scenario 4[3]		Scenario 5		Scenario 6	
	22 days		16 days		9 days		2 days		5 days		16 days	
Species	Continuous	Impulse	Continuous	Impulse	Continuous	Impulse	Continuous	Impulse	Continuous	Impulse	Continuous	Impulse
Harbor Porpoise	-	-	600	50	-	800	400	100	10	1,600[4]	80	1,600[4]
Humpback whales	10	-	400	30	10	700	300	80	-	700	40	1,400
Harbor Seals	-	-	80	<10	-	200	60	10	-	300	10	800
Killer whales	-	-	10	-	-	10	10	-	-	150	<10	250
Steller sea lions	-	-	-	-	-	10	-	-	-	10	-	80
	Distance to Level B Exposure Zones (m)[1]											
All marine mammals	1,800	-	10,100[5]	800	5,000	600	10,100[5]	1,300	800	430	5,000	800

NOTE: Vibratory and impulse hammering will not happen simultaneously; there will be sufficient time tor MMOs to be notified and to adjust monitoring as needed. An MMO will be stationed at the mouth of the bay about 800 m from the noise source. Pink shading indicates monitoring and potential shutdown for presence outside of the bay is required. Green shading indicates monitoring for shutdown or counting as a Level B take if an animal enters the bay.

[1]From Table 6-3 rounded up as appropriate.

[2]Scenario 1 does not include impulse hammering

[3]Includes DTH drilling (non-impulsive).

[4]Actual Level A zone is larger (see Table 6-3), but 1.6 km (1 mile) is considered to be a reasonable distance to monitor.

[5]Takes will be extrapolated due to these large monitoring zones.

BILLING CODE 3510–22–C

Monitoring Protocols—Monitoring would be conducted before, during, and after pile driving and vibratory removal activities. In addition, observers shall record all instances of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven. Observations made outside the shutdown zone will not result in shutdown; that pile segment would be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile driving activities would be halted. Monitoring will take place from 15 minutes prior to initiation through 30 minutes post-completion of pile driving and removal activities. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes. Please see Section 11 of the FAA's application (*www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*), for the FAA's proposed monitoring protocols.

The following additional measures apply to visual monitoring:

(1) Monitoring will be conducted by qualified observers, who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. A minimum of two observers will be required for all pile driving/removal activities. Marine Mammal Observer (MMO) requirements for construction actions are as follows:

(a) Independent observers (*i.e.,* not construction personnel) are required;

(b) At least one observer must have prior experience working as an observer;

(c) Other observers (that do not have prior experience) may substitute education (undergraduate degree in biological science or related field) or training for experience;

(d) Where a team of three or more observers are required, one observer should be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer; and

(e) NMFS will require submission and approval of observer resumes.

(2) Qualified MMOs are trained biologists, and need the following additional minimum qualifications:

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

(b) Ability to conduct field observations and collect data according to assigned protocols;

(c) Experience or training in the field identification of marine mammals, including the identification of behaviors;

(d) Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

(e) Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and

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

(3) Prior to the start of pile driving activity, the shutdown zone will be monitored for 15 minutes to ensure that it is clear of marine mammals. Pile driving will only commence once observers have declared the shutdown zone clear of marine mammals; animals will be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition) and their behavior will be monitored and documented. The shutdown zone may only be declared clear, and pile driving started, when the entire shutdown zone is visible (*i.e.,* when not obscured by dark, rain, fog, *etc.*). In addition, if such conditions should arise during impact pile driving that is already underway, the activity would be halted.

(4) If a marine mammal approaches or enters the shutdown zone during the course of pile driving operations, activity will be halted and delayed until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of small cetaceans and pinnipeds, and 30 minutes for humpback whales. Monitoring will be conducted throughout the time required to drive a pile.

(5) Using delay and shut-down procedures, if a species for which authorization has not been granted or if a species for which authorization has been granted but the authorized takes are met, approaches or is observed within the Level B harassment zone, activities will shut down immediately and not restart until the animals have been confirmed to have left the area.

Soft Start

The use of a soft start procedure is believed to provide additional protection to marine mammals by warning or providing a chance to leave the area prior to the hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer at reduced energy followed by a waiting period. This procedure is repeated two additional times. It is difficult to specify the reduction in energy for any given hammer because of variation across drivers and, for impact hammers, the actual number of strikes at reduced energy will vary because operating the hammer at less than full power results in ''bouncing'' of the hammer as it strikes the pile, resulting in multiple ''strikes.'' For impact driving, we require an initial set of three strikes from the impact hammer at reduced energy, followed by a 30-second waiting period, then 2 subsequent 3 strike sets. Soft start will be required at the beginning of each day's impact pile driving work and at any time following a cessation of impact pile driving of 30 minutes or longer.

Timing Restrictions

The FAA will only conduct construction activities during daytime hours. Construction will also be restricted to the months of May through September to avoid overlap with times when marine mammals have higher densities in the Project area.

We have carefully evaluated the FAA's proposed mitigation measures and considered their effectiveness in past implementation to preliminarily determine whether they are likely to effect the least practicable impact on the affected marine mammal species and stocks and their habitat.

Any mitigation measure(s) we prescribe should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal);

(2) A reduction in the number (total number or number at biologically important time or location) of individual marine mammals exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only);

(3) A reduction in the number (total number or number at biologically important time or location) of times any individual marine mammal would be exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only);

(4) A reduction in the intensity of exposure to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing the severity of behavioral harassment only);

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying particular attention to the prey base, blockage or limitation of passage to or from biologically important areas, permanent destruction of habitat, or temporary disturbance of habitat during a biologically important time; and

(6) For monitoring directly related to mitigation, an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the FAA's proposed measures, as well as any other potential measures considered by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal 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 to both compliance and 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 in action area (*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) population, species, or stock;
- 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.

Visual Marine Mammal Observations

The FAA will collect sighting data and behavioral responses to construction for marine mammal species observed in the region of activity during the period of activity. All MMOs will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. A minimum of two MMOs will be required for all pile driving/removal activities. The FAA will monitor the shutdown zone and disturbance zone before, during, and after pile driving, with observers located at the best practicable vantage points. Based on our requirements, the FAA would implement the following procedures for pile driving and removal:

- MMOs would be located at the best vantage point(s) in order to properly see the entire shutdown zone and as much of the disturbance zone as possible;
- During all observation periods, observers will use binoculars and the naked eye to search continuously for marine mammals;
- If the shutdown zones are obscured by fog or poor lighting conditions, pile driving at that location will not be initiated until that zone is visible. Should such conditions arise while impact driving is underway, the activity would be halted; and
- The shutdown and disturbance zones around the pile will be monitored for the presence of marine mammals before, during, and after any pile driving or removal activity.

Data Collection

We require that observers use approved data forms. Among other pieces of information, the FAA will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, the FAA will attempt to distinguish between the number of individual animals taken and the number of incidences of take. We require that, at a minimum, the following information be collected on the sighting forms:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (*e.g.,* percent cover, visibility);
- Water conditions (*e.g.,* sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel, and if possible, the correlation to SPLs;
- Distance from pile driving or removal activities to marine mammals and distance from the marine mammals to the observation point;
- Description of implementation of mitigation measures (*e.g.,* shutdown or delay);
- Locations of all marine mammal observations; and
- Other human activity in the area.

Reporting

A draft report would be submitted to NMFS within 90 days of the completion of marine mammal monitoring, or 60 days prior to the requested date of issuance of any future IHA for projects at the same location, whichever comes first. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving and removal days, and will also provide descriptions of any behavioral responses to construction activities by marine mammals and a complete description of all mitigation shutdowns and the results of those actions and an extrapolated total take estimate based on the number of marine mammals observed during the course of construction. A final report must be submitted within 30 days following resolution of comments on the draft report.

Negligible Impact Analysis and Determinations

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).

Pile driving and removal activities associated with the dock replacement Project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level A and Level B harassment (PTS and behavioral disturbance), from underwater sounds generated from pile driving and removal. Potential takes could occur if individuals of these species are present in the ensonified zone when pile driving and removal occurs. Most of the Level A takes are precautionary as marine mammals are not expected to enter and stay in the Level A ensonified area for the duration needed to incur PTS. However, if all authorized takes be Level A harassment were to occur, they would be of small numbers compared to the stock sizes and would not adversely affect the stock through effects on annual rates of recruitment or survival. Additionally, the FAA's mitigation measures, including a shutdown of construction

activities if animals enter the Level A zone, further reduces the chance for PTS in marine mammals. Therefore, the effects to marine mammals are expected to be negligible.

No TTS, serious injury, or mortality is anticipated given the nature of the activities and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the construction method and the implementation of the planned mitigation measures. Specifically, vibratory and impact hammers and drilling will be the primary methods of installation. Impact pile driving produces short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks. If impact driving is necessary, implementation of soft start and shutdown zones significantly reduces any possibility of injury. Given sufficient ''notice'' through use of soft start (for impact driving), marine mammals are expected to move away from a sound source that is annoying prior to it becoming potentially injurious, however, as noted previously a small number of potential takes by PTS are proposed for authorization and have been analyzed. The FAA will use a minimum of two MMOs stationed strategically to increase detectability of marine mammals, enabling a high rate of success in implementation of shutdowns to avoid injury.

The FAA's proposed activities are localized and of relatively short duration (a maximum of 70 days for pile driving and removal). The entire Project area is limited to Symonds Bay and into Sitka Sound for some scenarios. These localized and short-term noise exposures may cause short-term behavioral modifications in harbor seals, Steller sea lions, harbor porpoises, killer whales, and humpback whales. Moreover, the proposed mitigation and monitoring measures are expected to reduce the likelihood of injury. Additionally, no important feeding and/or reproductive areas for marine mammals are known to be within the ensonified area during the construction window.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff 2006; Lerma 2014). Significant behavioral modifications that could potentially lead to effects on growth, survival, or reproduction are not expected to occur given the short duration and small scale of the project activities. Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving and drilling, although even this reaction has been observed primarily only in association with impact pile driving. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and thus would not result in any adverse impact to the stock as a whole. Non-auditory physiological effects and masking are not expected to occur from the FAA's Project activities.

The Project also is not expected to have significant adverse effects on affected marine mammals' habitat. The Project activities would not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range. However, because of the short duration of the activities and the relatively small area of the habitat that may be affected, and the decreased potential of prey species to be in the Project area during the construction work window, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

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 or serious injury is anticipated or authorized;
- Level B harassment may consist of, at worst, temporary modifications in behavior (*e.g.* temporary avoidance of habitat or changes in behavior);
- The lack of important feeding, pupping, or other areas in the action area during the construction window;
- Mitigation is expected to minimize the likelihood and severity of the level of harassment; and
- The small percentage of the stock that may be affected by Project activities (<15 percent for all stocks).

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 FAA's construction activities 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.

Table 10 details the number of instances that animals could be exposed to received noise levels that could cause Level A and Level B harassment for the proposed work at the Project site relative to the total stock abundance. The numbers of animals authorized to be taken for all species would be considered small relative to the relevant stocks or populations even if each estimated instance of take occurred to a new individual—an extremely unlikely scenario. The total percent of the population (if each instance was a separate individual) for which take is requested is less than 15 percent for all stocks (Table 10). For pinnipeds, especially harbor seals occurring in the vicinity of the Project area, there will almost certainly be some overlap in individuals present day-to-day, and the number of individuals taken is expected to be notably lower.

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.

TABLE 10—ESTIMATED NUMBERS AND PERCENTAGE OF STOCK THAT MAY BE EXPOSED TO LEVEL A AND LEVEL B HARASSMENT

Species	Proposed authorized Level A takes	Proposed authorized Level B takes	Stock(s) abundance estimate [1]	Percentage of total stock (percent)
Harbor Seal (*Phoca vitulina*)				
Sitka/Chatham stock	2	350	14,855	2.37
Steller sea lion (*Eumatopias jubatus*):				
Western U.S. Stock	6	350	50,983	0.698
Eastern U.S. Stock	.....	.....	41,638	0.855
Killer whale (*Orcinus orca*):				
Eastern North Pacific, Gulf of AK, Aleutian Island, and Bering Sea Transient Stock	0	36	587	6.13
West Coast Transient Stock	.....	.....	243	14.8
Humpback whale (*Megaptera noviaengliae*)				
Central North Pacific Stock	3	350	10,103	3.49
Harbor Porpoise (*Phocoena phocoena*)				
Southeast Alaska Stock	32	105	11,146	1.23

[1] All stock abundance estimates presented here are from the 2016 Alaska Stock Assessment Report.

Unmitigable Adverse Impact Analysis and Determination

In order to issue an IHA, NMFS must find that the specified activity will not have an ''unmitigable adverse impact'' on the subsistence uses of the affected marine mammal species or stocks by Alaskan Natives. NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as: an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

Harbor seals and Steller sea lions are subsistence harvested in Alaska. During 2012, the estimated subsistence take of harbor seals in southeast Alaska was 595 seals with 49 of these taken near Sitka (Wolfe *et al.,* 2013). This is the lowest number of seals taken since 1992 (Wolfe *et al.,* 2013) and is attributed to the decline in subsistence hunting pressure over the years as well as a decrease in efficiency per hunter (Wolf *et al.,* 2013).

The peak hunting season in southeast Alaska occurs during the month of November and again over the March to April time frame (Wolfe *et al.,* 2013). This corresponds to times when seals are aggregated in shoal areas as they prey on forage species such as herring, making them easier to find and hunt.

The proposed Project is in an area where subsistence hunting for harbor seals or sea lions could occur (Wolfe *et al.,* 2013), but the location is not preferred for hunting. There is little to no hunting documented in the vicinity and there are no harvest quotas for non-listed marine mammals. For these reasons and the fact that Project activities would occur outside of the primary subsistence hunting seasons, there would be no impact on subsistence activities or on the availability of marine mammals for subsistence use.

To satisfy requirements under Section 106 of the National Historic Preservation Act, R&M Consultants, Inc. reached out to the Sitka Tribe of Alaska, Central Council of the Tlingit and Haida, and Sealaska regarding cultural resources in 2016. No issues or concerns with the Project were raised during this effort.

Based on the description of the specified activity, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and the proposed mitigation and monitoring measures, NMFS has preliminarily determined that there will not be an unmitigable adverse impact on subsistence uses from the FAA's proposed activities.

Endangered Species Act

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 Alaska regional Protected Resources Division Office, whenever we propose to authorize take for endangered or threatened species.

NMFS is proposing to authorize take of two DPSs (*i.e.,* wDPS of Steller sea lions and Mexico DPS of humpback whales), which are listed under the ESA. The Permit and Conservation Division has requested initiation of Section 7 consultation with the Alaska Region for the issuance of this IHA. NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to the FAA for conducting their Biorka Island Dock Replacement Project, 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 1 year from May 1, 2018 through April 30, 2019.

2. This IHA is valid only for pile driving and removal activities associated with the Biorka Island Dock Replacement Project in Symonds Bay, Alaska from May 1 to September 30, 2018.

3. General Conditions

(a) A copy of this IHA must be in the possession of the FAA, its designees, and work crew personnel operating under the authority of this IHA.

(b) The species authorized for taking are summarized in Table 11.

(c) The taking, by Level A and Level B harassment, is limited to the species

listed in condition 3(b). See Table 1 for numbers of take authorized.

TABLE 11—AUTHORIZED TAKE NUMBERS

Species	Authorized take	
	Level A	Level B
Harbor seal	2	350
California sea lion	6	350
Harbor porpoise	32	105
Killer whale	0	36
Humpback whale	3	350

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

(e) The FAA shall conduct briefings between construction supervisors and crews, marine mammal monitoring team, and staff prior to the start of all pile driving and removal activities, and when new personnel join the work.

4. *Mitigation Measures*

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

(a) For all pile driving and removal, the FAA shall implement a minimum shutdown zone of 10 m radius around the pile. Additionally, the FAA shall implement shutdown zones for each construction scenario as presented in Table 12. If a marine mammal comes within or approaches the applicable shutdown zone, such operations shall cease.

Table 12. Distances to Level A Shutdown and Level B Exposure Zones.

	Distance to Level A Shutdown zone (m)											
	Scenario 1		Scenario 2		Scenario 3		Scenario 4		Scenario 5		Scenario 6	
	22 days		16 days		9 days		2 days		5 days		16 days	
Species	Continuous	Impulse	Continuous	Impulse	Continuous	Impulse	Continuous	Impulse	Continuous	Impulse	Continuous	Impulse
Harbor Porpoise	-	-	600	50	-	800	400	100	10	1,600[4]	80	1,600[4]
Humpback whales	10	-	400	30	10	700	300	80	-	700	40	1,400
Harbor Seals	-	-	80	<10	-	200	60	10	-	300	10	800
Killer whales	-	-	10	-	-	10	10	-	-	150	<10	250
Steller sea lions	-	-	-	-	-	10	-	-	-	10	-	80
	Distance to Level B Exposure Zones (m)											
All marine mammals	1,800	-	10,100[5]	800	5,000	600	10,100[5]	1,300	800	430	5,000	800

(b) For in-water heavy machinery work other than pile driving (*e.g.,* standard barges, tug boats, barge-mounted excavators, or clamshell equipment used to place or remove material), if a marine mammal comes within 10 meters, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions.

(c) The FAA shall establish monitoring locations as described below. Please also refer to the FAA's application (see *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*).

i. For all pile driving and removal activities, a minimum of two observers shall be deployed, with one positioned to achieve optimal monitoring of the shutdown zones and the second positioned to achieve optimal monitoring of surrounding waters of Biorka dock and portions of Symonds Bay and Sitka Sound. If practicable, the second observer should be deployed to an elevated position with clear sight lines to the Project area.

ii. These observers shall record all observations of marine mammals, regardless of distance from the pile being driven, as well as behavior and potential behavioral reactions of the animals.

iii. All observers shall be equipped for communication of marine mammal observations amongst themselves and to other relevant personnel (*e.g.,* those necessary to effect activity delay or shutdown).

(d) Monitoring shall take place from 15 minutes prior to initiation of pile driving and removal activity through 30 minutes post-completion of pile driving and removal activity. In the event of a delay or shutdown of activity resulting

from marine mammals in the shutdown zone, animals shall be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition) and their behavior shall be monitored and documented. Monitoring shall occur throughout the time required to drive a pile. The shutdown zone must be determined to be clear during periods of good visibility (*i.e.,* the entire shutdown zone and surrounding waters must be visible to the naked eye).

(e) If a marine mammal approaches or enters the shutdown zone, all pile driving and removal activities at that location shall be halted. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of small cetaceans and pinnipeds and 30 minutes for humpback whales.

(f) Using delay and shut-down procedures, if a species for which authorization has not been granted or if a species for which authorization has been granted but the authorized takes are met, approaches or is observed within the Level B harassment zone (Table 2), activities will shut down immediately and not restart until the animals have been confirmed to have left the area.

(g) Monitoring shall be conducted by qualified observers. Trained observers shall be placed from the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator. Observer training must be provided prior to project start and in accordance with the monitoring measures in the application, and shall include instruction on species identification (sufficient to distinguish the species listed in 3(b)), description and categorization of observed behaviors and interpretation of behaviors that may be construed as being reactions to the specified activity, proper completion of data forms, and other basic components of biological monitoring, including tracking of observed animals or groups of animals such that repeat sound exposures may be attributed to individuals (to the extent possible).

(h) The FAA shall use soft start techniques recommended by NMFS for impact pile driving. Soft start requires contractors to provide an initial set of strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets. Soft start shall be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer.

(i) Pile driving shall only be conducted during daylight hours.

5. Monitoring

The holder of this Authorization is required to conduct marine mammal monitoring during pile driving and removal activities. Marine mammal monitoring and reporting shall be conducted in accordance with the monitoring measures in the application.

(a) The FAA shall collect sighting data and behavioral responses to pile driving and removal and drilling activities for marine mammal species observed in the region of activity during the period of activity. All observers shall be trained in marine mammal identification and behaviors, and shall have no other construction-related tasks while conducting monitoring.

(b) For all marine mammal monitoring, the information shall be recorded as described in the monitoring measures section of the application.

6. Reporting

The holder of this Authorization is required to:

(a) Submit a draft report on all monitoring conducted under the IHA within 90 days of the completion of marine mammal monitoring, or 60 days prior to the issuance of any subsequent IHA for projects at the Project area, whichever comes first. A final report shall be prepared and submitted within thirty days following resolution of comments on the draft report from NMFS. This report must contain the informational elements described in the application, at minimum (see *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*), and shall also include:

i. Detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any.

ii. Description of attempts to distinguish between the number of individual animals taken and the number of incidents of take, such as ability to track groups or individuals.

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

(b) Reporting injured or dead marine mammals:

i. In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as a serious injury or mortality, the FAA shall immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator. The report must include the following information:

A. Time and date of the incident;

B. Description of the incident;

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

D. Description of all marine mammal observations in the 24 hours preceding the incident;

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

F. Fate of the animal(s); and

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

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

ii. In the event that the FAA discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), the FAA shall immediately report the incident to the Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator.

The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with the FAA to determine whether additional mitigation measures or modifications to the activities are appropriate.

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

7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking

is having more than a negligible impact on the species or stock of affected marine mammals.

Request for Public Comments

We request comment on our analyses, the draft authorization, and any other aspect of this Notice of Proposed IHAs for the FAA's dock replacement construction activities. Please include with your comments any supporting data or literature citations to help inform our final decision on the FAA's request for MMPA authorization.

Dated: August 24, 2017.

Donna S. Wieting,

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

[FR Doc. 2017–18347 Filed 8–29–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Vietnam War Commemoration Advisory Committee; Notice of Federal Advisory Committee Meeting

AGENCY: Deputy Chief Management Officer, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Vietnam War Commemoration Advisory Committee will take place.

DATES: Open to the public Thursday, September 28, 2017, from 10:00 a.m. to 12:00 p.m.

ADDRESSES: Pentagon Library and Conference Center, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mrs. Marcia Moore, 703–571–2005 (Voice), 703–692–4691 (Facsimile), *marcia.l.moore12.civ@mail.mil* (Email). Mailing address is DoD Vietnam War Commemoration Program Office, 241 18th Street South, Suite 101, Arlington, VA 22202. Web site: *http://www.vietnamwar50th.com.* The most up-to-date changes to the meeting agenda can be found on the Web site.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

In accordance with Public Law 110–181 sec. 598; the 2008 National Defense Authorization Act authorized the Secretary of Defense to establish the Vietnam War Commemoration Office. The Office promotes events, exhibits, partnerships, and other activities to meet the objectives specified in Law: 1. To thank and honor veterans of the Vietnam War, including personnel who were held as prisoners of war (POW), or listed as missing in action (MIA), for their service and sacrifice on behalf of the United States and to thank and honor the families of these veterans. 2. To highlight the service of the Armed Forces during the Vietnam War and the contributions of Federal agencies and governmental and non-governmental organizations that served with, or in support of, the Armed Forces. 3. To pay tribute to the contributions made on the home front by the people of the United States during the Vietnam War. 4. To highlight the advances in technology, science, and medicine related to military research conducted during the Vietnam War. 5. To recognize the contributions and sacrifices made by the allies of the United States during the Vietnam War.

Purpose of the Meeting: The Vietnam War Commemoration Advisory Committee is providing recommendations on the Vietnam War Commemoration Office's Strategic Plan.

Agenda: The meeting will begin at 10:00 a.m. and end at 12:00 p.m. on September 28, 2017. Members will share their individual comments on the Strategic Plan and will then build a consensus on their recommendations.

Meeting Accessibility: The walk to the meeting room will take approximately 10 minutes. Ramp access is available for the physically challenged. Visitors in wheelchairs must be accompanied by someone who will assist them.

Written Statements: The public is invited to submit written statements to the Designated Federal Officer by Friday, September 22, 2017 using the contact information in the **FOR FURTHER INFORMATION CONTACT** section.

Dated: August 24, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–18321 Filed 8–29–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[EL17–33–000]

Great River Energy; Notice of Filing

Take notice that on July 25, 2017, Great River Energy submitted a supplement to its December 29, 2016 updated revenue requirement for Reactive Power Service provided under Schedule 2 of the Midwest ISO Tariff.

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 review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on September 5, 2017.

Dated: August 24, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–18369 Filed 8–29–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–485–000]

Tallgrass Interstate Gas Transmission, LLC; Notice of Application

Take notice that on August 18, 2017, Tallgrass Interstate Gas Transmission, LLC (Tallgrass), 370 Van Gordon Street, Lakewood, Colorado 80228, filed an application pursuant to section 7(b) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations requesting authority to abandon a 47-mile 16-inch-diameter pipe segment (Segment 55) on its pipeline system from the discharge side of the existing Labonte Compressor Station located in Converse County, Wyoming to the inlet side of the existing Guernsey Compressor Station located in Platte County, Wyoming. Tallgrass states that Segment 55 will be abandoned in place and sold to Tallgrass Midstream, LLC (TMID), an affiliate. Upon authorization to abandon the facilities described above, TMID will purchase, convert, own and operate the pipeline segment as a crude oil pipeline to meet the increasing demand for pipeline transportation of crude oil. The filing may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application should be directed to David Haag, Vice President, Regulatory, Tallgrass Interstate Gas Transmission, LLC, 370 Van Gordon Street Lakewood, CO 80228–1519, phone: (303) 763–3258 or email: *David.Haag@tallgrassenergylp.com.*

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 5 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on September 14, 2017.

Dated: August 24, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–18368 Filed 8–29–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[CERCLA–04–2017–3758; FRL–9966–03–Region 4]

Former Douglas Battery Site, Winston-Salem, Forsyth County, North Carolina; Notice of Settlement

Correction

In notice document 2017–17737, appearing on page 39785, in the issue of Tuesday, August 22, 2017, make the following correction:

On page 39785, in the second column, in the **DATES** section, on the third line, the entry ''October 23, 2017'' should read ''September 21, 2017''.

[FR Doc. C1–2017–17737 Filed 8–29–17; 8:45 am]

BILLING CODE 1301–00–D

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0139; FRL–9966–83]

Methylene Chloride in Furniture Refinishing; Workshop

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: On September 12, 2017, EPA is holding a workshop on the use of methylene chloride in furniture refinishing. In a proposed rule published on January 19, 2017, EPA proposed to prohibit manufacture (including import), processing, and distribution in commerce of methylene chloride in consumer paint and coating removal and most types of commercial paint and coating removal, except for

commercial furniture refinishing. This workshop will help inform EPA's understanding of methylene chloride use in furniture refinishing. Federal and state governments, industry professionals, furniture refinishing experts, non-government organizations, and academic experts, among others, will discuss the role of methylene chloride in furniture refinishing, potential alternatives, economic impacts, and other issues identified in EPA's January 2017 proposed rule on methylene chloride, which deferred action on the use of methylene chloride in commercial furniture refinishing. This information will allow EPA to better understand current work practices and obtain additional information on the economic considerations involved in selecting chemical products for paint and coating removal in the furniture refinishing sector. The meeting also aims to facilitate an exchange of information on existing use practices and furniture refinishers' experience, in general, with paint removal products and methods.

DATES: The meeting will be held in Boston on September 12, 2017, from 9:00 a.m. to 4:00 p.m.

To request accommodation of a disability, please contact the technical person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Meeting Registration. You may register online (preferred) or in person at the meeting. To register online for the meeting, go to: *https://www.eventbrite.com/e/us-epa-public-meeting-on-methylene-chloride-in-furniture-refinishing-tickets-36895406153.* Advance registration for the meeting must be completed no later than September 10, 2017. On-site registration will be permitted, but seating and speaking priority will be given to those who pre-register by the deadline.

Comments. EPA will hear oral comments at the meeting, and will accept written comments and materials submitted to docket identification (ID) number EPA–HQ–OPPT–2017–0139 at *http://www.regulations.gov* on or before November 12, 2017. For further information about participation and submitting materials, see Unit III: How Can I Request to Participate in this Meeting?

ADDRESSES: The meeting will be held at held at EPA's Region 1 office at 5 Post Office Square, Suite 100, Boston, MA 02109–3912.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Ingrid Feustel, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–3199; email address: *Feustel.ingrid@epa.gov*.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action may be of particular interest to entities that manufacture (defined under TSCA to include import), process, distribute in commerce, use or dispose of methylene chloride or other chemicals in furniture restoration, especially entities identified under North American Industrial Classification System (NAICS) code 811420. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities and corresponding NAICS codes for entities that may be interested in or affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0139 is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. Background

In the **Federal Register** of January 19, 2017 (82 FR 7464) (FRL–9958–57), EPA proposed to prohibit manufacture (including import), processing, and distribution in commerce of methylene chloride in consumer paint and coating removal and in most types of commercial paint and coating removal, excluding commercial furniture refinishing. In that notice, the Agency announced its intention to hold a public meeting to learn more about methylene chloride use in furniture refinishing. This workshop will help EPA and all stakeholders better understand challenges in commercial furniture refinishing. The workshop aims to facilitate an exchange of information on existing use and work practices, the needs, and preferences and expertise of craftspeople, and the availability and effectiveness of paint and coating removal approaches. Federal and state governments, industry professionals, furniture restoration experts, non-profit organizations, and academic experts, among others, will discuss the role of methylene chloride in furniture restoration. The workshop will include presentations by subject matter experts, with sessions focused on current use practices, the availability of safer alternatives in furniture refinishing, and worker protection measures. The workshop will include opportunities for public comment.

III. How can I request to participate in this meeting?

A. Registration

To attend the meeting in person or to receive remote access, you must register no later than September 10, 2017, by visiting: *https://www.eventbrite.com/e/us-epa-public-meeting-on-methylene-chloride-in-furniture-refinishing-tickets-36895406153.* While on-site registration will be available, seating will be on a first-come, first-served basis, with priority given to early registrants, until room capacity is reached. For registrants not able to attend in person, the meeting will also provide remote access capabilities; registered participants will be provided information on how to connect to the meeting prior to its start.

B. Submitting Written Materials

You may submit written information for consideration during or after this meeting. Information should be submitted to docket ID number EPA–HQ–OPPT–2017–139 available at through *https://www.regulations.gov.* Follow the online instructions for submitting information or comments. Once submitted, this information cannot be edited or withdrawn. EPA may publish any information received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written statement or information. Information

must be received on or before November 12, 2017.

Authority: 15 U.S.C. 2605.

Dated: August 24, 2017.

Wendy Cleland-Hamnett,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2017–18420 Filed 8–29–17; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

[NV–17–24]

Equal Employment Opportunity and Diversity

AGENCY: Farm Credit Administration.

ACTION: Policy statement.

SUMMARY: The Farm Credit Administration (FCA) Board recently updated its Policy Statement on Equal Employment Opportunity and Diversity.

DATES: August 24, 2017.

FOR FURTHER INFORMATION CONTACT: Thais Burlew, Director of Equal Employment Opportunity and Inclusion, Farm Credit Administration, 1501 Farm Credit Drive, McLean Virginia 22102–5090, (703) 883–4290, TTY (703) 883–4352.

SUPPLEMENTARY INFORMATION: While not required by law, the Equal Employment Opportunity Commission (EEOC) has determined that reissuance of an agency's EEO policy statement each fiscal year is a symbol of the agency leadership's commitment to EEO and Diversity principles. The FCA conducted its annual review of Policy Statement FCA–PS–62 on Equal Employment Opportunity (EEO) and Diversity. The policy has no changes other than a citation clarification.

The text of the updated Policy Statement is set forth below in its entirety. All FCA Board policy statements may be viewed on FCA's Web site. From *www.fca.gov,* select ''Laws & Regulations,'' then select ''FCA Handbook,'' then select ''FCA Board Policy Statements.''

Equal Employment Opportunity and Diversity

FCA–PS–62

Effective Date: August 24, 2017.

Effect on Previous Action: Replaces FCA–PS–62 [NV16–14] dated August 12, 2016 (81 FR 53482, 8/12/16).

Source of Authority: Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e *et seq.*); Age Discrimination in Employment Act (29 U.S.C. 621 *et seq.*); Section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791); Equal Pay Act of 1974 (29 U.S.C. 206(d)); Civil Service Reform Act of 1978 (5 U.S.C. 3112); Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act) (5 U.S.C. 2301); Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. 2000ff *et seq.*); section 5.9 of the Farm Credit Act of 1971, as amended (12 U.S.C. 2243); Executive Order 11478 (Equal Employment Opportunity in the Federal Government), as amended by Executive Orders 13087 and 13152 to include prohibitions on discrimination based on sexual orientation and status as a parent; Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency); 29 CFR part 1614; Equal Employment Opportunity Commission Management Directives.

The Farm Credit Administration Board hereby adopts the following policy statement:

Purpose

The Farm Credit Administration (FCA or Agency) Board reaffirms its commitment to Equal Employment Opportunity (EEO) and Diversity (EEOD) and its belief that all FCA employees should be treated with dignity and respect. The Board also provides guidance to Agency management and staff for deciding and taking action in these critical areas.

Importance

Unquestionably, the employees who comprise the FCA are its most important resource. The Board fully recognizes that the Agency draws its strength from the dedication, experience, and diversity of its employees. The Board is firmly committed to taking whatever steps are needed to protect the rights of its staff and to carrying out programs that foster the development of each employee's potential. We believe an investment in efforts that strongly promote EEOD will prevent the conflict and the high costs of correction for taking no, or inadequate, action in these areas.

The Farm Credit Administration (FCA) Board adopts the following policy statement:

It is the policy of the FCA to prohibit discrimination in Agency policies, program practices, and operations. Employees, applicants for employment, and members of the public who seek to take part in FCA programs, activities, and services will be treated fairly. The FCA Board Chairman and Chief Executive Officer (CEO) is ultimately responsible for ensuring that FCA meets all EEOD requirements and initiatives in accordance with laws and regulations, to maintain a workplace that is free from discrimination and that values all employees. FCA, under the appropriate laws and regulations, will:

- Ensure equal employment opportunity based on merit and qualification, without discrimination because of race, color, religion, sex (including sexual orientation), age (40 or older), national origin, disability, status as a parent, genetic information, or filing of a complaint, participation in discrimination or harassment complaint proceedings, or other opposition to discrimination;
- Provide for the prompt and fair consideration of complaints of discrimination;
- Make reasonable accommodations for qualified applicants for employment and employees with physical or mental disabilities under law;
- Make reasonable accommodations based on applicants' and employees' religious beliefs or practices, consistent with Title VII;
- Provide an environment free from harassment to all employees;
- Create and maintain an organizational culture that recognizes, values, and supports employee and public diversity and inclusion;
- Develop objectives within the Agency's operation and strategic planning process to meet the goals of EEOD and this policy;
- Implement affirmative programs to carry out this policy within the Agency; and
- To the extent practicable, seek to encourage the Farm Credit System to continue its efforts to promote and increase diversity.

Diversity and Inclusion

The FCA intends to be a model employer. That is, as far as possible, FCA will build and maintain a workforce that reflects the rich diversity of individual differences evident throughout this Nation. The Board views individual differences as complementary and believes these differences enrich our organization. When individual differences are respected, recognized, and valued, diversity becomes a powerful force that can contribute to achieving superior results. Therefore, we will create, maintain, and continuously improve on an organizational culture that fully recognizes, values, and supports employee diversity. The Board is committed to promoting and supporting an inclusive environment that provides to all employees, individually and collectively, the chance to work to their full potential in the pursuit of the

Agency's mission. We will provide everyone the opportunity to develop to his or her fullest potential. When a barrier to someone achieving this goal exists, we will strive to remove this barrier.

Affirmative Employment

The Board reaffirms its commitment to ensuring FCA conducts all of its employment practices in a nondiscriminatory manner. The Board expects full cooperation and support from everyone associated with recruitment, selection, development, and promotion to ensure such actions are free of discrimination. All employees will be evaluated on their EEOD achievements as part of their overall job performance. Though staff commitment is important, the role of supervisors is paramount to success. Agency supervisors must be coaches and are responsible for helping all employees develop their talents and give their best efforts in contributing to the mission of the FCA.

Workplace Harassment

It is the policy of the FCA to provide a work environment free from unlawful discrimination in any form, and to protect all employees from any form of harassment, either physical or verbal. The FCA will not tolerate harassment in the workplace for any reason. The FCA also will not tolerate retaliation against any employee for reporting harassment or for aiding in any inquiry about reporting harassment. FCA begins prompt, thorough, and impartial investigations within 10 days of receiving notice of harassment allegations.

Disabled Veterans Affirmative Action Program (DVAAP)

A disabled veteran is defined as someone who is entitled to compensation under the laws administered by the Veterans Administration or someone who was discharged or released from active duty because of a service-connected disability.

The FCA is committed to increasing the representation of disabled veterans within its organization. Our Nation owes a debt to those veterans who served their country, especially those who were disabled because of service. To honor these disabled veterans, the FCA shall place emphasis on making vacancies known to and providing opportunities for employing disabled veterans.

Dated this 24th day of August 2017.

By Order Of The Board.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2017–18416 Filed 8–29–17; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011550–015.

Title: ABC Discussion Agreement.

Parties: Hamburg-Süd, King Ocean Services Limited, Seaboard Marine, Ltd.; and Crowley Caribbean Services, LLC.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1200 19th Street NW., Washington, DC 20036.

Synopsis: The amendment adds a new Article 13 suspending authority with respect to Curacao, deletes Seafreight Line as a party, and corrects the Agreement's table of contents.

Agreement No.: 012489.

Title: CMA CGM/Marinex Cargo Line U.S. Virgin Islands—Saint Maarten Service Space Charter Agreement.

Parties: CMA CGM S.A. and Marinex Cargo Line Inc.

Filing Party: Draughn Arbona; CMA CGM (America) LLC; 5701 Lake Wright Drive; Norfolk, VA 23502.

Synopsis: The Agreement authorizes Marinex Cargo Line to charter space to CMA CGM in the trade between the U.S. Virgin Islands and Saint Maarten.

By Order of the Federal Maritime Commission.

Dated: August 25, 2017.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2017–18413 Filed 8–29–17; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

[Docket Number OP–1573]

Request for Information Relating to Production of Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice and request for public comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is considering the production and publication of three rates by the Federal Reserve Bank of New York (FRBNY), based on data for overnight repurchase agreement transactions on Treasury securities. The Board is inviting public comment to assist the Federal Reserve in considering and developing this proposal.

DATES: Comments must be received by October 30, 2017.

ADDRESSES: You may submit comments, identified by Docket No. OP—1573, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include the docket number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Address to Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments will be made available on the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 3515, 1801 K Street NW. (between 18th and 19th Streets NW.), Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: David Bowman, Associate Director, (202–452–2334), Division of International Finance; or Christopher W. Clubb, Special Counsel (202–452–3904), Evan Winerman, Counsel (202–872–7578), Legal Division; for users of Telecommunications Device for the Deaf (TDD) only, contact (202–263–4869).

SUPPLEMENTARY INFORMATION:

I. Background

FRBNY, in cooperation with the U.S. Office of Financial Research (OFR), is considering publishing three rates based on overnight repurchase agreement

(repo) transactions on U.S. Treasury securities (Treasury repo). The publication of these rates, targeted to commence by mid-2018, is intended to improve transparency into the repo market by increasing the amount and quality of information available about the market for overnight Treasury repo activity. The three overnight Treasury repo rates would be based on transaction-level data from various segments of the repo market.

The U.S. Treasury securities market is the deepest and most liquid government securities market in the world. It plays a critical and unique role in the global economy, serving as a means of financing the U.S. federal government, a significant investment instrument and hedging vehicle for global investors, a risk-free benchmark for other financial instruments, and an important market for the Federal Reserve's implementation of monetary policy.

Treasury repos are critically important for the U.S. financial system and for the implementation of monetary policy. A repo transaction is the sale of a security, or a portfolio of securities, combined with an agreement to repurchase the security or portfolio on a specified future date at a prearranged price.[1] A repo also has the economic characteristics of a collateralized loan. The initial seller of the security (the ''securities provider'') may view itself as a borrower of cash and the initial buyer of the security (the ''cash provider'') may view itself as a lender in a secured transaction. The discount on the repurchase is equivalent to an interest rate. In the event the securities provider is unable to repurchase the securities (*i.e.,* repay the loan) at maturity, the cash provider is entitled to liquidate the securities to obtain repayment.

The market for Treasury repos includes a ''tri-party'' segment (a submarket of which is executed through the GCF Repo® service offered by the Fixed Income Clearing Corporation (FICC)) and a bilateral segment. All tri-party repos—and some bilateral repos—are made against a pool of ''general'' collateral rather than specific securities. In a general collateral (GC) repo, the cash provider stipulates a population of acceptable collateral (*e.g.,* all Treasury securities), but does not stipulate the specific securities that the securities provider must pledge.

[1] For a detailed discussion of the U.S. repo market, see FRBNY Staff Report No. 740, ''Reference Guide to U.S. Repo and Securities Lending Markets,'' (Revised Dec. 2015) *https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr740.pdf* .

A. Tri-Party Repo Market

In a tri-party repo, a clearing bank is used to facilitate the clearing and settlement of the transaction by managing the securities and ensuring that the securities adhere to the cash provider's eligibility requirements (as noted above, all repo transactions currently conducted over tri-party repo platforms are GC repos). Tri-party repos settle on the books of the clearing bank, where cash and securities are transferred between the cash provider's and securities provider's respective accounts. Among the most prominent cash providers in this segment are money market mutual funds and cash collateral reinvestment accounts managed for securities lenders, while the primary securities providers are securities dealers. Bank of New York Mellon (BNYM) and JPMorgan Chase (JPMC) currently serve as the two clearing banks in the tri-party repo market. JPMC announced in July 2016 that it plans to exit government securities settlement for broker-dealers by the end of 2018. After 2018, BNYM may become the sole clearing bank in the tri-party repo market for Treasury securities.

The tri-party Treasury repo market is important because it provides market liquidity and price transparency for U.S. government securities and thereby fosters stable financing costs for the U.S. government. It also serves as a critical source of funding for many systemically important broker-dealers that make markets in U.S. government securities. The tri-party repo market interconnects with other payment, clearing, and settlement services that are central to U.S. financial markets.

Currently, information available to the public about rates of return in the market for tri-party Treasury repos is limited. Pursuant to the Board's supervisory authority, however, the FRBNY collects trade-by-trade data on tri-party Treasury repo transactions on a daily basis from the two clearing banks. This data set includes: the interest rate of the transaction; the parties to the transaction; information on the collateral that may be pledged in the transaction; the type of transaction; the date the transaction is initiated; the date the transaction becomes effective; the date the transaction matures; whether the transaction is open-ended (*i.e.,* has no specific maturity date); the value of funds borrowed in the transaction; whether the transaction includes an option (*e.g.,* the ability to extend or terminate early); and, if the transaction includes an option, the minimum notice period required to exercise such an option.

B. General Collateral Financing (GCF) Repo Market

GCF Repo, introduced by FICC in 1998, permits FICC's netting members to trade cash and securities among themselves based on negotiated rates and terms. GCF Repo trades are completed on an anonymous basis through interdealer brokers and settle on the two clearing banks' tri-party repo platforms. FICC acts as a central counterparty in GCF Repo, serving as the legal counterparty to each side of the repo transaction for settlement purposes. GCF Repo is designed as a general collateral repo service, where FICC defines the set of permissible collateral classes.

Securities dealers currently rely on GCF Repo transactions for a variety of functions, including raising funds and seeking securities to fulfill tri-party repo obligations. FRBNY has entered into an agreement with DTCC Solutions LLC (DTCC Solutions), an affiliate of the Depository Trust & Clearing Corporation (DTCC), to obtain data regarding GCF Repo transactions.[2] This data set includes: the interest rate of the transaction; information on the collateral that may be pledged in the transaction; the date the transaction is initiated; the date the transaction becomes effective; the date the transaction matures; the value of funds borrowed in the transaction; and an indicator differentiating between repos and reverse repos in relation to the central counterparty.

C. Bilateral Repo Market

Unlike the tri-party repo market, in the bilateral repo market, counterparties instruct their custodians to exchange cash and securities without the use of a third party to manage collateral and facilitate centralized settlement. In order to effect settlement, the parties identify specific securities for their custodians to transfer. As a result, the bilateral repo market can be used to temporarily acquire specific securities (referred to as specific-issue collateral). Depending on the individual market for each security, repos for specific-issue collateral can take place at much lower rates than GC trades, as cash providers may be willing

[2] FICC's GCF Repo service only clears interdealer repo transactions. The Securities and Exchange Commission recently approved a change to FICC's rulebook to permit a new FICC service to clear tri-party repo transactions involving buy-side cash lenders, called the ''Centrally Cleared Institutional Tri-Party Service'' or the ''CCIT™ Service.'' 82 FR 21439 (May 8, 2017). At this time, it is not anticipated that the three proposed rates would include data regarding the CCIT repo transactions.

to accept a lesser return on their cash, or even at times accept a negative return, in order to secure a particular security. Such securities are commonly referred to as ''specials.'' However, because all bilateral transactions must identify the securities being delivered in order to settle, it is not possible to determine from settlement data whether, in any particular trade, a cash provider intended to invest cash against general collateral (at the general collateral market rate) or to acquire specific securities (at a possibly lower rate for ''specials'').

Bilateral repo transactions fall into two segments: Bilateral repo cleared through FICC's Delivery-versus-Payment (DVP) service and non-cleared bilateral repo. Repos cleared through FICC's DVP service are similar to GCF Repo in that they both allow for clearing in interdealer repo markets and both novate transactions to FICC. GCF repos, however, are exclusively blind brokered, while DVP repos can be blind brokered or directly negotiated. Non-cleared bilateral repo transactions are conducted entirely outside the services offered by FICC and do not settle on the clearing banks' tri-party repo platforms, and detailed information about that segment is not currently available.

FRBNY has entered into an agreement with DTCC Solutions to obtain data regarding FICC-cleared Treasury bilateral repo transactions. This data set includes: the interest rate of the transaction; information on the specific collateral that is pledged in the transaction; the date the transaction is initiated; the value of funds borrowed in the transaction; and an indicator differentiating between repos and reverse repos in relation to the central counterparty.

II. Production of Treasury Repo Rates

In order to provide the public with more information regarding the interest rates associated with repo transactions, the FRBNY proposes to publish interest rate statistics for overnight Treasury repos. As described below, the FRBNY proposes to publish three different rates.

A. Proposed Rates

Rate 1: Tri-Party General Collateral Rate (TGCR)

This rate would measure the rate of return available on overnight repo transactions against Treasury securities in the tri-party repo market, excluding GCF Repo and transactions in which the Federal Reserve is a counterparty.[3] As currently envisioned, the FRBNY would calculate the rate based on the transaction-level tri-party data collected from BNYM under the Board of Governors' supervisory authority as described above. This rate would focus on the dealer-to-customer activity in tri-party repo and would capture a narrower set of transactions relative to the other two proposed rates.

Rate 2: Broad General Collateral Rate (BGCR)

This rate would provide a broader measure of rates on overnight Treasury GC repo transactions. As currently envisioned, the FRBNY would calculate the rate based on the same transaction-level tri-party data collected from BNYM as in the TGCR plus GCF Repo data obtained from DTCC Solutions as described above. This rate would therefore reflect both dealer-to-customer and interdealer repos. By including data from different tri-party platforms, this rate would represent a broader, more diverse transaction set than the first rate, resulting in greater resiliency to market evolution. However, idiosyncratic pricing behavior over month- and quarter-ends in the GCF Repo transaction base could result in divergence from other money market rates depending on relative volume in the GCF Repo market.

Rate 3: Secured Overnight Financing Rate (SOFR)

This rate would be the broadest measure of rates on overnight Treasury financing transactions by also including bilateral Treasury repo transactions cleared through FICC's DVP service, filtered to remove some (but not all) transactions considered ''specials.''[4] As currently envisioned, the FRBNY would calculate the rate based on the tri-party data from BNYM, GCF Repo data from DTCC Solutions, and FICC-cleared bilateral repo data from DTCC Solutions. This rate would capture the broadest set of transactions, resulting in the rate most resilient to market evolution, but would not be a pure GC repo rate.

B. Calculation of the Rates

The FRBNY proposes to use a volume-weighted median as the central tendency measure for each of the three Treasury repo rates described above. While the volume-weighted mean, median, and trimmed mean would be similar to each other based on historical data, the median is more resistant to erroneous data, and would be consistent with the methodology used for the Effective Federal Funds Rate (EFFR) and Overnight Bank Funding Rate (OBFR).[5] Further, in instances when the three statistical measures differ considerably from each other, the median has generally been more representative of where the bulk of trading has taken place. FRBNY also proposes to publish summary statistics to accompany the daily publication of the rate, which would consist of the 1st, 25th, 75th and 99th volume-weighted percentile rates, as well as volumes.

The target publication time for the three rates and their summary statistics would be each morning at 8:30 ET. The repo rates would only be revised on a same-day basis, and only if the updated data would result in a shift in the volume-weighted median by more than one basis point. Such revisions, which should be a rare occurrence, would be effected that same day at or around 2:30 ET and would result in a republication of updated summary statistics. In the event the previously noted data sources were unavailable, the rates would be calculated based upon back-up repo market survey data collected each morning from FRBNY's primary dealer counterparties. FRBNY may decide to revise the summary statistics or publish additional summary statistics on a lagged basis.

For each rate, FRBNY would exclude trades between affiliated entities when relevant and the data to make such exclusions are available. To the extent possible, ''open'' trades for which pricing resets daily (making such transactions economically similar to overnight transactions) would be included in the calculation of the rates. The inclusion of these open transactions is intended to ensure that the proposed rates incorporate all relevant transactions, and will mitigate risks around potential changes in market practice. Each of the rates could be modified in the future in response to market evolution or to incorporate additional market segments if data become available.

Solicitation for Comments on Production of the Rates

To assist the Board in considering the production of the proposed rates, the

[3] The Federal Reserve may enter into bilateral and tri-party Treasury repos in order to implement monetary policy. The three proposed rates are intended to reflect market rates, and will exclude Federal Reserve repos because Federal Reserve repo transactions are priced at a policy rate rather than a market rate.

[4] For example, the FRBNY could use a filter such as simply excluding the lowest quartile of bilateral transaction volume.

[5] In the event of an even number of transactions in the data set, the median would be considered to be the higher of the two numbers (*i.e.,* it would be rounded up).

Board seeks public comment on the following questions:

1. Would the proposed rates be useful to market participants, researchers, or others? For what purpose(s)?

2. Are one or more of the proposed rates more likely to be useful than the other(s)? For what purpose(s)?

3. Are there changes to one or more of the rates that would make them more useful? For what purpose(s)?

4. Are there particular sources of data or data sets that should be incorporated in the calculation of the rates that would make the rates more useful to the public?

5. Are there changes that should be made to the proposed manner of calculating and publishing the three rates?

6. Is the proposed time of publication early enough to facilitate the use of the rates for various purposes?

7. Is the use of the volume-weighted median appropriate? Is there a different measure of the central tendency of the distribution of individual transacted rates that would be better suited? For what purpose(s)?

8. Are the proposed summary statistics useful to the market? For what purposes? Would other summary statistics be more useful to accompany the daily publication, instead of or in addition to those proposed?

Administrative Law

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR part 1320, Appendix A.1), the Board reviewed the proposal under the authority delegated to the Board by the Office of Management and Budget. For purposes of calculating burden under the Paperwork Reduction Act, a ''collection of information'' involves 10 or more respondents. As noted above, the data to be used to produce the proposed rates will be obtained solely from (1) BNYM with respect to tri-party GC repo data and (2) DTCC Solutions with respect to GCF repo data and DVP bilateral repo data. Therefore, no collection of information pursuant to the Paperwork Reduction Act is contemplated by the proposed rate production at this time.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (''RFA'') generally requires an agency to perform an initial and a final regulatory flexibility analysis on the impact a rule is expected to have on small entities. The RFA imposes these requirements in situations where an agency is required by law to publish a general notice of proposed rulemaking for any proposed rule. The production of the rates does not create any obligations or rights for any private parties, including any small entities, and so the publication of a general notice of proposed rulemaking is not required. Accordingly, the RFA does not apply and an initial and final regulatory flexibility analysis is not required.

By order of the Board of Governors of the Federal Reserve System, August 22, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–18402 Filed 8–29–17; 8:45 am]

BILLING CODE 6210–01–P

GULF COAST ECOSYSTEM RESTORATION COUNCIL

[Docket No.: 108292017–1111–16]

Proposed Amendment to Initial (2015) Funded Priorities List

AGENCY: Gulf Coast Ecosystem Restoration Council.

ACTION: Proposed amendment to Initial Funded Priorities List.

SUMMARY: The Gulf Coast Ecosystem Restoration Council (Council) seeks public and Tribal comment on a proposal to amend its Initial Funded Priorities List (FPL) to approve implementation funding for the Robinson Preserve Wetlands Restoration project (Robinson Preserve), Florida. The Council is proposing to approve $1,319,636 in implementation funding for Robinson Preserve. The Council is also proposing to reallocate $470,910 from planning to implementation. The total amount of funding available for implementation of Robinson Preserve would be $1,790,546. These funds would be used to restore 118.2 acres of coastal habitat, along with related activities in Tampa Bay. The Department of Commerce's National Oceanic and Atmospheric Administration (NOAA) is the sponsor of the Robinson Preserve project.

To comply with the National Environmental Policy Act (NEPA) and other applicable laws, the Council is proposing to adopt an existing *2015 Programmatic Environmental Impact Statement* (PEIS) *http://www.habitat.noaa.gov/pdf/NOAA_Restoration_Center_Final_PEIS.pdf* developed by NOAA's Restoration Center and ensure compliance with the terms and conditions of a Clean Water Act (CWA) Section 404 permit that has been issued for the Robinson Preserve project. In so doing, the Council would expedite project implementation, reduce planning costs and potentially increase the ecological benefits of this project.

DATES: Comments on this proposed amendment are due September 29, 2017.

ADDRESSES: Comments on this proposed amendment may be submitted as follows:

By Email: Submit comments by email to *frcomments@restorethegulf.gov.* Email submission of comments ensures timely receipt and enables the Council to make them available to the public. In general, the Council will make such comments available for public inspection and copying on its Web site, *www.restorethegulf.gov,* without change, including any business or personal information provided, such as names, addresses, email addresses and telephone numbers. All comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

By Mail: Send comments to Gulf Coast Ecosystem Restoration Council, 500 Poydras Street, Suite 1117, New Orleans, LA 70130.

FOR FURTHER INFORMATION CONTACT: Please send questions by email to *frcomments@restorethegulf.gov* or contact John Ettinger at (504) 444–3522.

SUPPLEMENTARY INFORMATION:

I. Background

The *Deepwater Horizon* oil spill led to passage of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act) (33 U.S.C. 1321(t) and *note*), which dedicates 80 percent of all Clean Water Act administrative and civil penalties related to the oil spill to the Gulf Coast Restoration Trust Fund (Trust Fund). The RESTORE Act also created the Council, an independent Federal entity comprised of the five Gulf Coast states and six Federal agencies. Among other responsibilities, the Council administers a portion of the Trust Fund known as the Council-Selected Restoration Component in order to ''undertake projects and programs, using the best available science, that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.'' Additional information on the Council can be found here: *https://www.restorethegulf.gov.*

On December 9, 2015, the Council approved the FPL, which includes projects and programs approved for funding under the Council-Selected

Restoration Component, along with other activities the Council identified as priorities for potential future funding. Activities approved for funding in the FPL are included in ''Category 1;'' the priorities for potential future funding are in ''Category 2.'' In the FPL the Council approved approximately $156.6 million in Category 1 restoration and planning activities, and prioritized twelve Category 2 activities for possible funding in the future, subject to environmental compliance and further Council and public review. The Council included planning activities for Robinson Preserve in Category 1 and implementation activities for Robinson Preserve in Category 2.

The Council reserved approximately $26.6 million for implementing priority activities in the future. These reserved funds may be used to support some, all or none of the activities included in Category 2 of the FPL and/or to support other activities not currently under consideration by the Council. As appropriate, the Council intends to review each activity in Category 2 in order to determine whether to: (1) Move the activity to Category 1 and approve it for funding, (2) remove it from Category 2 and any further consideration, or (3) continue to include it in Category 2. A Council decision to amend the FPL to move an activity from Category 2 into Category 1 must be approved by a Council vote after consideration of public and Tribal comments.

II. Environmental Compliance

Prior to approving an activity for funding in FPL Category 1, the Council must comply with NEPA and other applicable Federal environmental laws. At the time of approval of the FPL, the Council had not addressed NEPA and other laws applicable to implementation of Robinson Preserve. The Council did, however, recognize the potential ecological value of Robinson Preserve, based on the review conducted during the FPL process. For this reason, the Council approved $470,910 in planning funds for Robinson Preserve, a portion of which would be used to complete any needed environmental compliance activities. As noted above, the Council placed the implementation portion of Robinson Preserve into FPL Category 2, pending the outcome of this environmental compliance work and further Council review. The estimated cost of implementation of Robinson Preserve was $1,319,636.

To comply with NEPA for Robinson Preserve, the Council is proposing to adopt the *2015 PEIS* developed by NOAA's Restoration Center. This PEIS addresses a range of restoration types including those in the Robinson Preserve implementation funding proposal. NOAA has determined that the specific implementation activities for which funding is being sought are fully covered by this PEIS, and therefore no further NEPA review would be needed.

On May 22, 2017, the U.S. Army Corps of Engineers issued a Clean Water Act (CWA) Section 404 permit for the Robinson Preserve project. NOAA has confirmed that this permit addresses its Magnuson-Stevens Act recommendations pertaining to Essential Fish Habitat. The permit also contains conditions pertaining to compliance with the Endangered Species Act and the National Historic Preservation Act. In addition, the Florida State Historic Preservation Officer and U.S. Fish and Wildlife Service have reviewed the overall Robinson Preserve project. These reviews were conducted as part of their respective reviews of a smaller Robinson Preserve restoration project which is sponsored by the Environmental Protection Agency (EPA) and is being funded separately under the Council-Selected Restoration Component.

The Council has reviewed the aforementioned environmental compliance documentation. Based on this review, the Council is proposing to adopt the PEIS to support the approval of implementation funds for Robinson Preserve, provided that the project is implemented in accordance with the terms and conditions of the CWA Section 404 permit. This permit and the associated documentation can be found here: *https://www.restorethegulf.gov/funded-priorities-list.* (See: *Robinson Preserve Wetlands Restoration—Implementation.*)

Robinson Preserve Project

If approved by the Council, the funds to implement Robinson Preserve would be used to create habitat and natural flow regimes through hydrologic connections, as well as complete exotic and invasive vegetation removal, native planting, monitoring, community outreach, restoration practitioner education, and an inventory of potential Tampa Bay watershed hydrologic restoration projects.

The Initial FPL describes Robinson Preserve as a project to restore 140-acres of upland and wetland habitat (85 acres of upland habitat and 55 acres of created wetland and sub-tidal habitats). The actual acreage to be restored under this proposed FPL amendment would be 118.2 acres (57.6 acres of coastal upland habitat and 60.6 acres of wetland, open water sub-tidal, and open freshwater habitats). This acreage adjustment is the result of refinements in project design (in response to public input) and subtraction of acreage being restored through the complementary EPA restoration effort referenced above. The project design was reduced by 7 acres to balance public access interests, input from nearby residents and habitat suitability. The remainder of the acreage adjustment for this Robinson Preserve funding request is 14.8 acres, which is the amount of adjoining acreage that will be restored by the EPA.

While the acreage footprint of NOAA's Robinson Preserve project has decreased, the complexity and per unit cost of the project have increased. To maintain the long-term viability of the restoration design and protect existing habitats, the scope of the hydrologic restoration expanded to include more complex connections. The expanded scope also provides added benefits outside of the restoration footprint by integrating and hydrologically interconnecting the entire 632-acre preserve. NOAA has indicated that these changes, make up more than one third of the restoration implementation budget, increasing the wetland and sub-tidal creation cost per acre for the project. The total of $1,790,546 will be needed to implement this project.

Additional information on Robinson Preserve, including metrics of success, response to science reviews and more is available in an activity-specific appendix to the FPL, which can be found at *https://www.restorethegulf.gov.* Please see the table on page 25 of the FPL and click on: Robinson Preserve Wetlands Restoration (Implementation).

Will D. Spoon,

Program Analyst, Gulf Coast Ecosystem Restoration Council.

[FR Doc. 2017–18334 Filed 8–29–17; 8:45 am]

BILLING CODE 6560–58–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[60Day–17–0051; Docket No. ATSDR–2017–0004]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Agency for Toxic Substances and Disease Registry (ATSDR), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on the proposed request to extend the information collect project titled ''Assessment of Chemical Exposures (ACE) Investigations.'' The purpose of ACE Investigations is to focus on performing rapid epidemiological assessments to assist state, regional, local, or tribal health departments (the requesting agencies) to respond to or prepare for acute chemical releases.

DATES: Written comments must be received on or before October 30, 2017.

ADDRESSES: You may submit comments, identified by Docket No. ATSDR–2017–0004 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post all relevant comments, without change, to *Regulations.gov*, to include any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Assessment of Chemical Exposures (ACE) Investigations (OMB Control Number 0923–0051; expiration 3/31/2018)—Revision—Agency for Toxic Substances and Disease Registry (ATSDR).

Background and Brief Description

The Agency for Toxic Substances and Disease Registry (ATSDR) is requesting to revise ''Assessment of Chemical Exposures (ACE) Investigations'' information collection project and seek a three-year OMB approval to assist state and local health departments after toxic substance spills or chemical incidents. The OMB Control number for this information collection expires 3/31/2018. We are renaming the form previously titled the Rapid Response Registry Form as the ACE Short Form. This revision better describes that we use the ACE Short Form in time-limited investigations where longer surveys are not possible. We do not use the form to establish registries. In addition, we are removing two insurance questions from the ACE Short Form, as we do not ask in the longer surveys and have never been asked as part of an ACE Investigation. There are no changes to the requested burden hours.

ATSDR has successfully completed three investigations to date. With the uses of this valuable mechanism, ATSDR would like to continue this impactful information collection. See below a brief summary of information collections approved under this tool:

- During 2015, in U.S. Virgin Islands there was a methyl bromide exposure at a condominium resort. Under this ACE investigation, awareness among pest control companies that methyl bromide currently prohibited in the homes and other residential settings. Additionally, awareness for clinicians about the toxicologic syndrome caused by exposure to methyl bromide and the importance of notifying first responders immediately when they have encountered contaminated patients.
- During 2016, ACE team conducted a rash investigation in Flint, Michigan. Persons exposed to Flint municipal water and had current or worsening rashes surveyed and referred too free dermatologist screening if desired. Findings revealed that when the city was using water from the Flint River, there were large swings in chorine, pH, and hardness, which could be one possible explanation for the eczema-related rashes.
- During 2016, ACE team also conducted a follow-up investigation for people whom been exposed to the Flint municipal water and sought care from the free dermatologists. Data analysis for this project is in process and results are pending. However, the follow-up interviews resulted in improving the exam and referral processes that were still on going at the time.

The ACE investigations focus on performing rapid epidemiological assessments to assist state, regional, local, or tribal health departments (the requesting agencies) to respond to or prepare for acute chemical releases.

The main objectives for performing these rapid assessments are to:

1. Characterize exposure and acute health effects of respondents exposed to toxic substances from discrete, chemical

releases and determine their health statuses;

2. Identify needs (*i.e.,* medical and basic) of those exposed during the releases to aid in planning interventions in the community;

3. Assess the impact of the incidents on health services use and share lessons learned for use in hospital, local, and state planning for chemical incidents; and

4. Identify cohorts may be followed and assessed for persistent health effects resulting from acute releases.

Because each chemical incident is different, it is not possible to predict in advance exactly what type of and how many respondents will be consented and interviewed too effectively evaluate the incident. Respondents typically include, but are not limited to emergency responders such as police, fire, hazardous material technicians, emergency medical services, and personnel at hospitals where patients from the incident were treated. Incidents may occur at businesses or in the community setting; therefore, respondents may also include business owners, managers, workers, customers, community residents, pet owners, and those passing through the affected area.

The multidisciplinary ACE team consisting of staff from ATSDR, the Centers for Disease Control and Prevention (CDC), and the requesting agencies that will be collecting data. ATSDR has developed a quickly tailored series of draft survey forms used in the field to collect data that will meet the goals of the investigation. ATSDR collections will be administered based on time permitted and urgency. For example, it is preferable to administer the general survey to as many respondents as possible. However, if there are time constraints, the shorter household survey or the ACE Short Form may be administered instead. The individual surveys collect information about exposure, acute health effects, health services use, medical history, needs resulting from the incident, communication during the release, health impact on children and pets, and demographic data. Hospital personnel are asked about the surge, response and communication, decontamination, and lessons learned.

Depending on the situation, data collected by face-to-face interviews, telephone interviews, written surveys, mailed surveys, or on-line surveys can be consider collected. Medical and veterinary charts may also be consider for review. In rare situations, an investigation might involve collection of clinical specimens.

ATSDR anticipates up to four ACE investigations per year. The number of participants has ranged from 30–715, averaging about 300 per year. Therefore, the total annualized estimated burden will be 591 hours per year. Participation in ACE investigations is voluntary and there are no anticipated costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Residents, first responders, business owners, employees, customers.	General Survey	800	1	30/60	400
	ACE Short Form	50	1	7/60	6
Residents	Household Survey	120	1	15/60	30
Hospital staff	Hospital Survey	40	1	30/60	20
Staff from state, local, or tribal health agencies.	Medical Chart Abstraction Form	250	1	30/60	125
	Veterinary Chart Abstraction Form	30	1	20/60	10
Total					591

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–18404 Filed 8–29–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–17–1190; Docket No. CDC–2017–0073]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on the proposed project titled ''ZEN Colombia Study: Zika in Pregnant Women and Children in Colombia.''

DATES: Written comments must be received on or before October 30, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2017–0073 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: *All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy A. Richardson, Information Collection

Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

ZEN Colombia Study: Zika in Pregnant Women and Children in Colombia, (OMB No. 0920–1190, expires 07/31/2019)—Revision—Pregnancy and Birth Defects Task Force, National Center for Birth Defects and Developmental Disabilities, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Zika virus (ZIKV) infection is a mosquito-borne flavivirus transmitted by *Aedes* species mosquitoes, and through sexual and mother-to-child transmission. Laboratory-acquired infections have also been reported.

Health officials observed sporadic evidence of human ZIKV infection in Africa and Asia prior to 2007, when an outbreak of ZIKV caused an estimated 5,000 infections in the State of Yap, Federated States of Micronesia. Since then, health officials have found evidence of ZIKV in 65 countries and territories, mostly in Central and South America.

Common symptoms of ZIKV in humans include rash, fever, arthralgia, and nonpurulent conjunctivitis. The illness is usually mild and self-limited, with symptoms lasting for several days to a week; however, based on previous outbreaks, some infections are asymptomatic. The prevalence of asymptomatic infection in the current Central and South American epidemic is unknown.

Although the clinical presentation of ZIKV infection is typically mild, ZIKV infection in pregnancy can cause microcephaly and related brain abnormalities when fetuses are exposed *in utero.* Other adverse pregnancy outcomes related to ZIKV infection remain under study, and include pregnancy loss, other major birth defects, arthrogryposis, eye abnormalities, and neurologic abnormalities.

As the spectrum of adverse health outcomes potentially related to ZIKV infection continues to grow, large gaps remain in our understanding of ZIKV infection in pregnancy. These include the full spectrum of adverse health outcomes in pregnant women, fetuses, and infants associated with ZIKV infection; the relative contributions of sexual transmission and mosquito-borne transmission to occurrence of infections in pregnancy; and variability in the risk of adverse fetal outcomes by gestational week of maternal infection or symptoms of infection. There is an urgency to fill these large gaps in our understanding given the rapidity of the epidemic's spread and the severe health outcomes associated with ZIKV to date.

Colombia's Instituto Nacional de Salud (INS) began surveillance for ZIKV in 2015, reporting the first autochthonous transmission in October 2015 in the north of the country. As of December 2016, Colombia has reported over 106,000-suspected ZIKV cases, with over 19,000 of them among pregnant women. With a causal link established between ZIKV infection in pregnancy and microcephaly, there is an urgent need to understand: How to prevent ZIKV transmission; the full spectrum of adverse maternal, fetal, and infant health outcomes associated with ZIKV infection; and risk factors for occurrence of these outcomes. To answer these questions, INS and the CDC will follow 5,000 women enrolled in the first trimester of pregnancy, their male partners, and their infants, in various cities in Colombia where ZIKV transmission is currently ongoing.

The primary study objectives are to: (1) Describe the sociodemographic and clinical characteristics of the study population; (2) Identify risk factors for ZIKV infection in pregnant women and their infants. These include behaviors such as use of mosquito-bite prevention measures or condoms, and factors associated with maternal-to-child transmission; (3) Assess the risk for adverse maternal, fetal, and infant outcomes associated with ZIKV infection; (4) Assess modifiers of the risk for adverse outcomes among pregnant women and their infants following ZIKV infection. This includes investigating associations with gestational age at infection, presence of ZIKV symptoms, extended viremia, mode of transmission, prior infections or immunizations, and co-infections.

The project aims to enroll approximately 5,000 women, 1,250 male partners, 4,500 newborns, and a subset of 1000 infants/children. Pregnant women will be recruited in the first trimester of pregnancy for study enrollment, followed by assessments during pregnancy (every other week until 32 weeks gestation and monthly thereafter), and within 10 days postpartum. At all visits, participants will complete visit-specific questionnaires. In addition to the questionnaires, at all pregnancy and delivery visits, participants will receive Colombian national recommended clinical care and provide samples for laboratory testing.

Researchers will recruit male partners around the time of the pregnant partners' study enrollment, followed by monthly visits until his pregnant partner reaches the third trimester (approximately 27 weeks gestation). If the male partner contracts ZIKV during this time, visits will occur every other week until the partner has two negative consecutive tests for ZIKV or the pregnancy ends. At all study visits, male partners will complete visit-specific

questionnaires and provide samples for laboratory testing.

Researchers will follow all study-participating mothers' newborns every other week from birth to 6 months of age. At all visits, infants will receive national recommended clinical care (at birth and follow-up visits at 1, 2, and 6 months), provide samples for laboratory testing, and mothers will complete study-specific questionnaires about infant ZIKV symptoms and developmental milestones. During follow-up, infants will also have cranial ultrasounds, their head circumference measured, and hearing and vision tests. For mothers and their infants, researchers will abstract relevant clinical care information from medical records.

The revised information collection package includes the following changes. During the data collection period, researchers will follow a subset of 300 infants until 2-years of age. These infants will have answer questionnaires at 6, 12, 18, and 24 months, as well as have other clinical assessments performed to exam developmental delays.

Researchers will use the study results use to guide recommendations made by both INS and CDC to prevent ZIKV infection; to improve counseling of patients about risks to themselves, their pregnancies, their partners, and their infants; and to help agencies prepare to provide services to affected children and families. Participation in this study is voluntary and there are no costs to participants other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Pregnant women	Pregnant women eligibility questionnaire	3,125	1	5/60	260
	Pregnant women enrollment questionnaire	2,500	1	35/60	1,458
	Adult symptoms questionnaire	2,500	15	10/60	6,250
	Pregnant women follow-up questionnaire	2,500	8	15/60	5,000
	Infant symptoms questionnaire	2,250	14	10/60	5,250
	Ages and Stages Questionnaire: 2, 4, 6 Month.	2,250	2	15/60	1,125
		300	3	15/60	225
	Ages and Stages Questionnaire: 12, 18, 24 Month.	300	3	5/60	75
	Center for Epidemiologic Studies Depression—10.				
Male partners	Male partner eligibility questionnaire	2,500	1	5/60	208
	Male enrollment questionnaire	625	1	25/60	260
	Adult symptoms questionnaire	625	7	10/60	729
Total					20,840

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–18405 Filed 8–29–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–17–0004]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

National Disease Surveillance Program II. Disease Summaries (OMB Control Number 0920–0004, Expires 10/31/2017)—Revision—National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC requests a three-year approval for the proposed revision of the ''National Disease Surveillance Program II. Disease Summaries'' information collection project.

As with the previous approval, these data are essential for measuring trends in diseases, evaluating the effectiveness of current preventive strategies, and determining the need to modify current preventive measures.

Diseases included in this surveillance program are Influenza Virus, Caliciviruses, Respiratory and Enteric Viruses, Foodborne Outbreaks, Waterborne Outbreaks and Enteroviruses.

Proposed revisions include form consolidation, minor revised language and rewording to improve clarity and readability of the data collection forms and the discontinuation of multiple previously approved influenza collection instruments, and the National Respiratory & Enteric Virus Surveillance System (NREVSS) Laboratory Assessment (CDC 55.83). CDC also requests the use of a new form, Suspect Respiratory Virus Patient Form, to assist health departments and clinical sites when they submit specimens to the CDC lab for viral pathogen identification. The data will enable rapid detection and characterization of outbreaks of known pathogens, as well as potential newly emerging viral pathogens.

The frequency of response for each form will depend on the disease and surveillance need. This represents a 7,116 burden hour reduction since last approval. This reduction in burden hours is attributed primarily to the discontinuation of previously approved forms and formatting changes to existing forms. The total time burden estimate for all collection instruments in this revision request is 24,805.

There are no costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hours)
Epidemiologist	NORS Foodborne Disease Transmission_Person to Person Disease Transmission_Animal Contact_Environmental Contamination_Unknown Transmission Mode_52.13.	54	37	20/60
Epidemiologist	WHO COLLABORATING CENTER FOR INFLUENZA Influenza Virus Surveillance.	53	52	10/60
Epidemiologist	U.S. WHO Collaborating Laboratories Influenza Testing Methods Assessment.	113	1	10/60
Epidemiologist	US Outpatient Influenza-like Illness Surveillance Network (ILINet) Weekly_CDC 55.20.	1,800	52	10/60
Epidemiologist	US Outpatient Influenza-like Illness Surveillance Network (ILINet) Workfolder 55.20E.	1800	1	5/60
Epidemiologist	Influenza-Associated Pediatric Mortality Case Report Form	57	2	30/60
Epidemiologist	Human Infection with Novel Influenza A Virus Case Report Form	57	2	30/60
Epidemiologist	Human Infection with Novel Influenza A Virus Severe Outcomes	57	1	90/60
Epidemiologist	Novel Influenza A Virus Case Screening Form	57	1	15/60
Epidemiologist	Antiviral Resistant Influenza Infection Case Report Form	57	3	30/60
Epidemiologist	National Respiratory & Enteric Virus Surveillance System (NREVSS) (55.83A, B, D) (electronic).	550	52	15/60
Epidemiologist	National Enterovirus Surveillance Report: (CDC 55.9) (electronic)	20	12	15/60
Epidemiologist	National Adenovirus Type Reporting System (NATRS)	13	4	15/60
Epidemiologist	Middle East Respiratory Syndrome (MERS) Patient Under Investigation (PUI) Short Form.	57	3	25/60
Epidemiologist	Viral Gastroenteritis Outbreak Submission Form	20	5	5/60
Epidemiologist	NORS Waterborne Disease Transmission Form_52.12	59	1	20/60
Epidemiologist	Influenza Virus (Electronic, Year Round), PHLIP_HL7 messaging Data Elements.	57	52	5/60
Epidemiologist	Influenza virus (electronic, year round) (PHIN–MS)	3	52	5/60
Epidemiologist	Suspect Respiratory Virus Patient Form	10	5	30/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–18407 Filed 8–29–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10239]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by September 29, 2017.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR*, email: *OIRA_submission@omb.eop.gov*.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at Web site address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html*.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*.

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Conditions of Participation for Critical Access Hospitals (CAH) and Supporting Regulations; *Use:* At the outset of the critical access hospital (CAH) program, the information collection requirements for all CAHs were addressed together under the following information collection request: CMS–R–48 (OCN: 0938–0328). As the CAH program has grown in both scope of services and the number of providers, the burden associated with CAHs with distinct part units (DPUs) was separated from the CAHs without DPUs. Section 1820(c)(2)(E)(i) of the Social Security Act provides that a CAH may establish and operate a psychiatric or rehabilitation DPU. Each DPU may maintain up to10 beds and must comply with the hospital requirements specified in 42 CFR Subparts A, B, C, and D of part 482. Presently, 105 CAHs have rehabilitation or psychiatric DPUs. The burden associated with CAHs that have DPUs continues to be reported under CMS–R–48, along with the burden for all 4,890 accredited and non-accredited hospitals.

The CAH conditions of participation and accompanying information collection requirements specified in the regulations are used by surveyors as a basis for determining whether a CAH meets the requirements to participate in the Medicare program. We, along with the healthcare industry, believe that the availability to the facility of the type of records and general content of records, which this regulation specifies, is standard medical practice and is necessary in order to ensure the well-being and safety of patients and professional treatment accountability. *Form Number:* CMS–10239 (OMB Control number: 0938–1043); *Frequency:* Yearly; *Affected Public:* Private sector—Business or other for-profit; *Number of Respondents:* 1,215; *Total Annual Responses:* 144,585; *Total Annual Hours:* 24,183. (For policy questions regarding this collection contact Mary Collins at 410–786–3189.)

Dated: August 24, 2017.

Martique Jones,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–18275 Filed 8–29–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: National and Tribal Evaluation of the 2nd Generation of the Health Profession Opportunity Grants.

OMB No.: 0970–0462.

Description: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS) is proposing data collection activities as part of the Health Profession Opportunity Grants (HPOG) to Serve TANF and Other Low Income Individuals. ACF has developed a multi-pronged research and evaluation approach for the HPOG program to better understand and assess the activities conducted and their results. Two rounds of HPOG grants have been awarded—the first in 2010 (HPOG 1.0) and the second in 2015 (HPOG 2.0). There are federal evaluations associated with each round of grants. HPOG grants provide funding to government agencies, community-based organizations, post-secondary educational institutions, and tribal-affiliated organizations to provide education and training services to Temporary Assistance for Needy Families (TANF) recipients and other low-income individuals, including tribal members. Under HPOG 2.0, ACF provided grants to five tribal-affiliated organizations and 27 non-tribal entities.

OMB previously approved data collection under OMB Control Number 0970–0462 for: The HPOG 2.0 National and Tribal Evaluation (Approved August 2015); and the National Evaluation impact study, the National Evaluation descriptive study, and the Tribal Evaluation (All approved June 2017). The proposed data collection activities described in this **Federal Register** Notice will provide data for the impact and cost benefit studies of the 27 non-tribal grantees participating in the National Evaluation of HPOG 2.0.

National Evaluation: The National Evaluation pertains only to the 27 non-tribal grantees that received HPOG 2.0 funding. The design for the National Evaluation features an implementation study, a systems change analysis, and cost benefit analysis. In addition, the National Evaluation is using an experimental design to measure and analyze key participant outcomes including completion of education and training, receipt of certificates and/or degrees, earnings, and employment in a

healthcare career. The impact evaluation will assess the outcomes for study participants that were offered HPOG 2.0 training, financial assistance, and support services, compared to what their outcomes would have been if they had not been offered HPOG 2.0 services.

This Notice provides the opportunity to comment on a proposed new information collection activity for the HPOG 2.0 National Evaluation's impact study—the HPOG 2.0 Impact Evaluation first follow-up survey. The first follow-up survey of both treatment and control group members will be administered approximately 15 months after baseline data collection and random assignment. The survey will collect data about key outcomes of interest, including participants' tenure and experience in HPOG programming, certifications and educational achievements, job placement, and benefits. These are the key outcomes of interest for which data are not otherwise available through existing data sources. Previously approved collection activities under 0970–0462 will continue under this new request for the National Evaluation of the non-tribal grantees.

In subsequent requests for clearance, we will submit (1) additional data collection instruments to support the descriptive study of the 27 non-tribal grantees participating in the HPOG 2.0 National Evaluation, including grantee interview guides and participant interview guides; and (2) the second follow-up survey for the HPOG 2.0 National Evaluation impact study. The second follow-up survey is for collecting data from both treatment and control group members at the 27 non-tribal grantees, approximately 36 months after baseline data collection and random assignment. This submission will also include data collection necessary for the National Evaluation's cost benefit analysis.

Respondents: For the National Evaluation impact study: HPOG 2.0 study participants at the 27 non-tribal grantees.

Annual Response Burden Estimates: (This information collection request is for 3 years):

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
HPOG 2.0 National Evaluation: 15-month Follow-up Survey	10,400	3,467	1	1	3,467

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families (ACF), Department of Health and Human Services, is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded in writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Mary Jones,

ACF/OPRE Reports Clearance Officer.

[FR Doc. 2017–18410 Filed 8–29–17; 8:45 am]

BILLING CODE 4184–72–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0369]

Product-Specific Guidance for Digoxin; Draft Revised Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the availability of a draft revised guidance for industry on generic digoxin tablets entitled ''Draft Guidance on Digoxin.'' The guidance, once finalized, will provide product-specific recommendations on, among other things, the design of bioequivalence (BE) studies to support abbreviated new drug applications (ANDAs) for digoxin tablets.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft revised guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft revised guidance by October 30, 2017.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2007–D–0369 for ''Draft Guidance on Digoxin.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' will be publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff office between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff office, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the draft revised guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft revised guidance document.

FOR FURTHER INFORMATION CONTACT: Xiaoqiu Tang, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4730, Silver Spring, MD 20993–0002, 301–796–5850.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products,'' which explained the process that would be used to make product-specific guidances available to the public on FDA's Web site at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.*

As described in that guidance, FDA adopted this process to develop and disseminate product-specific guidances and to provide a meaningful opportunity for the public to consider and comment on the guidances. This notice announces the availability of a draft revised product-specific guidance for generic digoxin tablets.

FDA initially approved new drug application (NDA) 020405 for LANOXIN (digoxin tablets) in September 1997. In May 2008, we issued a final guidance for industry on generic digoxin tablets. We are now issuing a draft revised guidance for industry on generic digoxin tablets (''Draft Guidance on Digoxin'').

In December 2015, Concordia Pharmaceuticals submitted a citizen petition requesting, among other things, that FDA amend the guidance for industry on BE recommendations for generic digoxin tablets issued in 2008. FDA has reviewed the issues raised in the citizen petition and is responding to the citizen petition (Docket No. FDA–2015–P–4566, available at *https://www.regulations.gov*).

This draft revised guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft revised guidance, when finalized, will represent the current thinking of FDA on the design of BE studies to support ANDAs for digoxin tablets. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons with access to the internet may obtain the draft revised guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

Dated: August 24, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–18386 Filed 8–29–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–E–0624]

Determination of Regulatory Review Period for Purposes of Patent Extension; XTORO

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for XTORO and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (in the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by October 30, 2017. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by February 26, 2018. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before October 30, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of October 30, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2016–E–0624 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; XTORO.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff Office between 9 a.m. and 4 p.m., Monday through Friday.

- *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff Office. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product XTORO (finafloxacin). XTORO is indicated for treatment of acute otitis externa caused by susceptible strains of *Pseudomonas aeruginosa* and *Staphylococcus aureus.* Subsequent to this approval, the USPTO received a patent term restoration application for XTORO (U.S. Patent No. 6,133,260) from Alcon Pharmaceutials Ltd. for Bayer Intellectual Property GmbH, and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated May 2, 2016, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of XTORO represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for XTORO is 1,880 days. Of this time, 1,643 days occurred during the testing phase of the regulatory review period, while 237 days occurred during the

approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:* October 26, 2009. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on October 26, 2009.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* April 25, 2014. FDA has verified the applicant's claim that the new drug application (NDA) for XTORO (NDA 206307) was initially submitted on April 25, 2014.

3. *The date the application was approved:* December 17, 2014. FDA has verified the applicant's claim that NDA 206307 was approved on December 17, 2014.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,058 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in 21 CFR 60.30, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of 21 CFR 60.30, including but not limited to: Must be timely (see **DATES**), must be filed in accordance with 21 CFR 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: August 24, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–18379 Filed 8–29–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0002]

Upsher-Smith Laboratories, Inc.; Withdrawal of Approval of an Abbreviated New Drug Application for PROPRANOLOL HYDROCHLORIDE

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is withdrawing approval of an abbreviated new drug application (ANDA) for PROPRANOLOL HYDROCHLORIDE Extended-Release Capsules, held by Upsher-Smith Laboratories, Inc. (Upsher-Smith), 6701 Evenstad Dr., Maple Grove, MN 55369. Upsher-Smith has voluntarily requested that approval of this application be withdrawn and has waived its opportunity for a hearing.

DATES: August 30, 2017.

FOR FURTHER INFORMATION CONTACT: Stefanie Kraus, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6215, Silver Spring, MD 20993–0002, 301–796–9585.

SUPPLEMENTARY INFORMATION: On March 6, 2009, FDA approved abbreviated new drug application (ANDA) 078311 for PROPRANOLOL HYDROCHLORIDE Extended-Release Capsules, USP, 60 milligrams (mg), 80 mg, 120 mg, and 160 mg. In a letter dated August 9, 2011, FDA informed Upsher-Smith that it had concerns about the validity of bioequivalence data submitted with ANDA 078311 from studies conducted by a certain contract research organization, establishing bioequivalence of Upsher-Smith's product to the reference listed drug (RLD), INDERAL LA (propranolol hydrochloride) Extended Release Capsules, 60 mg, 80 mg, 120 mg, and 160 mg. In that letter, FDA directed Upsher-Smith to supplement its ANDA with either: (1) New bioequivalence studies or (2) re-assays of the samples from the original bioequivalence studies. Upsher-Smith submitted new fasted and fed bioequivalence studies to supplement ANDA 078311 in paper format on August 29, 2013, and in electronic format on May 9, 2014.

On April 14, 2016, FDA informed Upsher-Smith that the applicant's fed bioequivalence study failed to meet FDA's bioequivalence criteria and, therefore, requested that Upsher-Smith voluntarily seek withdrawal of ANDA 078311 under § 314.150(d) (21 CFR 314.150(d)).

In a letter dated May 13, 2016, Upsher-Smith requested that FDA withdraw approval of ANDA 078311 for PROPRANOLOL HYDROCHLORIDE Extended-Release Capsules under § 314.150(d) because the new bioequivalence data did not demonstrate therapeutic equivalence of its product to the RLD, INDERAL LA. In that letter, Upsher-Smith also waived any opportunity for a hearing otherwise provided under § 314.150(a).

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(e)) and § 314.150(d), and under authority delegated by the Commissioner of Food and Drugs to the Director, Center for Drug Evaluation and Research, approval of ANDA 078311, and all amendments and supplements thereto, is withdrawn (see **DATES**). Distribution of this product in interstate commerce without an approved application is illegal and subject to regulatory action (see sections 505(a) and 301(d) of the FD&C Act (21 U.S.C. 355(a) and 331(d)).

Dated: August 24, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–18375 Filed 8–29–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–P–1461]

Determination That CENESTIN (Estrogens, Conjugated Synthetic A) Tablets, 0.3 Milligrams, 0.45 Milligrams, 0.625 Milligrams, 0.9 Milligrams, and 1.25 Milligrams, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that CENESTIN (estrogens, conjugated synthetic A) Tablets, 0.3 milligrams (mg), 0.45 mg, 0.625 mg, 0.9

mg, and 1.25 mg, were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for these products, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Bronwen Blass, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 51, Rm. 6228, Silver Spring, MD 20993–0002, 301–796–5092.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

CENESTIN (estrogens, conjugated synthetic A) Tablets, 0.3 mg, 0.45 mg, 0.625 mg, 0.9 mg, and 1.25 mg, is the subject of NDA 020992, held by Teva Branded Pharmaceutical Products R&D, Inc. (Teva), and was initially approved on March 24, 1999. CENESTIN is indicated for treatment of moderate to severe vasomotor symptoms due to menopause and treatment of moderate to severe symptoms of vulvar and vaginal atrophy due to menopause.

In 2016, Teva notified FDA that CENESTIN (estrogens, conjugated synthetic A) Tablets, 0.3 mg, 0.45 mg, 0.625 mg, 0.9 mg, and 1.25 mg, were being discontinued, and FDA moved the drug product to the ''Discontinued Drug Product List'' section of the Orange Book.

Foley & Lardner submitted a citizen petition dated March 8, 2017 (Docket No. FDA–2017–P–1461), under 21 CFR 10.30, requesting that the Agency determine whether CENESTIN (estrogens, conjugated synthetic A) Tablets, 0.3 mg, 0.45 mg, 0.625 mg, 0.9 mg, and 1.25 mg, were withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that CENESTIN (estrogens, conjugated synthetic A) Tablets, 0.3 mg, 0.45 mg, 0.625 mg, 0.9 mg, and 1.25 mg, were not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that these products were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of these products from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that these drug products were withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list CENESTIN (estrogens, conjugated synthetic A) Tablets, 0.3 mg, 0.45 mg, 0.625 mg, 0.9 mg, and 1.25 mg, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to CENESTIN (estrogens, conjugated synthetic A) Tablets, 0.3 mg, 0.45 mg, 0.625 mg, 0.9 mg, and 1.25 mg, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: August 24, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–18376 Filed 8–29–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2016–E–1283; FDA–2016–E–1291]

Determination of Regulatory Review Period for Purposes of Patent Extension; KENGREAL

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for KENGREAL and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (in the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by October 30, 2017. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by February 26, 2018. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before October 30, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of October 30, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket Nos. FDA–2016–E–1283 and FDA–2016–E–1291 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; KENGREAL.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff Office between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff Office. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff Office, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product KENGREAL (cangrelor tetrasodium). KENGREAL is indicated as an adjunct to percutaneous coronary intervention for reducing the risk of periprocedural myocardial infarction, repeat coronary revascularization, and stent thrombosis in patients who have not been treated with a $P2Y_{12}$ platelet inhibitor and are not being given a glycoprotein IIb/IIIa inhibitor. Subsequent to this approval, the USPTO received patent term restoration applications for KENGREAL (U.S. Patent Nos. 6,114,313 and 6,130,208) from AstraZeneca UK Limited, and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated July 12, 2016, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of KENGREAL represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for KENGREAL is 6,122 days. Of this time, 5,338 days occurred during the testing phase of the regulatory review period, while 784 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:* September 19, 1998. The applicant claims August 20, 1998, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was September 19, 1998, which

was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* April 30, 2013. FDA has verified the applicant's claim that the new drug application (NDA) for KENGREAL (NDA 204958) was initially submitted on April 30, 2013.

3. *The date the application was approved:* June 22, 2015. FDA has verified the applicant's claim that NDA 204958 was approved on June 22, 2015.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 5 years of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in 21 CFR 60.30, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of 21 CFR 60.30, including but not limited to: Must be timely (see **DATES**), must be filed in accordance with 21 CFR 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: August 24, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–18380 Filed 8–29–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment

AGENCY: Health Resources and Service Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given that a meeting is scheduled for the Centers for Disease Control and Prevention (CDC)/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment. This meeting will be open to the public. Information about the CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment and the agenda for this meeting can be obtained by contacting CDR Holly Berilla at (301) 443–9965 or *hberilla@hrsa.gov.*

DATES: October 25, 2017, 9:00 a.m. to 5:30 p.m. (Eastern) and October 26, 2017, 9:00 a.m. to 4:15 p.m. (Eastern).

ADDRESSES: This meeting will be held in person and offer virtual access through teleconference and Adobe Connect. The address for the meeting is 5600 Fishers Lane, Pavilion, Rockville, Maryland 20857. The conference call-in number is (888) 469–0566 and passcode is 6012320. The webinar link is *https://hrsa.connectsolutions.com/october_chac_meeting/.*

FOR FURTHER INFORMATION CONTACT: Those requesting information regarding the CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment should contact CDR Holly Berilla, Senior Public Health Analyst, Division of Policy and Data (DPD), HIV/AIDS Bureau (HAB), HRSA, in one of three ways: (1) Mail a request to CDR Holly Berilla, Senior Public Health Analyst, HRSA/HAB/DPD, 5600 Fishers Lane, 9N164C, Rockville, Maryland 20857; (2) call (301) 443–9965; or (3) send an email to *hberilla@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment was established under Section 222 of the Public Health Service Act, [42 U.S.C. Section 217a], as amended.

The purpose of the CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment is to advise the Secretary of HHS, the Director of CDC, and the Administrator of HRSA regarding objectives, strategies, policies, and priorities for HIV, viral hepatitis, and other STDs; prevention and treatment efforts including surveillance of HIV infection, AIDS, viral hepatitis and other STDs, and related behaviors; epidemiologic, behavioral, health services, and laboratory research on HIV/AIDS, viral hepatitis, and other STDs; identification of policy issues related to HIV/viral hepatitis/STD professional education, patient healthcare delivery, and prevention services; HHS policies about prevention of HIV/AIDS, viral hepatitis and other STDs; treatment, healthcare delivery, and research and training; strategic issues influencing the ability of CDC and HRSA to fulfill their missions of providing prevention and treatment services; programmatic efforts to prevent and treat HIV, viral hepatitis, and other STDs; and support to CDC and HRSA in their development of responses to emerging health needs related to HIV, viral hepatitis, and other STDs.

During the October 25 to 26, 2017, meeting, the CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment will discuss strategies to link, retain, and re-engage people living with HIV into the Ryan White HIV/AIDS Program system of care; HAB's benchmarking and risk adjustment initiatives; HRSA and CDC initiatives regarding congenital syphilis; and committee workgroup reports. Agenda items are subject to change as priorities dictate.

Members of the public will have the opportunity to provide comments. Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to make oral comments or provide written comments to the CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment should be sent to CDR Holly Berilla, using the contact information listed above, by October 11, 2017.

The building at 5600 Fishers Lane, Rockville, MD 20857, requires a security screening on entry. To facilitate your access to the building please contact CDR Holly Berilla (contact information provided above). Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify CDR Holly Berilla (contact information provided above) at least 10 days prior to the meeting.

Status: This advisory committee meeting will be open to the public.

Amy McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2017–18426 Filed 8–29–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood 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 Heart, Lung, and Blood Advisory 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.

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: September 12, 2017.

Closed: 8:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Open: 2:30 p.m. to 4:30 p.m.

Agenda: To discuss program policies and issues.

Place: National Institutes of Health, Building 35A, Porter Building, Room 640, 35A Convent Drive, Bethesda, MD 20892.

Contact Person: Laura K. Moen, Ph.D., Director, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7100, Bethesda, MD 20892, 301–435–0260, *moenl@mail.nih.gov.*

This notice is being amended to reflect changes in open and closed sessions.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nhlbi.nih.gov/meetings/nhlbac/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(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: August 24, 2017.

Jennifer S, Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–18340 Filed 8–29–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy And Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel NIAID Peer Review Meeting,

Date: September 27, 2017.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Kelly Y. Poe, Ph.D., Scientific Review Program, Division of Extramural Activities, Room 3F40B, National Institutes of Health, NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5036,*poeky@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: *August 24, 2017.*

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–18337 Filed 8–29–17; 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: Center for Scientific Review, Special Emphasis Panel; PAR17–033: Integrative Research to Understand the Impact of Sex Differences on the Molecular Determinants of AD Risk and Responsiveness to Treatment.

Date: September 25, 2017.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

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: Center for Scientific Review, Special Emphasis Panel; PAR15–357: Understanding Alzheimer's Disease in the Context of the Aging Brain.

Date: September 25, 2017.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

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: Brain Disorders and Clinical Neuroscience Integrated Review Group; Pathophysiological Basis of Mental Disorders and Addictions Study Section.

Date: September 28–29, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Grand Chicago Riverfront, 71 East Wacker Drive, Chicago, IL 60601.

Contact Person: Boris P Sokolov, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–408–9115, *bsokolov@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 24, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–18342 Filed 8–29–17; 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: Center for Scientific Review Special Emphasis Panel; Bioengineering Sciences and Technologies: AREA Review.

Date: September 14, 2017.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David Filpula, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6181, MSC 7892, Bethesda, MD 20892, 301–435–2902, *filpuladr@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Cancer Communication in the New Media Environment.

Date: September 20, 2017.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shalanda A. Bynum, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, Bethesda, MD 20892, 301–755–4355, *bynumsa@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group, Surgery, Anesthesiology and Trauma Study Section.

Date: September 27–28, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Weihua Luo, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170, *luow@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group, Molecular Genetics B Study Section.

Date: September 28–29, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin St. Francis, 335 Powell Street, San Francisco, CA 94102.

Contact Person: Richard A. Currie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, (301) 435–1219, *currieri@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Neurotransporters, Receptors, and Calcium Signaling Study Section.

Date: September 28–29, 2017.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Peter B. Guthrie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *guthriep@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Neuroendocrinology, Neuroimmunology, Rhythms and Sleep Study Section.

Date: September 28–29, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Baltimore Marriott Waterfront, 700 Aliceanna Street, Baltimore, MD 21202.

Contact Person: Michael Selmanoff, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5164, MSC 7844, Bethesda, MD 20892, 301–435–1119, *mselmanoff@csr.nih.gov.*

Name of Committee: Vascular and Hematology Integrated Review Group, Atherosclerosis and Inflammation of the Cardiovascular System Study Section.

Date: September 28–29, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Natalia Komissarova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, MSC 7846, Bethesda, MD 20892, 301–435–1206, *komissar@mail.nih.gov.*

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group, Molecular Neurogenetics Study Section.

Date: September 28–29, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott Georgetown, 1221 22nd St NW., Washington, DC 20037.

Contact Person: Mary G. Schueler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7846, Bethesda, MD 20892, 301–915–6301, *marygs@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group, Bioengineering, Technology and Surgical Sciences Study Section.

Date: September 28–29, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

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: Center for Scientific Review Special Emphasis Panel, PAR Panel: High Throughput Screening.

Date: September 28, 2017.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David Filpula, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6181, MSC 7892, Bethesda, MD 20892, 301–435–2902, *filpuladr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 24, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–18341 Filed 8–29–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended 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 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 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; Therapeutic Delivery of AFP-Ribsoylarginine Hydrolase.

Date: September 19, 2017

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: William J. Johnson, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892–7924, 301–827–7938, *johnsonw@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: August 24, 2017.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–18344 Filed 8–29–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Pediatrics Subcommittee, October 12, 2017, 08:30 a.m. to October 12, 2017, 05:00 p.m. Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD., 20814 which was published in the **Federal Register** on August 14, 2017, Pg. 82 FRN 239400 Vol. 155.

The meeting has changed from October 12, 2017, 8:30 a.m. to 5:00 p.m. to October 13, 2017, 8:30 a.m. to 5:00 p.m. The meeting is closed to the public.

Dated: August 24, 2017.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–18338 Filed 8–29–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2017–0793]

Chemical Transportation Advisory Committee

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Chemical Transportation Advisory Committee and its subcommittees will meet in Washington, DC, to discuss committee matters relating to the safe and secure marine transportation of hazardous materials. These meetings will be open to the public.

DATES: The Chemical Transportation Advisory Committee subcommittees will meet on Tuesday, October 3, 2017, from 9 a.m. to 5 p.m. and on Wednesday, October 4, 2017, from 9 a.m. to 5 p.m. The full committee will meet on Thursday, October 5, 2017, from 9 a.m. to 5 p.m. Please note that these meetings may close early if the committee has completed its business.

ADDRESSES: The meeting will be held at the U.S. Coast Guard Headquarters, 2703 Martin Luther King Jr. Ave. SE., Washington, DC 20593–6509.

Pre-registration Information: Pre-registration is required for access to Coast Guard Headquarters. Foreign nationals participating will be required to pre-register no later than noon on September 3, 2017, to be admitted to the meeting. U.S. citizens participating will be required to pre-register no later than noon on September 19, 2017, to be admitted to the meeting. To pre-register, contact Lieutenant Jake Lobb at *jake.r.lobb@uscg.mil* or (202) 372–1428. You will be asked to provide your name, telephone number, date of birth, and social security number. In addition, please provide the company or group in which you are affiliated, and whether parking is required. Foreign nationals will also need to provide your country of citizenship, passport country, country of residence, place of birth, passport number, and expiration date. All attendees will be required to provide a government-issued picture identification card in order to gain admittance to the building.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Alternated Designated Federal Official as soon as possible using the contact information provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Instructions: You are free to submit comments at any time, including orally at the meeting, but if you want committee members to review your comment before the meeting, please submit your comments no later than September 26, 2017. We are particularly interested in comments on the issues in the ''Agenda'' section below. You must include ''Department of Homeland Security'' and docket number USCG–2017–0793. Written comments must be submitted using the Federal eRulemaking Portal at *http://www.regulations.gov.* If you encounter technical difficulties with comment submission, contact the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review the Privacy Act and Security Notice for the Federal Docket Management System at *https://regulations.gov/privacyNotice.*

Docket Search: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov,* type ''USCG–2017–0793)'' in the ''Search'' box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jake Lobb, Alternate Designated Federal Official of the Chemical Transportation Advisory Committee, 2703 Martin Luther King Jr. Ave. SE., Washington, DC 20593–7509, telephone 202–372–1428, fax 202–372–8380, or *jake.r.lobb@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Chemical Transportation Advisory Committee is established under the authority of Section 871 of the Homeland Security Act of 2002, Title 6, United States Code, section 451. This Committee is established in accordance with and operates under the provisions of the Federal Advisory Committee Act (Title 5, United States Code, Appendix).

The Chemical Transportation Advisory Committee will advise, consult with, and make recommendations reflecting its independent judgment to the Commandant of the United States Coast Guard on matters concerning the safe and secure marine transportation of hazardous materials, including industry outreach approaches. The Chemical Transportation Advisory Committee will respond to specific assignments and may conduct studies, inquiries, workshops, and seminars as the Commandant may authorize or direct.

Agendas of Meetings

Subcommittee Meetings on October 3 and 4, 2017

The subcommittee meetings will separately address the following tasks:

(1) Task Statement 13–03: Safety Standards for the Design of Vessels Carrying Natural Gas or Using Natural Gas as Fuel.

(2) Task Statement 15–01: Marine Vapor Control System Certifying Entities Guidelines update and Vapor Control System supplementary guidance for the implementation of the final rule.

(3) Task Statement 17–01: Hazardous Substance Response Plans for Tank Vessels and Facilities.

(4) Task Statement 16–01: Hazardous Cargo Transportation Security Subcommittee.

(5) Task Statement 17–02: Input to Support Regulatory Reform of Coast Guard Regulations—Executive Orders 13771 and 13783.

The task statements from the last committee meeting are located at Homeport at the following address: *https://homeport.uscg.mil/ctac.*

The agenda for each subcommittee will include the following:

1. Review subcommittee task statements.

2. Work on tasks assigned in task statements mentioned above.

3. Public comment period.

4. Discuss and prepare any proposed recommendations for the Chemical Transportation Advisory Committee meeting on October 5, 2017, on tasks assigned in detailed task statements mentioned above.

Full Committee Meeting on October 5, 2017

The agenda for the Chemical Transportation Advisory Committee meeting on October 5, 2017, is as follows:

1. Introductions and opening remarks.

2. Swear in newly appointed Committee members, and thank outgoing members.

3. Thank you letter presentation for the Vapor Control Subcommittee.

4. Review of March 2, 2017, meeting minutes and status of task items.

5. Coast Guard Leadership Remarks.

6. Chairman and Designated Federal Official remarks.

7. Committee will review, discuss, and formulate recommendations on the following items:

a. Task Statement 13–03: Safety Standards for the Design of Vessels Carrying Natural Gas or Using Natural Gas as Fuel.

b. Task Statement 15–01: Marine Vapor Control System (Certifying Entities Guidelines update and vapor control System supplementary guidance for the implementation of the final rule).

c. Task Statement 16–01: Hazardous Cargo Transportation Security Subcommittee.

d. Task Statement 17–01: Hazardous Substance Response Plans for Tank Vessels and Facilities.

e. Task Statement 17–02: Input to Support Regulatory Reform of Coast Guard Regulations—Executive Orders 13771 and 13783.

8. United States Coast Guard update on International Maritime Organization activities as they relate to the marine transportation of hazardous materials.

9. Presentation of interest related to safe and secure shipment of hazardous materials.

10. New business and subcommittee recommendation discussion.

11. Set next meeting date and location.

12. Set subcommittee meeting schedule.

13. Public comment period.

14. Adjournment of meeting.

A public comment period will be held during each Subcommittee and the full committee meeting concerning matters being discussed. Public comments will be limited to 3 minutes per speaker. Please note that the public comment period may end before the time indicated, following the last call for comments. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section, to register as a speaker. Please note the meeting may adjourn early if the work is completed.

Dated: August 24, 2017.

F.J. Sturm,

Acting Director of Commercial Regulations and Standards.

[FR Doc. 2017–18331 Filed 8–29–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Intertek USA, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc., has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of September 15, 2016.

DATES: The accreditation and approval of Intertek USA, Inc., as commercial gauger and laboratory became effective on September 15, 2016. The next triennial inspection date will be scheduled for September 2019.

FOR FURTHER INFORMATION CONTACT: Christopher J. Mocella, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 725 Oakridge Dr., Romeoville, IL 60446, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Intertek USA, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
1	Vocabulary
3	Tank gauging
5	Metering
7	Temperature determination
8	Sampling

API Chapters	Title
12	Calculations
17	Maritime measurement

Intertek USA, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
Pending	D70	Density of Semi-solid Bituminous Materials (Pycnometer method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: August 21, 2017.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2017–18412 Filed 8–29–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2017–0052; FXIA16710900000–178–FF09A30000]

Foreign Endangered and Threatened Species; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered and threatened species. With some exceptions, the Endangered Species Act prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before September 29, 2017.

ADDRESSES: *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–2017–0052.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2017–0052; U.S. Fish and Wildlife Service, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

When submitting comments, please indicate the name of the applicant and the PRT# you are commenting on. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Public Comments, below, for more information).

Viewing Comments: Comments and materials we receive will be available for public inspection on *http://www.regulations.gov,* or by appointment, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays, at the U.S. Fish and Wildlife Service, Division of Management Authority, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2095.

FOR FURTHER INFORMATION CONTACT: Joyce Russell, Government Information Specialist, Division of Management Authority, U.S. Fish and Wildlife Service Headquarters, MS: IA; 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2023; facsimile 703–358–2280.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **FOR FURTHER INFORMATION CONTACT**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please 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 (see **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.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; Jan. 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, 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 Endangered Species Act (16 U.S.C. 1531 *et seq.;* ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

Applicant: Duke Lemur Center, Durham, NC; PRT–27453C

The applicant requests authorization to import salvaged specimens of the following species from Madagascar for the purpose of scientific research: Black lemur (*Eulemur macaco*), greater bamboo lemur (*Prolemur simus*), greater dwarf lemur (*Cheirogaleus major*), aye-aye (*Daubentonia madagascariensis*), crowned lemur (*Eulemur coronatus*), white-headed lemur (*Eulemur albifrons*), red-bellied lemur (*Eulemur rubriventer*), gray bamboo lemur (*Hapalemur griseus*), Simmons' mouse lemur (*Microcebus simmonsi*), Goodman's mouse lemur (*Microcebus lehilahytsara*), Mittermeier's mouse lemur (*Microcebus mittermeieri*), and black-and-white ruffed lemur (*Varecia variegata*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Paul Bodnar, Cuyahoga Falls, OH; PRT–030006

The applicant requests to amend and renew a captive-bred wildlife registration under 50 CFR 17.21(g) to list the dwarf crocodile (*Ostteolaemus tetraspis tetraspis)* to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period

Trophy Permit Applicants:

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.

Roger Turner, Midland, TX; PRT–41493C

Paul Herbert Carter, Annapolis, MD; PRT–40393C

Alec Todd Pringle, Fairfield, CA; PRT–40394C

Pricilla Lee Seymour, Houston, TX; PRT–40338C

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 *regulations.gov* under the permit number listed in this document.

V. Public Comments

You may submit your comments and materials concerning this notice by one of the methods listed in **ADDRESSES**. We will not consider comments sent by email or fax or to an address not listed in **ADDRESSES**.

If you submit a comment via *regulations.gov*, your entire comment, including any personal identifying information, will be posted on the Web site. If you submit a hardcopy comment that includes personal identifying information, 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.

We will post all hardcopy comments on *regulations.gov*.

VI. Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Joyce Russell,

Government Information Specialist, Branch of Permits, Division of Management Authority.

[FR Doc. 2017–18353 Filed 8–29–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX17LR000F60100; OMB Control Number 1028–0068]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Ferrous Metals Surveys

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the U.S. Geological Survey is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before September 29, 2017.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov*; or via facsimile to (202) 395–5806. Please provide a copy of your comments to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0068 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Elizabeth S. Sangine by email at *escottsangine@usgs.gov,* or by telephone at 703–648–7720. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: We, the U.S. Geological Survey, in accordance with the Paperwork Reduction Act of 1995, provide the general public and other Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on May 2, 2017, 82 FR 20486. One comment was received from Bureau of Economic Analysis supporting the collection of this data as nationally important.

We are again soliciting comments on the proposed ICR that is described

below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the U.S. Geological Survey; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the U.S. Geological Survey enhance the quality, utility, and clarity of the information to be collected; and (5) how might the U.S. Geological Survey minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Title of Collection: Ferrous Metals Survey.

OMB Control Number: 1028–0068.

Form Number: Various, 15 forms.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Business or other-for-profit institutions: U.S. nonfuel minerals producers and consumers of ferrous and related metals.

Total Estimated Number of Annual Responses: 2296.

Total Estimated Number of Annual Burden Hours: 1199 hours.

Total Estimated Number of Annual Respondents: 1020.

Estimated Completion Time per Response: 10 minutes to 1 hour.

Respondent's Obligation: Voluntary.

Frequency of Collection: Monthly or annually.

Total Estimated Annual Nonhour Burden Cost: There are no nonhour burden costs associated with this IC.

Abstract: Respondents to these forms supply the USGS with domestic production and consumption data for 13 ores, concentrates, metals, and ferroalloys, some of which are considered strategic and critical. These data and derived information will be published as chapters in Minerals Yearbooks, monthly Mineral Industry Surveys, annual Mineral Commodity Summaries, and special publications, for use by Government agencies, industry education programs, and the general public.

The authorities for this action are the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

Michael J. Magyar,

Associate Director, National Minerals Information Center, U.S. Geological Survey.

[FR Doc. 2017–18362 Filed 8–29–17; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[17X.LLID957000.L14400000.BJ0000. 241A.X.4500109308]

Filing of Plats of Survey: Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management, Idaho State Office, Boise, Idaho, in 30 days from the date of this publication.

Boise Meridian, Idaho

T. 15 S., R. 40 E., Section 3, accepted May 26, 2017

T. 14 S., R. 21 E., Sections 26, 33, 34, accepted May 26, 2017

T. 11 N., R. 17 E., Section 24, accepted May 26, 2017

T. 11 N., R. 17 E., Section 25, accepted May 26, 2017

ADDRESSES: A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, upon required payment.

FOR FURTHER INFORMATION CONTACT: Timothy A. Quincy, (208) 373–3981 Branch of Cadastral Survey, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657. 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 Mr. Quincy. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

A person or party who wishes to protest one or more plats of survey identified above must file a written notice with the Chief Cadastral Surveyor for Idaho, Bureau of Land Management. The protest must identify the plat(s) of survey that the person or party wishes to protest and contain all reasons and evidence in support of the protest. The protest must be filed before the scheduled date of official filing for the plat(s) of survey being protested. Any protest filed after the scheduled date of official filing will be untimely and will not be considered. A protest is considered filed on the date it is received by the Chief Cadastral Surveyor for Idaho during regular business hours; if received after regular business hours, a protest will be considered filed the next business day. If a protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in a protest, you should be aware that the documents you submit, including your personal identifying information, may be made publicly available in their entirety at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Timothy A. Quincy,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 2017–18393 Filed 8–29–17; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM932000.L14400000.ET0000.17X; NMNM–85612]

Notice of Application for Extension of Public Land Order No. 7296, and Opportunity for Public Meeting, Sacramento Peak Observatory; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, U.S. Forest Service (USFS) has filed an application with the Bureau of Land Management (BLM) requesting that the Secretary of the Interior extend the duration of the withdrawal created by Public Land Order (PLO) No. 7296 for an additional 20-year term subject to valid existing rights. PLO No. 7296 withdrew approximately 2,489.40 acres of

National Forest System land from mining, but not from mineral leasing, to protect the scientific values of the Sacramento Peak Observatory located in the Lincoln National Forest. PLO No. 7296 will expire on November 28, 2017, unless extended. This notice gives the public an opportunity to comment on the application and to request a public meeting. This notice also amends the number of acres subject to PLO No. 7296. The number of acres that are subject to the withdrawal has been increased due to previously unsurveyed sections being surveyed since the withdrawal was originally created.

DATES: Comments and public meeting requests must be received by November 28, 2017.

ADDRESSES: Comments and public meeting requests should be sent to State Director, BLM, New Mexico State Office, P.O. Box 27115, Santa Fe, New Mexico 87502.

FOR FURTHER INFORMATION CONTACT: Jeanette Martinez, BLM New Mexico State Office, 505–954–2040, or via email at *jeanette@blm.gov.* Persons who use telecommunications device for the deaf (TDD) may call the Federal Relay Services at 1–800–877–8339 to reach the BLM contact person. The Service is available 24 hours a day, 7 days a week, to leave a message or question for the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The USFS has filed an application requesting that the Secretary of the Interior extend the withdrawal created by PLO 7396 (62 FR 63380 (1997)) for an additional 20-year term. PLO 7296 withdrew approximately 2,432.40 acres of National Forest System land from mining to protect the scientific values associated with the continued operation of the Sacramento Peak Observatory. Subsequent surveys of unsurveyed sections 28 and 33 revealed the area subject to the withdrawal contains 2,489.40 acres and is now described as follows:

New Mexico Principal Meridian

Lincoln National Forest

T. 17 S., R. 11. E., sec. 26, SW¼; sec.27, W½NE¼, SE¼NE¼, NW¼, and S½; sec. 34; PB 46 and PB 51, as depicted on Protraction Diagram approved June 18, 2003.

The area described contains 2,489.40 acres in Otero County. This legal description is identical in size, shape, and location as the description in PLO No. 7296, as published in the **Federal Register** (62 FR 63380 (1997)). Portions of the withdrawal originally described as sec. 28, E½NE¼ and S½, unsurveyed, and sec. 33, unsurveyed, are now identified as PB 46 and PB 51, respectively.

The purpose of the proposed extension is to ensure the continued protection of the scientific value of the Sacramento Peak Observatory. This includes the protection of the area from pollution, dust, vibration, and light that would interfere with the operation of the highly sensitive components of the Observatory.

No suitable alternative sites exist as the infrastructure investments of the SPO are in place at the optimal position for the type of activity ongoing at this site. The use of a right-of-way, interagency agreement, or cooperative agreement would not provide adequate protection.

The USFS would not need to acquire additional water rights to fulfill the purpose of the requested extension.

Records pertaining to the extension application can be examined by contacting Jeanette Martinez in the BLM New Mexico State Office at the address or phone number shown above.

For a period until November 28, 2017, all persons who wish to submit comments, suggestions, or objections in connection with the withdrawal extension application may present their views in writing to the BLM New Mexico State Director at the address indicated above. Comments, including names and street addresses of respondents, will be available for public review at the address listed above during regular business hours. Be advised that your entire comment, including your personal identifying information, may be made publicly available. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Notice is hereby given that an opportunity for a public meeting is offered in connection with the withdrawal extension application. All interested parties who desire a public meeting for the purpose of being heard on the withdrawal extension application must submit a written request to the BLM New Mexico State Director at the address indicated above by November 28, 2017. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** and a local newspaper at least 30 days before the scheduled date of the meeting.

The withdrawal extension application will be processed in accordance with the regulations set forth in 43 CFR 2310.4.

Debby Lucero,

Acting Deputy State Director, Lands and Resources.

[FR Doc. 2017–18409 Filed 8–29–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0023998; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: U.S. Department of Agriculture, Forest Service, Tonto National Forest, Phoenix, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture (USDA), Forest Service, Tonto National Forest, has completed an inventory of unassociated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the unassociated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these cultural items should submit a written request to the Tonto National Forest. If no additional requestors come forward, transfer of control of the unassociated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these cultural items should submit a written request with information in support of the request to the Tonto National Forest at the address in this notice by September 29, 2017.

ADDRESSES: Neil Bosworth, Tonto National Forest, 2324 East McDowell Road, Phoenix, AZ 85206, telephone (602) 225–5201, email *nbosworth@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Tonto

National Forest, Phoenix, AZ, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the unassociated funerary objects. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

Prior to 1990, 11 unassociated funerary objects were removed from Six Shooter Canyon in Gila County, AZ. The unassociated funerary objects were donated to the Grand Canyon Museum and then transferred to the Tonto National Forest on December 29, 2016. The 11 unassociated funerary objects are three shell bracelets, three shell rings, and five turquoise tessera pieces. A detailed assessment of the unassociated funerary objects was made by the Tonto National Forest professional staff in consultation with representatives of the Salt River Pima-Maricopa Indian Community, who submitted a repatriation claim for the cultural items.

In accordance with the Plan for the Treatment and Disposition of Human Remains and Other Cultural Items from the Tonto National Forest Pursuant to the Native American Graves Protection and Repatriation Act (as revised in 2001), it has been determined that the primary cultural affiliation of these unassociated funerary objects is with the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona.

Determinations Made by the USDA, Forest Service, Tonto National Forest

Officials of the Tonto National Forest have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 11 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these unassociated funerary objects should submit a written request with information in support of the request to Neil Bosworth, Tonto National Forest, 2324 E McDowell Road, Phoenix, AZ 85206, telephone (602) 225–5201, email *nbosworth@fs.fed.us,* by September 29, 2017. After that date, if no additional requestors have come forward, transfer of control of the unassociated funerary objects to the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona, may proceed.

The Tonto National Forest is responsible for notifying the Ak-Chin Indian Community (previously listed as the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona); Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona that this notice has been published.

Dated: August 14, 2017.

Sarah Glass,

Acting Manager, National NAGPRA Program.

[FR Doc. 2017–18346 Filed 8–29–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0024011; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Science Museum of Minnesota, St. Paul, MN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Science Museum of Minnesota, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of sacred objects and objects of cultural patrimony. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Science Museum of Minnesota. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Science Museum of Minnesota at the address in this notice by September 29, 2017.

ADDRESSES: Edward Fleming, Science Museum of Minnesota, 120 West Kellogg Boulevard, St. Paul, MN 55102, telephone (651) 221–4576, email *efleming@smm.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Science Museum of Minnesota, St. Paul, MN, that meet the definition of sacred objects and objects of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

In July of 1958, two cultural items were removed from the Nett Lake region in Koochiching and St. Louis Counties, MN. Karen Peterson, a Science Museum of Minnesota affiliate, purchased the items on the Museum's behalf. One item, a drum, was purchased from Mrs. Ray Drift. The other item, a drumstick, was purchased from Mr. Walter Drift. Both sellers were members of the Bois Forte Band (Nett Lake), one of six reservations that, together, comprise the Minnesota Chippewa Tribe, Minnesota. The two items go together. The two sacred objects/objects of cultural patrimony are one drum and one drumstick.

Museum accession, catalogue, collector notes and purchase records, as well as consultation with representatives of the Bois Forte Band (Nett Lake) of the Minnesota Chippewa

Tribe, Minnesota, indicate that the two cultural objects are Ojibwe, are from the Nett Lake Reservation, MN, and are sacred objects and objects of cultural patrimony. On April 18, 2017, Science Museum of Minnesota officials met with members of the Bois Forte Band. Elders, spiritual advisors, and five drum-keepers from the Bois Forte Band were present at the meeting, and each in turn explained the spiritual and sacred importance of drums both to the Ojibwe in general, and to the Bois Forte Band in particular. According to the group, drums are treated as living beings, and are cared for by a drum-keeper as long as that drum-keeper is able. If a drum-keeper can no longer care for a drum, it is passed on to another drum-keeper. Supernatural beings bestow the honor and duty of caring for a drum through dreams and visions. Ceremonial songs and dances associated with drums are similarly revealed. According to the informants' testimonies, the investiture and traditional religious practices of drum-keepers, and the drums used in such practices are central to Ojibwe religion and the Bois Forte Band. Drums made by this community belong to the community, and are not the property of drum-keepers or any other custodian. According to the elders, spiritual advisors, and drum-keepers present during consultation, the drum and drumstick should never have been sold, and should be returned.

Determinations Made by the Science Museum of Minnesota

Officials of the Science Museum of Minnesota have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the two cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(3)(D), the two cultural items described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects and objects of cultural patrimony and the Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Edward Fleming, Science Museum of Minnesota, 120 West Kellogg Boulevard, St. Paul, MN 55102, telephone (651) 221–4576, email *efleming@smm.org,* by September 29, 2017. After that date, if no additional claimants have come forward, transfer of control of the sacred objects and objects of cultural patrimony to the Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota, may proceed.

The Science Museum of Minnesota is responsible for notifying the Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota, that this notice has been published.

Dated: August 15, 2017.

Sarah Glass,

Acting Manager, National NAGPRA Program.

[FR Doc. 2017–18345 Filed 8–29–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR02050400, 17XR0687NA, RX.18527901.3000000]

Central Valley Project Improvement Act Water Management Plans

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Reclamation has made available to the public the Water Management Plans for eight entities. For the purpose of this announcement, Water Management Plans (Plans) are considered the same as Water Conservation Plans. Reclamation is publishing this notice in order to allow the public an opportunity to review the Plans and comment on the preliminary determinations.

DATES: Submit written comments on the preliminary determinations on or before September 29, 2017.

ADDRESSES: Send written comments to Ms. Charlene Stemen, Bureau of Reclamation, 2800 Cottage Way, MP–400, Sacramento, CA 95825; or via email at *cstemen@usbr.gov.*

FOR FURTHER INFORMATION CONTACT: To be placed on a mailing list for any subsequent information, please contact Ms. Charlene Stemen at the email address above or at 916–978–5218 (TDD 978–5608).

SUPPLEMENTARY INFORMATION: To meet the requirements of the Central Valley Project Improvement Act of 1992 and the Reclamation Reform Act of 1982, the Bureau of Reclamation developed and published the Criteria for Evaluating Water Management Plans (Criteria) in the **Federal Register** on March 25, 2011 (76 FR 16818).

Each of the eight entities listed below has developed a Plan that has been evaluated and preliminarily determined to meet the requirements of these Criteria. The following Plans are available for review:

- City of Avenal
- Banta Carbona Irrigation District
- Chowchilla Water District
- Delano Earlimart Irrigation District
- City of Fernley
- Goleta Water District
- City of Shasta Lake
- Tranquility Irrigation District

We are inviting the public to comment on our preliminary (*i.e.,* draft) determination of Plan adequacy. Section 3405(e) of the Central Valley Project Improvement Act (Title 34 Public Law 102–575), requires the Secretary of the Interior to establish and administer an office on Central Valley Project water conservation best management practices that shall ''develop criteria for evaluating the adequacy of all water conservation plans developed by project contractors, including those plans required by Section 210 of the Reclamation Reform Act of 1982.'' Also, according to Section 3405(e)(1), these criteria must be developed ''with the purpose of promoting the highest level of water use efficiency reasonably achievable by project contractors using best available cost-effective technology and best management practices.'' These criteria state that all parties (Contractors) that contract with Reclamation for water supplies (municipal and industrial contracts over 2,000 acre-feet and agricultural contracts over 2,000 irrigable acres) must prepare a Plan that contains the following information:

1. Description of the District;
2. Inventory of Water Resources;
3. Best Management Practices (BMPs) for Agricultural Contractors;
4. BMPs for Urban Contractors;
5. Plan Implementation;
6. Exemption Process;
7. Regional Criteria; and
8. Five-Year Revisions.

Reclamation evaluates Plans based on these criteria. A copy of these Plans will be available for review at Reclamation's Mid-Pacific Regional Office, 2800 Cottage Way, MP–400, Sacramento, CA 95825. Our practice is to make comments, including names and home addresses of respondents, available for public review. If you wish to review a copy of these Plans, please contact Ms. Stemen.

Public Disclosure

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: August 21, 2017.

Richard J. Woodley,

Regional Resources Manager, Mid-Pacific Region, Bureau of Reclamation.

[FR Doc. 2017–18394 Filed 8–29–17; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1007; Investigation No. 337–TA–1021 (Consolidated)]

Certain Personal Transporters, Components Thereof, and Packaging and Manuals Therefor; Certain Personal Transporters and Components Thereof; Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge has issued a Final Initial Determination and Recommended Determination on Remedy and Bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief, should the Commission find a violation, specifically: a general exclusion order (''GEO'') covering accused products found to infringe the asserted patents; a limited exclusion order (''LEO'') covering accused products found to infringe the asserted patents; a LEO covering accused products found to infringe the asserted trademarks; and cease and desist orders (''CDOs'') directed against the participating respondents. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to Commission rules.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3115. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Intemet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

> unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(l). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(l).

The Commission is interested in further development of the record on the public interest in these investigations. Accordingly, parties are to file public interest submissions pursuant to pursuant to 19 CFR 210.50(a)(4). In addition, members of the public are hereby invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's Recommended Determination on Remedy and Bonding issued in this investigation on August 23, 2017. Comments should address whether issuance of the recommended GEO, LEOs, and CDOs in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the recommended orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainants, their licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainants, complainants' licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the GEO, LEOs, and CDOs would impact consumers in the United States.

Written submissions from the public must be filed no later than by close of business on Monday, September 11, 2017.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1007, Inv. No. 337–TA–1021 (Consolidated)'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf.*) Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50 of the

Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50).

By order of the Commission.

Issued: August 23, 2017.

Katherine M. Hiner,

Supervisory Attorney.

[FR Doc. 2017–18234 Filed 8–29–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–663 (Fourth Review)]

Paper Clips From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty order on paper clips from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted this review on June 1, 2016 (81 FR 35052) and determined on September 6, 2016 that it would conduct a full review (82 FR 13132, March 9, 2017). Notice of the scheduling of the Commission's review 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** on March 9, 2017 (82 FR 13132). The hearing was cancelled on June 8, 2017 at the request of the domestic interested parties (82 FR 27285, June 14, 2017).

The Commission made this determination pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determination in this review on August 24, 2017. The views of the Commission are contained in USITC Publication 4719 (August 2017), entitled *Paper Clips from China: Investigation No. 731–TA–663 (Fourth Review).*

By order of the Commission.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Issued: August 24, 2017.

Katherine M. Hiner,

Supervisory Attorney.

[FR Doc. 2017–18357 Filed 8–29–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Request for Examination and/or Treatment

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) titled, ''Request for Examination and/or Treatment,'' 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 September 29, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201702-1240-001* this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OWCP, 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: 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 Request for Examination and/or Treatment information collection. An employer uses Form LS–1, Request for Examination and/or Treatment, to authorize medical treatment for an injured worker. A physician uses the form to report findings of physical examinations and any recommended treatment. Longshore and Harbor Workers' Compensation Act section 39(a) authorizes this information collection. *See* 33 U.S.C. 939(a).

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 1240–0029.

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 August 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 13, 2017 (82 FR 17883).

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 1240–0029. 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–OWCP.

Title of Collection: Request for Examination and/or Treatment.

OMB Control Number: 1240–0029.

Affected Public: Individuals or Households and Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 60,000.

Total Estimated Number of Responses: 90,000.

Total Estimated Annual Time Burden: 48,735 hours.

Total Estimated Annual Other Costs Burden: $1,482,858.

Dated: August 24, 2017.

Authority: 44 U.S.C. 3507(a)(1)(D).

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–18388 Filed 8–29–17; 8:45 am]

BILLING CODE 4510–CF–P

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Administration and Management

Agency Information Collection Activities; Comment Request; Nondiscrimination Compliance Information Reporting

ACTION: Notice of availability and request for comments.

SUMMARY: The Department of Labor (DOL), Office of the Assistant Secretary for Administration and Management (OASAM) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Nondiscrimination Compliance Information Reporting.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written public comments received by October 30, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge 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 written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor–OASAM, Office of the Chief Information Officer, Attn: Information Management 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 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

This ICR seeks to extend PRA authorization for the Nondiscrimination Compliance Information Reporting information collection that provides data used to help ensure a recipient of certain DOL Federal financial assistance programs does not discriminate in the administration, management, or operation of programs and activities. Information collections covered by this ICR include (1) a grant applicant providing assurance that the applicant is aware of and, as a condition of receipt of Federal financial assistance, agrees to comply with the assurance requirements; (2) a DOL funds recipient maintaining a record of EO characteristics data and a log of any EO complaints for activities under an applicable DOL funded program; (3) a person who believes a relevant EO requirement may have been violated filing a complaint with either the funds recipient or with the DOL Civil Rights Center; (4) a State periodically filing a plan outlining administrative methods the State will use to ensure funds are not used in a discriminatory manner; and (5) a DOL funds recipient posting required notices.

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 1225–0077.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration. In order to help ensure appropriate consideration, comments should mention Control Number 1225–0077. A commenter may request oral confirmation that a submission has been received by contacting the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. No other method will be used to acknowledge the receipt of a comment.

Comments submitted in response to this notice will be a matter of the public record for this ICR and posted on the Internet, without redaction. The DOL will not honor any request to the contrary for a comment submitted in response to this notice. The DOL encourages commenters not to include sensitive personal information (*e.g.,* a social security number), confidential business data (*e.g.,* a bank account number or trade secret), or other sensitive statements/information in any comments.

The DOL 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–OASAM.

Title of Collection: Nondiscrimination Compliance Information Reporting.

OMB Control Number: 1225–0077.

Affected Public: State, Local, and Tribal Governments; Individuals or Households; and Private Sector—businesses or other for-profits and not-for-profit institutions.

Estimated Number of Respondents: 105,259.

Frequency: Varies.

Total Estimated Annual Responses: 56,324,784.

Estimated Average Time per Response: Varies.

Estimated Total Annual Burden Hours: 315,339 hours.

Total Estimated Annual Other Cost Burden: $0.

Authority: 44 U.S.C. 3506(c)(2)(A).

Dated: August 24, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–18361 Filed 8–29–17; 8:45 am]

BILLING CODE 4510–04–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Rock Burst Control Plan, (Pertains to Underground Metal/Nonmetal Mines)

ACTION: Notice of availability and request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Rock Burst Control Plan, (Pertains to Underground Metal/Nonmetal Mines),'' 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 September 29, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201705-1219-004* (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 or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, 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: 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 Rock Burst Control Plan, (Pertains to Underground Metal/Nonmetal Mines) information collection requirements codified in regulations 30 CFR 57.3461, which requires an underground metal or nonmetal mine operator to develop a rock burst plan within ninety (90) days after a rock burst has been experienced. This information is used for work assignments to ensure miner safety and to schedule correction work. Despite having only one (1) respondent in any given year, the MSHA must maintain this information collection, as it is part of a rule of general applicability. *See* 5 CFR 1320.3(c)(4)(i). Federal Mine Safety and Health Act of 1977 sections 101(a) and 103(h) authorize this information collection. *See* 30 U.S.C. 811(a), 813(h).

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 1219–0097.

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 August 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 12, 1017 (82 FR 17694.

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 1219–0097. 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–MSHA.

Title of Collection: Rock Burst Control Plan, (Pertains to Underground Metal/Nonmetal Mines).

OMB Control Number: 1219–0097.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 1.

Total Estimated Number of Responses: 1.

Total Estimated Annual Time Burden: 12 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: August 24, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–18367 Filed 8–29–17; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Comment Request; Department of Labor Events Registration Platform

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning the information collection request (ICR) titled, ''Department of Labor Events Registration Platform.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by October 30, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge 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 written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor–OASAM, Office of the Chief Information Officer, Attn: Information Management 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 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

This ICR pertains to the DOL Events Registration Platform. More specifically, the DOL periodically requests the public to register to attend a DOL sponsored event. The DOL Events Management Platform is a shared service that allows a DOL agency to collect registration information in a way that can be tailored to a particular event. As the information needed to register for specific events may vary, this ICR provides a generic format to obtain any required PRA authorization from the OMB. The DOL notes that registration requirements for many events do not require PRA clearance, because the information requested is minimal (*e.g.,* information necessary to identify the attendee, address, etc.).

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 1290–0002.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1290–0002.

Submitted comments will also be a matter of public record for this ICR and posted on the Internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL 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.

Title of Collection: Department of Labor Events Registration Platform.

OMB Control Number: 1290–0002.

Type of Request: Extension without change of a currently approved collection.

Affected Public: State, Local, and Tribal Governments; Individuals or Households; and Private Sector—businesses or other for-profits, farms, and not-for-profit institutions.

Estimated Number of Respondents: 15,000.

Total Estimated Annual Responses: 15,000.

Estimated Average Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 2,500 hours.

Total Estimated Annual Other Cost Burden: $0.

Authority: 44 U.S.C. 3506(c)(2)(A).

Dated: August 24, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–18320 Filed 8–29–17; 8:45 am]

BILLING CODE 4510–04–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Escape and Evacuation Plans

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and

Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Escape and Evacuation Plans,'' 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 September 29, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201705-1219-003* (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–MSHA, 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 Escape and Evacuation Plans information collection requirements codified in regulations 30 CFR 57.11053, which requires the development of an escape and evacuation plan specifically addressing the unique conditions of each underground metal and nonmetal mine and requires that revisions be made as mining progresses. The plan must be available to MSHA representatives and conspicuously posted at locations convenient to all persons on the surface and underground. The mine operator and the MSHA are required jointly to review the plan at least once every six months. Federal Mine Safety and Health Act of 1977, as amended section 103(h) authorizes this information collection. *See* 30 U.S.C. 813(h).

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 1219–0046.

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 August 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 22, 2017 (82 FR 14752).

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 1219–0046. 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–MSHA.

Title of Collection: Escape and Evacuation Plans.

OMB Control Number: 1219–0046.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 231.

Total Estimated Number of Responses: 462.

Total Estimated Annual Time Burden: 3,927 hours.

Total Estimated Annual Other Costs Burden: $2,310.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: August 24, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–18434 Filed 8–29–17; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0039]

Intertek Testing Services NA, Inc.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Intertek Testing Services NA, Inc. for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before September 14, 2017.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2007–0039, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3508, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 10:00 a.m.–2:30 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2007–0039). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before September 14, 2017 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

The Occupational Safety and Health Administration is providing notice that Intertek Testing Services NA, Inc. (ITSNA), is applying for expansion of its current recognition as a NRTL. ITSNA requests the addition of seven test standards to its NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL, including ITSNA, which details the NRTL's scope of recognition. These pages are available from the OSHA Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

ITSNA currently has fourteen facilities (sites) recognized by OSHA for product testing and certification, with its headquarters located at: Intertek Testing Services NA, Inc., 545 East Algonquin Road, Suite F, Arlington Heights, Illinois 60005. A complete list of ITSNA's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/its.html.*

II. General Background on the Application

ITSNA submitted an application, dated April 21, 2015 (OSHA–2007–0039–0026), to expand its recognition to include seven additional test standards. OSHA staff performed detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 below lists the appropriate test standards found in ITSNA's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN ITSNA'S NRTL SCOPE OF RECOGNITION

Test Standard	Test Standard Title
UL 109	Tube Fittings for Flammable and Combustible Fluids, Refrigeration Service and Marine Use.
UL 979	Water Treatment Appliances.
UL 1429	Pullout Switches.
UL 1441	Coated Electrical Sleeving.
UL 2420	Belowground Reinforced Thermosetting Resin Conduit (RTRC) and Fittings.
UL 2515	Aboveground Reinforced Thermosetting Resin Conduit (RTRC) and Fittings.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN ITSNA'S NRTL SCOPE OF RECOGNITION—Continued

Test Standard	Test Standard Title
UL 60950–21	Information Technology Equipment—Safety—Part 21: Remote Power Feeding.

III. Preliminary Findings on the Application

ITSNA submitted an acceptable application for expansion of its scope of recognition. OSHA's review of the application file, and pertinent documentation, indicate that ITSNA can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of these seven test standards for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of ITSNA's application.

OSHA welcomes public comment as to whether ITSNA meets the requirements of 29 CFR 1910.7 for expansion of its recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–3508, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2007–0039.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary for Occupational Safety and Health whether to grant ITSNA's application for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register**.

IV. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on August 22, 2017.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–18428 Filed 8–29–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0056]

Voluntary Protection Programs Information; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in Voluntary Protection Programs Information.

DATES: Comments must be submitted (postmarked, sent, or received) by October 30, 2017.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2011–0056 U.S. Department of Labor, Occupational Safety and Health Administration, Room N–3653, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the Information Collection Request (ICR) (OSHA–2011–0056). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

FOR FURTHER INFORMATION CONTACT: David Hamel, Director, Office of Partnerships and Recognition, Directorate of Cooperative and State Programs, OSHA, U.S. Department of Labor, Room N–3700, 200 Constitution Avenue NW,, Washington, DC 20210; telephone (202) 693–2213.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA

95) [44 U.S.C. 3506(c)(2)(A)]. This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The Voluntary Protection Programs (VPP) [47 FR 29025], adopted by OSHA, established the efficacy of cooperative action among government, industry and labor to address employee safety and health issues and to expand employee protection. To qualify, employers must meet OSHA's safety and health management criterion, which focuses on comprehensive management programs and active employee involvement to prevent or control worksite safety and health hazards. Employers who qualify generally view OSHA standards as a minimum level of safety and health performance, and set their own more stringent standards, wherever necessary, to improve employee protection. Prospective VPP worksites must submit an application that includes:

- General applicant information (*e.g.,* site, corporate, and collective bargaining contact information).
- Injury and illness rate performance information (*i.e.,* number of employees and/or applicable contractors onsite, type of work performed and products produced, North American Industry Classification System (NAICS) codes, and Recordable Injury and Illness Case Incidence Rate information).
- Safety and health management program information (*i.e.,* description of the applicant's safety and health management programs including how the programs successfully address management leadership and employee involvement, worksite analysis, hazard prevention and control, and safety and health training).

OSHA uses this information to determine whether an applicant is ready for a VPP onsite evaluation and as a verification tool during VPP onsite evaluations. Without this information, OSHA would be unable to determine which sites are ready for VPP status.

Each current VPP applicant is also required to submit an annual self-evaluation which addresses how that applicant is continuing its adherence to programmatic requirements.

In 2008, OSHA modified procedures for VPP applicants, OSHA onsite evaluations, and annual participant self-evaluations for applicants/participants subject to OSHA's Process Safety Management (PSM) Standard. Applicants who perform work that uses or produces highly hazardous chemicals exceeding specified limits covered under the PSM standard must submit responses to the PSM application supplement along with their VPP application.

Once in the VPP, the participant is required to submit an annual self-evaluation detailing its continued adherence to programmatic requirements. Applicants covered under the PSM standard are required to submit a PSM questionnaire, a supplemental document, as part of their annual submission. OSHA needs this information to ensure that the participant remains qualified to participate in the VPP between onsite evaluations. Without this information, OSHA would be unable to determine whether applicants are maintaining excellent safety and health management programs during this interim period.

In 2009, with the publication of the **Federal Register** Notice (FRN) (74 FR 927, January 9, 2009), VPP revised its traditional focus on individual fixed worksites (site-based) by adding two new ways to participate: mobile workforce and corporate. A significant reorganization of the program helped clarify the multiple participation options now available.

Employees of VPP participants may apply to participate in the Special Government Employee (SGE) Program. The SGE Program offers private and public sector safety and health professionals and other qualified participants the opportunity to exchange ideas, gain new perspectives, and grow professionally while serving as full-fledged team members on OSHA's VPP onsite evaluations and helping OSHA with other VPP-related activities. In this capacity, SGEs may review company documents, assist with worksite walkthroughs, interview employees, assist in preparing VPP onsite evaluation reports, assist the Regional VPP Manager with the review of a site's VPP application or annual self-evaluation report, co-instruct the SGE course or VPP application workshop, and mentor potential or current VPP sites. Potential SGEs must submit an application that includes:

- SGE Eligibility Information Sheet (*i.e.,* applicant's name, professional credentials, site/corporate contact information, qualifying activities participation, etc.);
- Current Resume;
- Confidential Financial Disclosure Report (OGE Form 450).
- Optional Application for Federal Employment (OF 612).

OSHA uses the SGE Eligibility Information Sheet to ensure that the potential SGE works at a VPP site and meets the minimum eligibility qualifications. The resume is required to provide a detailed description of their current duties and responsibilities as they relate to safety and health and the implementation of an effective safety and health management program. The OGE Form 450 is used to ensure that SGEs do not participate on onsite evaluations at VPP sites in which they have a financial interest.

OSHA Challenge is designed to reach and guide employers and companies in all major industry groups who are strongly committed to improving their safety and health management programs and possibly pursuing recognition in the VPP. The Challenge Administrator's application is used to: (1) Conduct a preliminary analysis of the applicant's knowledge of safety and health management programs; and (2) make a determination regarding the applicant's qualifications to become a Challenge Administrator. Once a Challenge Administrator is approved, the program's Administrator will review each Challenge candidate's application/annual submissions to ensure that all necessary information is provided, prior to forwarding them to OSHA's National Office for analysis and acceptance.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA proposes to extend OMB's approval of the collection of information (paperwork) requirements necessitated by the Voluntary Protection Programs. The Agency is requesting an adjustment decrease in the burden hours from 134,475 hours to 90,863 hours; a total decrease of 43,612 hours. The decrease is the result of the VPP Participation Evaluation Report Site-Based Mobile Workforce Corporate in managing participants is no longer needed. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of these information collection requirements.

Type of Review: Extension of a currently approved collection.

Title: Voluntary Protection Programs Information.

OMB Number: 1218–0239.

Affected Public: Business or other for-profits; individuals or households; Federal government; state, local or tribal government.

Number of Respondents:

VPP
- 273 Applications
- 55 Process Safety Management Applications Questionnaire-A
- 1,406 Annual Self-Evaluations
- 55 (PSM) Annual Self-Evaluations/ Supplemental Questionnaire B

Challenge
- 3 Challenge Administrator's Applications
- 27 Challenge Participant's Applications
- 143 Challenge Annual Self-Evaluations

Special Government Employees
- 348 SGE Eligibility Information Sheets
- 261 Resumes
- 87 OF–612
- 1616 Confidential Financial Disclosure Forms (OGE-Form 450)

Total Respondents: 4,274.

Frequency: Various.

Average Time per Response:

VPP General
- 200 hours for VPP Applications
- 20 hours for VPP Annual Evaluations

Process Safety Management
- 40 hours for Applications
- 20 hours for Annual Evaluations

Challenge
- 5 hours for Challenge Administrator's Applications
- 10 hours for Challenge Candidate Applications
- 20 hours for Challenge Annual Evaluations

Special Government Employees (SGE)
- 10 minutes (.17 hour) for SGE Eligibility Information Sheet
- 30 minutes (.50 hour) for SGE Resume
- 40 minutes for Optional Form 612
- 1 hour for Confidential Financial Disclosure Form

Estimated Total Burden Hours: 90,863.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2011–0056). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on August 22, 2017.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–18427 Filed 8–29–17; 8:45 am]

BILLING CODE 4510–26–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

DATE AND TIME: The Legal Services Corporation's Board of Directors will meet telephonically on September 5, 2017. The meeting will commence at 4:00 p.m., EDT, and will continue until the conclusion of the Committee's agenda.

LOCATION: John N. Erlenborn Conference Room, Legal Services Corporation Headquarters, 3333 K Street NW., Washington DC 20007.

PUBLIC OBSERVATION: Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below.

Call-in Directions for Open Sessions

- Call toll-free number: 1–866–451–4981;
- When prompted, enter the following numeric pass code: 5907707348;
- When connected to the call, please immediately ''MUTE'' your telephone.

Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so will trigger recorded music or other sound. From time to time, the Chair may solicit comments from the public.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda
2. Approval of minutes of the Board's Open Session meeting of July 22, 2017
3. Consider and act on the Finance Committee's Recommendation regarding LSC's FY 2019 Budget Request
4. Public comment

5. Consider and act on other business
6. Consider and act on adjournment of meeting.

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

ACCESSIBILITY: LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals needing other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov,* at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: August 24, 2017.

Katherine Ward,

Executive Assistant to the Vice President for Legal Affairs and General Counsel.

[FR Doc. 2017–18528 Filed 8–28–17; 4:15 pm]

BILLING CODE 7050–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0186]

Preparation of Petitions for Rulemaking and Preparation and Submission of Proposals for Regulatory Guidance Documents

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is withdrawing Regulatory Guide (RG) 10.12, ''Preparation of Petitions for Rulemaking under 10 CFR 2.802 and Preparation and Submission of Proposals for Regulatory Guidance Documents.'' Regulatory Guide 10.12 is being withdrawn because the guidance in the RG is found in the revised 10 CFR 2.802, ''Petition for Rulemaking,'' and in other user-friendly communication tools, such as the NRC's public Web site.

ADDRESSES: Please refer to Docket ID NRC–2017–0186 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0186. 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 this document. The basis for the withdrawal of this guide is in ADAMS under Accession No. ML17236A456.
- *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: Harriet Karagiannis, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–251–7477, email: *Harriet.Karagiannis@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is withdrawing RG 10.12 because it is no longer the most appropriate platform for communicating this guidance to the public. The proposed rule combined with the updates in the NRC's public Web site provide more useful information for the Petition for Rulemaking (PRM) process.

II. Further Information

The withdrawal of RG 10.12 does not alter any prior or existing licensing commitments based on its use. Although a regulatory guide is withdrawn, its use in existing licenses is still valid, and changes to the licenses can be accomplished using other regulatory products.

Withdrawal of a RG means that the guide no longer provides useful information or has been superseded by other guidance, technological innovations, congressional actions, or other events. A withdrawn guide should not be used for future NRC licensing activities.

The RG 10.12 was issued in December 1996. The RG 10.12 provides guidance on meeting the requirements in part 2 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Agency Rules of Practice and Procedures,'' section 2.802 ''Petition for Rulemaking,'' which pertains to the process for preparing a petition. As a result of the revised 10 CFR 2.802 rulemaking the guidance that exists in RG 10.12 has been superseded.

The staff has revised 10 CFR 2.802 to streamline the process for addressing a PRM. The rule: (1) Clarifies and codifies the NRC's current policies and practices on the actions taken upon receipt of a PRM and at other stages of the PRM process; (2) clarifies and improves the current policies and practices for evaluating PRMs; (3) updates the means for communicating with the petitioner and the public information on the status of NRC PRMs and rulemaking activities addressing PRMs; and (4) establishes an improved process for resolving PRMs, including an administrative process for closing the PRM docket to reflect agency action for the PRM. These changes are enhancing the consistency, timeliness, and transparency of the NRC's actions and are increasing the efficient use of the NRC's resources in the PRM process. The rule text supersedes the guidance that exists in RG 10.12.

In addition, information in RG 10.12 is made available through other user-friendly tools, such as the NRC's public Web site which is enhanced to provide updated guidance, including a brochure and a process flow chart, for submitting a PRM and proposals to change existing regulatory guidance documents.

The revised 10 CFR 2.802 combined with Web site updates provide more up-to-date information for the PRM process. Therefore, the guidance provided in this RG has been superseded.

Dated at Rockville, Maryland, this 24th day of August, 2017.

For the Nuclear Regulatory Commission.

Edward M. O'Donnell,

Acting Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2017–18429 Filed 8–29–17; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81479; File No. SR–NASDAQ–2017–083]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Transaction Fees at Chapter XV, Section 2 Entitled "NASDAQ Options Market—Fees and Rebates"

August 24, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 16, 2017, 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, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's transaction fees at Chapter XV, Section 2 entitled ''NASDAQ Options Market—Fees and Rebates

The text of the proposed rule change is available on the Exchange's Web site 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

NOM proposes to amend the MARS subsidy program which pays a subsidy to NOM Participants that provide certain order routing functionalities to other NOM Participants and/or use such functionalities themselves. Generally, under MARS, the Exchange pays participating NOM Participants to subsidize their costs of providing routing services to route orders to NOM. The Exchange believes that the proposed amendment to MARS will continue to attract higher volumes of electronic equity and ETF options volume to the Exchange from non-NOM Participants as well as NOM Participants.

Background

Today, to qualify for MARS, a NOM Participant's routing system (hereinafter ''System'') is required to meet certain criteria. Specifically the Participant's System is required to: (1) Enable the electronic routing of orders to all of the U.S. options exchanges, including NOM; (2) provide current consolidated market data from the U.S. options exchanges; and (3) be capable of interfacing with NOM's API to access current NOM match engine functionality. The NOM Participant's System would also need to cause NOM to be one of the top three default destination exchanges for (a) individually executed marketable orders if NOM is at the national best bid or offer (''NBBO''), regardless of size or time, (b) orders that establish a new NBBO on NOM's Order Book, but allow any user to manually override NOM as the default destination on an order-by-order basis.[3]

MARS Payment are made to NOM Participants that have System Eligibility and have routed the requisite number of Eligible Contracts daily in a month (''Average Daily Volume''), which were executed on NOM.[4] Today, NOM Participants that have System Eligibility and have executed the requisite number of Eligible Contracts in a month will be paid the following rebates: [5]

Tiers	Average daily volume (''ADV'')	MARS payment (penny)	MARS payment (non-penny)
1	2,500	* $0.07	* $0.15
2	5,000	* 0.09	* 0.20
3	10,000	* 0.11	* 0.30
4	20,000	* 0.15	* 0.50
5	45,000	* 0.17	* 0.60

Specifically, the specified MARS Payment are paid on all executed Eligible Contracts that add liquidity, which are routed to NOM through a participating NOM Participant's System and meet the requisite Eligible Contracts ADV. No payments are made with respect to orders that are routed to NOM, but not executed.[6]

Amendment to MARS Payment

The Exchange proposes to amend the MARS Payment tiers at Chapter XV, Section 2(6) by amending current tier 1 to require an ADV of 2,000 contracts instead of the current ADV of 2,500 contracts. The Exchange would continue to pay a $0.07 per contract MARS Payment for Penny Options and a $0.15 per contract rebate for Non-

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Any NOM Participant is permitted to avail itself of this arrangement, provided that its order routing functionality incorporates the features described herein and the Participant satisfies NOM that it appears to be robust and reliable. Participants remain solely responsible for implementing and operating its System.

[4] For the purpose of qualifying for the MARS Payment, Eligible Contracts may include Firm, Non-NOM Market Maker, Broker-Dealer, or Joint Back Office or ''JBO'' equity option orders that add liquidity and are electronically delivered and executed. Eligible Contracts do not include Mini Option orders.

[5] The specified MARS Payment are paid on all executed Eligible Contracts that add liquidity, which are routed to NOM through a participating NOM Participant's System and meet the requisite Eligible Contracts ADV. No payment [sic] are made with respect to orders that are routed to NOM, but not executed. Also, a Participant is not be [sic] entitled to receive any other revenue from the Exchange for the use of its System specifically with respect to orders routed to NOM.

[6] A Participant is not entitled to receive any other revenue from the Exchange for the use of its System specifically with respect to orders routed to NOM.

[7] Today, NOM Participants that qualify for Customer and Professional Penny Pilot Options

Penny Options.[7] All other tiers would remain unchanged. The Exchange believes that the proposed change to the MARS Payment will attract additional liquidity to NOM.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among Participants and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposal to amend Tier 1 to lower the requisite ADV from 2,500 to 2,000 contracts and continue to pay a MARS Payment of $0.07 per contract for Penny Pilot Options and $0.15 per contract for Non-Penny Pilot Options is reasonable because additional Participants would be able to qualify for a Tier 1 rebate, because of the lower requirement, provided the Participant has System Eligibility and executes the requisite ADV of Eligible Contracts. The Exchange believes this amendment may attract higher volumes of electronic equity and ETF options volume to NOM, which would in turn benefit all NOM Participants by offering greater price discovery, increased transparency, and an increased opportunity to trade on the Exchange. Also, the proposal should enhance the competitiveness of the Exchange, particularly with respect to those exchanges that offer their own front-end order entry system or one they subsidize in some manner. The amendment to Tier 1 may incentivize NOM Participants to participate in MARS to obtain the rebate, provided the NOM Participant is eligible for MARS. Further, the tier structure will continue to allow NOM Participants to price their services at a level that will enable them to attract order flow from market participants who would otherwise utilize an existing front-end order entry mechanism offered by the Exchange's competitors instead of incurring the cost in time and money to develop their own internal systems to be able to deliver orders directly to the Exchange's System.

The Exchange's proposal to amend Tier 1 to lower the requisite ADV from 2,500 to 2,000 contracts and continue to pay a MARS Payment of $0.07 per contract for Penny Pilot Options and $0.15 per contract for Non-Penny Pilot Options is equitable and not unfairly discriminatory because the Exchange will uniformly pay all NOM Participants the rebates specified in the proposed MARS Payment tiers provided the NOM Participant has executed the requisite ADV of Eligible Contracts. Moreover, the Exchange believes that the proposed MARS Payments offered by the Exchange are equitable and not unfairly discriminatory because any qualifying NOM Participant that offers market access and connectivity to the Exchange and/or utilize such functionality themselves may earn the MARS Payment for all Eligible Contracts.

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. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable.

The Exchange's proposal to amend Tier 1 to lower the requisite ADV from 2,500 to 2,000 contracts and continue to pay a MARS Payment of $0.07 per contract for Penny Pilot Options and $0.15 per contract for Non-Penny Pilot Options does not impose an undue burden on intra-market competition because the Exchange will uniformly pay all NOM Participants the MARS Payments specified in the proposed MARS Payment tiers for Penny and Non-Penny Pilot Options provided the NOM Participant has executed the requisite number of Eligible Contracts.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2017–083 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–2017–083. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).*

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE.,

Rebate to Add Liquidity Tier 8 in Section 2(1) receive $0.09 per contract in addition to any MARS Payment tier on MARS Eligible Contracts the NOM Participant qualifies for in a given month. This would remain unchanged.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2017–083, and should be submitted on or before September 20, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18352 Filed 8–29–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81478; File No. SR–NYSE–2017–31]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Amend the Listed Company Manual To Adopt Initial and Continued Listing Standards for Subscription Receipts

August 24, 2017.

On June 26, 2017, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Listed Company Manual to adopt initial and continued listing standards for Subscription Receipts. The proposed rule change was published for comment in the **Federal Register** on July 13, 2017.[3] The Commission received no comments regarding the proposal.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is August 27, 2017.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change.

Accordingly, pursuant to Section 19(b)(2) of the Act[5] and for the reasons stated above, the Commission designates October 11, 2017, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSE–2017–31).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18351 Filed 8–29–17; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15259 and #15260; Oklahoma Disaster Number OK–00117]

Administrative Declaration of a Disaster for the State of Oklahoma

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Oklahoma dated August 22, 2017.

DATES: Issued on 08/22/2017.

Physical Loan Application Deadline Date: 10/23/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 05/22/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

Incident: Tornadoes, Severe Storms, Straight-line Winds and Flooding.

Incident Period: 08/05/2017 through 08/14/2017.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Tulsa

Contiguous Counties:

Oklahoma: Creek, Okmulgee, Osage, Pawnee, Rogers, Wagoner, Washington.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.500
Homeowners Without Credit Available Elsewhere	1.750
Businesses With Credit Available Elsewhere	6.610
Businesses Without Credit Available Elsewhere	3.305
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	3.305
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15259 C and for economic injury is 15260 0.

The State which received an EIDL Declaration # is Oklahoma.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: August 22, 2017.

Linda E. McMahon,

Administrator.

[FR Doc. 2017–18373 Filed 8–29–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Disaster Declaration #15249 and #15250; WISCONSIN Disaster Number WI–00060 Administrative Declaration of a Disaster for the State of WISCONSIN

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 81102 (July 7, 2017), 82 FR 32413.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of WISCONSIN dated August 18, 2017.

DATES: Issued on 8/18/2017.

Physical Loan Application Deadline Date: 10/17/2017

Economic Injury (EIDL) Loan Application Deadline Date: 05/16/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

Incident: Flash Floods and Flooding.

Incident Period: 07/11/2017

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Kenosha, Racine, Walworth

Contiguous Counties:

WISCONSIN Jefferson, Milwaukee, Rock, Waukesha

ILLINOIS Boone, Lake, Mchenry

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.875
Homeowners Without Credit Available Elsewhere	1.938
Businesses With Credit Available Elsewhere	6.430
Businesses Without Credit Available Elsewhere	3.215
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	3.215
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15249 6 and for economic injury is 15250 0.

The States which received an EIDL Declaration # are Wisconsin Illinois.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: August 18, 2017.

Linda E. McMahon,

Administrator.

[FR Doc. 2017–18384 Filed 8–29–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15265 and #15266; Tennessee Disaster Number TN–00106]

Administrative Declaration of a Disaster for the State of Tennessee

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Tennessee dated August 23, 2017.

DATES: Issued on 08/23/2017.

Physical Loan Application Deadline Date: 10/23/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 05/23/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

Incident: Severe Thunderstorms with Damaging Winds.

Incident Period: 05/27/2017 through 05/28/2017.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Shelby

Contiguous Counties:

Tennessee: Fayette, Tipton

Arkansas: Crittenden

Mississippi: Desoto, Marshall

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.875
Homeowners Without Credit Available Elsewhere	1.938
Businesses With Credit Available Elsewhere	6.430
Businesses Without Credit Available Elsewhere	3.215
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	3.215
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15265 B and for economic injury is 15266 0.

The States which received an EIDL Declaration # are Tennessee, Arkansas, Mississippi.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: August 23, 2017.

Linda E. McMahon,

Administrator.

[FR Doc. 2017–18383 Filed 8–29–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15253 and #15254; Louisiana Disaster Number LA–00078]

Administrative Declaration of a Disaster for the State of Louisiana

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Louisiana dated August 22, 2017.

DATES: Issued on 08/22/2017.

Physical Loan Application Deadline Date: 10/23/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 05/22/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

Incident: Torrential Rainfall and Flooding.

Incident Period: 08/04/2017 through 08/06/2017.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Orleans

Contiguous Counties:

Louisiana: Jefferson, Plaquemines, Saint Bernard, Saint Tammany.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.500
Homeowners Without Credit Available Elsewhere	1.750
Businesses With Credit Available Elsewhere	6.610
Businesses Without Credit Available Elsewhere	3.305
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	3.305
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15253 B and for economic injury is 15254 0.

The States which received an EIDL Declaration # are Louisiana.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: August 22, 2017.

Linda E. McMahon,

Administrator.

[FR Doc. 2017–18374 Filed 8–29–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15263 and #15264; Pennsylvania Disaster Number PA–00081]

Administrative Declaration of a Disaster for the State of Pennsylvania

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Pennsylvania dated August 23, 2017.

DATES: Issued on 08/23/2017.

Physical Loan Application Deadline Date: 10/23/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 05/23/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

Incident: Flash Flooding.

Incident Period: 07/14/2017.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Clearfield

Contiguous Counties:

Pennsylvania Blair, Cambria, Cameron, Centre, Clinton, Elk, Indiana, Jefferson.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.500
Homeowners Without Credit Available Elsewhere	1.750
Businesses With Credit Available Elsewhere	6.610
Businesses Without Credit Available Elsewhere	3.305
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	3.305
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15263 6 and for economic injury is 15264 0.

The State which received an EIDL Declaration # is Pennsylvania.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: August 23, 2017.

Linda E. McMahon,

Administrator.

[FR Doc. 2017–18382 Filed 8–29–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15261 and #15262; Pennsylvania Disaster Number PA–00082]

Administrative Declaration of a Disaster for the State of Pennsylvania

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Pennsylvania dated August 23, 2017.

DATES: Issued on 08/23/2017.

Physical Loan Application Deadline Date: 10/23/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 05/23/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

Incident: Flash Flooding.

Incident Period: 07/29/2017.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Washington

Contiguous Counties:

Pennsylvania: Allegheny, Beaver, Fayette, Greene, Westmoreland.

West Virginia: Brooke, Hancock, Marshall, Ohio.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.500
Homeowners Without Credit Available Elsewhere	1.750
Businesses With Credit Available Elsewhere	6.610
Businesses Without Credit Available Elsewhere	3.305
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	3.305

	Percent
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15261 6 and for economic injury is 15262 0.

The States which received an EIDL Declaration # are Pennsylvania, West Virginia.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: August 23, 2017.

Linda E. McMahon,

Administrator.

[FR Doc. 2017–18381 Filed 8–29–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10107]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: ''Renoir and Friends: Luncheon of the Boating Party'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Renoir and Friends: Luncheon of the Boating Party,'' 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 Phillips Collection, Washington, District of Columbia, from on or about October 7, 2017, until on or about January 7, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact Elliot Chiu in the 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, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015). I have ordered that Public Notice of these determinations be published in the **Federal Register**.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–18385 Filed 8–29–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10108]

Determination Pursuant to Section 7041(a)(3)(B) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2016

Pursuant to the Authority vested in me as Secretary of State by section 7041(a)(3)(B) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2016 (Div. K, Pub. L. 114–113) (''the Act''), I hereby determine that it is important to the national security interest of the United States to waive the certification requirement in section 7041(a)(3)(A) of the Act. I hereby waive that requirement.

This determination shall be reported to Congress, along with the accompanying Memorandum of Justification, and published in the **Federal Register**.

Dated: August 22, 2017.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2017–18395 Filed 8–29–17; 8:45 am]

BILLING CODE 4710–31–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 742; Docket No. EP 741]

Public Listening Session Regarding CSX Transportation, Inc.'s Rail Service Issues; Joint Petition of Foresight Coal Sales, LLC, Sugar Camp Energy, LLC, Williamson Energy, LLC, and Consolidation Coal Company To Address the Adequacy of CSX Transportation's Coal Transportation Service Originating in the Illinois Basin and Northern Appalachia

AGENCY: Surface Transportation Board.

ACTION: Notice of public listening session.

SUMMARY: The Surface Transportation Board (Board) will hold a public listening session on Tuesday, September 12, 2017, at its offices in Washington, DC, to hear from CSX Transportation, Inc. (CSXT), on its efforts to implement its new operating plan and to address service problems on its network, to provide shippers the opportunity to report on recent CSXT rail service issues they have experienced, and to discuss whether additional service recovery efforts may be necessary.

DATES: The public listening session will be held on September 12, 2017, beginning at 9:30 a.m., in the Hearing Room at the Board's headquarters located at 395 E Street SW., Washington, DC. The listening session will be open for public observation. Any person wishing to speak at the listening session shall file with the Board a notice of intent to participate, identifying the party and the proposed speaker, no later than September 7, 2017. The notices of intent to participate are not required to be served on the parties of record; they will be posted to the Board's Web site when they are filed.

ADDRESSES: All filings may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the ''E–FILING'' link on the Board's Web site at ''*www.stb.gov*.'' Any person submitting a filing in the traditional paper format should send an original and 10 copies of the filing to: Surface Transportation Board, Attn: Docket No. EP 742, 395 E Street SW., Washington, DC 20423–0001.

Copies of written submissions will be posted to the Board's Web site. Copies of the submissions will also be available (for a fee) by contacting the Board's Chief Records Officer at (202) 245–0238 or 395 E Street SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Amy C. Ziehm at (202) 245–0391. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Rail network reliability is essential to the Nation's economy and is the foremost priority of the Board. Since July, the Board has taken a number of actions in response to the service problems resulting from CSXT's ongoing implementation of a new operating plan and has been closely monitoring CSXT's performance. In a July 27, 2017 letter, the Board Members requested that CSXT's senior management participate in weekly calls with the Board's Rail Customer and Public Assistance (RCPA)

staff to discuss the carrier's efforts to restore reliable service to its shippers.[1] In a follow-up August 14, 2017 letter, the Board requested that CSXT submit weekly specific service performance data to facilitate these ongoing calls.[2] The performance data, in addition to the data already submitted in *U.S. Rail Service Issues—Performance Data Reporting,* Docket No. EP 724 (Sub-No. 4), is assisting the Board in actively monitoring CSXT's service levels and the effectiveness of its recovery efforts.

The Board has also been working to ensure that CSXT addresses service issues that shippers inform the Board about as they arise. Representatives of RCPA have held numerous meetings and conference calls with affected parties to better understand the specific problems shippers are experiencing and to help facilitate a swift resolution whenever possible. In monitoring CSXT's recent problems, the Board has been providing information to all stakeholders in a transparent manner, requesting specific service performance data, and posting that data to the Board's Web site. RCPA is also having frequent phone conversations with CSXT's senior management regarding these informal service complaints.

CSXT has indicated that its internal metrics are showing that service in some areas is improving and that noticeable improvements should be more evident after Labor Day. Therefore, the Board will hold a public listening session beginning at 9:30 a.m., on Tuesday, September 12, 2017, at its offices in Washington, DC, to hear firsthand from CSXT's senior officials and affected shippers about CSXT's rail service and efforts to improve service.

The Board will direct executive-level officials from CSXT to appear at the listening session to discuss their ongoing and future efforts to improve service and to provide an estimated timeline for recovery of normal service levels. The Board encourages impacted shippers to appear at the public listening session to discuss their service concerns and comment on the railroad's service recovery efforts. The Board's listening session is not intended to replace the data collection or the informal and confidential dispute resolution process facilitated by RCPA, and stakeholders who do not have formal complaints pending (discussed below) are encouraged to continue communicating through that office.

Additionally, in the past two weeks, some CSXT shippers have filed formal complaints against CSXT seeking service-related injunctive relief and/or money damages (Docket Nos. NOR 42154, NOR 42155, and NOR 42156); a petition to institute a proceeding to address the adequacy of CSXT's service (Docket No. EP 741); and a request for an emergency service order (by letter addressed to the Board Members).[3] The Board believes that the concerns raised in the petition in Docket No. EP 741 are best addressed in this docket, as well as through the Board's other ongoing efforts; accordingly, we will deny the petition in EP 741 to institute a proceeding as unnecessary, but without prejudice to taking more formal action at a later time, if appropriate. In the meantime, the Board will continue to address these important service reliability issues in a transparent manner to ensure shippers, carriers, and all interested stakeholders are fully informed about the Board's work.

It is ordered:

1. A public listening session will be held on Tuesday, September 12, 2017, at 9:30 a.m., in the Board's Hearing Room, at 395 E Street SW., Washington, DC, as described above.

2. CSXT is directed to appear at the listening session through executive-level officials.

3. By September 7, 2017, any person wishing to speak at the listening session shall file with the Board a notice of intent to participate (identifying the party and the proposed speaker). The notices of intent to participate need not be served on the parties of record; they will be posted to the Board's Web site when they are filed.

4. The petition to institute a proceeding in Docket No. EP 741 is denied without prejudice.

5. This decision is effective on its service date.

Decided: August 24, 2017.

By the Board, Board Members Begeman, Elliott, and Miller.

Rena Laws-Byrum,

Clearance Clerk.

[FR Doc. 2017–18399 Filed 8–29–17; 8:45 am]

BILLING CODE 4915–01–P

[1] *See* Letter from Board Members Ann D. Begeman, Daniel R. Elliott III, and Deb Miller, Surface Transportation Board, to E. Hunter Harrison, President and Chief Exec. Officer, CSX Transportation, Inc. (July 27, 2017) (on file with the Board), *available at http://www.stb.gov* (open tab at ''E-Library, select ''Correspondence'', select ''Non-Docketed Public Correspondence'', follow ''07/27/2017'' hyperlink).

[2] *See* Letter from Board Members Ann D. Begeman, Daniel R. Elliott III, and Deb Miller, Surface Transportation Board, to E. Hunter Harrison, President and Chief Exec. Officer, CSX Transportation, Inc. (Aug. 14, 2017) (on file with the Board), *available at http://www.stb.gov* (open tab at ''E-Library, select ''Correspondence'', select ''Non-Docketed Public Correspondence'', follow ''08/14/2017'' hyperlink).

[3] That letter shortly will be posted as a filing on the Board's Web site under Docket No. EP 742.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA–2016–4756]

Reduction of Remote Communications Outlets Used by Flight Service Stations in the Conterminous United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of final policy.

SUMMARY: This action sets forth the final policy determination for the FAA's proposed plan to decommission remote communications outlets (RCO) used by Flight Service Stations in the conterminous United States, Hawaii, and Puerto Rico. Based on comments, the FAA has decreased the number of RCOs planned for decommissioning from 666 to 641, which includes 404 RCOs and 237 VOR outlets.

DATES: Applicable: August 30, 2017.

FOR FURTHER INFORMATION CONTACT: Teri Bristol, ATO Chief Operating Officer, Office of the Administrator, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–1240.

SUPPLEMENTARY INFORMATION:

Background

The FAA maintains a network of over 2,100 remote communications outlets (RCOs) throughout the conterminous United States, Hawaii and Puerto Rico. The RCOs are used by a contract service provider to communicate with pilots in flight. By using these frequencies, pilots can obtain weather briefings and file flight plans and receive numerous other services.

On April 28, 2016, the FAA published a notice of proposed policy outlining the plan to reduce the number of radio frequencies used by Flight Service Stations to communicate with aircraft in flight (81 FR 25484). The FAA noted that a network of 1,223 RCOs and 398 VOR frequencies cover a vast majority of the conterminous United States and include duplicate, overlapping, and seldom used frequencies. Based on a study conducted by MITRE, the FAA proposed a policy to decommission 666 RCOs in the conterminous United States, Hawaii, and Puerto Rico.[1] The FAA estimated that, by reducing radio coverage, the agency could save approximately $2.5 million annually in

[1] The FAA noted that the following frequencies would not be considered for decommissioning: frequencies for emergency use only; frequencies for military use only, frequencies in the State of Alaska, and Ground Communications Outlets.

maintenance costs alone. Additional savings would be realized once property leases are terminated and voice-switch communications infrastructure is decreased.

Discussions of Comments

The FAA received 13 comments on the proposed policy. The following summary of comments reflects the major issues raised and does not restate each comment received. The FAA considered all comments received even if not specifically identified and responded to in this notice. The FAA made revisions to the policy based on comments received.

1. An individual commented that the same frequency, 122.2, was listed twice for Princeton, Minnesota (PNM), one indicated that it would be retained, and one indicated that it would be removed. The FAA will retain PNM 122.2. The commenter also indicated that we have an RCO at Minneapolis that is not on either list. The RCO at Minneapolis, 122.3, will be decommissioned.

2. Two commenters noted that the Duluth, Minnesota (DLH) frequency 124.8 is not a Flight Service Station frequency. The FAA will remove DLH frequency 124.8 from the decommissioning list as it is not a Flight Service Station frequency.

3. Six commenters requested that the FAA not decommission the Galian, Ohio (GQQ) remote communications outlet. Several of these commenters suggested that the frequency was important to corporate, business, and general aviation traffic using the airport. The FAA will not decommission 126.8 at GQQ.

4. Another commenter recommended retaining Du Page, Illinois (DPA) frequency 122.3. The commenter noted that, if both Waukegan, Illinois (UGN) and DuPage, Illinois RCOs were decommissioned, the closest remote communications outlet for pilots flying in the area would be 40–50 miles away—MKE to the North, RFD to the West, IKK to the South and VPZ to the East. The FAA will not decommission DPA frequency 122.3.

5. A commenter noted that RCO usage is not uniformly distributed across the RCO coverage area and asked whether an analysis has been done to determine what percentage of actual FSS transactions would be affected. The individual commented that, if, for instance, there is a mountain pass with notoriously bad weather and pilots frequently call FSS inflight to get the conditions in that area then reduction of service in this area should not be considered equivalent to reduction of service in an area where there are few contacts made to FSS due to benign weather, few flights, etc.

Response: Usage data is not available for individual RCOs. The FAA is retaining coverage across the conterminous United States, Hawaii and Puerto Rico of greater than 98% at 5,000 agl, 97% at 3,000 agl, and 92% at 1,000 agl. The FAA specifically excluded mountainous areas in the western US and also avoided areas where no other Air Traffic frequencies were available.

6. The same commenter indicated that he believed that the baseline coverage should not have excluded VORs that are proposed to be decommissioned. He suggested that not including these VORs in the baseline artificially reduces the baseline coverage with respect to the actual current coverage. He noted that the stated goal was to reduce coverage by less than 10% but, if the baseline is already reduced, the result may be a reduction of more than 10% compared with today.

Response: The VORs proposed for decommissioning were considered a given and not considered for retention in the proposal. Approximately 237 individual VORs with voice capability, scheduled for decommissioning through the VOR Minimum Operational Network (MON) program, will be reviewed on a case by case basis. If it is determined that a significant degradation of service capability exists with the decommissioning of a specific VOR, steps will be taken to replace it with a separate RCO.

7. The same commenter also stated that the proposal reduces redundancy which is good from a fiscal and complexity standpoint but is bad when considering that equipment failures happen. He asked whether an analysis had been done of the current and expected reliability of the RCO MON including an assessment of how quickly it can be repaired and what the impact will be on pilots?

Response: Most, if not all, of our RCOs have standby receivers and transmitters in case of mechanical malfunction or for use during routine maintenance. In case of a line outage, FTI has a goal of a four-hour restoration time and, in case of major equipment malfunction, Technical Operations has a response time for RCO outages of either 24 or 96 hours depending upon backup and other facilities co-located or nearby. Notices to Airmen (NOTAMs) are issued for RCO outages as they occur. The FAA has concluded that, given these facts, there is no discernable safety impact on the pilot.

8. Finally, this commenter noted that he was concerned that, with the elimination of Flight Watch, there would be a further reduction of inflight weather resources available to pilots. He noted that, while FIS–B is now available, the coverage area is not 100%, many pilots do not have the necessary equipment to receive FIS–B information, and many pilots do not have the skills necessary to interpret the FIS–B data and rely on FSS personnel. FSS also provides services that FIS–B cannot duplicate such as opening and closing VFR flight plans.

Response: The current RCO coverage area was designed at a time when FSS personnel were handling over 10,000 radio calls per day, today they handle less than 1,000 calls per day. Technological advances, including FIS–B, are providing pilots with greater access to inflight weather resources than ever before. This reduction is meant to align the RCO infrastructure with pilot demand. While it is true that FIS–B cannot open or close flight plans, other methods are available for this service including using another nearby RCO, activation and closure using the telephone, assumed departures, etc.

9. Another commenter stated that, with the demise of the En Route Flight Advisory Service (EFAS), he believed it was unwise to eliminate 122.2 MHz and noted that 122.2 and 121.5 are two of the frequencies that pilots are taught to commit to memory as they were ''go to'' frequencies in a crisis.

Response: Where there are multiple frequencies in the same geographic area, the FAA will retain 122.2 to the degree possible (this was the case for the RCO located at Columbus, NE). Over 95% of the current 122.2s are being retained. In addition, Flight Service is moving to retain 103 frequencies which were previously dedicated to EFAS. A number of these will be retuned to 122.2 vice 122.0 which will increase the coverage of 122.2's across the country. The FAA conducts safety seminars and other outreach programs to educate pilots on the need to ensure they obtain frequency information for their route of flight prior to departure.

Final Policy

In accordance with the above, the FAA is adopting the following policy statement on the decommissioning of Remote Communications Outlets used by Flight Service Stations in the conterminous United States, Hawaii, and Puerto Rico.

The FAA will reduce the number of radio frequencies used by Flight Service Stations to communicate with aircraft in flight. Remote communications outlets in 641 locations will be decommissioned beginning in late fiscal year 2017. Notices to Airmen

(NOTAMs) will be issued as each frequency is decommissioned. Frequencies in Alaska and those designated for emergency or military use are not included.

A link to maps showing the approximate frequency coverage after the reduction at various altitudes, with percentages of coverage can be found here: *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/media/Radio_Reduction_Fed_Reg.pdf.*

A link to the frequencies that will be decommissioned can be found here: *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/media/RCO_Master_List.xlsx.*

The FAA posted frequently asked Questions and Answers regarding the Reduction of Remote Communications Outlets Used by Flight Service Stations in the Conterminous United States on *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/media/RCO_Reduction_FAQ_030217.pdf.*

These Questions and Answers will be periodically updated until FAA charts and publications are revised to reflect the changes in this notice.

Issued in Washington, DC, on August 23, 2017.

Michael P. Huerta,

Administrator, Federal Aviation Administration.

[FR Doc. 2017–18398 Filed 8–29–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2017–0069]

Notice To Extend the Public Comment Period for the Notice of Intent To Prepare an Environmental Impact Statement for Model Year 2022–2025 Corporate Average Fuel Economy Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of extension.

SUMMARY: NHTSA is extending the public comment period for the Notice of Intent (NOI) to Prepare an Environmental Impact Statement (EIS) for Model Year 2022–2025 Corporate Average Fuel Economy (CAFE) Standards to Monday, September 25, 2017. The NOI was published in the **Federal Register** on Wednesday, July 26, 2017. The public comment period for the NOI was originally scheduled to end on Friday, August 25, 2017.

DATES: To ensure that NHTSA has an opportunity to fully consider scoping comments, scoping comments should be received on or before Monday, September 25, 2017. NHTSA will consider comments received after that date to the extent the rulemaking schedule allows.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

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

Regardless of how you submit your comments, you must include the docket number identified in the heading of this notice. Note that all comments received, including any personal information provided, will be posted without change to *http://www.regulations.gov.* Please see the ''Privacy Act'' heading below.

You may call the Docket Management Facility at 202–366–9324.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. We will continue to file relevant information in the Docket as it becomes available.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given below under **FOR FURTHER INFORMATION CONTACT**. When you send a comment containing confidential business information, you should include a cover letter setting forth the information specified in NHTSA's confidential business information regulation. *See* 49 CFR part 512. In addition, you should submit a copy from which you have deleted the claimed confidential business information to the Docket by one of the methods set forth above.

FOR FURTHER INFORMATION CONTACT: For technical issues, contact Ken Katz, Fuel Economy Division, Office of International Policy, Fuel Economy, and Consumer Programs, telephone: 202–366–4936, email: *Ken.Katz@dot.gov;* for legal issues, contact Russell Krupen, Legislation & General Law Division, Office of the Chief Counsel, telephone: 202–366–1834, email: *Russell.Krupen@dot.gov,* at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Requests to be placed on the project mailing list may be sent to either individual by mail or email.

SUPPLEMENTARY INFORMATION: On Wednesday, July 26, 2017, NHTSA published in the **Federal Register** a document titled ''Notice of Intent to Prepare an Environmental Impact Statement for Model Year 2022–2025 Corporate Average Fuel Economy Standards.'' 82 FR 34740. The public comment period for the NOI was scheduled to end on Friday, August 25, 2017.

On Tuesday, August 15, 2017, NHTSA received a request for a 30-day extension of the public comment period from the Sierra Club, the Center for Biological Diversity, Environment America, the Safe Climate Campaign, and the Environment Law & Policy Center. NHTSA has reviewed the request and is extending the public comment period for the NOI by 31 days to Monday, September 25, 2017. NHTSA will consider comments received after that date to the extent the rulemaking schedule allows.

Issued in Washington, DC, under authority delegated in 49 CFR parts 1.81 and 1.95.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2017–18366 Filed 8–25–17; 11:15 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection: Comment Request for Forms 945, 945–A, 945–X and TD 8672

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 945 Annual Return of Withheld Federal Income Tax, Form 945–A Annual Record of Federal Tax Liability, Form 945–X Adjusted Annual Return of Withheld Federal Income Tax or Claim for Refund and TD 8672 Reporting of Non-payroll Withheld Tax Liabilities.

DATES: Written comments should be received on or before October 30, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224. Requests for additional information or copies of the forms and instructions should be directed to Sara Covington, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Annual Return of Withheld Federal Income Tax.

OMB Number: 1545–1430.

Form Number: 945.

Abstract: Form 945 is used to report income tax withholding on non payroll payments including backup withholding and withholding on pensions, annuities, IRAs, military retirement and gambling winnings.

Form Number: 945–A.

Abstract: Form 945–A is used by employers who deposit non-payroll income tax withheld (such as from pensions and gambling) on a semiweekly schedule, or whose tax liability on any day is $100,000 or more, use Form 945–A with Form 945 or CT–1 to report their tax liability.

Form Number: 945–X.

Abstract: Form 945–X is used to correct errors made on Form 945, Annual Return of Withheld Federal Income Tax.

TD: 8672.

Abstract: This regulation relates to the reporting of non-payroll withheld income taxes under section 6011 of the Internal Revenue Code. The regulations require a person to file Form 945, Annual Return of Withheld Federal Income Tax, only for a calendar year in which the person is required to withhold Federal income tax from non-payroll payments.

Current Actions: There are no changes being made to the forms or regulations approved under this collection. However, changes to the estimated number of filers (236,818 to 220,851), will result in a total burden decrease of 110,013 (1,619,603 to 1,509,590).

Type of Review: Revision of a current OMB approval.

Affected Public: Business, or other for-profit organizations, individuals, or households, not-for-profit institutions, farms, and, Federal, state, local, or tribal governments.

Estimated Number of Respondents: 220,851.

Estimated Time per Respondent: 6 hrs., 50 min.

Estimated Total Annual Burden Hours: 1,509,590.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 22, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–18332 Filed 8–29–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning long annuity contracts and qualifying longevity annuity contract information.

DATES: Written comments should be received on or before October 30, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to Sara Covington, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Longevity Annuity Contracts and Qualifying Longevity Annuity Contract Information.

OMB Number: 1545–2234.

Regulation Project Numbers: TD 9673 and Form 1098–Q.

Abstract: This regulation contains rules relating to the purchase of longevity annuity contracts under tax-qualified defined contribution plans under section 401(a) of the Internal Revenue Code, section 403(b) plans, individual retirement annuities and accounts (IRAs) under section 408, and eligible governmental section 457 plans. These regulations will provide the public with guidance necessary to comply with the required minimum distribution rules under section 401(a)(9). The information in § 1.401(a)(9)–6, A–17(a)(6), is required in order to notify participants and beneficiaries, plan sponsors, and the IRS that the proposed regulations apply to a

contract. The information in the annual statement in § 1.6047–2 is required in order to apply the dollar and percentage limitations in § 1.401(a)(9)–6, A–17(b) and § 1.408–8, Q&A–12(b) and to comply with other requirements of the required minimum distribution rules.

Current Actions: There are no changes being made to this existing regulation or Form 1098–Q.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for-profit institutions and individuals or households.

Estimated Number of Responses: 213,966.

Estimated Time per Response: 8 min.

Estimated Total Annual Burden Hours: 28,529.

Estimated number of Recordkeepers: 150.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 22, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–18333 Filed 8–29–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple TTB Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before September 29, 2017 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Leonard by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Alcohol and Tobacco Tax and Trade Bureau (TTB)

Title: Letterhead Applications and Notices Filed by Brewers, TTB REC 5130/2; and Brewer's Notice, TTB F 5130.10.

OMB Control Number: 1513–0005.

Type of Review: Extension without change of a currently approved collection.

Abstract: The Internal Revenue Code (IRC) at 26 U.S.C. 5401 requires brewers to file a notice of intent to operate a brewery, containing such information as prescribed by regulation. Under this authority, TTB requires brewery applicants to submit TTB F 5130.10, Brewer's Notice, which collects information similar to that provided on a permit application and, when approved by TTB, is a brewer's authorization to operate. The brewer maintains the approved Brewer's Notice and all associated documents at the brewery premises, in complete and current condition, readily available for inspection by an appropriate TTB officer. TTB regulations promulgated under the authority of the IRC also require that brewers submit letterhead applications or notices to conduct certain activities, such as to use a brewery for purposes other than those specifically authorized (see 26 U.S.C. 5411) or to operate a pilot brewery (see 26 U.S.C. 5417). Letterhead applications and notices are necessary to identify brewery activities so that TTB may ensure that proposed operations will not jeopardize the revenue and will comply with the IRC and the TTB regulations.

Form: TTB F 5130.10.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 32,092.

Title: Application to Establish and Operate Wine Premises, and Wine Bond.

OMB Control Number: 1513–0009.

Type of Review: Extension without change of a currently approved collection.

Abstract: The IRC at 26 U.S.C. 5351 through 5357 provides for the establishment of bonded wine cellars, bonded wineries, and taxpaid wine bottling houses and, to establish such wine premises, these IRC sections require the filing of applications and bonds. Under these authorities, TTB has issued TTB F 5120.25, Application to Establish and Operate Wine Premises, to collect information that TTB uses to determine the qualifications of an applicant applying to establish and operate a new wine premises. Proprietors of established wine premises also use TTB F 5120.25 to report changes to required information such as location and ownership. Unless exempted by the IRC at 26 U.S.C. 5551(d), wine premises respondents use TTB F 5120.36, Wine Bond, to file bond coverage with TTB. The bond may be secured through a surety company or it may be secured with collateral (cash, Treasury Bonds or Treasury Notes). The bond protects the revenue by ensuring adequate assets are available to pay Federal excise tax liabilities.

Forms: TTB F 5120.36w, TTB F 5120.36, TTB F 5120.25.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 3,345.

Title: Brewer's Bond and Brewer's Bond Continuation Certificate; Brewer's

Collateral Bond and Brewer's Collateral Bond Continuation Certificate.

OMB Control Number: 1513–0015.

Type of Review: Extension without change of a currently approved collection.

Abstract: Subject to the exemption in IRC at 26 U.S.C. 5551(d) for brewers eligible to pay excise taxes on an annual or quarterly basis, the IRC at 26 U.S.C. 5401(b) requires brewers to provide a bond to protect the revenue. The Brewer's Bond, TTB F 5130.22, is a contract between the brewer and an authorized surety company to provide such a bond. In lieu of a surety bond, under the IRC at 26 U.S.C. 7101, brewers may furnish certain United States securities, cash, or cash equivalent as collateral to protect the revenue. The Brewer's Collateral Bond, TTB F 5130.25, is the form used to file such collateral bonds. Also under the IRC at 26 U.S.C. 5401(b), brewers' bonds expire every four years. Instead of filing a new bond, a brewer may furnish a continuation certificate to extend the term of the bond, using the Brewer's Bond Continuation Certificate, TTB F 5130.23, or the Brewer's Collateral Bond Continuation Certificate, TTB F 5130.27, as appropriate.

Forms: TTB F 5130.22, TTB F 5130.23, TTB F 5130.25, TTB F 5130.27.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 422.

Title: Withdrawal of Spirits, Specially Denatured Spirits, or Wines for Exportation.

OMB Control Number: 1513–0037.

Type of Review: Extension without change of a currently approved collection.

Abstract: The IRC, at 26 U.S.C. 5066, 5214, and 5362, provides that distilled spirits, denatured spirits, and wines may be withdrawn from internal revenue bonded premises without payment of the Federal excise tax for direct exportation or exportation to the armed forces of the United States, or for transfer to a foreign trade zone or a customs bonded warehouse, or for use as supplies on vessels or aircraft. These IRC sections also state that such withdrawals are subject to regulations prescribed by the Secretary of the Treasury. As required by TTB regulations in 27 CFR part 28, exporters use TTB F 5100.11 to report these types of removals without payment of tax.

Form: TTB F 5100.11.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 1,500.

Title: Application for Transfer of Spirits and/or Denatured Spirits in Bond.

OMB Control Number: 1513–0038.

Type of Review: Extension without change of a currently approved collection.

Abstract: Under the IRC at 26 U.S.C. 5005(c), when a proprietor of a distilled spirits plant (DSP) or an alcohol fuel plant (AFP, a type of DSP) desires to have spirits or denatured spirits transferred to their plant from another domestic plant, the proprietor must make an application to receive such spirits in bond. Under this authority, the TTB regulations in 27 CFR part 19 require that the receiving proprietor file an application for the transfer on TTB F 5100.16, Application for Transfer of Spirits and/or Denatured Spirits in Bond. TTB must approve the application before the transfer may occur. With the submission of this form TTB, can ensure that the receiving plant has adequate bond coverage or, for certain small alcohol excise taxpayers, is exempt from such bond coverage.

Form: TTB F 5100.16.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 228.

Title: Registration of Distilled Spirits Plants and Miscellaneous Requests and Notices and Distilled Spirits Plans.

OMB Control Number: 1513–0048.

Type of Review: Extension without change of a currently approved collection.

Abstract: The IRC at 26 U.S.C. 5171 and 5172 provide that an application to register a distilled spirits plant (DSP) be made in conformity with regulations issued by the Secretary of the Treasury, while 26 U.S.C. 5201 requires DSPs to operate in conformity with such regulations. Under these authorities, the TTB regulations in 27 CFR part 19 prescribe the use of TTB F 5110.41 to register a DSP or to make certain amendments to an existing DSP registration. The TTB regulations in 27 CFR part 19 also require DSP operators to submit various miscellaneous notices or requests to vary their operations from the requirements of that part. In addition, the regulations in part 19 require persons who are neither registered DSPs nor applicants for registration to submit applications or notices related to certain distilled spirits activities, such as the establishment of an experimental DSP or the use of spirits for research purposes. The required information assists TTB in determining a person's eligibility to establish and operate a DSP, whether a variance from TTB's regulatory requirements should be approved, and whether non-DSP entities are eligible to engage in certain distilled spirits-related activities.

Form: TTB F 5110.41.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 4,386.

Title: Report of Wine Premises Operations.

OMB Control Number: 1513–0053.

Type of Review: Extension without change of a currently approved collection.

Abstract: The IRC, at 26 U.S.C. 5367, authorizes regulations requiring the keeping of records and the filing of returns related to wine cellar and bottling house operations. Section 5555 of the IRC also generally requires any person liable for tax under chapter 51 of the IRC to keep records, provide statements, and make returns as prescribed by regulation. Under these authorities, the TTB wine regulations in 27 CFR part 24 require wine premises to file periodic operations reports on form TTB F 5120.17. TTB uses this information to ensure collection of the Federal excise tax due on the wine produced, and to ensure wine is produced in accordance with applicable Federal law and regulations. TTB also uses this report to collect raw data on wine premises activity for its monthly generalized statistical report on wine operations, which is made available to the public on TTB's Web site.

Forms: TTB F 5120.17sm, TTB F 5120.17.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 34,711.

Title: Excise Tax Return.

OMB Control Number: 1513–0083.

Type of Review: Extension without change of a currently approved collection.

Abstract: Under the IRC at 26 U.S.C. 5061(a) and 5703(b), the Federal alcohol and tobacco excise tax is collected on the basis of a return. Businesses, other than those in Puerto Rico, report their Federal excise tax liability on those products on TTB F 5000.24, Excise Tax Return. TTB uses the information provided on the return form to establish the taxpayer's identity, the amount and type of taxes due, and the amount of payments made. This information is necessary for the collection of the revenue.

Forms: TTB F 5000.24sm, TTB F 5000.24.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 85,888.

Title: Pay.gov User Agreement.

OMB Control Number: 1513–0117.

Type of Review: Extension without change of a currently approved collection.

Abstract: The *Pay.gov* system allows businesses and members of the public to pay various Federal taxes and fees, and submit various reports and requests, electronically. The TTB portion of the *Pay.gov* system provides qualified alcohol and tobacco proprietors with a means to file tax returns and pay taxes, and submit operations and production reports, electronically rather than submitting paper checks and documents by mail or delivery service. TTB uses the *Pay.gov* User Agreement to identify, validate, approve, and register qualified users of its portion of the *Pay.gov* system.

Form: TTB F 5000.31.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 79.

Title: Application, Permit, and Report—Wine and Beer (Puerto Rico); and Application, Permit, and Report—Distilled Spirits Products (Puerto Rico).

OMB Control Number: 1513–0123.

Type of Review: Extension without change of a currently approved collection.

Abstract: In general, under the Internal Revenue Code at 26 U.S.C. 7652(a)(1), merchandise manufactured in Puerto Rico and shipped to the United States for consumption or sale is subject to a tax equal to the internal revenue tax imposed in the United States upon like articles of merchandise of domestic manufacture. Under this authority, in order to protect the revenue, the TTB regulations require, among other things, the use of TTB F 5100.21 and TTB F 5110.51 by persons shipping wine, beer, and certain distilled spirits products produced in Puerto Rico to the United States for domestic consumption or sale. TTB F 5100.21 is an application and permit to compute the Federal excise tax on, tax-pay, and withdraw wine or beer for shipment to the United States. TTB F 5110.51 is an application and permit to compute the tax on, tax-pay, and withdraw for shipment to the United States certain distilled spirits products.

Forms: TTB F 5100.21, TTB F 5110.51.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 35.

Title: Distilled Spirits Bond

OMB Control Number: 1513–0125.

Type of Review: Extension without change of a currently approved collection.

Abstract: Subject to the exemptions under the IRC at 26 U.S.C. 5551(d) and 5181(c)(3), the IRC at 26 U.S.C. 5173 and 5181 requires distilled spirits plants (DSPs) and alcohol fuel plants (AFPs) to furnish a bond. Form TTB F 5110.56 is used by proprietors of Distilled Spirits Plants (DSPs) and Alcohol Fuel Plants (AFPs) to file bond coverage with TTB. Using this form, these proprietors may file coverage and/or withdraw coverage for one plant or multiple plants, and proprietors of DSPs also may provide operations coverage for adjacent wine cellars. The bond may be secured through a surety company or it may be secured with collateral (cash or Treasury Bonds or Treasury Notes). The bond protects the revenue by ensuring adequate assets are available to pay Federal excise tax liabilities.

Form: TTB F 5110.56.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 716.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: August 24, 2017.

Jennifer P. Leonard,

Treasury PRA Clearance Officer.

[FR Doc. 2017–18365 Filed 8–29–17; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Capital Magnet Fund Forms

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before September 29, 2017 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Leonard by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Community Development Financial Institutions (CDFI)

Title: Capital Magnet Fund Forms.

OMB Control Number: 1545–0036.

Type of Review: Revision of a currently approved collection.

Abstract: Under the Capital Magnet Fund (CMF) the Community Development Financial Institutions (CDFI) Fund provides competitively awarded grants to CDFIs and qualified nonprofit housing organizations to finance affordable housing and related community development projects.

Forms: 20170731–1, 201706–1, 20170731–2, 201706–2.

Affected Public: Businesses or other for-profits, Not-for-profit Institutions, State, Local, and Tribal Governments.

Estimated Total Annual Burden Hours: 22,200.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: August 24, 2017.

Jennifer P. Leonard,

Treasury PRA Clearance Officer.

[FR Doc. 2017–18363 Filed 8–29–17; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple IRS Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before September 29, 2017 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Leonard by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

Title: U.S. Business Income Tax Return.

OMB Control Number: 1545–0123.

Type of Review: Revision of a currently approved collection.

Abstract: These forms are used by businesses to report their income tax liability. The data is used to verify that the items reported on the forms are correct, and also for general statistics use.

Forms: 4255, 8844, 1065–B Schedule K–1, 1120–S Schedule K–1, 1120–L, 8830, 8908, 1120–PC, 1120–REIT, 1120–S Schedule B–1, 5884, 1065–X, 1065–X, 8845, 1120–S Schedule M–3, 1120–IC DISC Schedule P, 1120–F Schedule V, 1120–ND, 1120–PC, 56, 8848, 8900, 1120 Schedule O, 5471 Schedule J Schedule M Schedule O, 1120–L Schedule M–3, 8858 Schedule M, 8865 Schedule K–1 Schedule O Schedule P, 1065–B Schedule K–1, 1066, 1118, 1118 Schedule i, 1118 Schedule J, 1118 Schedule K, 1120, 1120 Schedule D, 1120 Schedule H, 1120 Schedule M–3, 1120 Schedule PH, 1120–F Schedule H, 1120–F Schedule i, 1120–F Schedule M–1 and Schedule M–2, 8938, 8941, 8941, 8947, 926, 926, 966, 970, 976, 982, SS–4 (PR), T (TIMBER), W–8 BEN, W–8 IMY, W–8 IMY, 1120–H, 5471 Schedule J, 5471 Schedule M, 5471 Schedule O, 5472, 5713, 6478, 6627, 6781, 7004, 8023, 7004, 8288–B, 8300, 8404, 8453–B, 8655, 8716, 8932, 8933, 8936, 8937, 8937, 8938, 1120 Schedule B, 1120 Schedule N, 1120 Schedule O, 1120–C, 1120 Schedule G, 5713, 5884–B, 8023, 8050, 8275, 8275–R, 8302, 8308, 8329, 8621–A, 8697, W–8 BEN, 8804, 8804 8805 8813, 8804 Schedule A, 8804 Schedule A, 8804–W, 8804–W, 8810, 8810, 8813, 8816, 8819, 8820, 8822–B, 8824, 8824, 8825, 8826, 8827, 8832, 8833, 8835, 8835, 8842, 8844, 8845, 8846, 8858, 8858, 8858 Schedule M, 8864, 8865, 8865, 8865 Schedule K–1, 8865 Schedule O, 8865 Schedule P, 8866, 8869, 8872, 8873, 8873, 8874, 8875, 8878–A, 8879–B, 8879–C, 8879–I, 8879–PE, 8879–S, 8881, 8882, 8883, 8883, 8886, 8886, 8893, 8894, 973, SS–4, SS–4, SS–4 (PR), T (TIMBER), 972, 1120–L Schedule M–3, 1120–POL, 1120–RIC, 5472, 56, 56F, 5735, 6198, 6198, 6765, 8275, 8283, 8288, 8288, 8453–C, 8453–PE, 8453–S, 8621, 8697, 8911, 8912, 8912, 8916, 8916–A, 8918, 8923, 8918, 8925, 8926, 8926, 8927, 8931, 8902, 8902, 1120 Schedule UTP, 1120–F, 1120–F Schedule S, 1120–IC DISC Schedule K, 1120–IC DISC Schedule Q, 1120–S, 1120–S Schedule D, 1120–S Schedule K–1, 1120–S Schedule M–3, 1120–SF, 1120–W, 1120–X, 4626, 4684, 4684, 4626, 4797, 4797, 4810, 4876–A, 5452, 5471, 5471, 1122, 2438, 5713 Schedule A, 5713 Schedule C, 5735, 5884, 8275–R, 8806, 8838, 1065 Schedule D, 1120–F Schedule M–3, 1120–F Schedule P, 1120–FSC, 8805, 8283, 8609, 8609, 8609–A, 8609–A, 8611, 8621, 8621–A, 8693, 8703, 8903, 8903, 8906, 8907, 8908, 8909, 8910, 8910, 8453–I, 8453–X, 851, 8586, 8594, 8752, 1000, 1042, 1065, 1065 Schedule B–1, 1065 Schedule C, 1066 Schedule Q, 1125–E, 1125–A, 1125–E, 1127, 1128, 1128, 1138, 1139, 1139, 2220, 2220, 2553, 2553, 2848, 2848, 3115, 3115, 3468, 3468, 3520, 3520, 3800, 3800, 4136, 4136, 4255, 4466, 8866, 4562, 4562, 8872, 8896, 8900, 1065 Schedule K–1, 1065 Schedule M–3, 1065–B, 1065 Schedule M–3, 1120–ND, 8949, W–8 BEN–E, 5713 Schedule B, 1120–PC Schedule M–3, 1042, 1120–S Schedule D, 1120–H, 1120–SF, 1120–F Schedule H, 1120–FSC, 1120–F Schedule M–3, 1120–F Schedule S, 1120–F Schedule V, 1120 Schedule D, 1120–F Schedule M–3, 8949, W–8 ECI, 1120–L, 1120–IC DISC, 8936, 8864, W–8 ECI, 8871, 8871, 1065, 1065–B, 1065 Schedule K–1, 1065 Schedule C, 1065 Schedule D, 1066, 1118, 1118 Schedule K, 1118 Schedule J, 1120, 1120–C, 1120–F, 1120–F Schedule P, 1120–F Schedule I, W–8 BEN–E, 8911, 8082, 8082, 1120–REIT, 6478, 1120–RIC, 1120–S, 6765, 1120–PC Schedule M–3, 1120–W, 8834, 8907, 1120 Schedule M–3, 1120 Schedule PH, 1120 Schedule UTP, 1120–FSC Schedule P, 1120–IC DISC.

Affected Public: Businesses or other for-profits, Farms.

Estimated Total Annual Burden Hours: 3,040,000,000.

Title: Investment Interest Expense Deduction.

OMB Control Number: 1545–0191.

Type of Review: Extension without change of a currently approved collection.

Abstract: Internal Revenue Code section 163(d) provides a limitation on individuals, estates, or trusts that paid or accrued interest on investment indebtedness. Form 4952 is used to accumulate a taxpayer's interest from all sources and provides a line-by-line computation of the allowable deduction for investment interest.

Form: 4952.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 205,596.

Title: Consolidated and Controlled Groups—Intercompany Transactions and Related Rules.

OMB Control Number: 1545–1433.

Type of Review: Extension without change of a currently approved collection.

Abstract: The Treasury regulations require common parents that make elections under Section 1.1502–13 to provide certain information. Section 1.1502 13(f)(5)(ii) provides common parents with an election to avoid potential duplications of gain from certain intercompany distributions and other transactions with respect to stock of members. These elections are designed to provide taxpayers relief from the application of certain provisions of the regulations. These elections must be made by the due date for the consolidated returns (including extensions). The section 1.1502 13(f)(5)(ii) election is made by attaching a statement to the consolidated return. Section 1.1502–13(f)(6)(i)(C) provides for an election to reduce basis in parent stock. The election must be made in a separate statement filed with the consolidated group's tax return. The information will be used to identify and assure that the amount, location, timing and attributes of intercompany transactions and corresponding items are properly maintained. Burden for the collection of information requirements under 1.1502 13(e)(3) and 1.1502 13(c) are being reported under OMB number 1545–0123.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 1,050.

Title: Revenue Procedure 2015–40, Procedures for Requesting Competent Authority Assistance Under Tax Treaties.

OMB Control Number: 1545–2044.

Type of Review: Extension without change of a currently approved collection.

Abstract: This revenue procedure 2015–40 provides guidance on the process of requesting and obtaining assistance under U.S. tax treaties from the U.S. competent authority, acting through the Advance Pricing and Mutual Agreement Program and the Treaty Assistance and Interpretation Team of the Deputy Commissioner (International), Large Business & International Division of the Internal Revenue Service. This revenue procedure updates and supersedes Rev. Proc. 2006–54, 2006–2 C.B. 1035, and is being issued concurrently with Rev. Proc. 2015–41, 2015–35 I.R.B., which provides guidance with respect to advance pricing agreements.

This revenue procedure also reflects modifications based on continuing internal monitoring of the administrative procedures of the U.S. competent authority to ensure that the administration of U.S. tax treaties is consistently principled, effective, and efficient.

Form: None.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 9,000.

Title: Form W–14—Certificate of Foreign Contracting Party Receiving Federal Procurement Payments.

OMB Control Number: 1545–2263.

Type of Review: Extension without change of a currently approved collection.

Abstract: Tax on Certain Foreign Procurement, Notice of Purposed Rulemaking, contains proposed regulations under section 5000C of the Internal Revenue Code. The proposed regulations affect U.S. government acquiring agencies and foreign persons providing certain goods or services to the U.S. government pursuant to a contract. This document also contains proposed regulations under section 6114, with respect to foreign persons claiming an exemption from the tax under an income tax treaty. Section 5000C imposes a 2% tax on foreign persons (as defined in section 7701(a)(30)), that are parties to specified Federal procurement contracts with the U.S. government entered into on and after January 2, 2011. This tax is imposed on the gross amount of specified Federal procurement payments and is generally collected by increasing the amount withheld under chapter 3. A Form W–14 must be provided to the acquiring agency (U.S. government department, agency, independent establishment, or corporation) to: Establish that they are a foreign contracting party; and If applicable, claim an exemption from withholding based on an international agreement (such as a tax treaty); or Claim an exemption from withholding, in whole or in part, based on an international procurement agreement or because goods are produced, or services are performed in the United States. A Form W–14 must be provided to the acquiring agency if a foreign contracting party has been paid a specified Federal procurement payment and the foreign contracting party is seeking to claim an exemption (in whole or in part) from the tax imposed by section 5000C. Form W–14 must be submitted when requested by the acquiring agency, whether or not an exemption (in whole or in part) is claimed from withholding under section 5000C.

Form: W–14.

Affected Public: Federal Government.

Estimated Total Annual Burden Hours: 11,840.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: August 24, 2017.

Jennifer P. Leonard,

Treasury PRA Clearance Officer.

[FR Doc. 2017–18364 Filed 8–29–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Intent To Grant an Exclusive License

AGENCY: Department of Veterans Affairs.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA), Office of Research and Development, Technology Transfer Program, intends to grant to the Arizona Board of Regents, for and on behalf of Northern Arizona University (NAU), 1395 South Knoles Drive, PO Box 4087, Flagstaff, AZ 86011–4087, an exclusive license to U.S. Patent No. 9,457,009 ''Methods and Compositions for Preventing and Treating Auditory Dysfunctions'') and related patent applications associated with VA Invention Disclosure number 10–148, titled, ''Otoprotective Uncaria Tomentosa.'' The invention provides methods for treating auditory impairments in a subject in need of treatment comprising administering to said subject an effective amount of a composition comprising, as an active agent, one or more of a carboxy alkyl ester, a quinic acid derivative, a caffeic acid derivative, a ferulic acid derivative, or a quinic acid lactone or derivative thereof or pharmaceutically acceptable salt thereof and an acceptable carrier or excipient, so as to treat auditory impairments in the subject. Ultimately, this invention provides a novel therapeutic option for otoprotection and/or hearing recovery following injury.

DATES: Comments must be received September 14, 2017.

ADDRESSES: Written comments may be submitted through *www.regulations.gov;* by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026 (this is a toll-free number). Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Call (202) 461–4902 for an appointment (this is not a toll-free number). In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Lee A. Sylvers, Technology Transfer Specialist, Office of Research and Development (10P9TT), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 443–5646 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: It is in the public interest to license this invention. NAU submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 15 days from the date of this published Notice, the Department of Veterans Affairs, Office of Research and Development, Technology Transfer Program receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on August 24, 2017, for publication.

Dated: August 24, 2017.

Jeffrey Martin,

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

[FR Doc. 2017–18370 Filed 8–29–17; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 82 Wednesday,
No. 167 August 30, 2017

Part II

The President

Proclamation 9631—Women's Equality Day, 2017
Memorandum of August 25, 2017—Military Service by Transgender Individuals

Federal Register
Vol. 82, No. 167
Wednesday, August 30, 2017

Presidential Documents

Title 3—

The President

Proclamation 9631 of August 25, 2017

Women's Equality Day, 2017

By the President of the United States of America

A Proclamation

On August 26, 1920, America ratified the 19th Amendment, securing for women a sacred right of citizenship: the right to vote. On the anniversary of that historic day, we celebrate Women's Equality Day and the innumerable contributions women have made to their families, their communities, and in service to our country.

Women's suffrage in America has its roots in the meeting of a group of trailblazers in 1848, in Seneca Falls, New York. While that meeting sparked a movement, suffragists fought for 72 long years thereafter to secure the vote for women nationwide. Women have always been instrumental to America's greatness, but with greater access to governing institutions through national suffrage, generations of women have been able to use the power of the ballot to shape their communities and help keep America a beacon of freedom and opportunity for the world.

My Administration will continue to support the advancement of women, in every corner of the Nation. One of my first actions as President was to establish the United States-Canada Council for Advancement of Women Entrepreneurs and Business Leaders. Recently, I pledged $50 million to the new World Bank Group Women Entrepreneurs Finance Initiative. By expanding access to capital and networks, this important initiative will address many of the unique challenges women entrepreneurs in the developing world face when financing and growing their businesses. Through these efforts and others, we will support bold and innovative women leaders and entrepreneurs domestically and abroad, recognizing that their successes make our economy, and our Nation, stronger.

My Administration is committed to fostering an economy where all women can succeed and thrive. We must prioritize the needs of working mothers and families, including access to affordable childcare. Therefore, for the first time in the history of this country, my budget proposes a national paid family leave program. Our working families must be able to provide and care for their children without fear of financial insolvency, to strengthen our communities and drive a booming economy.

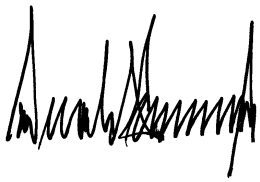
As President, I am also working to ensure that all women have access to the training they need to succeed in our modern economy, especially in science, technology, engineering, and math (STEM) fields. Women make up only 12 percent of engineers, and the percentage of women in computer and mathematical occupations has decreased over the past three decades. To empower women to participate in all sectors of our economy, my Administration is committed to workforce development, particularly through the expansion of apprenticeships and vocational education. We must break down the biases and barriers women in STEM face, and encourage every American to pursue excellence in his or her chosen field.

As we observe Women's Equality Day, commemorating the 19th Amendment, we honor America's female pioneers. These resilient women have inspired countless others to challenge the status quo in order to advance the ultimate American value: that all men *and* women are created equal. Together, we

are creating a Nation where every daughter in America can grow up believing in herself, her future, and following her heart toward the American Dream.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim August 26, 2017, as Women's Equality Day. I call upon the people of the United States to celebrate the achievements of women and observe this day with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of August, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2017–18541
Filed 8–29–17; 11:15 am]
Billing code 3295–F7–P

Presidential Documents

Memorandum of August 25, 2017

Military Service by Transgender Individuals

Memorandum for the Secretary of Defense [and] the Secretary of Homeland Security

Section 1. *Policy.* (a) Until June 2016, the Department of Defense (DoD) and the Department of Homeland Security (DHS) (collectively, the Departments) generally prohibited openly transgender individuals from accession into the United States military and authorized the discharge of such individuals. Shortly before President Obama left office, however, his Administration dismantled the Departments' established framework by permitting transgender individuals to serve openly in the military, authorizing the use of the Departments' resources to fund sex-reassignment surgical procedures, and permitting accession of such individuals after July 1, 2017. The Secretary of Defense and the Secretary of Homeland Security have since extended the deadline to alter the currently effective accession policy to January 1, 2018, while the Departments continue to study the issue.

In my judgment, the previous Administration failed to identify a sufficient basis to conclude that terminating the Departments' longstanding policy and practice would not hinder military effectiveness and lethality, disrupt unit cohesion, or tax military resources, and there remain meaningful concerns that further study is needed to ensure that continued implementation of last year's policy change would not have those negative effects.

(b) Accordingly, by the authority vested in me as President and as Commander in Chief of the Armed Forces of the United States under the Constitution and the laws of the United States of America, including Article II of the Constitution, I am directing the Secretary of Defense, and the Secretary of Homeland Security with respect to the U.S. Coast Guard, to return to the longstanding policy and practice on military service by transgender individuals that was in place prior to June 2016 until such time as a sufficient basis exists upon which to conclude that terminating that policy and practice would not have the negative effects discussed above. The Secretary of Defense, after consulting with the Secretary of Homeland Security, may advise me at any time, in writing, that a change to this policy is warranted.

Sec. 2. *Directives.* The Secretary of Defense, and the Secretary of Homeland Security with respect to the U.S. Coast Guard, shall:

(a) maintain the currently effective policy regarding accession of transgender individuals into military service beyond January 1, 2018, until such time as the Secretary of Defense, after consulting with the Secretary of Homeland Security, provides a recommendation to the contrary that I find convincing; and

(b) halt all use of DoD or DHS resources to fund sex-reassignment surgical procedures for military personnel, except to the extent necessary to protect the health of an individual who has already begun a course of treatment to reassign his or her sex.

Sec. 3. *Effective Dates and Implementation.* Section 2(a) of this memorandum shall take effect on January 1, 2018. Sections 1(b) and 2(b) of this memorandum shall take effect on March 23, 2018. By February 21, 2018, the Secretary of Defense, in consultation with the Secretary of Homeland Security, shall submit to me a plan for implementing both the general policy set forth in section 1(b) of this memorandum and the specific directives

set forth in section 2 of this memorandum. The implementation plan shall adhere to the determinations of the Secretary of Defense, made in consultation with the Secretary of Homeland Security, as to what steps are appropriate and consistent with military effectiveness and lethality, budgetary constraints, and applicable law. As part of the implementation plan, the Secretary of Defense, in consultation with the Secretary of Homeland Security, shall determine how to address transgender individuals currently serving in the United States military. Until the Secretary has made that determination, no action may be taken against such individuals under the policy set forth in section 1(b) of this memorandum.

Sec. 4. *Severability.* If any provision of this memorandum, or the application of any provision of this memorandum, is held to be invalid, the remainder of this memorandum and other dissimilar applications of the provision shall not be affected.

Sec. 5. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

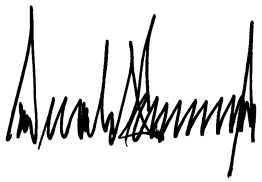
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of Defense is authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, August 25, 2017

[FR Doc. 2017–18544
Filed 8–29–17; 11:15 am]
Billing code 5001–06–P

Reader Aids

Federal Register

Vol. 82, No. 167

Wednesday, August 30, 2017

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids — **202–741–6000**

Laws — **741–6000**

Presidential Documents

Executive orders and proclamations — **741–6000**

The United States Government Manual — **741–6000**

Other Services

Electronic and on-line services (voice) — **741–6020**

Privacy Act Compilation — **741–6050**

Public Laws Update Service (numbers, dates, etc.) — **741–6043**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and Code of Federal Regulations are located at: **www.ofr.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, AUGUST

35623–35882 1
35883–36076 2
36077–36318 3
36319–36686 4
36687–36990 7
36991–37170 8
37171–37294 9
37295–37510 10
37511–37804 11
37805–38590 14
38591–38820 15
38821–39006 16
39007–39334 17
39335–39490 18
39491–39654 21
39655–39952 22
39953–40066 23
40067–40472 24
40473–40666 25
40667–40942 28
40943–41156 29
41157–41320 30

CFR PARTS AFFECTED DURING AUGUST

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. IV 35689, 35697
Ch. VI 35689, 35697

3 CFR

Proclamations:
9629 35881
9630 40471
9631 41317

Executive Orders:
13690 (Revoked by EO 13807).....40463
13807 40463
13808 41155

Administrative Orders:
Memorandums:
Memorandum of August 14, 2017.....39007
Memorandum of August 15, 2017.....39953
Memorandum of August 25, 2017.....41319
Notices:
Notice of August 15, 2017 39005
Presidential Determinations:
No. 2017–10 of July 21, 2017 40667

4 CFR

Proposed Rules:
81 37545

5 CFR

532 40669
9401 35883

7 CFR

1 37171
51 39655
52 39658
319 38591
929 36991
1205 38595

Proposed Rules:
982 39369
1051 37827

9 CFR

530 .....37295, 39659
531 .....37295, 39659
532 .....37295, 39659
533 .....37295, 39659
534 .....37295, 39659
537 .....37295, 39659
539 .....37295, 39659
540 .....37295, 39659
541 .....37295, 39659
544 .....37295, 39659
548 .....37295, 39659
550 .....37295, 39659
552 .....37295, 39659
555 .....37295, 39659
557 .....37295, 39659
559 .....37295, 39659
560 .....37295, 39659
561 .....37295, 39659

Proposed Rules:
1 40077
2 40077
94 37546

10 CFR

72 37511
429 36858
431 36858
611 41157
835 37512

Proposed Rules:
30 39971
429 37031
430 .....36349, 37031, 38613
431 41179

12 CFR

Ch. II 40473
1026 .....37656, 41158

Proposed Rules:
3 40943
44 36692
211 39049
217 40495
238 39049
324 40495
Ch. VII 39702
741 35705
1026 37794

13 CFR

107 39335
109 39491
115 39491
120 39491

Proposed Rules:
Ch. I 38617

14 CFR

23 40943
25 .....35623, 36319, 36320, 36322, 36326, 36328, 37805, 37806, 37811
39 .....35628, 35630, 35634, 35636, 35638, 35641, 35644, 35647, 35888, 37172, 37296, 39341, 39344, 39347, 39351, 39355, 39506, 39509, 39511, 39513, 39518, 39520, 39523, 39525, 39529, 40474, 40477, 40479, 40670, 40672, 40675, 40681, 40683, 40686, 40688, 40690, 41160
71 .....35649, 36077, 36078,

37514, 37814, 38821, 38822, 39532, 40067, 40692, 40694, 40695, 40696, 40697
91.....39660, 40944
97 .....35890, 35896, 39009, 39011, 39013, 39018
Proposed Rules:
39 .....35911, 35917, 37360, 37366, 37546, 37549, 37554, 38618, 38621, 38623, 38626, 38629, 38632, 38634, 38637, 38641, 39062, 39545, 40503, 40505, 40508, 40511, 40514, 40516, 40735, 41179
71 .....35714, 35716, 35918, 36103, 36105, 37369, 38856, 38857, 39065, 39549, 40078, 40080, 40737, 40739, 40740, 41182
91.....35920, 36697

15 CFR

740.....38764
772.....38764
774.....38764
902.....36991

16 CFR

310.....39533
1015.....37004
1308.....41163
Proposed Rules:
Ch. II.....36705

17 CFR

211.....40946
231.....41147, 41149
241.....41147, 41149
271.....41147, 41149

18 CFR

Proposed Rules:
35.....40081

20 CFR

404.....39664
Proposed Rules:
1011.....39371

21 CFR

121.....40484
133.....37815
573.....38595
860.....39534
Proposed Rules:
172.....39711

22 CFR

121.....41172

26 CFR

1.....37817

28 CFR

16.....35651

29 CFR

4022.....38597
Proposed Rules:
1926.....41184

30 CFR

1202.....36934
1206.....36934

32 CFR

706.....35898

33 CFR

100 .....35654, 37010, 37174, 38598, 38823, 39357, 40069, 40698
117 .....35655, 36332, 36687, 37011, 37299, 38600, 38602, 39019, 39360, 39665, 39955, 40699, 40700, 41173, 41174
147.....37176
165 .....35655, 35900, 36333, 36688, 37299, 37515, 37517, 37520, 38603, 39020, 39023, 39025, 39360, 39535, 39665, 39955, 40070, 40485, 40486, 40489, 41174
Proposed Rules:
100.....35717
110.....38643
165.....37182, 39972
209.....40085
328.....39712, 40742

34 CFR

668.....39362
Proposed Rules:
Subtitle A 37555
Ch. I.....37555
Ch. II.....37555
Ch. III.....37555
Ch. IV.....37555
Ch. V.....37555
Ch. VI 37555, 40518, 41194
Ch. VII.....37555

36 CFR

Proposed Rules:
407.....39067

37 CFR

Proposed Rules:
202.....38859

38 CFR

4.....36080
36.....35902, 40700
60.....35905
Proposed Rules:
4.....35719
8.....39974
61.....35922, 38646

39 CFR

111.....39957
Proposed Rules:
3050 .....36705, 36706, 37036

40 CFR

52 .....37012, 37013, 37015, 37020, 37025, 37299, 37305, 37307, 37308, 37310, 37316, 37817, 37819, 38604, 38605, 38825, 38828, 38832, 38834, 38838, 38841, 39027, 39030, 39031, 39035, 39537, 39671, 40072, 40491, 40701, 40703, 40710, 40712, 40715, 40718, 40949, 40953
60.....36688, 37822
62.....35906, 36335
63.....39671
81 .....37318, 40718, 40953
136.....40836
180 .....36086, 36090, 36335, 38844, 38846, 38849, 39541
271.....37319
300.....36095
372.....39038
710.....37520
Proposed Rules:
52 .....35734, 35738, 35922, 36707, 37037, 37371, 37374, 37375, 37378, 37379, 37384, 37389, 37829, 38646, 38651, 38654, 38660, 38864, 38865, 38866, 38874, 39070, 39078, 39079, 39083, 39090, 39097, 39396, 39551, 40085, 40086, 40519, 40743, 40963, 41197
63 .....36713, 39712, 40103, 40970
80.....37184, 39098
86.....39551, 39976
110.....39712, 40742
112.....39712, 40742
116.....39712, 40742
117.....39712, 40742
122.....39712, 40742
158.....39399
192.....35924
230.....39712
232.....39712, 40742
271.....37396
300 .....36106, 39712, 40742
302.....39712, 40742
372.....39101
401.....39712, 40742
711.....39402

41 CFR

105–70.....40957

42 CFR

405.....37990
409.....36530
411.....36530
412.....36238, 37990
413.....36530, 37990
414.....37990
416.....37990
418.....36638
424.....36530
486.....37990
488.....36530, 37990
489.....37990
495.....37990
Proposed Rules:
10.....39553
510.....39310
512.....39310

45 CFR

1600.....37327
1629.....37177
1630.....37327
1631.....37327

47 CFR

1.....41096
15.....41096
25 .....37027, 40493, 41096
54.....39966
64.....39673
73.....37354, 41096
74.....37354
76.....35658
79.....37345
95.....41096
96.....39683
Ch. V.....40958
Proposed Rules:
0.....39715
1.....39715, 40118
15.....39715
20.....39715, 40118
43.....40118
54.....39715, 40520
64.....37830
73.....39716

48 CFR

1852.....38852
Proposed Rules:
252.....35741

49 CFR

383.....36101
1002.....35906
Proposed Rules:
240.....37038
242.....37038
389.....36719
391.....37038
523.....39551
531.....39551
533.....39551
536.....39551
537.....39551

50 CFR

13.....41177
216.....39044
218.....39684
226.....39160
300 .....36341, 37824, 40720
622 .....35658, 36102, 36344, 40075
635 .....36689, 37825, 38853, 39047
648 .....35660, 35686, 37359, 39363, 40721
660.....35687
679 .....35910, 36348, 36991, 38611, 38612, 39366, 41178
Proposed Rules:
17.....37397
20 .....36308, 38664, 39716
32.....37398
216.....39732
300.....36724
622.....39733, 41205
635.....39735
660.....39977
679.....39743
680.....36111, 39743

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List August 23, 2017

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.