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Presidential Documents

Title 3—

The President

Notice of October 23, 2017

Continuation of the National Emergency With Respect to the Democratic Republic of the Congo

On October 27, 2006, by Executive Order 13413, the President declared a national emergency with respect to the situation in, or in relation to, the Democratic Republic of the Congo and, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), ordered related measures blocking the property of certain persons contributing to the conflict in that country. The President took this action to deal with the unusual and extraordinary threat to the foreign policy of the United States constituted by the situation in, or in relation to, the Democratic Republic of the Congo, which has been marked by widespread violence and atrocities and continues to threaten regional stability. The President took additional steps to address this national emergency in Executive Order 13671 of July 8, 2014.

The situation in, or in relation to, the Democratic Republic of the Congo continues to pose an unusual and extraordinary threat to the foreign policy of the United States. For this reason, the national emergency declared in Executive Order 13413 of October 27, 2006, as amended by Executive Order 13671 of July 8, 2014, and the measures adopted to deal with that emergency, must continue in effect beyond October 27, 2017. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to the situation in, or in relation to, the Democratic Republic of the Congo declared in Executive Order 13413, as amended by Executive Order 13671.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
October 23, 2017.

[FR Doc. 2017–23324
Filed 10–24–17; 8:45 am]
Billing code 3295–F8–P

Rules and Regulations

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831, 839, 841, 842, and 847

RIN 3206–AN22

Federal Employees' Retirement System; Government Costs

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management amends this rule to clarify the manner OPM uses for determining a supplemental liability under the Federal Employees' Retirement System (FERS), and to clarify the process by which the U.S. Postal Service (USPS) and the U.S. Department of the Treasury (Treasury) may request reconsideration of OPM's valuation of the supplemental liability. The rule also clarifies the employee categories OPM uses to compute the FERS normal cost percentages. The rule also amends the definitions of actuary, present value factor, and actuarial present value to ensure these definitions are uniform and appropriate.

DATES: This rule is effective October 25, 2017.

FOR FURTHER INFORMATION CONTACT: Roxann Johnson, (202) 606–0299 or *combox@opm.gov.*

SUPPLEMENTARY INFORMATION: OPM's determination of the FERS normal cost percentage necessary to fund the Civil Service Retirement and Disability Fund (CSRDF) is subject to appeal by agencies with at least 1,000 employees in the general category of employees or 500 employees in any of the special categories of employees. The Secretary of the Treasury or the Postmaster General may request the Board of Actuaries of the Civil Service Retirement System (the Board) to reconsider the amount determined to be payable with respect to any supplemental liability in accordance with 5 U.S.C. 8423(c) and 5 CFR 841.409. The regulations at 5 CFR 841.401 through 5 CFR 841.411 establish the time limits and requirements for an agency appeal of OPM's determination of a normal cost percentage. OPM has added regulations under 5 CFR part 841 to clarify the process by which the Secretary of the Treasury and the Postmaster General may file a request for the Board to reconsider an amount determined to be payable to the CSRDF with respect to a supplemental liability.

OPM's final rule amends its definition of ''actuary'' provided under 5 CFR 841.402. The prior definition was limited to ''an associate or fellow in the Society of Actuaries and one who is enrolled under section 3042 of Public Law 93–406, the Employee Retirement Income Security Act of 1974'' (ERISA). Because this definition no longer reflected professional standards generally required of an actuary for this subpart, and was overly narrow because it worked to exclude knowledgeable and experienced actuaries who may not be enrolled under ERISA but who are well qualified to issue statements of opinion with regard to the CSRDF, OPM has amended the definition of ''actuary'' to include those who meet the qualification standards to issue a statement of actuarial opinion in regard to defined benefit retirement plans in the United States.

OPM's final rule amends its regulations under 5 CFR 841.403 to make clear that it determines separate normal cost percentages for employees covered under Federal Employees Retirement System (FERS), FERS Revised Annuity Employees (FERS–RAE), and FERS Further Revised Annuity Employees (FERS–FRAE) in compliance with section 5001 of the ''Middle Class Tax Relief and Job Creation Act of 2012,'' Public Law 112–96, 126 Stat. 199 (Feb. 22, 2012), and section 401 of the ''Bipartisan Budget Act of 2013,'' Public Law 113–67, 127 Stat. 1165 (Dec. 26, 2013). This legislation defined FERS–RAE and FERS–FRAE employees for whom increased retirement deductions apply, which results in increased outlays from the CSRDF in refund and lump-sum payments of employee contributions. For that reason, the normal cost percentages for FERS–RAE and FERS–FRAE employees are expected to exceed the normal cost percentages for other FERS employees. The legislation also reduced the benefit accrual rates for Members and Congressional employees (other than Capitol Police) subject to FERS–RAE and FERS–FRAE, resulting in lower associated normal cost percentages. To ensure regulations reflect current statutory language, OPM has amended 5 CFR 841.403 to clearly establish separate normal cost percentages for FERS, FERS–RAE and FERS–FRAE employees within each employee category listed under 5 CFR 841.403.

OPM's final rule amends 5 CFR 841.403 to make clear that it will include members of the Capitol Police as ''Congressional Employees'' for purposes of deriving separate normal cost percentages for this employee group. OPM includes members of the Capitol Police with Congressional employees when deriving the normal cost percentages for this employee group because, in part, 5 U.S.C. 2107(4) defines ''a member or employee of the Capitol Police'' as ''a Congressional employee.'' The Middle Class Tax Relief and Job Creation Act of 2014 eliminated for FERS–RAE and FERS–FRAE employees the higher annuity accrual rates for Congressional employees provided under 5 U.S.C. 8415(c) (*see* 5 U.S.C. 8415(d)) but did not eliminate the higher annuity accrual rates under 5 U.S.C. 8415(e) for members of the Capitol Police subject to FERS–RAE and FERS–FRAE. The annuity benefits of members of the Capitol Police are more closely comparable to another of the special employee groups—law enforcement officers, whose annuities are computed under 5 U.S.C. 8415(e)—for the purpose of determining their FERS normal cost percentage. However, because a member of the Capitol Police is not within the FERS definition of ''law enforcement officer'' under 5 U.S.C. 8401(17), members of the Capitol Police are not included in the special category of ''law enforcement officers'' under 5 U.S.C. 8423(a)(1)(B) and, therefore, are not subject to the normal cost percentage applicable to that group. The only special category listed in 5 U.S.C. 8423(a)(1)(B) that does apply to members of the Capitol Police is ''Congressional employees.'' Thus, despite the fact that the other Congressional employees subject to FERS–RAE and FERS–FRAE do not receive enhanced annuity accrual rates,

OPM must include Capitol Police in the Congressional employee normal cost percentage calculation under 5 U.S.C. 8423(a)(1)(B). Therefore, OPM's final rule amends 5 CFR 841.403(b) to reflect all Congressional employees including members of the Capitol Police in determining the FERS, FERS–RAE and FERS–FRAE normal cost percentages for the ''Congressional Employees'' category.

OPM's final rule amends 5 CFR 841.403 to include U.S. Postal Service employees as a separate category for which OPM will derive normal cost percentages. OPM has determined a Government-wide normal cost percentage for each category of employee, and U.S. Postal Service employees have been included in the category of either ''all other employees'' or ''law enforcement officer'' under 5 CFR 841.403(c) and (g). Because of the separate U.S. Postal Service funding provisions established under 5 U.S.C. 8423(b), and as a result of recommendations from the Board, OPM's final rule amends its regulations to provide for the use of U.S. Postal Service-specific assumptions regarding demographic factors in the calculation of the U.S. Postal Service supplemental liability and in the determination of the normal cost percentage for U.S. Postal Service employees who do not fall under the category of ''law enforcement officer.'' OPM's final rule amends regulations at 5 CFR 841.414, which will provide specific guidance on the calculation of the supplemental liability; and OPM's final rule adds employees of the U.S. Postal Service, who are not ''law enforcement officers'' under 5 CFR 841.403(c), as a separate category for which OPM will derive normal cost percentages under 5 CFR 841.403. OPM's final rule removes references to the term ''Government-wide normal cost percentage'' from 5 CFR part 841 in order to conform with the normal cost percentages established for various categories of employees as provided under this part, and to clarify that an agency may appeal a published normal cost percentage even if the normal cost percentage applies to a category of employee that exists predominately or exclusively within a single agency.

OPM's final rule also adds 5 CFR 841.415 through 841.417 to the regulations. These sections establish the procedures and requirements for filing a request for reconsideration of a supplemental liability determination filed by the Secretary of the Treasury or the Postmaster General. Under 5 CFR 841.417, and consistent with recommendations from the Board, OPM's final rule requires that the actuarial analysis submitted with the request for reconsideration must demonstrate a difference in the supplemental liability of at least 2 percent of the present value of future benefits calculated in OPM's computation of the supplemental liability.

Additionally, OPM's final rule refines the definitions of *present value factor* and *actuarial present value* under 5 CFR parts 831, 839, 842, and 847 to ensure that these definitions are uniform and appropriate. OPM's final rule clarifies, under 5 CFR 831.303, 831.603, 831.2202, 839.102, 842.602, 842.702, and 847.103, that the present value factors are computed by using a composite of sex-distinct factors based upon mortality assumptions for annuitant populations. The factors reflect an increase in benefit payments at an assumed rate of cost-of living adjustment, where appropriate. OPM removed 5 CFR 847.602, which provided a separate description of present value factors for purposes of subpart F of part 847 in order to include a definition of ''present value factor'' for all of part 847, and OPM added 5 CFR 842.616 to describe when the present value factors will be published. OPM's final rule clarifies under 5 CFR 842.602 and 842.702 that separate present value factors apply to FERS annuities that receive cost-of-living adjustments before the retiree attains age 62 versus annuities that do not receive cost-of-living adjustments before age 62.

Comments

OPM received comments on its proposed rule from the U.S. Postal Service Office of Inspector General (OIG) and the U.S. Postal Service General Counsel's Office (OGC). The U.S. Postal Service OIG indicated that it ''support[ed] the Proposed Rule as far as it goes,'' and the U.S. Postal Service OGC indicated that OPM's proposed changes were a ''welcomed step,'' but both organizations recommended that the rule require not only the use of U.S. Postal Service-specific demographic factors but also the use of U.S. Postal Service-specific economic factors related to general salary growth assumptions in determining the normal costs and the supplemental liability.

OPM has determined that this change is unnecessary. Currently, the regulations under 5 CFR 841.405 provide that the normal cost percentages will be based on the economic assumptions determined by the Board, and OPM's final rule amends 5 CFR 841.414 to provide that each supplemental liability will be computed based on the economic assumptions determined by the Board for the most recent valuation of FERS. Therefore, nothing in the regulations would prevent the Board from using general salary growth and wage assumptions specific to U.S. Postal Service employees when, in the Board's judgment, doing so would be appropriate.

OPM disagrees with the U.S. Postal Service OGC's assertion that 5 U.S.C. 8401(27)(A), 8423(b)(1), and 8348(h)(1)(A) require OPM to establish regulations that direct the Board to select general salary growth economic assumptions specific to the U.S. Postal Service for use in determining the normal costs and supplemental liabilities. The provisions under 5 U.S.C. 8401(23), 8401(27)(B)(iv), and 8348(h)(1)(A) require OPM to determine the normal costs and supplemental liabilities by applying ''generally accepted actuarial principles,'' and 5 U.S.C. 8347(f) and 8423(a)(5) require the Board to ''furnish its advice and opinion on matters referred to it by the Office'' and to make recommendations that ''in the Board's judgment are necessary to protect the public interest and maintain the System on a sound financial basis.'' The selection of economic assumptions used to determine the normal costs or the supplemental liability is inherently actuarial in nature. OPM finds that requiring the use of general salary growth economic assumptions specific to the U.S. Postal Service for use in determining the normal costs and supplemental liabilities would unnecessarily limit the Board's discretion in making these determinations. As a result, OPM declines to adopt the U.S. Postal Service OGC's recommendation to require the Board to select U.S. Postal Service-specific economic assumptions for use in determining the normal costs and the supplemental liability. To the extent the U.S. Postal Service would like to submit for the Board's consideration any information regarding the actuarial merits of selecting U.S. Postal Service-specific economic assumptions for use in determining the normal cost and the supplement liability, it may do so in accordance with the requirements of Board meeting notices.

The U.S. Postal Service OGC also requested that OPM make clear in its final rule that, in instances where OPM has computed a separate normal cost percentage, an agency's right to appeal and submit the evidence necessary to support the appeal should be related to OPM's determination of that normal cost percentage rather than any Government-wide normal cost

percentage. OPM agrees, and has adopted the Postal Service OGC's recommendation by amending 5 CFR 841.406, 841.409, 841.410, 841.411, and 841.412, to make clear the requirements for appealing a normal cost percentage apply for each category where OPM computes a normal cost percentage as specified under 5 CFR 841.403.

Finally, the U.S. Postal Service OGC requested that OPM not impose the 2 percent threshold requirement necessary for the Board to sustain a request for reconsideration of its supplemental liability determinations. The amended regulations under 5 CFR 841.147 provide that the Board cannot sustain a request for reconsideration unless the difference in the supplemental liability amount is at least 2 percent of the present value of future benefits calculated in OPM's computation of the supplemental liability. OPM included this threshold requirement as a result of a recommendation from the Board advising OPM that any threshold be set as a difference in present value of future benefits. OPM's actuaries tested the effect of what might be considered substantive changes in the demographic assumptions and produced results within a range of 0 percent to a decrease of 5.9 percent. Therefore, OPM has determined that the 2 percent threshold provided is a reasonable basis for sustaining a request for reconsideration, and therefore, OPM declines to adopt the U.S. Postal Service OGC's recommendation to eliminate this threshold.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order (E.O.) 12866, as amended by E.O. 13258 and E.O. 13422.

Regulatory Flexibility Act

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

Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

List of Subjects

5 CFR Part 831

Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

5 CFR Part 839

Administrative practice and procedure, Claims, Employment taxes, Government employees, Pensions, Reporting and recordkeeping requirements, Retirement, Social Security.

5 CFR Part 841

Administrative practice and procedure, Air traffic controllers, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

5 CFR Part 842

Air traffic controllers, Alimony, Firefighters, Law enforcement officers, Pensions, Retirement.

5 CFR Part 847

Administrative practice and procedure, Disability benefits, Government employees, Pensions, Reporting and recordkeeping requirements, Retirement.

U.S. Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

For the reasons stated in the preamble, the Office of Personnel Management amends 5 CFR parts 831, 839, 841, 842, and 847 as set forth below:

PART 831—RETIREMENT

■ 1. The authority citation for part 831 continues to read as follows:

Authority: 5 U.S.C. 8347; Sec. 831.102 also issued under 5 U.S.C. 8334; Sec. 831.106 also issued under 5 U.S.C. 552a; Sec. 831.108 also issued under 5 U.S.C. 8336(d)(2); Sec. 831.114 also issued under 5 U.S.C. 8336(d)(2), and Sec. 1313(b)(5) of Pub. L. 107–296, 116 Stat. 2135; Sec. 831.201(b)(1) also issued under 5 U.S.C. 8347(g); Sec. 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); Sec. 831.201(g) also issued under Secs. 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; Sec. 831.201(g) also issued under Sec. 7(b) and (e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.201(i) also issued under Secs. 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.204 also issued under Sec. 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by Sec. 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 831.205 also issued under Sec. 2207 of Pub. L. 106–265, 114 Stat. 784; Sec. 831.206 also issued under Sec. 1622(b) of Pub. L. 104–106, 110 Stat. 515; Sec. 831.301 also issued under Sec. 2203 of Pub. L. 106–265, 114 Stat. 780; Sec. 831.303 also issued under 5 U.S.C. 8334(d)(2) and Sec. 2203 of Pub. L. 106–235, 114 Stat. 780; Sec. 831.502 also issued under 5 U.S.C. 8337, and Sec. 1(3), E.O. 11228, 3 CFR 1965–1965 Comp. p. 317; Sec. 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); Secs. 831.663 and 831.664 also issued under Sec. 11004(c)(2) of Pub. L. 103–66, 107 Stat. 412; Sec. 831.682 also issued under Sec. 201(d) of Pub. L. 99–251, 100 Stat. 23; Sec. 831.912 also issued under Sec. 636 of Appendix C to Pub. L. 106–554, 114 Stat. 2763A–164; Subpart P also issued under Sec. 535(d) of Title V of Division E of Pub. L. 110–161, 121 Stat. 2042; Subpart V also issued under 5 U.S.C. 8343a and Sec. 6001 of Pub. L. 100–203, 101 Stat. 1330–275; Sec. 831.2203 also issued under Sec. 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388–328.

Subpart A—Administration and General Provisions

■ 2. Add § 831.117 to subpart A to read as follows:

§ 831.117 Computation of the supplemental liability.

(a) OPM will compute each supplemental liability of the Fund using demographic factors specific to the populations for which the supplemental liability applies.

(b) The supplemental liability will be computed based on the economic assumptions used by the Board of Actuaries of the Civil Service Retirement System for the most recent valuation of the System.

(c) Each supplemental liability shall be rounded to the nearest one hundred million dollars.

Subpart C—Credit for Service

■ 3. Amend § 831.303 by revising paragraphs (c)(3) and (d)(3) to read as follows:

§ 831.303 Civilian service.

* * * * *

(c) * * *

(3) For the purpose of paragraph (b)(2) of this section, the term ''present value factor'' has the same meaning as defined in § 831.603 and ''time of retirement'' has the same meaning as defined in § 831.2202.

(d) * * *

(3) For the purpose of paragraph (d)(2) of this section, the term ''present value

factor'' has the same meaning as defined in § 831.603 and ''time of retirement'' has the same meaning as defined in § 831.2202.

Subpart F—Survivor Annuities

■ 4. Amend § 831.603 by revising the definition of ''present value factor'' to read as follows:

§ 831.603 Definitions.

* * * * *

Present value factor means the amount of money (earning interest at an assumed rate) required at the time of annuity commencement to fund an annuity that starts at the rate of $1 a month and is payable in monthly installments for the annuitant's lifetime based on mortality rates for annuitants paid from the Civil Service Retirement and Disability Fund; and increases each year at an assumed rate of cost of living adjustment. Assumed rates of interest, mortality, and cost-of-living adjustments used in computing the present value are those used by the Board of Actuaries of the Civil Service Retirement System for valuation of the System based on dynamic assumptions. The present value factors are unisex factors obtained as a composite of sex-distinct present value factors.

* * * * *

Subpart V—Alternative Forms of Annuities

■ 5. Amend § 831.2202 by revising the definition of ''present value factor'' to read as follows:

§ 831.2202 Definitions.

* * * * *

Present value factor has the same meaning in this subpart as defined in § 831.603.

* * * * *

PART 839—CORRECTION OF RETIREMENT COVERAGE ERRORS UNDER THE FEDERAL ERRONEOUS RETIREMENT COVERAGE CORRECTIONS ACT

■ 6. The authority citation for part 839 continues to read as follows:

Authority: Title II, Pub. L. 106–265, 114 Stat. 770.

Subpart A—General Provisions

■ 7. Amend § 839.102 by revising the definition of ''present value factor'' to read as follows:

§ 839.102 Definitions.

* * * * *

Present value factor has the same meaning in this subpart as defined in § 831.603.

* * * * *

PART 841—FEDERAL EMPLOYEES RETIREMENT SYSTEM—GENERAL ADMINSTRATION

■ 8. The authority citation for part 841 continues to read as follows:

Authority: 5 U.S.C. 8461; Sec. 841.108 also issued under 5 U.S.C. 552a; Secs. 841.110 and 841.111 also issued under 5 U.S.C. 8470(a); subpart D also issued under 5 U.S.C. 8423; Sec. 841.504 also issued under 5 U.S.C. 8422; Sec. 841.507 also issued under section 505 of Pub. L. 99–335; subpart J also issued under 5 U.S.C. 8469; Sec. 841.506 also issued under 5 U.S.C. 7701(b)(2); Sec. 841.508 also issued under section 505 of Pub. L. 99–335; Sec. 841.604 also issued under Title II, Pub. L. 106–265, 114 Stat. 780.

Subpart D—Government Costs

■ 9. Amend § 841.401 by revising paragraphs (b)(3) and (4) and adding paragraph (b)(5) to read as follows:

§ 841.401 Purpose and scope.

* * * * *

(b) * * *

(3) Agency appeals of rate determinations;

(4) Methodology for determining the amount due from each agency; and

(5) Requests for reconsideration of the supplemental liability.

■ 10. Amend § 841.402 by revising the definition of ''actuary'' to read as follows:

§ 841.402 Definitions.

* * * * *

Actuary means a professional who meets the qualification standards to issue a statement of actuarial opinion in regard to defined benefit retirement plans in the United States.

* * * * *

■ 11. Amend § 841.403 by revising the introductory text, paragraph (b), paragraph (g), and adding paragraph (h) to read as follows:

§ 841.403 Categories of employees for computation of normal cost percentages.

Separate normal cost percentages for FERS, FERS–RAE and FERS–FRAE will be determined for each of the following groups of employees:

* * * * *

(b) Congressional employees, including members of the Capitol Police;

* * * * *

(g) Other employees of the United States Postal Service;

(h) All other employees.

■ 12. Revise § 841.406(a) to read as follows:

§ 841.406 Determination of normal cost percentages.

(a) OPM will determine the normal cost percentages for each category of employees. These normal cost percentages will be used by all agencies that have not been granted a single agency rate under § 841.412.

* * * * *

■ 13. Revise § 841.407(b)(1) to read as follows:

§ 841.407 Notice of normal cost percentage determinations.

* * * * *

(b) * * *

(1) The normal cost percentages and any single agency rates for each category of employees;

* * * * *

■ 14. Revise § 841.409 to read as follows:

§ 841.409 Agency right to appeal normal cost percentage.

(a) An agency with at least 1,000 employees in the general category of employees or 500 employees in any of the special categories may appeal to the Board the normal cost percentage for that category as applied to that agency.

(b) No appeal will be considered by the Board unless the agency files, no later than 6 months after the date of publication of the notice of normal cost percentages under § 841.407, a petition for appeal that meets *all* the requirements of § 841.410.

■ 15. Amend § 841.410 by revising the section heading and revising the introductory text of paragraph (c) and revising paragraph (c)(3) to read as follows:

§ 841.410 Contents of petition for appeal of normal cost percentage.

* * * * *

(c) The actuarial report must contain a detailed actuarial analysis of the normal cost of FERS benefits as applied to the employees of that agency in the category of employees for which the agency is appealing. The actuarial report must—

* * * * *

(3) Specifically address and consider each of the demographic factors listed in § 841.404. The appealing agency is responsible for developing data relating to the first nine demographic factors as they relate to the category of agency employees for which the appeal is being filed. OPM's demographic factors (available from OPM) will be presumed to be sufficient and reliable for factors 10 through 13 unless the appealing

agency is able to demonstrate, through sufficient and reliable data relating to its employees or former employees, the use of alternative factors is appropriate. The fourteenth factor, administrative expenses, will be supplied by OPM.

* * * * *

■ 16. Amend § 841.411 by revising the section heading and revising paragraph (a), (b), and (d)(3) and (4) to read as follows:

§ 841.411 Appeals procedure for normal cost percentage.

(a) The normal cost percentages as published under § 841.407 are presumed to apply to all agencies. Any agency appealing application of a published normal cost percentage to any category of employees in its workforce must demonstrate to the satisfaction of the Board that the normal cost percentage for that category of employees in that agency is sufficiently different from the published normal cost percentage.

(b) While an agency has an appeal pending, the published normal cost percentage continues to apply to that agency.

* * * * *

(d) * * *

(3) When all relevant factors are considered together, there is a demonstrated difference between the published normal cost percentage being appealed and the normal cost percentage for the group at issue; and

(4) The difference is at least 10 percent of the published normal cost percentage being appealed.

■ 17. Revise § 841.412(c) to read as follows:

§ 841.412 Rates determined by appeal.

* * * * *

(c) A single agency rate may be higher or lower than the published normal cost percentage and will remain in force for not less than 3 years.

* * * * *

■ 18. Add § 841.414 to subpart D to read as follows:

§ 841.414 Computation of the supplemental liability.

(a) OPM will compute each supplemental liability of the Civil Service Retirement and Disability Fund using demographic factors consistent with those used for the computation of the normal cost percentages under § 841.403.

(b) The supplemental liability will be computed based on the economic assumptions determined by the Board for the most recent valuation of the Federal Employees Retirement System.

(c) Each supplemental liability will be rounded to the nearest one hundred million dollars.

■ 19. Add § 841.415 to subpart D to read as follows:

§ 841.415 Right to request reconsideration of the supplemental liability.

(a) The Secretary of the Treasury or the Postmaster General may request the Board to reconsider a determination of the amount payable with respect to any supplemental liability.

(b) No request for reconsideration will be considered by the Board unless the Secretary of the Treasury or the Postmaster General files, no later than 6 months after the date of receipt of the first notice of the amount payable with respect to the supplemental liability, a request for reconsideration that meets *all* the requirements of § 841.416.

■ 20. Add § 841.416 to subpart D to read as follows:

§ 841.416 Contents of a request for reconsideration of the supplemental liability.

(a) To request reconsideration of the amount payable with respect to the supplemental liability, the Secretary of the Treasury or the Postmaster General must file with OPM—

(1) A signed letter of appeal summarizing the basis of the request; and

(2) An actuarial report that contains a detailed actuarial analysis of the request.

(b) The actuarial report must—

(1) Be signed by an actuary;

(2) Specifically present any data and development of assumptions related to the request for reconsideration;

(3) Use each of the demographic factors listed in § 841.404; and

(4) Use the economic assumptions under § 841.414(b). When a request is based in whole or in part on a pattern of merit salary increases, the report may include an analysis of the economic assumptions concerning salary and wage growth to take into account the combined effect of merit and general wage and salary growth.

■ 21. Add § 841.417 to subpart D to read as follows:

§ 841.417 Reconsideration of the supplemental liability.

(a) The Board cannot sustain a request for reconsideration unless the Board finds that—

(1) The data used in the actuarial report required by § 841.416 are sufficient and reliable;

(2) The assumptions used in the actuarial report required by § 841.416 are justified; and

(3) The difference in the supplemental liability amount is at least 2 percent of the present value of future benefits calculated in OPM's computation of the supplemental liability.

(b) If the Board sustains a request for reconsideration of the supplemental liability, OPM will recompute the supplemental liability according to the economic and demographic assumptions recommended by the Board.

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

■ 22. The authority citation for part 842 continues to read as follows:

Authority: 5 U.S.C. 8461(g); Secs. 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); Sec. 842.104 also issued under Secs. 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); Sec. 842.106 also issued under Sec. 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by Sec. 153 of Pub. L. 104–134, 110 Stat. 1321–102; Sec. 842.107 also issued under Secs. 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251, and Sec. 7(b) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.108 also issued under Sec. 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.109 also issued under Sec. 1622(b) of Public Law 104–106, 110 Stat. 515; Sec. 842.208 also issued under Sec. 535(d) of Title V of Division E of Pub. L. 110–161, 121 Stat. 2042; Sec. 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and Sec. 1313(b)(5) of Pub. L. 107–296, 116 Stat. 2135; Secs. 842.304 and 842.305 also issued under Sec. 321(f) of Pub. L. 107–228, 116 Stat. 1383, Secs. 842.604 and 842.611 also issued under 5 U.S.C. 8417; Sec. 842.607 also issued under 5 U.S.C. 8416 and 8417; Sec. 842.614 also issued under 5 U.S.C. 8419; Sec. 842.615 also issued under 5 U.S.C. 8418; Sec. 842.703 also issued under Sec. 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388; Sec. 842.707 also issued under Sec. 6001 of Pub. L. 100–203, 101 Stat. 1300; Sec. 842.708 also issued under Sec. 4005 of Pub. L. 101–239, 103 Stat. 2106 and Sec. 7001 of Pub. L. 101–508, 104 Stat. 1388; Subpart H also issued under 5 U.S.C. 1104; Sec. 842.810 also issued under Sec. 636 of Appendix C to Pub. L. 106–554 at 114 Stat. 2763A–164; Sec. 842.811 also issued under Sec. 226(c)(2) of Public Law 108–176, 117 Stat. 2529; Subpart J also issued under Sec. 535(d) of Title V of Division E of Pub. L. 110–161, 121 Stat. 2042.

Subpart F—Survivor Elections

■ 23. Amend § 842.602 by revising the definition of ''present value factor'' to read as follows:

§ 842.602 Definitions.

* * * * *

Present value factor means the amount of money (earning interest at an assumed rate) required at the time of annuity commencement to fund an

annuity that starts at the rate of $1 a month and is payable in monthly installments for the annuitant's lifetime based on mortality rates for annuitants paid from the Civil Service Retirement and Disability Fund; and increases each year at an assumed rate of cost-of-living adjustment. Assumed rates of interest, mortality, and cost-of-living adjustments used in computing the present value are those used by the Board of Actuaries of the Civil Service Retirement System for valuation of the Federal Employees' Retirement System based on dynamic assumptions. The present value factors are unisex factors obtained as a composite of sex-distinct present value factors. Separate present value factors apply for FERS annuities that receive cost-of-living adjustments before the retiree attains age 62, versus FERS annuities that do not receive cost-of-living adjustments before the retiree attains age 62.

* * * * *

■ 24. Add § 842.616 to subpart F to read as follows:

§ 842.616 Publication of present value factors.

When OPM publishes in the **Federal Register** notice of normal cost percentages under § 841.407, it will also publish updated present value factors.

Subpart G—Alternative Forms of Annuities

■ 25. Amend § 842.702 by revising the definition of ''present value factor'' to read as follows:

§ 842.702 Definitions.

* * * * *

Present value factor has the same meaning in this subpart as defined in § 842.602.

* * * * *

PART 847—ELECTIONS OF RETIREMENT COVERAGE BY CURRENT AND FORMER EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES

■ 26. The authority citation for part 847 continues to read as follows:

Authority: 5 U.S.C. 8332(b)(17) and 8411(b)(6) and sections 1131 and 1132 of Pub. L. 107–107, December 28, 2001, 115 Stat 1242; 5 U.S.C. 8347(a) and 8461(g) and section 1043(b) of Pub. L. 104–106, Div. A, Title X, Feb. 10, 1996, 110 Stat. 434. Subpart B also issued under 5 U.S.C. 8347(q) and 8461(n).

Subpart A—General Provisions

■ 27. Amend § 847.103(b) to revise the definition of ''actuarial present value'' and to add the definition of ''present value factor'' in alphabetical order as follows:

§ 847.103 Definitions.

* * * * *

(b) * * *

Actuarial present value means the amount of monthly annuity at time of retirement multiplied by the applicable present value factor.

* * *

Present value factor has the same meaning in this part as defined in § 842.602.

* * * * *

Subpart F—Additional Employee Costs Under the Retroactive Provisions

§ 847.602 [Removed and Reserved]

■ 28. Remove and reserve § 847.602.

[FR Doc. 2017–23141 Filed 10–24–17; 8:45 am]

BILLING CODE 6325–38–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3560

RIN 0575–AC98

Multi-Family Housing Program Requirements To Reduce Financial Reporting Requirements

AGENCY: Rural Housing Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Housing Service (RHS) is revising its existing regulations regarding financial reporting. This action is necessary to align RHS requirements with those of the United States Department of Housing and Urban Development (HUD) utilizing a risk-based threshold reporting which will reduce the burden on the borrower to produce multiple financial reports; focus on high-risk properties; and, reduce the financial cost of reporting on properties.

DATES: This rule is effective November 24, 2017.

FOR FURTHER INFORMATION CONTACT: Janet Stouder, Deputy Director, Multi-Family Housing Portfolio Management Division, Rural Housing Service, Room 1237S—STOP 0782, 1400 Independence Avenue SW., Washington, DC 20250–0782, Telephone: (202) 720–9728.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, Classification

This final rule has been determined to be non-significant and, therefore was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Authority

The Multi-Family Housing program (MFH) is administered, subject to appropriations, by the U.S. Department of Agriculture (USDA) as authorized under Sections 514, 515, 516 and 521 of the Housing Act of 1949, as amended (42 U.S.C. 1484, 1485, 1486, and 1490).

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1970, ''Environmental Program.'' RHS has determined that this action does not constitute a major Federal action significantly affecting the quality of the environment. In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature on this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program nor does it require any more action on the part of a small business than required of a large entity.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on 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. This rule does not impose substantial direct compliance costs on State and local Governments; therefore, consultation with the States is not required.

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988. In accordance with this rule: (1) Unless otherwise specifically provided, all State and local laws that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before bringing suit in court that challenges action taken under this rule.

Unfunded Mandate Reform Act (UMRA)

Title II of the UMRA, Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal Governments and on the private sector. Under section 202 of the UMRA, Federal Agencies generally must prepare a written statement, including cost-benefit analysis, for proposed and Final Rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal Governments, in the aggregate, or to the private sector, of $100 million or more in any one-year. When such a statement is needed for a rule, section 205 of the UMRA generally requires a Federal Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal Governments or for the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act of 1995

The information collection requirements contained in this regulation have been approved by OMB and have been assigned OMB control number 0575–0189. This final rule contains no new reporting or recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

E-Government Act Compliance

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

Programs Affected

The programs affected by this regulation are listed in the Catalog of Federal Domestic Assistance under number 10.405—Farm Labor Housing Loans and Grants (Sections 514 and 516); 10.415—Rural Rental Housing Loans (Section 515); and 10.427—Rural Rental Assistance Payments (Section 521).

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on RHS in the development of regulatory policies that have tribal implications or preempt tribal laws. RHS has determined that the final rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and the Indian tribes. Thus, the final rule is not subject to the requirements of Executive Order 13175. If tribal leaders are interested in consulting with RHS on this final rule, they are encouraged to contact USDA's Office of Tribal Relations or Rural Development's Native American Coordinator at (720) 544–2911 or *AIAN@usda.gov* to request such consultation.

Executive Order 12372, Intergovernmental Consultation

These loans are subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials. RHS conducts intergovernmental consultations for each loan in accordance with 2 CFR part 415, subpart C.

Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410;

(2) *Fax:* (202) 690–7442; or

(3) *Email: program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

I. Background

Section 515(z)(1) of the Housing Act of 1949, as amended states that the Secretary shall require that borrowers in programs authorized by this section maintain accounting records in accordance with generally accepted accounting principles for all MFH projects that receive funds from loans made or guaranteed by the Secretary. Since RHS considers Sections 514 Farm Labor Housing loans to have similar risks as Section 515 Rural Rental Housing loans, the regulatory accounting requirements apply to both types of loans. See 7 CFR 3560.578.

RHS published the financial reporting proposed rule in the **Federal Register** on August 6, 2015, (80 FR 46853–46855). A 60-day comment period was provided that ended October 5, 2015. The Agency received twenty-two comments from ten stakeholders, including Certified Public Accountant (CPA) groups, USDA employees, and MFH owners/borrowers.

RHS proposed to remove engagement requirements, as well as unit-based requirements from 7 CFR 3560.11, 3560.301, 3560.302, 3560.303 and 3560.308 and replace it with risk-based requirements for audits utilizing a modified version of the HUD Office of Inspector General's (OIG) Consolidated Audit Guide standard. This proposed change was a result of RHS's participation in the White House's Domestic Policy Council's Rental Policy Working Group (RPWG) on an initiative to reduce duplication of requirements on customers, eliminate conflicting administrative requirements, and align program requirements in the affordable rental housing industry. RHS believes that high-risk properties should receive more stringent evaluation of financial performance and that it can be accomplished in a more cost-effective manner. Implementation of this rule will reduce cost to properties, eliminate duplicate reporting to federal agencies, and further alignment objectives. HUD will accept the RHS audit in compliance

with their requirements for Section 8 subsidized properties. High-risk properties are those with combined Federal financial assistance above $750,000 for non-profit entities and $500,000 involving for-profit entities.

Combined Federal financial assistance includes a combination of any or all of the sources identified below:

- The outstanding beginning principal balance of a USDA Mortgage, a mortgage insured by the Federal Housing Administration (FHA) or HUD-held mortgages or loans (including flexible subsidy loans);
- Any RHS Rental Assistance or Project-based Section 8 assistance received during the fiscal year;
- Interest reduction payments received during the year (interest subsidy) and/or;
- Federal grant funds received during the year.

The thresholds established in the proposed rule for non-profits are herein modified in order to conform to thresholds established by the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR parts 200 and 400.

The threshold level for the non-profit ownership audit reporting requirement has been changed to $750,000 from $500,000. For non-profit borrowers that receive $750,000 or more in Federal financial assistance, RHS will accept the audit required under 2 CFR part 200 as compliance with RHS financial reporting requirements; non-profit borrowers that receive less than $750,000 in Federal financial assistance must submit owner certified prescribed forms on the accrual method of accounting in accordance with Statements for Account and Review Services promulgated by the Accounting and Review Services Committee of the American Institute of Certified Public Accountants.

There has been no change to the threshold requirement for for-profit ownership entities and it remains at $500,000.

Through this rule change, the Agency has removed requirements for an engagement that examines records using agreed upon procedures established by the Agency as part of the annual financial reporting requirements. Although the Section 514 and Section 515 proposals for new development are still subject to the agreed upon cost certification procedures set-forth in 7 CFR 3560.72(b).

In addition to the changes in the annual reporting requirements outlined herein, the Agency is adding three additional certifications to the Performance Standards required under 7 CFR 3560.308(c). The proposed rule included two certifications: The borrower would be required to certify there have been no changes in project ownership other than those approved by the Agency and identified in the certification; and that real estate taxes are paid in accordance with state and/or local requirements and are current. This rule adds a third certification that Replacement Reserve accounts were used only for authorized purposes. This revision simply reflects what is required in the borrower's Loan Agreement and therefore does not constitute an additional burden on the borrower.

II. Summary of Comments

7 CFR 3560.302(b)(1) and (2) and § 3560.308

Two comments received indicated there is disparity and possible confusion in the citation as it relates to the establishment of a project's financial management procedures: *i.e.* ''. . . various methods of accounting are allowed (accrual, cash, or modified accrual); however, § 3560.308 then requires that financial statements must be prepared in accordance with generally accepted accounting principles (GAAP). Why keep the accounting records on one bases of accounting, only to be forced to convert to generally-accepted accounting principles for annual reporting? It would be helpful if this section indicated what the annual financial reports must include.''

The Agency appreciates the comments received and to alleviate disparity and confusion at both § 3560.302(b)(1) and § 3560.308, RHS has revised § 3560.302(b)(1) to indicate that the accrual accounting method is required. The Agency will revise § 3560.308(a)(1) and (a)(2) to indicate the documentation required to provide a complete financial report under 2 CFR parts 200 and 400. Federal financial assistance is defined in accordance with 2 CFR 200.40.

Section 3560.303(Q) Housing Project Budgets and § 3560.308(a)(2) Annual Financial Reports

Five comments were received regarding the requirements of ''owner-certified financial statements'' and expressed concern about the impact this may have on smaller property owners and the potential of increased CPA fees on project operating budgets.

The Agency agrees with the commenters' concerns and has amended the requirements for those for-profit borrowers receiving less than $500,000 in combined Federal financial assistance, and non-profit borrowers receiving less than $750,000 in combined Federal financial assistance, to a compilation of prescribed forms. The compilation of prescribed forms will include Form RD 3560–7, ''*MFH Project Budget/Utility Allowance*'' and Form RD 3560–10, ''*MFH Borrower Balance Sheet*'', and include supporting schedules for those forms within the report package. It is believed this will be more cost effective for smaller property owners that do not have other audit requirements. Language at § 3560.308 (a)(2) is revised as stated in the preceding comment.

Three comments were received regarding the Agency's modified version of the HUD OIG Consolidated Audit Guide. The comments expressed concern about when the ''modified version'' of the HUD OIG Consolidated Audit Guide would be released and that it had not been shared in the proposed rule. The commenters felt that it would be beneficial to release, as soon as possible, a draft version of the proposed HUD audit guide in order to better assess any possible changes in audit fees as well as the cost of preparing owner-certified statements.

The HUD OIG Consolidated Audit Guide is not being modified for the purpose of this rule. The Agency anticipates additional cost savings to MFH property owners as the Agency will not utilize the HUD Chart of Accounts, nor will the report require the CPA to review tenant files, as that compliance test is being conducted by MFH field staff during supervisory visits and annual improper payment auditing. HUD has agreed to accept the RHS audit in lieu of a HUD audit for those projects where RHS and HUD have financing in common (*i.e.* Section 8/Section 515 properties). No changes were made to the proposed rule regarding this comment.

One commenter questioned the requirement within the Audit Guide, wherein CPAs are tasked with assessing housing quality standards as ''. . . this is not typically in their skillset.''

The Agency does not expect CPAs to have a skillset that qualifies them to determine whether physical standards are met. However, RHS anticipates that upon determining whether the owner (borrower) or management agent has responded to all Agency management review reports, physical inspections, and inquiries regarding financial statements or monthly accounting reports (reference § 3.5 M. 2. E of the Audit Guide), the auditor can make a reasonable determination that the

housing meets physical standards. The auditor should be reviewing all known reports, inspections, management reviews, etc. from each Agency holding an interest in the housing, to include RHS, HUD, Housing Finance Agencies, and Investors/Syndicators. The auditor would rely on these organizations to point out deficiencies in the repair and condition of the housing. The auditor would report on any uncorrected deficiencies within the report on audit findings, on compliance, and/or with a major program report on compliance.

Three comments were received regarding the threshold standard. OMB has established a new reporting threshold for non-profit organizations that are required to file a single audit. The audit threshold is $750,000, in accordance with Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, Subpart F Audit Requirements. Commenters believed HUD would likely make changes in guidance to follow that threshold.

The Agency recognizes the change in the reporting threshold. HUD and RHS jointly determined that they would establish similar audit thresholds for financial reporting of its financed or insured properties. Since issuance of the proposed rule, RHS and HUD agreed to modify the threshold to avoid potential conflicts in implementation. The preceding comments reflecting this change are in alignment between the two agencies.

One comment was received requesting clarification of the agreed-upon-procedure (AUP) requirements for annual operating audits and that these will no longer be required.

This is correct. AUPs will no longer be required as part of the annual financial reporting requirements. It is noted, however, new construction projects for Section 514 and Section 515 are still subject to the agreed upon cost certification procedures as set-forth in 7 CFR 3560.72(b). As a result, no changes were made to the proposed rule regarding this comment.

One comment was received regarding ''non-cash interest subsidy'' and whether this should be included in addition to interest reduction payments as part of the combined Federal financial assistance?

The Agency interprets the 'interest reduction payments' to be the equivalent of the ''non-cash'' interest subsidy the borrower receives annually and is included in the calculation of Federal financial assistance. Since this comment was simply requesting a clarification, no changes have been made to the rule.

One comment was received asking if there was a ''. . . minimum amount of combined Federal financial assistance that would not require financial statements presented in accordance with GAAP?''

From earlier comments received in response to the owner-certification requirements, the Agency has agreed to amend the requirements for those for-profit borrowers, and non-profit borrowers receiving less than $750,000 in combined Federal assistance, and with no other audit requirements, to the receipt of a compilation of prescribed forms. As a result the Agency revised the proposed language at 7 CFR 3560.308(a)(2). Please see preceding comments reflecting this change.

Section 3560.308(b)(8) Performance Standards

One comment was received regarding the Performance Standards at 7 CFR 3560.308(b)(8), which was proposed to read that no unauthorized change in ownership have taken place. The commenter requested the regulation set forth what is expected to be identified as a change (*i.e.* the Borrower entity; partners/managers within the entity; limited partnership with a large financial backing).

In accordance with 7 CFR 3560.405(b)(1) and (2), borrowers must notify the Agency prior to the implementation of *any* changes in a borrower entity's organizational structure or to a change in a borrower entity's controlling interest. The Agency has decided that no revision to the rule is needed.

Section 3560.308(d)(3) Other Financial Reports

One commenter questioned ''. . . in a situation where the USDA loan may be below the threshold and is subordinate to a large private mortgage or a Section 538 Guaranteed Rural Housing (GRRH) loan, other funding sources will likely still require an audit. Although not required by the Agency, will the Agency continue to require these same financial reports be provided for review?''

7 CFR 3560.308(d)(3) states, ''. . . any audits independently obtained by the borrower must also be submitted to the Agency.'' As a note, the existence of the Section 538 GRRH loan constitutes ''Federal financial assistance'' and should be added to the total when calculating the threshold requirement.

General Comments

One commenter requested a general clarification of determining combined Federal financial assistance, ''. . . should the beginning of the year or end of the year principal balance be used?''

Since the auditor reports on activity from the beginning of the reporting year to the end, it is appropriate that the combined Federal financial assistance shall be deemed the outstanding principal balances at the beginning of the borrower's fiscal reporting period. No change to the rule is needed.

One commenter requested the anticipated implementation date for submission under the new financial reporting requirements.

The Agency anticipates the new rule will be effective for borrowers with fiscal years beginning January 1, 2018 and thereafter. No change is needed to the proposed rule.

One commenter asked whether financial reports would be electronically submitted through the Real Estate Assessment Center (REAC).

RHS reports are not submitted to REAC, which is owned by HUD. No change to the rule is needed.

List of Subjects in 7 CFR Part 3560

Aged loan programs-Agriculture, loan programs-Housing and Community Development, Low- and moderate-income housing, Public Housing, rent subsidies.

For the reasons set forth in the preamble, chapter XXXV, Title 7 of the Code of Federal Regulations will be amended as follows:

PART 3560—DIRECT MULTI-FAMILY HOUSING LOANS AND GRANTS

■ 1. The authority citation for Part 3560 continues to read as follows:

Authority: 42 U.S.C. 1480.

Subpart A—General Provisions and Definitions

§ 3560.11 [Amended]

■ 2. Amend § 3560.11 by removing the definition of ''Engagement''.

Subpart G—Financial Management

■ 3. Section 3560.301 is revised to read as follows:

§ 3560.301 General.

This subpart contains requirements for the financial management of Agency-financed multi-family housing (MFH) projects, including accounts, budgets, and reports. Financial management systems and procedures must cover all housing operations and provide adequate documentation to ensure that program objectives are met.

■ 4. Amend § 3560.302 by revising paragraphs (a), (b)(1) and (2), and (e)(1) to read as follows:

§ 3560.302 Accounting, bookkeeping, budgeting, and financial management systems.

(a) *General.* Borrowers must establish the accounting, bookkeeping, budgeting and financial management procedures necessary to conduct housing project operations in a financially safe and sound manner. Borrowers must maintain records in a manner suitable for an audit, and must be able to report accurate operational results to the Agency from these accounts and records.

(b) * * *

(1) Borrowers are required to use the accrual method of accounting in preparing annual financial reports, as identified in § 3560.308.

(2) Borrowers must describe their accounting, bookkeeping, budget preparation, and financial reporting procedures in their management plan.

* * * * *

(e) * * *

(1) Borrowers must retain all housing project financial records, books, and supporting material for at least three years after the issuance of their financial reports. Upon request, these materials will immediately be made available to the Agency, its representatives, the USDA Office of Inspector General (OIG), or the Government Accountability Office (GAO).

* * * * *

■ 5. Amend § 3560.303 by revising paragraph (b)(1)(vi)(Q)to read as follows:

§ 3560.303 Housing project budgets.

* * * * *

(b) * * *

(1) * * *

(vi) * * *

(Q) Professional service contracts (audits, owner-certified submissions in accordance with § 3560.308(a)(2), tax returns, energy audits, utility allowances, architectural, construction, rehabilitation and inspection contracts, etc.)

* * * * *

■ 6. Amend § 3560.308 by:

■ a. Revising paragraph (a).

■ b. Removing paragraph (b).

■ c. Redesignating paragraphs (c) and (d) as (b) and (c) respectively.

■ d. Revising the newly redesignated paragraph (b) introductory text.

■ e. Adding paragraphs (b)(8),(b)(9), and (b)(10).

■ f. Revising the newly redesignated paragraph (c)(1).

The revisions and additions read as follows:

§ 3560.308 Annual financial reports.

(a) *General.* (1) For-profit borrowers that receive $500,000 or more in combined Federal financial assistance must include an independent auditor's report that includes, financial statements and notes to the financial statements, supplemental information containing Agency approved forms for project budgets and borrower balance sheets, a report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements in accordance with Government Auditing Standards; a report on compliance for each major program and internal control over compliance (if applicable). Federal Financial Assistance is defined in accordance with 2 CFR 200.40.

(2) Non-profit borrowers that receive $750,000 or more in combined Federal financial assistance must meet the audit requirements set forth by OMB, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, found at 2 CFR parts 200 and 400. Borrowers must provide a copy of this audit to RHS in compliance with these financial reporting requirements.

(3) Non-profit borrowers that receive less than $750,000, and for-profit borrowers that receive less than $500,000in combined Federal financial assistance will submit annual owner certified prescribed forms on the accrual method of accounting in accordance with the Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the American Institute of Certified Public Accountants (AICPA). Borrowers may use a CPA to prepare this compilation report of the prescribed forms.

(b) *Performance standards.* All Borrowers must certify that the housing meets the performance standards below:

* * * * *

(8) There have been no changes in project ownership other than those approved by the Agency and identified in the certification.

(9) Real estate taxes are paid in accordance with state and/or local requirements and are current.

(10) Replacement Reserve accounts have been used for only authorized purposes.

(c) * * *

(1) Non-profit and public borrower entities subject to OMB Uniform Guidance: Cost Principles, Audit, and Administrative Requirements for Federal Awards, must submit audits in accordance with 2 CFR parts 200 and 400.

* * * * *

Dated: September 28, 2017.

Richard A. Davis,

Acting Administrator, Rural Housing Service.

[FR Doc. 2017–23082 Filed 10–24–17; 8:45 am]

BILLING CODE 3410–XV–P

FEDERAL RESERVE SYSTEM

12 CFR Part 261

[Docket No. R–1556]

RIN 7100–AE65

Rules Regarding Availability of Information

AGENCY: Board of Governors of the Federal Reserve System (''Board'').

ACTION: Final rule.

SUMMARY: The Board is finalizing its interim final rule amending its regulations for processing requests under the Freedom of Information Act (''FOIA'') pursuant to the FOIA Improvement Act of 2016 (the ''Act''). The amendments clarify and update procedures for requesting information from the Board, extend the deadline for administrative appeals, and add information on dispute resolution services. The interim final rule became effective on December 27, 2016. This rulemaking finalizes the interim rule with minor edits.

DATES: This final rule is effective on November 24, 2017.

FOR FURTHER INFORMATION CONTACT: Katherine Wheatley, Associate General Counsel, (202) 452–3779, or Misty Mirpuri, Counsel, (202) 452–2597, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. Users of telecommunications device for the hearing impaired, please call (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Overview of Final Rule

On December 27, 2016, the Board published an interim final rule [1] amending its existing Rules found at 12 CFR part 261, in order to comply with the statutory changes required by the FOIA Improvement Act of 2016 (''Improvement Act'').[2] Amendments to the Rules adopted statutory exemptions and exceptions as required by the Improvement Act. The interim final rule became effective on December 27, 2016, and the Board accepted comments through February 27, 2017. The Board is finalizing the interim rule with minor

[1] 81 FR 94932 (Dec. 27, 2016).

[2] Public Law 114–185, 130 Stat. 538 (enacted June 30, 2016).

changes to paragraph 261.13(i)(4) in response to a public comment.

II. Summary of Public Comments and Final Rule

Interested persons were afforded the opportunity to participate in the rulemaking process through submission of written comments on the interim final rule during the open comment period. The Board is adopting a minor revision to the interim final rule in response to a comment from the Office of Government Information Services within the National Archives and Records Administration (''OGIS'').[3]

OGIS asked the Board to revise section 261.13(i)(4) of the Rules to require that a determination letter on an appeal inform appellants of the availability of OGIS's dispute resolution services. Although not required by the FOIA statute, this change is consistent with guidance issued by the Department of Justice's Office of Information Policy. Accordingly, the Board has determined to edit the language in paragraph (i)(4) of section 261.13 to notify an appealing party of the availability of OGIS's dispute resolution services as a nonexclusive alternative to litigation.

The Board has determined not to adopt two other suggestions by OGIS. OGIS's proposed amendment would add a statement that ''[d]ispute resolution is a voluntary process.'' This sentence appears to be unnecessary and repetitive given that the Board is already advising appellants that dispute resolution services are available as a ''nonexclusive alternative to litigation.'' OGIS also proposed language stating that the Board will ''actively engage as a partner to the process in an attempt to resolve the dispute'' if the Board participates in the OGIS dispute resolution process. Although active engagement in attempting to resolve a FOIA dispute is of course not unreasonable, the proposed sentence could create additional legal obligations not required under the FOIA. Accordingly, aside from adding in language regarding the availability of OGIS's dispute resolution services as a nonexclusive alternative to litigation, the Board is adopting section 261.13(i)(4) in the final rule without any further change.

[3] The Board received a second comment requesting that it amend the rule in a manner unrelated to the amendments required by the Improvement Act. While the Board intends to make more extensive amendments to its FOIA Rule at a later time, the interim final rule only addressed the matters required by the Improvement Act, and further changes to the Rule will be preceded by a request for public comment.

III. Regulatory Requirements

As the Board noted in its interim rule, Congress required that the substantive changes to the Board's Rules under the Improvement Act become effective by December 27, 2016, and the other amendments to the Board's Rules were technical in nature. Thus, the Board determined that the prior notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553(b), did not apply to the rule. Because no notice of proposed rulemaking is required, these regulations are not a ''rule'' as defined by the Regulatory Flexibility Act, 5 U.S.C. 601(2), and no initial or final regulatory flexibility analysis is required.

List of Subjects in 12 CFR Part 261

Administrative practice and procedure, Confidential business information, Freedom of information, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons stated above, the Board of Governors of the Federal Reserve System adopts the interim final rule published on December 27, 2016, at 81 FR 94932, as final with the following change:

PART 261—RULES REGARDING AVAILABILITY OF INFORMATION

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

Authority: 5 U.S.C. 552; 12 U.S.C. 248(i) and (k), 321 *et seq.,* 611 *et seq.,* 1442, 1467a, 1817(a)(2)(A), 1817(a)(8), 1818(u) and (v), 1821(o), 1821(t), 1830, 1844, 1951 *et seq.,* 2601, 2801 *et seq.,* 2901 *et seq.,* 3101 *et seq.,* 3401 *et seq.;* 15 U.S.C. 77uuu(b), 78q(c)(3); 29 U.S.C. 1204; 31 U.S.C. 5301 *et seq.;* 42 U.S.C. 3601; 44 U.S.C. 3510.

■ 2. In § 261.13 paragraph (i)(4) is revised to read as follows:

§ 261.13 Processing requests.

* * * * *

(i) * * *

(4) The Board shall make a determination regarding any appeal within 20 working days of actual receipt of the appeal by the Freedom of Information Office. If an adverse determination is upheld on appeal, in whole or in part, the determination letter shall notify the appealing party of the right to seek judicial review and of the availability of dispute resolution services from the Office of Government Information Services as a nonexclusive alternative to litigation.

* * * * *

By order of the Board of Governors of the Federal Reserve System, October 19, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–23095 Filed 10–24–17; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 770

[EPA–HQ–OPPT–2017–0245; FRL–9962–84]

RIN 2070–AK36

Voluntary Consensus Standards Update; Formaldehyde Emission Standards for Composite Wood Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on a revision to the formaldehyde standards for composite wood products final rule, published in the **Federal Register** on December 12, 2016. The revision will update multiple voluntary consensus standards that have been updated, superseded, or withdrawn since publication of the notices of proposed rulemaking on June 10, 2013 and will amend an existing regulatory provision regarding the correlation of quality control test methods.

DATES: This final rule is effective on December 11, 2017 without further notice, unless EPA receives relevant adverse comment by November 9, 2017. If EPA receives adverse comment, the Agency will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 11, 2017.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0245, 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.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Erik Winchester, National Program Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–6450; email address: *winchester.erik@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. Does this action apply to me?

You may be affected by this direct final rule if you manufacture (including import), sell, supply, offer for sale, test, or work with certification firms that certify hardwood plywood, medium-density fiberboard, particleboard, and/or products containing these composite wood materials in the United States. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Veneer, plywood, and engineered wood product manufacturing (NAICS code 3212).
- Manufactured home (mobile home) manufacturing (NAICS code 321991).
- Prefabricated wood building manufacturing (NAICS code 321992).
- Furniture and related product manufacturing (NAICS code 337).
- Furniture merchant wholesalers (NAICS code 42321).
- Lumber, plywood, millwork, and wood panel merchant wholesalers (NAICS code 42331).
- Other construction material merchant wholesalers (NAICS code 423390), *e.g.,* merchant wholesale distributors of manufactured homes (*i.e.,* mobile homes) and/or prefabricated buildings.
- Furniture stores (NAICS code 4421).
- Building material and supplies dealers (NAICS code 4441).
- Manufactured (mobile) home dealers (NAICS code 45393).
- Motor home manufacturing (NAICS code 336213).
- Travel trailer and camper manufacturing (NAICS code 336214).
- Recreational vehicle (RV) dealers (NAICS code 441210).
- Recreational vehicle merchant wholesalers (NAICS code 423110).
- Engineering services (NAICS code 541330).
- Testing laboratories (NAICS code 541380).
- Administrative management and general management consulting services (NAICS code 541611).
- All other professional, scientific, and technical services (NAICS code 541990).
- All other support services (NAICS code 561990).
- Business associations (NAICS code 813910).
- Professional organizations (NAICS code 813920).

If you have any questions regarding the applicability of this action, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. Background

A. What action is the Agency taking?

EPA is updating the references for multiple voluntary consensus standards that were incorporated by reference in the December 12, 2016 formaldehyde emission standards for composite wood products final rule because they have been updated, superseded, and/or withdrawn by their respective organization. Table 1 in this Unit outlines only the voluntary consensus standards being addressed in this rulemaking and their respective updated versions. All other standards in the formaldehyde emission standards for composite wood products final rule will continue to be incorporated by reference as they appear in that final rule, and any future versions would be considered in a later rulemaking.

TABLE 1—VOLUNTARY CONSENSUS STANDARDS COMPARISON

Current standard established by final rule (81 FR 89674)	Status	Update to be promulgated effective December 11, 2017
ANSI/AITC A190.1–2002 American National Standard for Structural Glued Laminated Timber [1].	Updated version	ANSI A190.1–2017 Standard for Wood Products—Structural Glued Laminated Timber.[1]
ANSI A208.1–2009 American National Standard for Particleboard.	Updated version	ANSI A208.1–2016 American National Standard for Particleboard.
ANSI A208.2–2009 American National Standard for Medium Density Fiberboard for Interior Applications.	Updated version	ANSI A208.2–2016 American National Standard for Medium Density Fiberboard for Interior Applications.
ANSI–HPVA HP–1–2009 American National Standard for Hardwood and Decorative Plywood.	Updated version	ANSI–HPVA HP–1–2016 American National Standard for Hardwood and Decorative Plywood.
ASTM D5055–05 Standard Specification for Establishing and Monitoring Structural Capacities of Prefabricated Wood I-Joists.	Updated version	ASTM D5055–16 Standard Specification for Establishing and Monitoring Structural Capacities of Prefabricated Wood I-Joists.
ASTM D5456–06 Standard Specification for Evaluation of Structural Composite Lumber Products.	Updated version	ASTM D5456–14b Standard Specification for Evaluation of Structural Composite Lumber Products.
ASTM D5582–00 Standard Test Method for Determining Formaldehyde Levels from Wood Products Using a Desiccator.	Updated version	ASTM D5582–14 Standard Test Method for Determining Formaldehyde Levels from Wood Products Using a Desiccator.
ASTM D6007–02 Standard Test Method for Determining Formaldehyde Concentrations in Air from Wood Products Using a Small-Scale Chamber.	Updated version	ASTM D6007–14 Standard Test Method for Determining Formaldehyde Concentrations in Air from Wood Products Using a Small-Scale Chamber.
ASTM E1333–10 Standard Test Method for Determining Formaldehyde Concentration in Air and Emission Rates from Wood Products Using a Large Chamber.	Updated version	ASTM E1333–14 Standard Test Method for Determining Formaldehyde Concentration in Air and Emission Rates from Wood Products Using a Large Chamber.
BS EN 717–2: 1995 Wood-based panels—Determination of formaldehyde release—Part 2: Formaldehyde release by the gas analysis method.	Withdrawn, superseded by BS EN ISO 12460–3:2015.	BS EN ISO 12460–3:2015 Wood-based panels—Determination of formaldehyde release. Part 3: Gas analysis method.

TABLE 1—VOLUNTARY CONSENSUS STANDARDS COMPARISON—Continued

Current standard established by final rule (81 FR 89674)	Status	Update to be promulgated effective December 11, 2017
BS EN 120: 1992 Wood-based panels. Determination of formaldehyde content—Extraction method called the perforator method.	Withdrawn, superseded by BS EN ISO 12460–5:2015.	BS EN ISO 12460–5:2015 Wood-based panels—Determination of formaldehyde release. Part 5: Extraction method (called the perforator method).
JIS A1460:2001(E) Building boards-determination of formaldehyde emission—Desiccator method.	Updated version	JIS A1460:2015 Determination of the emission of formaldehyde from building boards—Desiccator method.
PS–1–07 Structural Plywood	Updated version	PS–1–09 Structural Plywood.
PS–2–04 Performance Standard for Wood-Based Structural-Use Panels.	Updated version	PS–2–10 Performance Standard for Wood-Based Structural-Use Panels.

[1] Note that the ANSI/AITC 190.1–2002 Standard is no longer under the American Institute of Timber Construction purview in its 2017 version, and is now an APA—the Engineered Wood Association managed standard.

EPA intends to adopt all of the updated versions of the standards referenced in Table 1 at this time. Any future versions or updates to withdrawn/superseded standards will be announced by EPA through a separate **Federal Register** document with opportunity for public comment.

Additionally, EPA is updating the existing reference in the regulatory text from International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) 17020: 1998(E)—Conformity assessment—Requirements for the operation of various types of bodies performing inspection (*i.e.,* ISO/IEC 17020: 1998) to the 2012 version of this standard that was previously incorporated by reference (*i.e.,* ISO/IEC 17020:2012(E)). ISO/IEC 17020:2012(E) was approved for incorporation by reference, but not all of the existing references were updated to reflect the new version.

EPA is also revising § 770.20(d)(2)(i) to state that the Agency will allow the correlation of the tests conducted through the quality control methods listed in § 770.20(b) to either ASTM E1333–14 or, upon a showing of equivalence, ASTM D6007–14 test chamber tests. The California Air Resources Board (CARB) under its Air Toxic Control Measure has approved the use of ASTM D6007–14 test chambers that have previously shown equivalence under § 770.20(d) to an ASTM E1333–14 test chamber to be correlated to other mill quality control method tests listed in § 770.20(b). According to CARB staff, this is the commonly used method for conducting correlation between test methods based on the greater availability of ASTM D6007–14 test chambers. Several third-party certifiers, regulated entities and their associations expressed the importance of allowing mill quality control tests to be correlated to ASTM D6007 test chambers. EPA agrees that significant disruptions would occur, including testing and TSCA Title VI product certification capacity shortfalls, if the correlation of mill quality control tests were allowed only through the use of ASTM E1333–14 test chambers. Based on consultations with CARB staff, allowing correlation to be established through the use of ASTM D6007–14 test chambers in addition to the ASTM E1333–14 test chambers does not result in a decrease in testing reliability and yields comparable results if the ASTM D6007 test chambers have shown equivalence to the ASTM E1333 test chambers. To maintain consistency with this revision, EPA is also updating the definition of *quality control limit (QCL)* to allow for the use of the ASTM E1333 test chamber, or, upon showing equivalence, the ASTM D6007 test chamber.

1. Direct Final Rule. Following the publication of the original notices of proposed rulemaking (*see* 78 FR 34796 and 78 FR 34820) and subsequent promulgation of EPA's final rule addressing formaldehyde emission standards for composite wood products (81 FR 89674), multiple voluntary consensus standards that were incorporated by reference have been updated or withdrawn and superseded. EPA will incorporate by reference current versions of the voluntary consensus standards assembled by:

- APA—the Engineered Wood Association,
- Composite Panel Association (CPA),
- American National Standards Institute (ANSI),
- American Society for Testing and Materials (ASTM),
- International Organization for Standardization (ISO),
- Japanese Standards Association (JIS), and
- National Institute of Standards and Technology (NIST) into the regulations at 40 CFR part 770.

EPA is specifically updating the voluntary consensus standards in the formaldehyde emission standards for composite wood products final rule to reflect the current editions that are in-use by regulated entities and industry stakeholders. EPA believes that this action is warranted to facilitate regulated entities using the most up-to-date voluntary consensus standards to comply with the final rule.

2. Proposed Rule. EPA believes that the proposed amendment is non-controversial and does not expect to receive any relevant adverse comments. However, in addition to this direct final rule, elsewhere in this issue of the **Federal Register**, EPA is promulgating the amendment as a notice of proposed rulemaking. If EPA receives no relevant adverse comment, the Agency will not take further action on the proposed rule and the direct final rule will become effective as provided in this action. If EPA receives relevant adverse comment, the Agency will publish a timely withdrawal in the **Federal Register** informing the public that this direct final action will not take effect. EPA would then address all relevant adverse public comments in a response to comments document in a subsequent final rule, based on the proposed rule.

B. What is the agency's authority for taking this action?

These regulations are established under authority of Section 601 of TSCA, 15 U.S.C. 2697.

III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA, 44 U.S.C. 3501 *et seq.,* because it does not create any new reporting or recordkeeping obligations. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2070–0185.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This rule updates the voluntary consensus standards that were incorporated by reference in the final rule to the most current versions. The updated versions of the standards are substantially similar to the previous versions. EPA expects that many small entities are already complying with the updated versions of the standards listed in Table 1. This action would relieve these entities of the burden of having to also demonstrate compliance with outdated versions of these standards. This action will relieve or have no net regulatory burden for directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. This final rule will not impose substantial direct compliance costs on Indian tribal governments. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. As addressed in Unit II.A., this action would not materially alter the final rule as published, and will update existing voluntary consensus standards incorporated by reference in the final rule, to their current versions.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This action involves technical standards, many of which EPA is directed to use by TSCA Title VI. Technical standards identified in the statute have been updated since publication of the original notice of proposed rulemaking (78 FR 34795) by the technical standard management bodies which antiquates the statute required versions. Pursuant to NTTAA section 12(d), 15 U.S.C. 272 note, EPA has reviewed the updated versions of the technical standards published in the final rule (81 FR 89674) and determined them to be appropriate, and readily available for use by regulated entities.

EPA is updating voluntary consensus standards originally published in the final rule (81 FR 89674) as issued by ASTM International, ANSI, APA, HPVA, NIST, BSI, and JIS. Copies of the standards referenced in the regulatory text have been placed in the docket for this rule. Additionally, each of these standards is available for inspection at the OPPT Docket in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA, West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. The following voluntary consensus standards are being updated:

a. *APA, CPA, and HPVA standards.* Copies of these standards may be obtained from the specific publisher, as noted below, or from the American National Standards Institute, 1899 L Street NW., 11th Floor, Washington, DC 20036, or by calling (202) 293–8020, or at *http://ansi.org.* Note that ANSI/APA A190.1–2017 is published by APA—the Engineered Wood Association, ANSI A208.1–2016 and ANSI A208.2–2016 are published by the Composite Panel Association, and ANSI ANSI/HPVA–HP–1–2016 is published by the Hardwood Plywood Veneer Association.

1. ANSI/APA A190.1–2017, *Structural Glued Laminated Timber.* This standard describes minimum requirements for the manufacture and production of structural glued laminated timber, including size tolerances, grade combinations, lumber, adhesives, and appearance grades.

2. ANSI A208.1–2016, *American National Standard, Particleboard.* This standard describes the requirements and test methods for dimensional tolerances, physical and mechanical properties and formaldehyde emissions for particleboard, along with methods of identifying products conforming to the standard.

3. ANSI A208.2–2016, *American National Standard, Medium Density Fiberboard (MDF) for Interior Applications.* This standard describes the requirements and test methods for dimensional tolerances, physical and mechanical properties and formaldehyde emissions for MDF, along with methods of identifying products conforming to the standard.

4. ANSI/HPVA HP–1–2016, *American National Standard for Hardwood and Decorative Plywood.* This standard details the specific requirements for all face, back, and inner ply grades of hardwood plywood as well as formaldehyde emission limits, moisture content, tolerances, sanding, and grade marking.

b. *ASTM materials.* Copies of these materials may be obtained from ASTM International, 100 Barr Harbor Dr., P.O. Box C700, West Conshohocken, PA

19428–2959, or by calling (877) 909–ASTM, or at *http://www.astm.org.*

1. ASTM E1333–14, *Determining Formaldehyde Concentrations in Air and Emission Rates from Wood Products Using a Large Chamber.* This test method measures the formaldehyde concentration in air and emission rate from wood products containing formaldehyde under conditions designed to simulate product use. The concentration in air and emission rate is determined in a large chamber under specific test conditions of temperature and relative humidity. The general procedures are also intended for testing product combinations at product-loading ratios and at air-exchange rates typical of the indoor environment.

2. ASTM D6007–14, *Determining Formaldehyde Concentrations in Air from Wood Products Using a Small-Scale Chamber.* This test method measures the formaldehyde concentrations in air from wood products under defined test conditions of temperature and relative humidity. Results obtained from this small-scale chamber test method are intended to be comparable to results obtained testing larger product samples by the large chamber test method for wood products, Test Method E 1333.

3. ASTM D5582–14, *Determining Formaldehyde Levels from Wood Products Using a Dessicator.* This test method describes a small scale procedure for measuring formaldehyde emissions potential from wood products. The formaldehyde level is determined by collecting airborne formaldehyde in a small distilled water reservoir within a closed desiccator. The quantity of formaldehyde is determined by a chromotropic acid test procedure.

4. ASTM D5456–14b, *Evaluation of Structural Composite Lumber Products.* This specification describes initial qualification sampling, mechanical and physical tests, analysis, and design value assignments. Requirements for a quality-control program and cumulative evaluations are included to ensure maintenance of allowable design values for the product.

5. ASTM D5055–16, *Establishing and Monitoring Structural Capacities of Prefabricated Wood I-Joists.* This specification gives procedures for establishing, monitoring, and reevaluating structural capacities of prefabricated wood I-joists, such as shear, moment, and stiffness. The specification also provides procedures for establishing common details and itemizes certain design considerations specific to wood I-joists.

c. *CEN materials.* Copies of these materials are not directly available from the European Committee for Standardization, but from one of CEN's National Members, Affiliates, or Partner Standardization Bodies. To purchase a standard, go to CEN's Web site, *http://www.cen.eu,* and select ''Products'' for more detailed information.

1. BS EN 12460–3: 2015, *Wood-based Panels—Determination of Formaldehyde Release [Part 3: Gas Analysis Method].* This British Version of the European standard describes a procedure for determination of accelerated formaldehyde release from wood-based panels.

2. BS EN 12460–5: 2015, *Wood-based Panels—Determination of Formaldehyde Release [Part 5: Extraction Method (Called the Perforator Method)].* This British Version of the European standard describes an extraction method, known as the perforator method, for determining the formaldehyde content of unlaminated and uncoated wood-based panels.

d. *Japanese Industrial Standards material.* Copies of JIS A 1460: 2015, *Determination of the Emission of Formaldehyde from Building Boards—Desiccator Method, English Version,* may be obtained from Japanese Industrial Standards, 1–24, Akasaka 4, Minatoku, Tokyo 107–8440, Japan, or by calling +81–3–3583–8000, or at *http://www.jsa.or.jp.* This method describes a method for testing formaldehyde emissions from construction boards by measuring the concentration of formaldehyde absorbed in distilled or deionized water from samples of a specified surface area placed in a glass desiccator for 24 hours.

e. *NIST materials.* Copies of these materials may be obtained from the National Institute of Standards and Technology (NIST) by calling (800) 553–6847 or from the U.S. Government Printing Office (GPO). To purchase a NIST publication you must have the order number. Order numbers may be obtained from the Public Inquiries Unit at (301) 975–NIST. Mailing address: Public Inquiries Unit, NIST, 100 Bureau Dr., Stop 1070, Gaithersburg, MD 20899–1070. If you have a GPO stock number, you can purchase printed copies of NIST publications from GPO. GPO orders may be mailed to: U.S. Government Printing Office, P.O. Box 979050, St. Louis, MO 63197–9000, placed by telephone at (866) 512–1800 (DC Area only: (202) 512–1800), or faxed to (202) 512–2104. Additional information is available online at: *http://www.nist.gov.*

1. PS 1–09, *Structural Plywood.* This standard describes the principal types and grades of structural plywood, covering the wood species, veneer grading, adhesive bonds, panel construction and workmanship, dimensions and tolerances, marking, moisture content and packaging of structural plywood intended for construction and industrial uses. Test methods to determine compliance and a glossary of trade terms and definitions are included, as is a quality certification program involving inspection, sampling, and testing of products identified as complying with this standard by qualified testing agencies.

2. PS 2–10, *Performance Standard for Wood-Based Structural-Use Panels.* This standard covers performance requirements, adhesive bond performance, panel construction and workmanship, dimensions and tolerances, marking, and moisture content of structural-use panels, such as plywood, waferboard, oriented strand board (OSB), structural particle board, and composite panels. The standard includes test methods, a glossary of trade terms and definitions, and a quality certification program involving inspection, sampling, and testing of products for qualification under the standard.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA has determined that the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations, as specified in Executive Order 12898. As addressed in Unit II.A., this action would not materially alter the final rule as published, and will update existing voluntary consensus standards incorporated by reference in the final rule, to their current versions.

L. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States.

List of Subjects in 40 CFR Part 770

Environmental protection, Formaldehyde, Incorporation by reference, Reporting and recordkeeping requirements, Third-party certification, Toxic substances, Wood.

Dated: October 12, 2017.

E. Scott Pruitt,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, subchapter

R, of the Code of Federal Regulations is amended as follows:

PART 770—FORMALDEHYDE STANDARDS FOR COMPOSITE WOOD PRODUCTS

■ 1. The authority citation for part 770 continues to read as follows:

Authority: 15 U.S.C. 2697(d).

■ 2. In § 770.1, paragraphs (c)(3), (4), (5), (7), and (8) are revised to read as follows:

§ 770.1 Scope and applicability.

* * * * *

(c) * * *

(3) Structural plywood, as specified in PS 1–09, Structural Plywood (incorporated by reference, see § 770.99).

(4) Structural panels, as specified in PS 2–10, Performance Standard for Wood-Based Structural-Use Panels (incorporated by reference, see § 770.99).

(5) Structural composite lumber, as specified in ASTM D5456–14b, Standard Specification for Evaluation of Structural Composite Lumber Products (incorporated by reference, see § 770.99).

* * * * *

(7) Glued laminated lumber, as specified in ANSI A190.1–2017, Standard for Wood Products—Structural Glued Laminated Timber (incorporated by reference, see § 770.99).

(8) Prefabricated wood I-joists, as specified in ASTM D5055–16, Standard Specification for Establishing and Monitoring Structural Capacities of Prefabricated Wood I-Joists (incorporated by reference, see § 770.99).

* * * * *

■ 3. In § 770.3:

■ a. In the terms ''EPA TSCA Title VI Product Accreditation Body or EPA TSCA Title VI Product AB'' and ''TPC laboratory'', remove ''1998(E)'' and add in its place ''2012(E)''; and

■ b. Revise the terms ''Hardboard,'' ''Hardwood plywood,'' ''Medium-density fiberboard,'' ''Particleboard,'' and ''Quality control limit''.

The revisions read as follows:

§ 770.3 Definitions.

* * * * *

Hardboard means a composite panel composed of cellulosic fibers, consolidated under heat and pressure in a hot press by: A wet process; or a dry process that uses a phenolic resin, or a resin system in which there is no formaldehyde as part of the resin cross-linking structure; or a wet formed/dry pressed process; and that is commonly or commercially known, or sold, as hardboard, including any product conforming to one of the following ANSI standards: Basic Hardboard (ANSI A135.4–2012) (incorporated by reference, see § 770.99), Prefinished Hardboard Paneling (ANSI A135.5–2012) (incorporated by reference, see § 770.99), Engineered Wood Siding (ANSI A135.6–2012) (incorporated by reference, see § 770.99), or Engineered Wood Trim (ANSI A135.7–2012) (incorporated by reference, see § 770.99). There is a rebuttable presumption that products emitting more than 0.06 ppm formaldehyde as measured by ASTM E1333–14 (incorporated by reference, see § 770.99) or ASTM D6007–14 (incorporated by reference, see § 770.99) are not hardboard.

Hardwood plywood means a hardwood or decorative panel that is intended for interior use and composed of (as determined under ANSI/HPVA HP–1–2016 (incorporated by reference, see § 770.99)) an assembly of layers or plies of veneer, joined by an adhesive with a lumber core, a particleboard core, a medium-density fiberboard core, a hardboard core, a veneer core, or any other special core or special back material. Hardwood plywood does not include military-specified plywood, curved plywood, or any plywood specified in PS 1–09, Structural Plywood (incorporated by reference, see § 770.99), or PS 2–10, Performance Standard for Wood-Based Structural-Use Panels (incorporated by reference, see § 770.99). In addition, hardwood plywood includes laminated products except as provided at § 770.4.

* * * * *

Medium-density fiberboard means a panel composed of cellulosic fibers made by dry forming and pressing a resinated fiber mat (as determined under ANSI A208.2–2016 (incorporated by reference, see § 770.99)).

* * * * *

Particleboard means a panel composed of cellulosic material in the form of discrete particles (as distinguished from fibers, flakes, or strands) that are pressed together with resin (as determined under ANSI A208.1–2016 (incorporated by reference, see § 770.99)). Particleboard does not include any product specified in PS 2–10 (incorporated by reference, see § 770.99).

* * * * *

Quality control limit or *QCL* means the value from the quality control method test that is the correlative equivalent to the applicable emission standard based on the ASTM E1333–14 method (incorporated by reference, see § 770.99) or, upon showing equivalence in accordance with § 770.20(d), the ASTM D6007–14 method (incorporated by reference, see § 770.99).

* * * * *

■ 4. In § 770.7:

■ a. In paragraphs (a)(5)(i)(A) introductory text, (b)(1)(iv), (c)(1)(iii), (c)(2)(v), and (c)(4)(i)(F), remove ''1998(E)'' and add in its place ''2012(E)''; and

■ b. Revise paragraphs (a)(5)(i)(D) and (F), (b)(5)(i) introductory text, (c)(1)(ii) and (v), (c)(2)(iv) and (viii), (c)(4)(i)(B), and (c)(4)(v)(C).

The revisions read as follows:

§ 770.7 Third-party certification.

(a) * * *

(5) * * *

(i) * * *

(D) A review of the approach that the TPC laboratory will use for establishing correlation or equivalence between ASTM E1333–14 and ASTM D6007–14, if used, (incorporated by reference, see § 770.99) or allowable formaldehyde test methods listed under § 770.20.

* * * * *

(F) A review of the accreditation credentials of the TPC laboratory, including a verification that the laboratory has been accredited to ISO/IEC 17025:2005(E) (incorporated by reference, see § 770.99) with a scope of accreditation to include this part—Formaldehyde Standards for Composite Wood Products and the formaldehyde test methods ASTM E1333–14 and ASTM D6007–14, if used, by an EPA TSCA Title VI Laboratory AB (incorporated by reference, see § 770.99).

* * * * *

(b) * * *

(5) * * *

(i) *Accreditation.* EPA TSCA Title VI Laboratory ABs must determine the accreditation eligibility, and accredit if appropriate, each TPC seeking recognition under the EPA TSCA Title VI Third-Party Certification Program by performing an assessment of each TPC. The assessment must include an on-site assessment by the EPA TSCA Title VI Laboratory AB to determine whether the laboratory meets the requirements of ISO/IEC 17025:2005(E) (incorporated by reference, see § 770.99), is in conformance with ISO/IEC 17020:2012(E) (incorporated by reference, see § 770.99) and the EPA TSCA Title VI TPC requirements under this part including the formaldehyde test methods ASTM E1333–14 and ASTM D6007–14 (incorporated by

reference, see § 770.99), if used. In performing the on-site assessment, the EPA TSCA Title VI Laboratory AB must:

* * * * *

(c) * * *

(1) * * *

(ii) Be, or have a contract with a laboratory that is, accredited by an EPA TSCA Title VI Laboratory AB to ISO/IEC 17025:2005(E) (incorporated by reference, see § 770.99) with a scope of accreditation to include this part—Formaldehyde Standards for Composite Wood Products—and the formaldehyde test methods ASTM E1333–14 and ASTM D6007–14, if used (incorporated by reference, see § 770.99);

* * * * *

(v) Have demonstrated experience in performing or verifying formaldehyde emissions testing on composite wood products, including experience with test method ASTM E1333–14 and ASTM D6007–14, if used, (incorporated by reference, see § 770.99), and experience evaluating correlation between test methods. Applicant TPCs that have demonstrated experience with test method ASTM D6007–14 only, must be contracting testing with a laboratory that has a large chamber and demonstrate its experience with ASTM E1333–14.

* * * * *

(2) * * *

(iv) A copy of the TPC laboratory's certificate of accreditation from an EPA TSCA Title VI Laboratory AB to ISO/IEC 17025:2005(E) (incorporated by reference, see § 770.99) with a scope of accreditation to include this part—Formaldehyde Standards for Composite Wood Products—and the formaldehyde test methods ASTM E1333–14 and ASTM D6007–14 (incorporated by reference, see § 770.99), if used;

* * * * *

(viii) A description of the TPC's experience with test method ASTM E1333–14 and/or ASTM D6007–14, if used, (incorporated by reference, see § 770.99), and experience evaluating correlation between test methods. Applicant TPCs that have experience with test method ASTM D6007–14 only, must be contracting testing with a laboratory that has a large chamber and describe its experience with ASTM E1333–14; and

* * * * *

(4) * * *

(i) * * *

(B) Verify each panel producer's quality control test results compared with test results from ASTM E1333–14 and ASTM D6007–14, if used, (incorporated by reference, see § 770.99) by having the TPC laboratory conduct quarterly tests and evaluate test method equivalence and correlation as required under § 770.20;

* * * * *

(v) * * *

(C) Notification of a panel producer exceeding its established QCL for more than two consecutive quality control tests within 72 hours of the time that the TPC becomes aware of the second exceedance. The notice must include the product type, dates of the quality control tests that exceeded the QCL, quality control test results, ASTM E1333–14 (incorporated by reference, see § 770.99) or ASTM D6007–14 method (incorporated by reference, see § 770.99) correlative equivalent values in accordance with § 770.20(d), the established QCL value(s) and the quality control method used.

* * * * *

■ 5. In § 770.10, paragraph (b) introductory text is revised to read as follows:

§ 770.10 Formaldehyde emission standards.

* * * * *

(b) The emission standards are based on test method ASTM E1333–14 (incorporated by reference, see § 770.99), and are as follows:

* * * * *

■ 6. In § 770.15, paragraphs (c)(1)(v) and (c)(2)(iii) are revised to read as follows:

§ 770.15 Composite wood product certification.

* * * * *

(c) * * *

(1) * * *

(v) At least five tests conducted under the supervision of an EPA TSCA Title VI TPC pursuant to test method ASTM E1333–14 or ASTM D6007–14 (incorporated by reference, see § 770.99). Test results obtained by ASTM D6007–14 must include a showing of equivalence in accordance with § 770.20(d)(1);

* * * * *

(2) * * *

(iii) At least five tests conducted under the supervision of an EPA TSCA Title VI TPC pursuant to test method ASTM E1333–14 or ASTM D6007–14 (incorporated by reference, see § 770.99). Test results obtained by ASTM D6007–14 must include a showing of equivalence in accordance with § 770.20(d)(1);

* * * * *

■ 7. In § 770.17, paragraph (a)(3) is revised to read as follows:

§ 770.17 No-added formaldehyde-based resins.

(a) * * *

(3) At least one test conducted under the supervision of an EPA TSCA Title VI TPC pursuant to test method ASTM E1333–14 or ASTM D6007–14 (incorporated by reference, see § 770.99). Test results obtained by ASTM D6007–14 must include a showing of equivalence in accordance with § 770.20(d)(1); and

* * * * *

■ 8. In § 770.18, paragraph (a)(3) is revised to read as follows:

§ 770.18 Ultra low-emitting formaldehyde resins.

(a) * * *

(3) At least two tests conducted under the supervision of an EPA TSCA Title VI TPC pursuant to test method ASTM E1333–14 or ASTM D6007–14 (incorporated by reference, see § 770.99). Test results obtained by ASTM D6007–14 must include a showing of equivalence in accordance with § 770.20(d)(1); and

* * * * *

■ 9. In § 770.20, paragraphs (b)(1)(i) through (iii), (vi), and (vii), (c)(1), (d) introductory text, (d)(1), (d)(2) introductory text, and (d)(2)(i) are revised to read as follows:

§ 770.20 Testing requirements.

* * * * *

(b) * * *

(1) * * *

(i) ASTM D6007–14 (incorporated by reference, see § 770.99).

(ii) ASTM D5582–14 (incorporated by reference, see § 770.99).

(iii) BS EN ISO 12460–3:2015 E (Gas Analysis Method) (incorporated by reference, see § 770.99).

* * * * *

(vi) BS EN ISO 12460–5:2015 E (Perforator Method) (incorporated by reference, see § 770.99).

(vii) JIS A 1460:2015(E) (24-hr Desiccator Method) (incorporated by reference, see § 770.99).

* * * * *

(c) * * *

(1) *Allowable methods.* Quarterly testing must be performed using ASTM E1333–14 (incorporated by reference, see § 770.99) or, with a showing of equivalence pursuant to paragraph (d) of this section, ASTM D6007–14 (incorporated by reference, see § 770.99).

* * * * *

(d) *Equivalence or correlation.* Equivalence or correlation between ASTM E1333–14 (incorporated by reference, see § 770.99) and any other test method used for quarterly or quality control testing must be demonstrated by EPA TSCA Title VI TPCs or panel

producers, respectively, at least once each year for each testing apparatus or whenever there is a significant change in equipment, procedure, or the qualifications of testing personnel. Once equivalence or correlation have been established for three consecutive years, equivalence or correlation must be demonstrated every two years or whenever there is a significant change in equipment, procedure, or the qualifications of testing personnel.

(1) *Equivalence between ASTM E1333–14 and ASTM D6007–14 when used by the TPC for quarterly testing.* Equivalence must be demonstrated for at least five comparison sample sets, which compare the results of the two methods. Equivalence must be demonstrated for each small chamber used and for the ranges of emissions of composite wood products tested by the TPC.

(i) *Samples.* (A) For the ASTM E1333–14 method (incorporated by reference, see § 770.99), each comparison sample must consist of the result of testing panels, using the applicable loading ratios specified in the ASTM E1333–14 method (incorporated by reference, see § 770.99), from similar panels of the same product type tested by the ASTM D6007–14 method (incorporated by reference, see § 770.99).

(B) For the ASTM D6007–14 method (incorporated by reference, see § 770.99), each comparison sample shall consist of testing specimens representing portions of panels similar to the panels tested in the ASTM E1333–14 method (incorporated by reference, see § 770.99) and matched to their respective ASTM E1333–14 method (incorporated by reference, see § 770.99) comparison sample result. The ratio of air flow to sample surface area specified in ASTM D6007–14 (incorporated by reference, see § 770.99) must be used.

(C) The five comparison sample must consist of testing a minimum of five sample sets as measured by the ASTM E1333–14 method (incorporated by reference, see § 770.99).

(ii) *Average and standard deviation.* The arithmetic mean, *x,* and standard deviation, *S,* of the difference of all comparison sets must be calculated as follows:

$$\overline{X} = \sum_{i=1}^{n} D_i / n \qquad S = \sqrt{\sum_{i=1}^{n} (D_i - \overline{X})^2 / (n-1)}$$

Where $\bar{x}$ = arithmetic mean; S = standard deviation; n = number of sets; D_i = difference between the ASTM E1333–14 and ASTM D6007–14 method (incorporated by reference, see § 770.99) values for the *i*th set; and *i* ranges from 1 to *n.*

(iii) *Equivalence determination.* The ASTM D6007–14 method (incorporated by reference, see § 770.99) is considered equivalent to the ASTM E1333–14 method (incorporated by reference, see § 770.99) if the following condition is met:

$$\left|\overline{X}\right| + 0.88S \leq C$$

Where C is equal to 0.026.

(2) *Correlation between ASTM E1333–14 and any quality control test method.* Correlation must be demonstrated by establishing an acceptable correlation coefficient (''r'' value).

(i) *Correlation.* The correlation must be based on a minimum sample size of five data pairs and a simple linear regression where the dependent variable (Y-axis) is the quality control test value and the independent variable (X-axis) is the ASTM E1333–14 (incorporated by reference, see § 770.99) test value or, upon a showing of equivalence in accordance with paragraph (d) of this section, the equivalent ASTM D6007–14 (incorporated by reference, see § 770.99) test value. Either composite wood products or formaldehyde emissions reference materials can be used to establish the correlation.

* * * * *

■ 10. In § 770.99, paragraphs (a) introductory text, (a)(5) through (8), (b)(1) through (5), (c)(1) and (2), (f)(1), and (g)(1) and (2) are revised to read as follows:

§ 770.99 Incorporation by reference.

* * * * *

(a) *CPA, APA, and HPVA Materials.* Copies of these materials may be obtained from the specific publisher, as noted in this paragraph (a), or from the American National Standards Institute, 1899 L Street NW., 11th Floor, Washington, DC 20036, or by calling (202) 293–8020, or at *http://ansi.org/.* Note that ANSI A190.1–2017 is published by APA—the engineered wood association. ANSI A135.4–2012, ANSI A135.5–2012, ANSI A135.6–2012, ANSI A135.7–2012, ANSI A208.1–2016 and ANSI A208.2–2016 are published by the Composite Panel Association; and ANSI/HPVA–HP–1–2016 is published by the Hardwood Plywood Veneer Association.

* * * * *

(5) ANSI A190.1–2017, Standard for Wood Products—Structural Glued Laminated Timber, Approved January 24, 2017, IBR approved for § 770.1(c).

(6) ANSI A208.1–2016, Particleboard, Approved May 12, 2016, IBR approved for § 770.3.

(7) ANSI A208.2–2016, Medium Density Fiberboard (MDF) for Interior Applications, Approved May 12, 2016, IBR approved for § 770.3.

(8) ANSI/HPVA HP–1–2016, American National Standard for Hardwood and Decorative Plywood, Approved January 12, 2016, IBR approved for § 770.3.

(b) * * *

(1) ASTM D5055–16, Standard Specification for Establishing and Monitoring Structural Capacities of Prefabricated Wood I-Joists, Approved June 1, 2016, IBR approved for § 770.1(c).

(2) ASTM D5456–14b, Standard Specification for Evaluation of Structural Composite Lumber Products, Approved October 1, 2014, IBR approved for § 770.1(c).

(3) ASTM D5582–14, Standard Test Method for Determining Formaldehyde Levels from Wood Products Using a Desiccator, Approved-August 1, 2014, IBR approved for § 770.20(b).

(4) ASTM D6007–14, Standard Test Method for Determining Formaldehyde Concentrations in Air from Wood Products Using a Small-Scale Chamber, Approved October 1, 2014, IBR approved for §§ 770.3, 770.7(a) through (c), 770.15(c), 770.17(a), 770.18(a), and 770.20(b) through (d).

(5) ASTM E1333–14, Standard Test Method for Determining Formaldehyde Concentrations in Air and Emission Rates from Wood Products Using a Large Chamber, Approved October 1, 2014, IBR approved for §§ 770.3, 770.7(a) through (c), 770.10(b), 770.15(c), 770.17(a), 770.18(a), and 770.20(c) and (d).

(c) * * *

(1) BS EN ISO 12460–3:2015 E, Wood-based panels.—Determination of formaldehyde release—Part 3: Gas analysis method, November 2015, IBR approved for § 770.20(b).

(2) BS EN ISO 12460–5:2015 E, Wood based panels.—Determination of formaldehyde release—Part 5: Extraction method (called the perforator method), December 2015, IBR approved for § 770.20(b).

* * * * *

(f) * * *

(1) JIS A 1460:2015(E), Determination of the emission of formaldehyde from building boards—Desiccator method, First English edition, published 2015–10, IBR approved for § 770.20(b).

* * * * *

(g) * * *

(1) PS 1–09, Structural Plywood, May 2010, IBR approved for §§ 770.1(c) and 770.3.

(2) PS 2–10, Performance Standard for Wood-Based Structural-Use Panels, June 2011, IBR approved for §§ 770.1(c) and 770.3.

[FR Doc. 2017–23062 Filed 10–24–17; 8:45 am]

BILLING CODE 6560–50–P

SURFACE TRANSPORTATION BOARD

49 CFR Chapter X

[Docket No. EP 664 (Sub-No. 3)]

Revisions to the Cost-of-Capital Composite Railroad Criteria

AGENCY: Surface Transportation Board.

ACTION: Final Action.

SUMMARY: The Surface Transportation Board (STB or Board) is adopting a final action to update one of the screening criteria used to create the ''composite railroad'' for the Board's annual cost-of-capital determination. This final action requires a company's stock to be listed on either the New York Stock Exchange (NYSE) or the Nasdaq Stock Market (NASDAQ), rather than on either the NYSE or American Stock Exchange (AMEX), as the AMEX no longer exists.

DATES: This action is applicable on November 24, 2017.

FOR FURTHER INFORMATION CONTACT: Amy C. Ziehm, (202) 245–0391. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: As one of its regulatory responsibilities, the Board determines annually the railroad industry's cost of capital.[1] The cost-of-capital figure represents the Board's estimate of the average rate of return needed to persuade investors to provide capital to the freight rail industry. The cost-of-capital determination is one component used in evaluating the adequacy of railroad revenues each year under the procedures and standards mandated by Congress in the Railroad Revitalization and Regulatory Reform Act of 1976, Public Law 94–210, 90 Stat. 31 (1976) and promulgated in *Standards for Railroad Revenue Adequacy,* 364 I.C.C. 803 (1981), *modified,* 3 I.C.C.2d 261 (1986), *aff'd sub nom. Consol. Rail Corp.* v. *United States,* 855 F.2d 78 (3d Cir. 1988). The cost-of-capital finding is also an essential component of many other Board regulatory proceedings.

The Board determines the railroad industry's cost of capital for a ''composite railroad,'' which is based on data from a sample of railroads. Pursuant to *Railroad Cost of Capital—1984,* 1 I.C.C.2d 989 (1985), the sample includes all railroads that meet the following criteria:

—The company is a Class I line-haul railroad;

—If the Class I railroad is controlled by another company, the controlling company is primarily a railroad company and is not already included in the study frame;[2]

—The company's bonds are rated at least BBB by Standard & Poor's and Baa by Moody's;

—The company's stock is listed on either the NYSE or the AMEX; and

—The company has paid dividends throughout the review year.

1 I.C.C.2d at 1003–04; *see also R.R. Cost of Capital—2015,* EP 558 (Sub-No. 19), slip op. at 3 (STB served Aug. 5, 2016).

On April 18, 2017, the Board issued a Notice of Proposed Rulemaking (NPRM) that proposed to update the fourth screening criterion used to create the ''composite railroad'' for the Board's annual cost-of-capital determination. Specifically, the Board proposed that its fourth screening criterion be modified to require a company's stock to be listed on either the NYSE or the NASDAQ, rather than on either the NYSE or AMEX, as the AMEX is no longer in existence. *See* NPRM, slip op. at 1–2.

The Board sought comments on the NPRM by May 18, 2017, and replies by June 19, 2017. The Board received comments on the proposed action from the Association of American Railroads (AAR) and the Western Coal Traffic League (WCTL). No reply comments were filed. After consideration of the comments received, the Board is adopting the changes proposed in the NPRM as a final action.

Comments

In its comments, AAR states that it is supportive of the Board's proposal to update the ''composite railroad'' screening criteria to better reflect the current state of the marketplace. (AAR Comment 2.) AAR requests that the Board move expeditiously to adopt the proposal and prohibit any party from expanding the scope of this proceeding by offering proposals that would ''manipulate'' the cost-of-capital process. (*Id.*)

WCTL generally supports the Board's proposal and states that expanding the screening criteria to include NASDAQ-listed companies, *i.e.,* CSX Corporation (CSX),[3] would result in a larger composite sample. (WCTL Comment 1–2.) WCTL, however, argues that the ''composite railroad'' sample is still rather small, consisting of just four companies—CSX; Kansas City Southern Corporation (KCS); Norfolk Southern Corporation (NSC); and Union Pacific Corporation (UPC)—that have

[1] The cost of capital is calculated as the weighted average of the cost of debt and the cost of equity, with the weights determined by the railroad industry's capital structure (the fraction of capital from debt or equity on a market-value basis). *See Methodology to be Employed in Determining R.R. Indus.'s Cost of Capital,* EP 664, slip op. at 6 (STB served Jan. 17, 2008).

[2] A company is considered to be primarily in the railroad business if at least 50% of its total assets are devoted to railroad operations. *R.R. Cost of Capital—1984,* 1 I.C.C.2d at 1003–04.

[3] In the Board's cost of capital calculation for 2016, the Board waived its requirement that a company's stock be listed on either the NYSE or the AMEX, noting that CSX Corporation transferred its stock exchange listing from the NYSE to the NASDAQ in 2015. *R.R. Cost of Capital—2016,* EP 558 (Sub-No. 20), slip op. at 2 n.4 (STB served Aug. 7, 2017).

significant differences. (*Id.* at 2.) WCTL also notes that the composite sample omits BNSF Railway Company (BNSF)—which, it asserts, is by some measures the largest railroad in the United States—because BNSF constitutes less than 50% of the assets of its parent company, Berkshire Hathaway. (*Id.*) According to WCTL, by including CSX in the composite sample (but omitting BNSF), the industry average cost of capital reflects roughly 59% western and 41% eastern railroads, even though in actuality western railroads—UPC, BNSF, and KCS—account for 73% of the industry, and the two eastern railroads—CSX and NSC—account for only 27%. (*Id.*)[4] WCTL argues that excluding CSX, along with BNSF, from the composite sample would actually result in an average that is more representative of the regional division (75% western and 25% eastern). (*Id.*) WCTL asserts that the Board's proposal could result in an average that is less representative of the industry as a whole, and a cost-of-capital figure that is more distorted. (*Id.* at 2–3.) Additionally, WCTL states that a ''complicating factor'' is that the second stage of the Board's Multi-Stage Discounted Cash Flow model (MSDCF) uses a simple average of the growth rates of the individual carriers, such that KCS counts just as much as UPC. (*Id.*)

Despite its criticisms, WCTL recommends that the Board adopt the proposed change, but ''on a tentative or qualified basis that would allow the Board to revisit the matter, and allow parties to present relevant evidence, if inclusion of NASDAQ-traded carriers turns out to undermine the representativeness of the composite sample, or the accuracy of the cost-of-capital'' figure. (*Id.*)

The Final Action

To reflect the current marketplace, the Board will adopt the changes proposed in the NPRM and now require, as its fourth screening criterion, that a company's stock be listed on either the NYSE or the NASDAQ. Commenters generally support the Board's proposal and agree that the NASDAQ is a suitable replacement for the AMEX in the cost-of-capital determination. As noted in the NPRM, when the Board's predecessor adopted the fourth screening criterion, it did so to ''insure the availability of stock price data.'' *R.R. Cost of Capital—1984,* 1 I.C.C.2d at 1004. By requiring applicable carriers to trade on either the NYSE or the NASDAQ, the Board will continue to ensure the availability of stock price data for use in the Board's computation of the rail industry's cost of capital.

Although WCTL supports the Board's proposal and states that expanding the screening criteria to include NASDAQ-listed companies, *i.e.,* CSX, would result in a larger composite group, it argues that the Board's proposed change could result in an average cost-of-capital figure that is less representative of the regional division of rail assets than it is now. The Board, however, is unpersuaded by WCTL's argument. The purpose of including only carriers listed on particular stock exchanges in the ''composite group'' is to ensure the availability of stock price data for the annual cost-of-capital determinations for carriers that satisfy the other criteria. *See R.R. Cost of Capital—1984,* 1 I.C.C.2d 989, 1004 (1984). Here, there is no debate that CSX meets the other criteria and that NASDAQ is a reliable source of stock price data. Excluding a carrier that meets the other criteria and has a reliable source of stock data, in an effort to achieve a ''balance'' between eastern and western carriers, is unwarranted.

In any event, railroads operating in different parts of the United States may confront different markets, traffic mixes, densities, and topography. As a consequence, there are differences in the cost structures of eastern and western carriers. These physical and cost structure differences, however, do not imply variances in the cost of capital on a regional basis. Investors deploy capital around the world, looking to obtain the highest possible return, while incurring the lowest possible risk. WCTL has not provided evidence to demonstrate that there is any difference in the rate of return investors demand—*i.e.,* the cost of capital—when investing in eastern and western rail carriers. Therefore, the Board believes that it is better to include CSX in the composite-industry cost of capital, as it was in previous years when it was listed on NYSE, to ensure a larger sample size.

With respect to WCTL's argument that another ''complicating factor'' is that the second stage of the Board's MSDCF uses a simple average of the growth rates of individual carriers, such that KCS counts as much as UP, the Board finds such an argument to be outside the scope of this proceeding. The core issue here is whether, for purposes of the cost-of-capital calculation, it is appropriate to replace a defunct stock exchange (AMEX) with a stock exchange in current and prevalent use (NASDAQ). WCTL's growth rate argument does not relate to that issue and is a collateral attack on other components of the Board's approved methodology.

Finally, the Board declines WCTL's request to adopt the final action on a conditional or tentative basis, purportedly to allow parties to present additional evidence after implementation. If parties have concerns in the future that inclusion of NASDAQ-traded carriers ultimately results in a less representative composite sample, they may file a petition to modify or revisit the composite group criteria regulation.

Regulatory Flexibility Act Statement

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, generally requires a description and analysis of new rules that would have a significant economic impact on a substantial number of small entities. In drafting a rule, an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment. 5 U.S.C. 601–604. Under § 605(b), an agency is not required to perform an initial or final regulatory flexibility analysis if it certifies that the proposed or final rules will not have a ''significant impact on a substantial number of small entities.''

Because the goal of the RFA is to reduce the cost to small entities of complying with federal regulations, the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates those entities. In other words, the impact must be a direct impact on small entities ''whose conduct is circumscribed or mandated'' by the proposed rule. *White Eagle Coop. Ass'n* v. *Conner,* 553 F.3d 467, 478, 480 (7th Cir. 2009). An agency has no obligation to conduct a small entity impact analysis of effects on entities that it does not regulate. *United Distrib. Cos.* v. *FERC,* 88 F.3d 1105, 1170 (D.C. Cir. 1996).

In the NPRM, the Board already certified under 5 U.S.C. 605(b) that the proposed change would not have a significant economic impact on a substantial number of small entities within the meaning of the RFA. The Board explained that a change in the listing requirement for inclusion in the composite railroad would not have a significant economic impact on the railroads included; likewise, the Board articulated that, whether or not a railroad would be included in the composite group would have no significant economic impact on that individual railroad. A copy of the

[4] WCTL's figures appear to be percentages of the total market capitalization of the railroad industry.

NPRM was served on the U.S. Small Business Administration (SBA).

The final action changes one of the criteria for a railroad's inclusion in the data sample that the Board uses to calculate the annual cost of capital. By definition, that group of railroads is limited to Class I carriers, which are not small businesses under the Board's definition for RFA purposes.[5] Thus, the action does not place any additional burden on small entities. Therefore, the Board certifies under 5 U.S.C. 605(b) that the final action will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

It is ordered:

1. The final action described above is adopted and will be applicable on November 24, 2017.

2. Notice of the action adopted here will be published in the **Federal Register**.

3. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration.

4. This decision is effective on the date of service.

Decided: October 17, 2017.

By the Board, Board Members Begeman and Miller.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2017–22894 Filed 10–24–17; 8:45 am]

BILLING CODE 4915–01–P

[5] Effective June 30, 2016, for the purpose of RFA analysis for rail carriers subject to our jurisdiction, the Board defines a ''small business'' as a rail carrier classified as a Class III rail carrier under 49 CFR part 1201. *See Small Entity Size Standards Under the Regulatory Flexibility Act,* EP 719 (STB served June 30, 2016) (with Board Member Begeman dissenting). Class III carriers have annual operating revenues of $20 million or less in 1991 dollars, or $35,809,698 or less when adjusted for inflation using 2016 data. Class II carriers have annual operating revenues of less than $250 million in 1991 dollars or $ less than $447,621,226 when adjusted for inflation using 2016 data. The Board calculates the revenue deflator factor annually and publishes the railroad revenue thresholds on its Web site. 49 CFR part 1201.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 170301213–7869–02]

RIN 0648–BG70

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; State Waters Exemption

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

ACTION: Final rule.

SUMMARY: NMFS approves and implements an exemption for vessels with Federal Limited Access General Category Individual Fishing Quota permits from the State of Maine and the Commonwealth of Massachusetts. This exemption enables the vessels to continue fishing in their respective state waters once NMFS has announced that the Federal Northern Gulf of Maine total allowable catch has been fully harvested in a given year. Additionally, Massachusetts has requested that Federal Limited Access General Category Northern Gulf of Maine permits also be included in its exemption. Both states have requested this exemption as part of the Scallop State Water Exemption Program. This program specifies that a state may be eligible for a state waters exemption to specific Federal regulations if it has a scallop fishery and a scallop conservation program that does not jeopardize the biomass and fishing mortality/effort limit objectives of the Atlantic Sea Scallop Fishery Management Plan. Based on the information that Maine and Massachusetts have submitted, NMFS has determined that both states qualify for this exemption and that this exemption will not have an impact on the effectiveness of Federal management measures for the scallop fishery overall or within the Northern Gulf of Maine management area.

DATES: Effective October 25, 2017.

ADDRESSES: Documents supporting this action, including the State of Maine and Commonwealth of Massachusetts requests for the exemption, the Categorical Exclusion, and Framework Adjustment 28 to the Atlantic Sea Scallop Fishery Management Plan (FMP) are available upon request from John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930.

Copies of the Permit Holder Letter are available from John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930–2298, or available on the Internet at *http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/scallop/.*

FOR FURTHER INFORMATION CONTACT: Shannah Jaburek, Fisheries Management Specialist, 978–282–8456.

SUPPLEMENTARY INFORMATION:

Background

The Scallop State Waters Exemption Program, described at § 648.54, specifies that a state with a scallop fishery may be eligible for state waters exemptions if it has a scallop conservation program that does not jeopardize the biomass and fishing mortality and effort limit objectives of the Scallop FMP. Under the Program, if NMFS determines that a state is eligible, federally permitted scallop vessels fishing in state waters may be exempted from specific Federal scallop regulations. One of these exemptions enables some scallop vessels to continue to fish in state waters within the Northern Gulf of Maine (NGOM) management area once the Federal NGOM total allowable catch (TAC) is reached. Any state interested in applying for this exemption must identify the scallop-permitted vessels that would be subject to the exemption (*i.e.,* limited access, limited access general category (LAGC) individual fishing quota (IFQ), LAGC incidental, or LAGC NGOM). No vessel is permitted to fish for scallops in the Federal portion of the NGOM once the TAC is harvested. We provided a broader description of the Scallop State Waters Exemption Program in the preamble of the proposed rule (82 FR 29470; June 29, 2017) for this action. We are not repeating that information here.

We received a request from Maine to expand its current exemptions to allow the four IFQ-permitted vessels with Maine state-waters permits to fish in the Maine state-waters portion of the NGOM management area once we project the Federal TAC to be fully harvested. Massachusetts also sent a request to exempt LAGC IFQ and NGOM-federally permitted vessels that also hold a state permit. Only the northern portion of Massachusetts state waters, approximately Boston and north, fall within the NGOM management area. The fishery in this area has traditionally been split between a handful of state-only vessels and 12 vessels with both Federal and state permits to fish for

scallops. Of these LAGC vessels with dual permits, six traditionally fish in both Federal and state waters while the other six only fish in Federal waters. We do not anticipate any other vessels would fish under this exemption because it would not be economically beneficial. This provision allows vessels to continue to fish in state waters along with state permitted vessels that do not have Federal permits.

Scallop effort has increased in the NGOM in recent years as the stock has improved in both state and Federal waters. In 2016, the NGOM management area TAC was fully harvested and was closed for the first time since the management area was created in 2008. In 2017, the area was closed on March 23, just over three weeks into the new fishing year and approximately two months earlier than in 2016. State-only permitted scallop vessels are able to fish in state waters after the Federal closure and this provision would allow those vessels with the requested Federal permit to continue to fish in state waters along with vessels without Federal permits.

Based on the information Maine and Massachusetts submitted regarding their scallop conservation programs, and considering comments received during the public comment period, we determined that both states qualify for the NGOM state waters exemption under the Scallop FMP. Maine's regulations are the same as when they applied for this exemption for NGOM-permitted vessels in 2015. Massachusetts restricts scallop fishing activity in its waters with limited entry by requiring the state Coastal Access Permit, for which there is currently a moratorium and is only transferrable with the approval of the Director of Marine Fisheries. Therefore, increased additional effort in the future is not a significant concern. Vessels fishing for scallops in Massachusetts state waters also have a daily scallop possession limit of 200 lb (90.7 kg). This possession limit is equivalent to the NGOM management area, but more restrictive than the 600–lb (272.2–kg) Federal possession limit for IFQ vessels south of the NGOM area in Federal waters. Both Maine and Massachusetts's scallop fishery restrictions are as restrictive as Federal scallop fishing regulations and this exemption will not jeopardize the biomass and fishing mortality and effort limit objectives of the FMP. Allowing for this NGOM exemption will have no impact on the effectiveness of Federal management measures for the scallop fishery overall or within the NGOM management area because the NGOM Federal TAC is set based only on the Federal portion of the resource. In addition, LAGC IFQ vessels cannot land scallops beyond the vessel's yearly allocation or any additional quota that is leased in. Maine and Massachusetts are the only states that have requested a NGOM closure exemption, and only for state permit holders that also hold a Federal LAGC IFQ or NGOM scallop permit. As such, all other federally permitted scallop vessels would be prohibited from retaining, possessing, and landing scallops from within the NGOM management area, in both Federal and state waters, once the NGOM TAC is fully harvested.

Comments and Responses

We received eight comments on the proposed rule during the public comment period. Four of the eight comments were from industry members. Two were from industry-based organizations (the Maine Coast Fishermen's Association (MCFA) and The Cape Cod Commercial Fisherman's Alliance (CCCFA)). Two comments from the public had no relevance to the rule and are not addressed further.

Comment 1: One industry member commented that IFQ vessels should be allowed to land scallops beyond their IFQ allocations when fishing in state waters because scallops from within state waters are not considered in setting the NGOM TAC or the overall overfishing limit/annual biological catch.

Response: Extending the exemption to allow LAGC IFQ permits land scallops over their IFQ limits was not requested by Maine or Massachusetts. Even if it were, extending the exemption is beyond the scope of the state waters exemption program because it would alter the underpinnings of the current LAGC IFQ program and would require consideration by the New England Fishery Management Council, likely as part of an amendment to the FMP. Moreover, allowing harvesting of scallops over the limit of the Federal quota for these vessels would not be consistent with the current Federal management program.

Comment 2: The CCCFA, MCFA, and two members of the industry commented that these exemptions would give the industry members more flexibility and stability, and it will support shoreside operations and businesses.

Response: We agree.

Comment 3: MCFA's comment implied that Limited Access permits were included in the exemption, in addition to LAGC IFQ and NGOM permits.

Response: To clarify MCFS's comment, the exemption in this rule only includes NGOM and LAGC IFQ-permitted vessels. Maine did not request any exemptions for limited access vessels. Limited access vessels fishing in state waters in Maine currently are not subject to days at sea, but have no other exemptions in state waters or in other states.

Comment 4: One member of the industry expressed frustration with the disparity of how we manage the NGOM Management Area between the LAGC and Limited Access (LA) fleets in relation to the NGOM TAC.

Response: The allocations for the NGOM TAC for both the LA and LAGC fleets and how they are currently managed is beyond the scope of the state waters exemption program and this rule. However, for the 2018–2019 scallop fishing year, the New England Fishery Management Council has made the future management of the NGOM a priority.

Changes From the Proposed Rule

There are no changes from the proposed rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Office of Management and Budget (OMB) has determined that this rule is not significant according to Executive Order (E.O.) 12866.

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

The Assistant Administrator for Fisheries has determined that the need to implement these measures in an expedited manner, in order to relieve restrictions on the scallop fleet, constitutes good cause, under authority contained in 5 U.S.C. 553(d)(1) and (3) to waive the 30–day delay in effectiveness so that the State Waters Program exemptions become effective upon publication in the **Federal Register**.

The exemptions approved under this final rule for the State Waters Program will allow Maine and Massachusetts permitted scallop LAGC and NGOM vessels to continue fishing operations that would not be possible without this rule. The NGOM area was closed to fishing by LAGC vessels on March 23, 2017, and without this exemption would remain closed to these vessels

until April 1, 2018. As long as this area is closed, the LAGC NGOM permitted vessels can no longer fish in the NGOM, including in state waters. LAGC IFQ vessels with homeports north of the NGOM boundary must now travel further from home in order to harvest scallops. Longer trips mean more operating expenses and less profits for individual vessels. Delaying the implementation of the exemptions in this rule would delay the positive economic benefits of resumed fishing activity to these vessels. For these reasons, there is good cause to implement this rule immediately.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule is considered an E.O. 13771 deregulatory action. As noted above and in the proposed rule, this rule will allow Maine vessels with an LAGC IFQ permit and Massachusetts vessels with LAGC IFQ and NGOM permits to continue fishing in their respective state's waters after the federal NGOM TAC has been harvested. When the NGOM TAC is harvested and the area closes, the LAGC NGOM permitted vessels can no longer fish and the LAGC IFQ vessels must travel further from home in order to harvest scallops; therefore, the vessel's individual income is affected. Massachusetts estimates that with this exemption, vessels could harvest up to an additional 100,000 lb worth an estimated $1.23 million dollars per year at a 2015 average price of $12.26/lb. Maine estimates that with this exemption, the four vessels would save on fuel, food, and maintenance costs associated with steaming to fishing grounds outside of the NGOM management area by fishing closer to individual homeports. These cost savings would vary by individual vessel, the number of vessels that participate in the exemption, and the given fishing year, but will have an overall positive economic benefit.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: October 19, 2017.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.54, paragraph (a)(4) is revised to read as follows:

§ 648.54 State waters exemption.

(a) * * *

(4) The Regional Administrator has determined that the State of Maine and Commonwealth of Massachusetts both have a scallop fishery conservation program for its scallop fishery that does not jeopardize the biomass and fishing mortality/effort limit objectives of the Scallop FMP. A vessel fishing in State of Maine waters may fish under the State of Maine state waters exemption, subject to the exemptions specified in paragraphs (b) and (c) of this section, provided the vessel is in compliance with paragraphs (e) through (g) of this section. In addition, a vessel issued a Federal Northern Gulf of Maine or Limited Access General Category Individual Fishing Quota permit fishing in State of Maine or Commonwealth of Massachusetts waters may fish under their respective state waters exemption specified in paragraph (d) of this section, provided the vessel is in compliance with paragraphs (e) through (g) of this section.

* * * * *

[FR Doc. 2017–23133 Filed 10–24–17; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 205
Wednesday, October 25, 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 HEALTH AND HUMAN SERVICES

Office of the Secretary

21 CFR Chapter I

42 CFR Chapters I and IV

45 CFR Subtitle A and Subtitle B, Chapters II, III, IV, X, and XIII

[HHS–9928–RFI]

Removing Barriers for Religious and Faith-Based Organizations To Participate in HHS Programs and Receive Public Funding

AGENCY: Center for Faith-Based and Neighborhood Partnerships, Office of Intergovernmental and External Affairs, HHS.

ACTION: Request for information.

SUMMARY: The U.S. Department of Health and Human Services (HHS) is committed to delivering services to the public as efficiently and effectively as possible. Religious and faith-based organizations (hereafter ''faith-based organizations'') are important partners with unique expertise that is crucial to advancing HHS's mission of protecting and enhancing the health and well-being of Americans. HHS seeks comment from faith-based organizations and other interested parties to inform HHS on how it may best identify and remove regulatory or other barriers in order for these institutions to participate in HHS-funded or regulated programs, strengthen partnerships with faith-based organizations to improve service delivery to the American people, and ensure faith-based organizations are affirmatively accommodated and not excluded from publicly funded or conducted programs or activities because of HHS requirements that burden or interfere with their religious character or exercise.

DATES: Comments must be submitted on or before November 24, 2017.

ADDRESSES: You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments through *http://www.regulations.gov.*
2. *By email.* You may submit email comments to the following email address ONLY: *CFBNP@hhs.gov.*
3. *By regular mail.* You may mail written comments to the following address ONLY: Center for Faith-Based and Neighborhood Partnerships, Office of Intergovernmental and External Affairs, U.S. Department of Health and Human Services, *Attention: RFI Regarding Faith-Based Organizations,* Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Please allow sufficient time for mailed comments to be received before the close of the comment period.
4. *By express or overnight mail.* You may send written comments to the following address ONLY: Center for Faith-Based and Neighborhood Partnerships, Office of Intergovernmental and External Affairs, U.S. Department of Health and Human Services, *Attention: RFI Regarding Faith-Based Organizations,* Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Shannon Royce, (202) 690–6060.

SUPPLEMENTARY INFORMATION: All submissions made must include the Agency name HHS–9928–RFI. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided.

I. Background

Executive Orders 13279 and 13559, issued by President George W. Bush and President Barack Obama, respectively, direct Federal agencies to ''ensure equal protection under the laws for faith-based and community organizations'' and ''to strengthen the capacity of faith-based and other neighborhood organizations to deliver services effectively to those in need.'' Further, in Executive Order 13798, President Donald Trump declared that ''the Founders envisioned a Nation in which religious voices and views were integral to a vibrant public square, and in which religious people and institutions were free to practice their faith without fear of discrimination or retaliation by the Federal Government . . . Federal law protects the freedom of Americans and their organizations to exercise religion and participate fully in civic life without undue interference by the Federal Government. The executive branch will honor and enforce those protections.'' The President further declared that it will be ''the policy of the executive branch to vigorously enforce Federal law's robust protections for religious freedom.'' [1]

This commitment to faith-based organizations has extended across administrations because faith-based organizations have a long history of providing an array of important services to people and communities in need of health care, education, social services, and other charitable services in the United States. Religious faith, in its many expressions, is a key aspect of American life and culture. Because so many people live their lives through their faith commitments, faith-based organizations are uniquely positioned to understand and serve their neighbors and communities in culturally competent ways. These organizations are driven by faith to serve people of all faiths or none with compassion and commitment, and to provide them with food, housing, health care, family support, mental health support, addiction recovery, counseling, education, and other essential services. According to a study by researchers at Georgetown University and the Newseum Institute, over 150 million Americans are members of over 344,000 religious congregations which sponsor a combined 1,621,000 health and social service programs.[2] The study estimated that religious organizations provide about $1.2 trillion in socio-economic value to the U.S. every year.[3] Furthermore, the mission driving these

[1] *See also* Memorandum from Attorney Gen. Jeff Sessions for All Executive Departments and Agencies, ''Federal Law Protections for Religious Liberty'' (Attorney General Memorandum) at 1 (Oct. 6, 2017), *https://www.justice.gov/opa/press-release/file/1001891/download* (''[r]eligious liberty is a foundational principle of enduring importance in America, enshrined in our Constitution and other sources of federal law'').

[2] Brian Grim and Melissa Grim, ''The Socio-economic Contribution of Religion to American Society: An Empirical Analysis,'' *Interdisciplinary Journal of Research on Religion* 12, no. 3 (2016), *http://www.religjournal.com/pdf/ijrr12003.pdf.*

[3] Ibid, Table 13.

organizations can lead to improved services and innovative service delivery.

The U.S. Department of Health and Human Services (''HHS'' or ''the Department'')—the Federal Government's largest grant-maker and the third largest Federal contracting agency—administers Federal funding with the overarching goal of delivering services, providing access to programs, and funding research that will improve the health and well-being of Americans. HHS's Federal funding opportunities span a wide range of activities: From providing health care services to particular populations, to aiding child welfare programs and providing resources to the elderly, to funding child care and nutrition programs and helping refugees and asylees connect with the resources they need to become self-sufficient, to supporting biomedical and other scientific research.

Faith-based organizations have historically been a crucial component of HHS's efforts by delivering charitable care to Americans in need and engaging in other worthwhile initiatives with the assistance of grant and contract funding provided by the Department. For instance, HHS awarded over $817 million in funding to faith-based organizations across 65 competitive, non-formula grant programs in fiscal year 2007.[4] Over half of all Continuing Care Retirement Communities in the country were faith-based in 2013; almost 60 percent of the emergency shelter beds for the homeless in eleven major cities were provided by faith-based organizations in 2016; and one in six hospital patients were cared for in Catholic hospitals in 2015, to name just a few of the industries in which these groups are invaluable in advancing the Department's objectives.[5] Faith-based organizations also provide significant assistance in natural disasters and emergencies.

HHS is dedicated to engaging in partnerships with a broad range of private sector organizations, some of which are faith-based and some of which are not, and we aim to administer our programs and funding without discrimination on the basis of religion. As part of achieving the Department's overall goals, HHS is fully committed to fostering robust and thriving partnerships with faith-based organizations that serve as either recipients or sub-recipients of Department funding or as partners with state or local agencies funded or regulated by HHS. This commitment is bolstered by the Attorney General's Memorandum for All Executive Departments and Agencies, ''Federal Law Protections for Religious Liberty,'' issued on October 6, 2017 pursuant to Executive Order 13798. The Attorney General instructed that, ''to the greatest extent practicable and permitted by law, religious observance and practice should be reasonably accommodated in all government activity, including employment, contracting, and programming,'' provided twenty principles to guide administrative agencies and executive departments in carrying out such tasks, and also provided guidance to such agencies and department in implementing such religious liberty principles.[6] Given the regulatory nature of many of HHS's programs, HHS notes that the Attorney General's guidance directed that, ''[i]n formulating rules, regulations, and policies, administrative agencies should also proactively consider potential burdens on the exercise of religion and possible accommodations of those burdens.'' [7] Similarly, with respect to grants and contracts, the Attorney General's guidance instructs that ''[a]gencies also must not discriminate against religious organizations in their contracting or grant-making activities,'' noting that ''[a]bsent unusual circumstances, agencies should not condition receipt of a government contract or grant on the effective relinquishment of a religious organization's Section 702 exemption for religious hiring practices, or any other constitutional or statutory protection for religious organizations.'' [8]

Given the importance of faith-based organizations in carrying out the Department's mission of improving Americans' health and well-being, and the principles and directives in the Attorney General's Memorandum for All Executive Departments and Agencies, HHS solicits comments, through this request for information, to determine whether its existing regulations and guidance advance the Department's priority of cultivating partnerships with faith-based organizations that provide services to people in need or conduct other meaningful work. Because HHS primarily partners with faith-based organizations through grant and contract funding, HHS specifically seeks to identify any regulatory, guidance-based, or other requirements or conditions for grants or contracts that present barriers for faith-based organizations to participate in HHS-funded programs, and methods to ensure faith-based organizations are affirmatively accommodated, and not excluded from HHS-funded or conducted programs or activities because of HHS requirements that burden or interfere with their religious character or exercise.

In this request for information, HHS seeks input from the public and relevant stakeholders on potential changes that could be made to existing HHS regulations or guidance to ensure that faith-based organizations and their religious beliefs and moral convictions are properly accommodated, that faith-based organizations are not required to act contrary to their religious beliefs or moral convictions (as a recipient, sub-recipient, contractor, sub-contractor, or otherwise) or are otherwise not restricted, excluded, substantially burdened, discriminated against, or disproportionately disadvantaged in HHS-conducted or funded programs or activities (including those administered by state and local governments) because of their religious character, identity, beliefs, or moral convictions.

HHS also seeks input on whether faith-based organizations could face potential obstacles to participation in state or locally funded programs, or restrictions on their privately funded activities, because of HHS requirements imposed on state and local governments as a condition of receiving HHS funding.

Finally, HHS seeks input on what policies, procedures, and assessment tools HHS should develop to affirmatively further the accommodation, equal treatment, and respect for the religious exercise of faith-based organizations interacting with HHS or HHS-funded entities.

II. Solicitation of Comments

HHS solicits comments on potential changes to existing regulations or guidance that affirmatively assure the equal treatment of faith-based organizations and on the extent to which faith-based organizations are beneficial to furthering the mission of the Department. Specifically, HHS seeks

[4] The White House Office of Faith-Based and Community Initiatives, ''Federal Competitive Funding to Faith-Based and Secular Non-Profits Fiscal Year 2007,'' last accessed September 29, 2017, *https://georgewbush-whitehouse.archives.gov/government/fbci/data-collection-2007.html.*

[5] Lisa McCracken, ''Faith and the Not-For-Profit Provider,'' Ziegler Investment Banking, August 25, 2014, *http://image.exct.net/lib/ff021271746401/d/4/zNews_Featured_082514.pdf;* Byron Johnson, William H. Wubbenhorst, and Alfreda Alvarez, ''Assessing the Faith-Based Response to Homelessness in America: Findings from Eleven Cities,'' Baylor Institute for Studies of Religion, (2017), available at *http://www.baylorisr.org/wp-content/uploads/ISR-Homeless-FINAL-01092017-web.pdf;* Catholic Health Association of the United States, ''Catholic Health Care in the United States,'' last updated January 2017, *https://www.chausa.org/about/about/facts-statistics.*

[6] Attorney General Memorandum at 1.

[7] *Id.* at 7.

[8] *Id.* at 8.

information that would assist it in pursuing the following objectives:

1. To remove obstacles to participation by faith-based organizations in the delivery of publicly funded services and activities. What changes in HHS regulations, guidance, or other documents (*e.g.,* contracts and funding opportunity announcements) or processes might encourage faith-based organizations to participate in HHS-funded programs and services? What existing regulations, guidance, or other documents or processes deter such participation?

2. To ensure faith-based organizations—particularly those with a history of providing health, education, and other support to low-income people—are not excluded from eligibility for HHS funding. Which provisions in HHS regulations, guidance, or other documents directly or indirectly inhibit faith-based organizations from receiving HHS funds? How can the Department improve these regulations, guidance, or other documents? Are any faith-based organizations being restricted, excluded, substantially burdened, discriminated against, or disproportionately disadvantaged by HHS, an HHS grantee or contractor, or a state or local government entity administering an HHS-funded program or activity because of their religious character, identity, beliefs, or moral convictions?

3. To ensure that faith-based organizations receive accommodation, equal treatment, and respect for their religious beliefs and moral convictions from HHS or HHS-funded entities. What regulations, guidance documents, policies, procedures, and/or assessment tools should HHS develop to affirmatively further the accommodation, equal treatment, and respect for the religious exercise of faith-based organizations interacting with HHS or HHS funded entities?

4. To improve our understanding of the role of faith-based organizations in implementing programs and activities that advance the goals and objectives of HHS. Describe the value, whether qualitative or quantitative, that faith-based organizations provide in improving the health and well-being of Americans and other populations eligible for public benefits and services. What would the consequences be if these organizations were no longer able to participate in the Department's programs or services or were denied eligibility for Federal funding? Do faith-based organizations provide unique value that could not easily be replicated by other recipients? Would adequate services be available to people in need in the absence of Federal partnerships with faith-based organizations?

This is a request for information only. Respondents are encouraged to provide complete but concise responses to any or all of the questions outlined above. This request for information is issued solely for information and planning purposes; it does not constitute a notice of proposed rulemaking or request for proposals, applications, proposal abstracts, or quotations, nor does it suggest that the Department will undertake any particular action in response to comments. This request for information does not commit the United States Government (''Government'') to contract for any supplies or services or make a grant award. Further, HHS is not seeking proposals through this request for information and will not accept unsolicited proposals. Respondents are advised that the Government will not pay for any information or administrative costs incurred in response to this request for information; all costs associated with responding to this request for information will be solely at the interested party's expense. Not responding to this request for information does not preclude participation in any future rulemaking or procurement, if conducted. It is the responsibility of the potential responders to monitor this request for information announcement for additional information pertaining to this request. We also note that HHS will not respond to questions about the policy issues raised in this request for information. HHS may or may not choose to contact individual responders. Such communications would only serve to further clarify written responses. Contractor support personnel may be used to review the responses submitted under this request for information. Responses to this notice are not offers and cannot be accepted by the Government to form a binding contract or issue a grant. Information obtained as a result of this request for information may be used by the Government for program planning on a non-attribution basis. Respondents should not include any information that might be considered proprietary or confidential. This request for information should not be construed as a commitment or authorization to incur cost for which reimbursement would be required or sought. All submissions become Government property and will not be returned. HHS may publicly post the comments received, or a summary thereof. While responses to this request for information do not bind HHS to any further actions related to the response, all comments may be posted online on *http://www.regulations.gov.*

III. Collection of Information Requirements

This document does not impose information collection requirements; that is, reporting, recordkeeping or third-party disclosure requirements. This request for information constitutes a general solicitation of comments. In accordance with the implementing regulations of the Paperwork Reduction Act (PRA) at 5 CFR 1320.3(h)(4), information subject to the PRA does not generally include ''facts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the agency's full consideration of the comment.'' Consequently, this document need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: October 20, 2017.

Jane E. Norton,

Director, Office of Intergovernmental & External Affairs, U.S. Department of Health and Human Services.

[FR Doc. 2017–23257 Filed 10–24–17; 8:45 am]

BILLING CODE 4120–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 770

[EPA–HQ–OPPT–2017–0245; FRL–9962–80]

RIN 2070–AK36

Voluntary Consensus Standards Update; Formaldehyde Emission Standards for Composite Wood Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend the formaldehyde emission standards for composite wood products final rule, published in the **Federal Register** on December 12, 2016 (81 FR 89674). The proposed amendment would update multiple voluntary consensus standards that have been updated, superseded, or withdrawn since publication of the notices of proposed rulemaking on June 10, 2013 (78 FR 34796 and 78 FR 34820)

and would amend an existing regulatory provision regarding the correlation of quality control test methods.

DATES: Comments must be received on or before November 9, 2017. Comments postmarked after the close of the comment period will be stamped ''late'' and may or may not be considered by the Agency.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0245, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

• *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Erik Winchester, National Program Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–6450; email address: *winchester.erik@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: For further information about the proposed changes to the voluntary consensus standards and the correlation of quality control test methods, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication. For the reasons set out in the preamble to that direct final action, this proposed rule would amend title 40, chapter I, subchapter R, of the Code of Federal Regulations as provided in that direct final action.

List of Subjects in 40 CFR Part 770

Environmental protection, Formaldehyde, Incorporation by reference, Reporting and recordkeeping requirements, Third-party certification, Toxic substances, Wood.

Dated: October 12, 2017.

E. Scott Pruitt,

Administrator.

[FR Doc. 2017–23061 Filed 10–24–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 03–123 and 10–51; DA 17–980]

Petition for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petition for reconsideration.

SUMMARY: A Petition for Reconsideration (Petition) has been filed in the Commission's rulemaking proceeding by the Interstate Telecommunications Relay Service Advisory Council.

DATES: Comments to the Petition must be filed on or before November 9, 2017. Reply Comments must be filed on or before November 20, 2017.

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

FOR FURTHER INFORMATION CONTACT: Michael Scott, Consumer and Governmental Affairs Bureau, email: *Michael.Scott@fcc.gov;* phone: (202) 418–1264.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document DA 17–980, released October 6, 2017. The full text of the Petition is available for viewing and copying at the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554 or may be accessed online via the Commission's Electronic Comment Filing System at: *https://ecfsapi.fcc.gov/file/10921132140710/Interstate%20TRS%20Advisory%20Council%20PFR%209.21.2017%20filed.pdf.* The Commission will not send a Congressional Review Act (CRA) submission to Congress or the Government Accountability Office pursuant to the CRA, 5.U.S.C. 801(a)(1)(A), because no rules are being adopted by the Commission.

Subject: Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program, FCC 17–86, published at 82 FR 39673, August 22, 2017 in CG Docket Nos. 03–123 and 10–51. This document is being published pursuant to 47 CFR 1.429(e). *See also* 47 CFR 1.4(b)(1) and 1.429(f), (g).

Number of Petitions Filed: 1.

Federal Communications Commission.

Karen Peltz Strauss,

Deputy Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 2017–23146 Filed 10–24–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 170823804–7932–01]

RIN 0648–BH17

Atlantic Highly Migratory Species; Individual Bluefin Quota Program; Accountability for Bluefin Tuna Catch

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

ACTION: Proposed rule; request for comments and notice of public hearing.

SUMMARY: NMFS proposes to modify the Atlantic highly migratory species (HMS) regulations to require vessels in the pelagic longline fishery to account for bycatch of bluefin tuna (bluefin) using Individual Bluefin Quota (IBQ) on a quarterly basis instead of before commencing any fishing trip with less than the minimum required IBQ balance or with quota debt. Specifically, vessels would be allowed to fish with an IBQ balance below the minimum amount currently required to depart on a fishing trip with pelagic longline gear, or with quota debt incurred by exceeding their IBQ balance, during a given calendar quarter; however, vessels would be required to reconcile quota debt and satisfy the minimum IBQ requirement prior to departing on a pelagic longline fishing trip in the subsequent calendar quarter. The action will further optimize fishing opportunity in the directed pelagic longline fishery for target species such as tuna and swordfish and improve the functionality of the IBQ Program and its accounting provisions, consistent with the objectives of Amendment 7 to the 2006 Consolidated HMS Fishery Management Plan (FMP).

DATES: Written comments must be received on or before November 24, 2017. NMFS will host an operator-assisted public hearing conference call and webinar on October 31, 2017, from 2:00 to 4:00 p.m. EDT, providing an opportunity for individuals from all geographic areas to participate. See **SUPPLEMENTARY INFORMATION** for further details.

ADDRESSES: You may submit comments on this document, identified by ''NOAA–NMFS–2017–0119,'' 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-2017-0119,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Thomas Warren, Highly Migratory Species (HMS) Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 55 Great Republic Drive, Gloucester, MA 01930.

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 generally will 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).

The public hearing conference call information is phone number (888) 391–7048; participant passcode 8277768. Participants are strongly encouraged to log/dial in 15 minutes prior to the meeting. NMFS will show a brief presentation via webinar followed by public comment. To join the webinar, go to: *https://noaaevents3.webex.com/noaaevents3/onstage/g.php?MTID=e54f7226a1f5760de0610e7545c3e472e;* meeting number: 990 093 099; password: NOAA. Participants who have not used WebEx before will be prompted to download and run a plug-in program that will enable them to view the webinar.

Supporting documents, including the Regulatory Impact Review and Initial Regulatory Flexibility Analysis, may be downloaded from the HMS Web site at *www.nmfs.noaa.gov/sfa/hms/.* These documents also are available by contacting Thomas Warren at the mailing address specified above.

FOR FURTHER INFORMATION CONTACT: Thomas Warren, 978–281–9260; or Carrie Soltanoff, 301–427–8503.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014), and in accordance with implementing regulations. The current baseline U.S. BFT quota and subquotas were established and analyzed in the BFT quota final rule (80 FR 52198, August 28, 2015). NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

Background

Bluefin fishing is managed domestically through a quota system (on a calendar-year basis), in conjunction with other management measures including permitting, reporting, gear restrictions, minimum fish sizes, closed areas, trip limits, and catch shares. NMFS implements the ICCAT U.S. quota recommendation, and divides the quota among U.S. fishing categories (*i.e.,* the General, Angling, Harpoon, Purse Seine, Longline, and Trap categories) and the Reserve category on an annual basis. Vessels fishing with pelagic longline gear, which catch bluefin incidentally while fishing for target species (primarily swordfish and yellowfin tuna), hold limited access Atlantic Tunas Longline permits and utilize Longline category quota. Through Amendment 7, NMFS established the IBQ Program, a catch share program that identified 136 permit holders as IBQ share recipients based on specified criteria, including historical target species landings and the bluefin catch-to-target species ratios from 2006 through 2012. The objectives of the IBQ Program include limiting the amount of BFT landings and dead discards in the pelagic longline fishery; providing strong incentives for the vessel owner and operator to avoid bluefin interactions and thus reduce bluefin dead discards; and balancing the objective of limiting bluefin landings and dead discards with the objective of optimizing fishing opportunities and maintaining profitability.

IBQ share recipients receive an annual allocation of the Longline category quota based on the percentage share they received through Amendment 7 but only if their permit is associated with a vessel in the subject year (*i.e.,* only ''qualified IBQ share recipients'' receive annual allocations). Permit holders that did not receive IBQ shares through Amendment 7 may still fish, but they are required to lease IBQ. Leasing occurs through the IBQ electronic system. Through rulemaking, NMFS modified the regulations to optimize quota transferred inseason by authorizing distribution of quota only to permitted Atlantic Tunas Longline vessels with recent fishing activity (81 FR 95903; December 29, 2016). Every vessel must have a minimum amount of quota allocation to fish (described below), whether obtained through their shares or by leasing, and every vessel must individually account for its bluefin landings and dead discards through the IBQ electronic system.

Delayed effective dates for some of the regulations implemented through Amendment 7 assisted in the transition to measures adopted in Amendment 7, which substantially increased individual vessel accountability for bluefin bycatch (landings and dead discards) in the Longline fishery. During 2015, the first year of implementation of the IBQ Program, a pelagic longline vessel that had insufficient IBQ to account for its landings and dead discards (*i.e.,* went into ''quota debt'') was allowed to continue to fish, however any additional landings and dead discards continued to accrue, and the cumulative quota debt needed to be accounted for no later than December 31, 2015. A vessel that did not resolve its quota debt by December 31, would retain the quota debt into 2016, and its quota debt would be deducted from its annual IBQ allocation (allocated January 1 to shareholders associated with permitted vessels). In contrast, as of January 1, 2016, a vessel fishing with pelagic longline gear onboard must have a minimum IBQ allocation to embark on a trip. A minimum allocation required to fish is 0.25 mt (551 lb) whole weight (ww) for a trip in the Gulf of Mexico and

0.125 mt ww (276 lb ww) for a trip in the Atlantic. Pelagic longline vessels may lease IBQ allocation from other such vessels or from Purse Seine fishery participants in the IBQ Program to obtain sufficient allocation for their trips or to account for quota debt.

The IBQ Program has been operating since its implementation (both in 2015 under annual accountability and in 2016 and 2017 under trip-level accountability). Pelagic longline vessel owners have been accounting for bluefin catch using the IBQ Program and leasing quota among themselves (and from Purse Seine fishery participants) as needed in order to fully account for bluefin catch using IBQ. Notably, estimates of 2015 and 2016 dead discards of bluefin (17.1 mt and 22.6 mt, respectively) by the pelagic longline fishery indicate substantial reductions of greater than 50 percent compared to the pre-2015 levels (159.6 mt on average for 2006 through 2014). However, since implementation, pelagic longline fishery participants have consistently requested additional flexibility due to the constraints and costs associated with the accounting and leasing requirements of the IBQ Program, which affects profitability of target species catch (primarily swordfish and yellowfin tuna) and causes uncertainty in a vessel owner's short-term and long-term plans. Vessel owners stated that their ability to account for bluefin using allocated IBQ or IBQ leased at an affordable price is key to the success of the IBQ Program. A vessel that has below the minimum amount of IBQ to fish or is in quota debt is uncertain about their ability to depart on a subsequent fishing trip. Specifically, vessels have been concerned that the IBQ Program, including the trip-level accountability requirements, could negatively impact vessel operations and finances given the timing restrictions, lease pricing of IBQ, the distribution of quota among permit holders as implemented by Amendment 7, and the behavior of some permit holders who, for example, do not appear to be actively fishing nor engaged in any leasing activities. They also say that the expense of leasing IBQ allocation when needed can impact other operational costs such as crew pay. If availability of IBQ is limited, or costs are prohibitive, the operational impacts increase. IBQ Program data generally reflect that, for leasing transactions that occurred, sales revenue received per pound approximated the cost per pound of leasing IBQ. However, IBQ Program participants (which include any permit holder or vessel that leases quota to facilitate pelagic longline operations) and potential lessees have communicated that there were instances where the cost at which lessors were willing to lease their IBQ was prohibitive and leasing did not occur and this information would not be reflected in NMFS data. Furthermore, expanded opportunities to fish with pelagic longline gear within the available swordfish quota are contingent on access to additional quota to account for bluefin bycatch and discards. Longline fishery participants requested that NMFS take further steps to provide more flexibility regarding timing for vessel owners to lease IBQ needed to cover bluefin catch.

Therefore, pelagic longline fishery participants consistently requested additional flexibility in the regulations due to the dynamics and costs associated with leasing IBQ described above, which can affect profitability of target species catch, increase uncertainty, and negatively affect the ability to plan their business. Such effects may be compounded by the impacts of other constraints associated with Amendment 7, including additional gear restricted areas and VMS and electronic monitoring requirements, as well as non-Amendment 7 related constraints (*e.g.,* market demands etc.).

In light of these challenges facing the fishery, as well as the Amendment 7 objectives which include ''minimizing constraints on fishing for target species,'' as well as ''optimizing fishing opportunities and maintaining profitability,'' NMFS has utilized its authority to transfer quota inseason to the Longline category (80 FR 45098; July 29, 2015; 81 FR 19; January 4, 2106; 82 FR 12296; March 2, 2017) to foster conditions in which vessel owners become more willing to lease IBQ, optimize fishing opportunity, and reduce uncertainty in the fishery.

During its May 2017 Advisory Panel Meeting, pelagic longline vessel owners acknowledged the effectiveness of NMFS' actions in support of the IBQ Program objectives, but reiterated the need for additional flexibility and offered suggestions for high priority regulatory changes to achieve such flexibility.

NMFS received requests, among other suggestions about the IBQ Program and management of the pelagic longline fishery, to allow more time for vessel owners to resolve quota debt and achieve a minimum balance of IBQ, rather than require vessels to have a minimum balance of IBQ as a prerequisite of every longline trip. In light of past fishery dynamics under the IBQ Program and public input regarding the need for additional flexibility, this rule proposes to modify the accountability provisions of the IBQ Program as a reasonable means to provide some additional flexibility for individual vessel owners, while achieving a balance among the IBQ Program objectives.

The pelagic longline fishery is a diverse fishing fleet, with a variety of vessel sizes and types of operations distributed from the waters off Nova Scotia to the Gulf of Mexico, Caribbean, and South America. Timing of fishing trips are typically based on the availability of target species, weather, moon phase, markets, crew and bait availability, and other factors. Quarterly accountability may achieve a better balance between minimizing constraints on fishing for target species and ensuring accountability for incidental bluefin catch, due to the fact that it allows a vessel owner to determine the timing of lease transactions or level of quota debt they are comfortable maintaining over a longer period. Alleviation of the timing constraint associated with trip-level accountability would provide additional flexibility. A vessel owner may need flexibility to pay costs associated with fishing (fuel, bait, ice, labor, repairs, etc.), including the cost of leasing IBQ, on a timeline unique to their operation and finances. The opportunity to fish with a low IBQ balance or with quota debt may enable a vessel owner to continue to obtain revenue during the time period when they are looking for quota to lease and accommodate different types of fishing operations and financial obligations. Quarterly accountability would require vessel owners to resolve quota debt and obtain the minimum amount of IBQ prior to fishing for the first time in a subsequent calendar quarter.

Request for Comments

NMFS solicits comments on this proposed rule through November 24, 2017. See instructions in **ADDRESSES** section.

Public Hearing Conference Call

NMFS will hold a public hearing conference call and webinar on October 31, 2017, from 2 p.m. to 4 p.m. EDT, to allow for an additional opportunity for interested members of the public from all geographic areas to submit verbal comments on the proposed rule.

The public is reminded that NMFS expects participants at public hearings and on conference calls to conduct themselves appropriately. At the beginning of the conference call, a representative of NMFS will explain the ground rules (all comments are to be directed to the agency on the proposed

action; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). The NMFS representative will attempt to structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject matter. If attendees do not respect the ground rules, they will be asked to leave the conference call.

Classification

The NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated HMS FMP and its amendments, the Magnuson-Stevens Act, ATCA, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

This action has been preliminarily determined to be categorically excluded from the requirement to prepare an environmental assessment in accordance with NOAA Administrative Order (NAO) 216–6A, subject to further consideration after public comment. This action may appropriately be categorically excluded from the requirement to prepare either an environmental assessment or environmental impact statement in accordance with CE A1 of the Companion Manual for NAO 216–6A for an action that is a technical correction or a change to a fishery management action or regulation, which does not result in a substantial change in any of the following: Fishing location, timing, effort, authorized gear types, access to fishery resources or harvest levels. By somewhat altering the timing of the accounting for bluefin tuna by individual pelagic longline vessels, the changes in the proposed action could also be expected to alter some fishing timing, and this is the intent of the additional flexibility offered by the changes proposed in the action. We expect this to result in some minor alterations in fishing trip timing by individual vessel owners. Timing would not, however, be altered in a way that would constitute a substantial change. In practice, this action would give some individual vessels flexibility to alter the timing of some of their fishing trips within a three-month period. Given the size of the fleet and the number of fishing trips taken, such minor variations in individual fishing trips would not result in substantial changes to fishing timing overall. Moreover, the level of fishing remains capped by the U.S. bluefin tuna quota; the timing of the fishing is substantively managed by the various subquota categories, inseason actions (*e.g.,* regarding retention limits) and seasons. Any minor modifications in individual vessel practice will not increase or decrease the quota nor the fishing mortality associated with that quota or have any other environmental effects. The annual U.S. bluefin tuna quota and subquota allocations to the Longline category would not be affected by this action. A final determination will be made prior to publication of the final rule for this action.

NMFS has prepared a Regulatory Impact Review (RIR) and an Initial Regulatory Flexibility Analysis (IRFA), which present and analyze anticipated social and economic impacts of the alternatives contained in this proposed rule. The list of alternatives and their analyses are provided in the draft RIR and are not repeated here in their entirety. A copy of the draft RIR prepared for this proposed rule is available from NMFS (see **ADDRESSES**).

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA, 5 U.S.C. 603 *et seq.*), and is included below. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUMMARY** section of the preamble.

The goal of the RFA is to analyze the economic burden of federal regulations on small entities. To that end, the RFA directs federal agencies to assess whether the proposed regulation is likely to result in significant economic impacts to a substantial number of small entities, and identify and analyze any significant alternatives to the proposed rule that accomplish the objectives of applicable statutes and minimizes any significant effects on small entities.

Description of the Reasons Why Action Is Being Considered

In compliance with section 603(b)(1) of the RFA, the purpose of this proposed rulemaking is, consistent with the 2006 Consolidated HMS FMP objectives, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and other applicable law, to require vessels in the pelagic longline fishery to account for bycatch of bluefin tuna using IBQ on a quarterly basis instead of before commencing any fishing trip while in quota debt or with less than the minimum required IBQ balance.

Current regulations require permitted Atlantic Tunas Longline vessels to possess a minimum amount of IBQ to depart on a fishing trip with pelagic longline gear and account for bluefin tuna catch (fish retained or discarded dead) using IBQ (0.25 mt for a trip in the Gulf of Mexico and 0.125 mt for a trip in the Atlantic). At the end of a trip on which bluefin tuna are caught, a vessel's IBQ balance is reduced by the amount caught. If the trip catch exceeds the vessel's available quota, the vessel will incur quota debt (*i.e.,* exceeding its available IBQ balance). In this case, the regulations currently require the vessel to obtain additional IBQ through leasing to resolve that quota debt and to acquire the minimum IBQ amount before departing on a subsequent trip using pelagic longline gear. Thus, a pelagic longline vessel owner who takes consecutive trips must account for bluefin tuna catch in almost real time, effectively creating a system of ''trip-level accountability'' for those vessels.

This action would modify these rules to require vessels to resolve quota debt on a quarterly basis (*i.e.,* they must balance the debt and obtain the minimum amount required to depart on a fishing trip before going on a trip in the next quarter). Vessels would be allowed to fish with a low IBQ balance or with quota debt during a calendar quarter. Vessels would still be required to report bluefin tuna catch at the end of each trip (and account for it with IBQ), but this regulatory change would provide the flexibility to fish even if the vessel has less than the minimum amount of IBQ, including quota debt, until the first fishing trip in each calendar quarter. For example, under the new measure, if a vessel has a low balance or quota debt in January 2018, the vessel would be allowed to fish without first resolving that low balance or quota debt through March 31, 2018. In order to depart on a pelagic longline fishing trip in the following quarter, starting April 1, 2018, that vessel would need to lease additional IBQ resolve the quota debt and acquire the minimum amount of IBQ required to fish.

The rule would provide flexibility for two important operational business decisions made by vessel owners: decisions regarding quota balance and quota debt (subject to full accounting quarterly) and decisions regarding the timing and price at which they lease additional quota. Importantly, this regulatory change would maintain vessel accountability for bluefin tuna catch and the associated incentives for vessel operators to minimize catch of bluefin tuna. By changing the timing of the accountability, however, the

proposed rule would provide some additional flexibility in vessel operations and thus provide vessel owners more of a reasonable opportunity to catch available quota for target species (*i.e.,* swordfish and yellowfin tuna).

Statement of the Objectives of, and Legal Basis for, the Proposed Rule

In compliance with section 603(b)(2) of the RFA, the objective of this proposed rulemaking is to provide additional flexibility regarding the timing of accounting for bluefin tuna in the IBQ Program in a manner that maintains accountability for bluefin tuna and a strong incentive for pelagic longline vessels to avoid interactions with bluefin tuna, while minimizing constraints on fishing for target species and, to the greatest extent possible, the socioeconomic impacts on affected fisheries.

The legal basis for this proposed rule stems from the dual authority of the Magnuson-Stevens Act and the Atlantic Tunas Convention Act (ATCA). Under the Magnuson-Stevens Act, NMFS must, consistent with ten National Standards, manage fisheries to maintain optimum yield (OY) by rebuilding overfished fisheries and preventing overfishing. Under ATCA, NMFS is authorized to promulgate regulations as may be necessary and appropriate to carry out binding recommendations of ICCAT. Additionally, any management measures must be consistent with other domestic laws including the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), and the Coastal Zone Management Act (CZMA).

Description and Estimate of the Number of Small Entities To Which the Proposed Rule Would Apply

Section 603(b)(3) of the RFA requires agencies to provide an estimate of the number of small entities to which the rule would apply. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the United States, including fish harvesters. Provision is made under SBA's regulations for an agency to develop its own industry-specific size standards after consultation with the SBA Office of Advocacy and an opportunity for public comment (see 13 CFR 121.903(c)). Under this provision, NMFS may establish size standards that differ from those established by the SBA Office of Size Standards, but only for use by NMFS and only for the purpose of conducting an analysis of economic effects in fulfillment of the agency's obligations under the RFA. To utilize this provision, NMFS must publish such size standards in the **Federal Register** (FR), which NMFS did on December 29, 2015 (80 FR 81194, December 29, 2015).

In this final rule effective on July 1, 2016, NMFS established a small business size standard of $11 million in annual gross receipts for all businesses in the commercial fishing industry (NAICS 11411) for RFA compliance purposes. NMFS considers all HMS Atlantic Tunas Longline permit holders (280 as of October 2016) to be small entities because these vessels have reported annual gross receipts of less than $11 million for commercial fishing. The average annual gross revenue per active pelagic longline vessel was estimated to be $187,000 based on the 170 active vessels between 2006 and 2012 that produced an estimated $31.8 million in revenue annually. The maximum annual revenue for any pelagic longline vessel between 2006 and 2015 was $1.9 million, well below the NMFS small business size threshold of $11 million in gross receipts for commercial fishing. Therefore, NMFS considers all Atlantic Tunas Longline permit holders to be small entities.

NMFS has determined that this proposed rule would apply to the small businesses associated with the 136 Atlantic Tunas Longline permits with IBQ shares and the additional permitted Atlantic Tunas Longline vessels that fish with quota leased through the IBQ Program. NMFS has determined that this action would not likely directly affect any small organizations or small government jurisdictions defined under the RFA.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes of Small Entities Which Would Be Subject to the Requirements of the Report or Record

Section 603(b)(4) of the RFA requires agencies to describe any new reporting, record-keeping and other compliance requirements. This proposed rule does not contain any new collection of information, reporting, or record-keeping requirements but only modifies existing requirements.

Identification of All Relevant Federal Rules Which May Duplicate, Overlap, or Conflict With the Proposed Rule

Under section 603(b)(5) of the RFA, agencies must identify, to the extent practicable, relevant Federal rules which duplicate, overlap, or conflict with the proposed action. Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements, domestic laws, and other FMPs. These include, but are not limited to, the Magnuson-Stevens Act, ATCA, High Seas Fishing Compliance Act, MMPA, ESA, NEPA, Paperwork Reduction Act, and CZMA. This proposed action has been determined not to duplicate, overlap, or conflict with any of these statutes or Federal rules.

Description of Any Significant Alternatives to the Proposed Rule That Accomplish the Stated Objectives of the Applicable Statutes and That Minimize Any Significant Economic Impact of the Proposed Rule on Small Entities

One of the requirements of an IRFA is to describe any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. The analysis shall discuss significant alternatives such as:

1. Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
2. Clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
3. Use of performance rather than design standards; and
4. Exemptions from coverage of the rule, or any part thereof, for small entities.

These categories of alternatives are described at 5 U.S.C. 603(c)(1)–(4)). NMFS examined each of these categories of alternatives. Regarding the first and fourth categories, NMFS cannot establish differing compliance or reporting requirements for small entities or exempt small entities from coverage of the rule or parts of it because all of the businesses impacted by this rule are considered small entities and thus the requirements are already designed for small entities. NMFS examined alternatives that fall under the second category, which requires agencies to consider whether they can clarify, consolidate, or simplify compliance and reporting requirements under the proposed rule for small entities. The quarterly and annual accountability alternatives in the proposed rule would reduce the burden of complying with the existing trip level accountability requirement and thus would fall into this category of alternatives by simplifying compliance and reporting requirements for small entities. The IBQ Program was designed to adhere to performance standards, the third

category above; modifications to the regulations implementing the IBQ Program simply make adjustments to the administration of those underlying performance standards. Thus, NMFS has considered the significant alternatives to the proposed rule and focused on simplifying compliance and reporting requirements associated with IBQ accountability in order to minimize any significant economic impact of the proposed rule on small entities.

NMFS analyzed several different alternatives in this proposed rulemaking, and the rationale that NMFS used to determine the alternative for achieving the desired objectives is described below.

The first alternative is the ''no action'' (status quo) alternative. The second alternative, the preferred alternative, would adjust the Atlantic HMS regulations to require the pelagic longline fishery to account for bycatch of bluefin tuna using IBQ on a quarterly basis instead of before embarking on a trip after incurring quota debt. The third alternative would adjust the Atlantic HMS regulations to require the pelagic longline fishery to account for bycatch of bluefin tuna using IBQ on an annual basis instead of before embarking on a trip after incurring quota debt. The economic impacts of these three alternatives are detailed below. Under all three alternatives, a vessel's IBQ balance would be reduced to account for bluefin tuna discarded dead or retained immediately after the catch is reported in the IBQ system. The difference among the alternatives is the timing of when quota debt or a low balance of IBQ precludes fishing and must be resolved prior to departing on a subsequent trip using pelagic longline gear (trip level, quarterly, or annually).

Under the ''no action'' alternative, NMFS would maintain the current regulations regarding accounting for bluefin tuna catch and prerequisites for departing on a fishing trip with pelagic longline gear on board. Current regulations require permitted Atlantic Tunas Longline vessel owners (or vessel operators, where applicable) to possess a minimum amount of IBQ to depart on a fishing trip with pelagic longline gear and account for bluefin tuna caught (retained or discarded dead) using IBQ at the end of the trip. Therefore, at the end of a trip on which bluefin tuna are caught, a vessel owner's balance of IBQ would be reduced, possibly below the minimum amount needed for a subsequent trip, or the vessel owner may incur quota debt by exceeding their IBQ balance. In either of these cases, the vessel owner must obtain additional IBQ through leasing in order to satisfy the minimum requirement (and resolve any quota debt they may have) prior to departing on another trip using pelagic longline gear. The net effect of these rules is that a pelagic longline vessel owner that takes multiple sequential trips must account for bluefin tuna in real-time, which NMFS refers to as ''trip-level accountability.''

This approach was implemented by Amendment 7, but effectiveness was delayed until January 1, 2016, in contrast to most of the other Amendment 7 measures that were effective on January 1, 2015. During 2016, there were 1,025 pelagic longline trips by 85 vessels, which deployed 6,885 sets and 5,217,547 hooks. During 2016, there were 81 IBQ lease transactions with a total of 141,183 lb IBQ leased and an average price of $ 2.52 per pound (weighted average). There were a total of 17 vessels that incurred quota debt at some time during the year, with a total amount of 40,237 lb of debt incurred and resolved. Mean revenue per trip during 2016 based on logbook, dealer, and weigh out data was $ 24,707.

During 2016, pelagic longline vessel owners successfully accounted for bluefin tuna catch using the IBQ Program and leasing quota among themselves (and from Purse Seine fishery participants) as needed in order to fully account for bluefin tuna catch using IBQ. However, since implementation, pelagic longline fishery participants have consistently requested some additional flexibility due to the costs associated with leasing IBQ, which can affect profitability of target species catch, as well as the concern that vessel owners appear to be unwilling to lease IBQ at certain times, uncertainties regarding the availability of IBQ to lease, and the impacts of other constraints associated with Amendment 7, including additional gear restricted areas and VMS and electronic monitoring requirements. The ability of vessel owners to account for bluefin tuna using allocated quota or IBQ leased at an affordable price is key to the success of the IBQ Program. A trend that may in part reflect the uncertainties and constraints associated with trip-level accountability is the lower amount of fishing effort in 2016 compared to 2015 (despite the active IBQ leasing market in 2016). For example, the number of trips, active vessels, longline sets and hooks fished were all lower in 2016 than they were in 2015. The No Action alternative would not, however, provide the timing flexibility benefits that could facilitate better operational and economic decisions and options for individual vessel owners who need to lease IBQ, and NMFS therefore does not prefer the no action alternative.

Under the second alternative (preferred), NMFS would adjust the Atlantic HMS regulations to require the pelagic longline fishery to account for bycatch of bluefin tuna using IBQ on a quarterly basis instead of before commencing any fishing trip while in quota debt or with less than the minimum required IBQ balance. The preferred alternative would provide flexibility for two important operational business decisions made by vessel owners. First, decisions regarding quota balance and quota debt (subject to full accounting quarterly); and second, decisions regarding the timing and price at which they lease additional quota. It is likely that the vessels would take advantage of increased operational flexibility as a result of removal of the constraints associated with the trip-level accountability. Specifically, operational flexibility associated with the preferred alternative may enable vessels to fish at more optimal times and avoid delay in the timing of a trip due to a low IBQ balance and issues related to availability of quota to lease; lease IBQ at a lower price by providing the flexibility for a vessel owner to 'shop around'; reduce uncertainty in the IBQ market such that vessels are willing to plan and undertake fishing trips they previously may not have; and improve their cash flow by allowing fishing while in quota debt (*i.e.,* accrual of revenue with which to lease additional IBQ). In 2016, each additional trip earned vessels on average $24,707 in revenue.

NMFS used the available data on the IBQ lease markets to estimate the potential reduction in transaction costs (mainly labor costs) associated with moving from trip-level accountability to quarterly accountability. There were 33 vessels that leased quota in 2016 and they were involved in 81 transactions. On average, that is almost 2.5 transactions per vessel that entered the IBQ lease market. Under the quarterly accountability requirement of Alternative 2, these vessels might be able to reduce their number of lease transactions to one lease per quarter, which would reduce business costs and have economic and operational benefits. Based on data from 2016 and the first-half of 2017, quarterly accountability could lead to 51 fewer lease transactions if vessel owners reduced their number of lease transaction to one per quarter under this alternative. Each lease transaction costs vessel owners additional labor time to search for available IBQ, contact potential lessors, negotiate prices, and complete the transactions. NMFS estimates that could

involve approximately four hours per transaction. Using the Bureau of Labor Statistics mean hourly wage rate for first-line supervisors of farming, fishing and forestry workers of $23 per hour in 2016 (*https://www.bls.gov/oes/current/oes451011.htm*), NMFS estimates the value of the time involved in these additional 51 leases to be approximately worth $4,692 (51 transactions × 4 hours × $23/hr). Since this amount is based on six quarters, the annual estimated savings in the time associated with these leases is approximately $3,128 per year ($4,692/1.5 years). Given that 33 vessels were involved in leasing in 2016, the per vessel savings per year would be approximately $95 per vessel.

Although it is not possible to precisely quantify the economic impacts of the preferred alternative, the no action alternative with trip-level accountability (*i.e.,* the regulations implemented in 2016) and the third alternative with annual accountability (*i.e.,* the regulations implemented in 2015) may be informative about the likely impacts of the proposed alternatives. The amount of flexibility to account for bluefin tuna catch afforded by the proposed alternative is likely somewhere in between the two other alternatives: Trip-level accountability (no action alternative) and annual accountability (third alternative).

Under the third alternative, there would be no minimum amount of IBQ required to fish and vessels would only be required to account for their catch at the end of the year. The third alternative is the same as the IBQ accounting regulations that were in effect during 2015. During 2015, there were 1,124 pelagic longline trips, by 104 vessels, which deployed 7,769 sets and 5,549,451 hooks. During 2015, there were 49 IBQ lease transactions from 24 distinct vessels with a total of 126,407 lb IBQ leased, and an average price of $3.46 per pound (weighted average). There were a total of 16 vessels that incurred quota debt, with a total amount of 42,746 lb. The mean revenue per trip during 2015 based on dealer data was $17,603 (not including bluefin tuna or dolphin revenue). Although it is possible to glean some insights from data from 2015 as the basis for evaluating potential economic impacts of the third alternative, the fishing behavior of the pelagic longline fleet during 2015, the first year of Amendment 7 regulations, was likely heavily influenced by the newness of the regulations and the relatively high amount of uncertainty in 2015.

There were approximately 2.0 lease transactions per vessel in 2015 versus 2.5 leases per vessel in 2016. Assuming the 33 vessels that leased in 2016 only leased 2 times per year under annual accountability, the number of leases would be reduced from 81 to 66, a reduction of 15 transactions. This reduction in 15 transactions taking approximately 4 hours of an owner's time would be worth $1,380 in labor costs per year (15 × 4 hours × $23/hr). Given the 33 vessels that leased in 2016, the per vessel cost savings would be approximately $42 per vessel per year. Alternatively, if vessel owners could reduce the number of leases to one per year, the number of lease transactions could be reduced down to 33 transactions based on 2016 lease activity. This would result in 48 fewer transactions, and would result in a savings of up to $4,416 per year for the whole fleet or $134 per vessel that leased. However, based on the 2015 IBQ lease data under annual accountability that year, it is unlikely that the number of lease transactions would be reduced by this much. It is likely that there would be more leasing activity associated with this alternative than occurred during 2015, since 2015 was the initial implementation of the IBQ Program and participants were just learning how the IBQ lease market worked and which IBQ Program participants were interested in leasing IBQ, as well as a lower average price per pound for leased IBQ.

There is uncertainty as to the full impact of moving from trip-level accountability to annual accountability. Annual accountability might cause vessel owners to wait until December to try to lease quota. Quota available for lease in December might become scarcer and this holiday period might cause fewer IBQ shareholders to participate in the market. This increased scarcity of IBQ available for lease and the tight end of the year timeframe might result in spikes in the price for IBQ, thus driving up costs and potentially leaving some vessel owners unable to resolve their quota debt at the last minute as the year ends. NMFS prefers to incrementally move to quarterly accountability under Alternative 2 to avoid some of the risks associated with Alternative 3.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: October 19, 2017.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

■ 2. In § 635.15, revise paragraphs (b)(3), (b)(4)(i) and (ii), (b)(5)(i) and (ii), and (b)(8)(i), to read as follows:

§ 635.15 Individual bluefin tuna quotas.

* * * * *

(b) * * *

(3) *Minimum IBQ allocation.* For purposes of this paragraph (b), calendar year quarters start on January 1, April 1, July 1, and October 1.

(i) First fishing trip in a calendar year quarter. Before departing on the first fishing trip in a calendar year quarter, a vessel with an eligible Atlantic Tunas Longline category permit that fishes with or has pelagic longline gear onboard must have the minimum IBQ allocation for either the Gulf of Mexico or Atlantic, depending on fishing location. The minimum IBQ allocation for a vessel fishing in the Gulf of Mexico, or departing for a fishing trip in the Gulf of Mexico, is 0.25 mt ww (551 lb ww). The minimum IBQ allocation for a vessel fishing in the Atlantic or departing for a fishing trip in the Atlantic is 0.125 mt ww (276 lb ww). A vessel owner or operator may not declare into or depart on the first fishing trip in a calendar year quarter with pelagic longline gear onboard unless it has the relevant required minimum IBQ allocation for the region in which the fishing activity will occur.

(ii) Subsequent fishing trips in a calendar year quarter. Subsequent to the first fishing trip in a calendar year quarter, a vessel owner or operator may declare into or depart on other fishing trips with pelagic longline gear onboard with less than the minimum IBQ allocation, but only within that same calendar year quarter.

(4) *Accounting for bluefin tuna caught.* (i) With the exception of vessels fishing in the NED, in compliance with the requirements of paragraph (b)(8) of this section, all bluefin tuna catch (dead discards and landings) must be deducted from the vessel's IBQ allocation at the end of each pelagic longline trip.

(ii) If the amount of bluefin tuna catch on a particular trip exceeds the amount of the vessel's IBQ allocation or results in an IBQ balance less than the minimum amount described in paragraph (b)(3) of this section, the vessel may continue to fish, complete the trip, and depart on subsequent trips within the same calendar year quarter. The vessel must resolve any quota debt (see paragraph (b)(5) of this section) before declaring into or departing on a fishing trip with pelagic longline gear onboard in a subsequent calendar year quarter by acquiring adequate IBQ allocation to resolve the debt and acquire the needed minimum allocation through leasing, as described in paragraph (c) of this section.

* * * * *

(5) * * *

(i) *Quarter level quota debt.* A vessel with quota debt incurred in a given calendar year quarter cannot depart on a trip with pelagic longline gear onboard in a subsequent calendar year quarter until the vessel leases and applies allocation for the appropriate region (see paragraph (c) of this section) to settle the quota debt such that the vessel has the minimum quota allocation required to fish (see paragraph (b)(3) of this section) as a result of additional allocation (see paragraph (f) of this section). For example, a vessel with quota debt incurred during January through March may not depart on a trip with pelagic longline gear onboard during April through June (or subsequent quarters) until the quota debt has been resolved such that the vessel has the minimum quota allocation required to fish.

(ii) *Annual level quota debt.* If, by the end of the fishing year, a permit holder does not have adequate allocation to settle its vessel's quota debt through leasing or additional allocation (see paragraphs (c) and (f) of this section), the vessel's allocation will be reduced in the amount equal to the quota debt in the subsequent year or years until the quota debt is fully accounted for. A vessel may not depart on any pelagic longline trips if it has outstanding quota debt from a previous fishing year.

* * * * *

(8) * * *

(i) *When NED bluefin quota is available.* Permitted vessels fishing with pelagic longline gear may fish in the NED, and any bluefin catch will count toward the ICCAT-allocated separate NED quota until the NED quota has been filled. Permitted vessels fishing in the NED must still fish in accordance with the minimum IBQ allocation requirements, specified under paragraph (b)(3) of this section to depart on a trip using pelagic longline gear.

* * * * *

■ 3. In § 635.71, revise paragraphs (b)(48) and (b)(56) to read as follows:

§ 635.71 Prohibitions.

* * * * *

(b) * * *

(48) Depart on a fishing trip or deploy or fish with any fishing gear from a vessel with a pelagic longline on board without accounting for bluefin caught as specified in § 635.15(b)(4).

* * * * *

(56) Fish with or have pelagic longline gear on board if any quota debt associated with the permit from a preceding calendar year quarter has not been settled as specified at § 635.15(b)(5)(i).

* * * * *

[FR Doc. 2017–23131 Filed 10–24–17; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 82, No. 205

Wednesday, October 25, 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

Agricultural Marketing Service

[Doc. No. AMS–NOP–17–0043; NOP–17–07]

National Organic Program: Notice of Interim Instruction, Maintaining the Integrity of Organic Imports

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of availability of interim instruction with request for comments.

SUMMARY: The Agricultural Marketing Service (AMS) is announcing the availability of an interim instruction document intended for use by USDA-accredited organic certifying agents (certifiers). The interim instruction is entitled as follows: Maintaining the Integrity of Organic Imports (NOP 4013). This interim instruction explains the USDA organic regulations' current requirements for certifiers engaged in the oversight of organic products imported into the United States. It also recommends best practices that certifiers may use in order to comply with the existing regulations. AMS invites organic handlers, certifying agents, importers, consumers, and other interested parties to submit comments on the interim instruction. Specifically, comments should address the parts of the instruction that recommend best practices that certifiers may use to ensure compliance with the USDA organic regulations. This document is not intended to request comments on the existing USDA organic regulations found at 7 CFR part 205.

DATES: Comments must be submitted on or before December 26, 2017.

ADDRESSES: Submit written requests for hard copies of this interim instruction to Paul I. Lewis, Ph.D., Standards Division Director, National Organic Program (NOP), USDA–AMS–NOP, 1400 Independence Ave. SW., Room 2646—So., Ag Stop 0268, Washington, DC 20250–0268. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

You may submit comments on this interim instruction by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Paul I. Lewis, Ph.D., Standards Division Director, National Organic Program, USDA–AMS–NOP, 1400 Independence Ave. SW., Room 2646—So., Ag Stop 0268, Washington, DC 20250–0268.

Instructions: Written comments responding to this request should be identified with the document number AMS–NOP–17–0043; NOP–17–07. You should clearly indicate your position and the reasons supporting your position. If you are suggesting changes to the draft instruction document, you should include recommended language changes, as appropriate, along with any relevant supporting documentation. AMS is specifically requesting that stakeholders comment and quantify any impacts that the instruction will have on certified operations.

USDA intends to make available all comments, including names and addresses when provided, regardless of submission procedure used, on *www.regulations.gov* and at USDA, AMS, NOP, Room 2646—South Building, 1400 Independence Ave. SW., Washington, DC, from 9 a.m. to noon and from 1 to 4 p.m., Monday through Friday (except official Federal holidays). Persons wanting to visit the USDA South building to view comments from the public to this notice are requested to make an appointment by calling (202) 720–3252.

FOR FURTHER INFORMATION CONTACT: Paul I. Lewis, Ph.D., Standards Division Director, National Organic Program (NOP), USDA–AMS–NOP, 1400 Independence Ave. SW., Room 2646—So., Ag Stop 0268, Washington, DC 20250–0268; Telephone: (202) 720–3252; Fax: (202) 260–9151; Email: *NOP.Guidance@ams.usda.gov;* or visit the NOP Web site at: *www.ams.usda.gov/nop*.

SUPPLEMENTARY INFORMATION:

I. Background

The interim instruction announced via this notice explains the current regulatory requirements for organic certification and documentation needed to import organic products into the United States, and certifiers' responsibilities in reviewing or issuing import related documents. The instruction also recommends best practices that certifiers may use in order to comply with existing regulatory requirements.

The USDA AMS National Organic Program (NOP) facilitates international trade of organic products by authorizing certifiers around the world to certify farms and businesses to the USDA organic regulations and by establishing trade arrangements with foreign countries. Foreign operations are subject to the same requirements as domestic operations, and organic products verified to be in compliance with these regulations or arrangements can be imported for sale into the United States.

The interim instruction is available from AMS on its Web site at *http://www.ams.usda.gov/rules-regulations/organic*. When finalized, the final instruction will be available in ''The Program Handbook: Guidance and Instructions for Accredited Certifying Agents (ACAs) and Certified Operations''. This Handbook provides those who own, manage, or certify organic operations with guidance and instructions that can assist them in complying with the USDA organic regulations. The current edition of the Program Handbook is available online at *http://www.ams.usda.gov/rules-regulations/organic/handbook*.

II. Significance of Guidance

This interim instruction is being issued in accordance with the Office of Management and Budget Bulletin on Agency Good Guidance Practices (GGPs) (January 25, 2007, 72 FR 3432–3440).

The purpose of GGPs is to ensure that program guidance documents are developed with adequate public participation, are readily available to the public, and are not applied as binding requirements. The interim instruction represents AMS' efforts to clarify and strengthen compliance with existing regulations on these topics. It does not create or confer any rights for, or on, any person and does not operate to create additional regulatory requirements that legally bind AMS or the public. Guidance documents are intended to provide a uniform method for achieving compliance with the USDA organic regulations, thereby reducing the

burden on certified organic operations to develop their own methods and simplifying audits and inspections. Alternative approaches that can demonstrate compliance with the Organic Foods Production Act, as amended (7 U.S.C. 6501–6522), and its implementing regulations are also acceptable.

III. Electronic Access

Persons with access to Internet may obtain the interim instruction at either AMS' Web site at *http://www.ams.usda.gov/nop* or *http://www.regulations.gov*. Requests for hard copies of the interim instruction can be obtained by submitting a written request to the person listed in the **ADDRESSES** section of this Notice.

Authority: 7 U.S.C. 6501–6522.

Dated: October 19, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–23093 Filed 10–24–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Meeting of the National Advisory Committee for Implementation of the National Forest System Land Management Planning Rule

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The National Advisory Committee for Implementation of the National Forest System Land Management Planning Rule Committee (Committee) will meet in El Dorado Hills, California. Attendees may also listen via webinar and conference call. The Committee operates in compliance with the Federal Advisory Committee Act (FACA). Additional information relating to the Committee, including the meeting summary/minutes, can be found by visiting the Committee's Web site at: *http://www.fs.usda.gov/main/planningrule/committee.*

DATES: The meetings will be held in-person and streamed via webinar/conference call on the following dates and times:

- Tuesday, November 7, 2017, from 8:30 a.m. to 5:00 p.m. PST
- Wednesday, November 8, 2017, from 8:30 a.m. to 5:00 p.m. PST
- Thursday, November 9, 2017, from 8:30 a.m. to 1:00 p.m. PST

All meetings are subject to cancellation. For updated status of meetings prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Holiday Inn Express & Suites, 4360 Town Center Boulevard, El Dorado Hills, California 95762. For anyone who would like to attend via webinar and/or conference call, please visit the Web site listed above or contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses, when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the USDA Forest Service Washington Office—Yates Building, 201 14th Street SW., Mail Stop 1104, Washington, DC 20250–1104. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Crystal Merica, Committee Coordinator, by phone at 202–205–3562, or by email at *ckmerica@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to provide:

1. Continued deliberations on formulating advice for the Secretary,
2. Discussion of Committee work group findings,
3. Hearing public comments, and
4. Administrative tasks.

This meeting is open to the public. The agenda will include time for people to make oral comments of three minutes or less. Individuals wishing to make an oral comment should submit a request in writing by November 3, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee's staff before or after the meeting. Written comments and time requests for oral comments must be sent to Crystal Merica, USDA Forest Service, Ecosystem Management Coordination, 201 14th Street SW., Mail Stop 1104, Washington, DC 20250–1104, or by email at *ckmerica@fs.fed.us.* The agenda and summary of the meeting will be posted on the Committee's Web site within 21 days of the meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: October 16, 2017.

Christopher French,

Associate Deputy Chief, National Forest System.

[FR Doc. 2017–23130 Filed 10–24–17; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Indiana Advisory Committee To Prepare for Its Public Meeting on Voting Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Indiana Advisory Committee (Committee) will hold a meeting on Wednesday November 1, 2017, at 3:00 p.m. EST for the purpose of approving a project proposal and preparing for its public meeting on voting rights issues in the state.

DATES: The meeting will be held on Wednesday, November 1, 2017, at 3:00 p.m. EST.

Public Call Information: Dial: 877–397–0292, Conference ID: 2237390.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 877–397–0292, conference ID: 2237390. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-

line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Indiana Advisory Committee link (*http://www.facadatabase.gov/committee/meetings.aspx?cid=247*). Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit Office at the above email or street address.

Agenda

Welcome and Roll Call
Discussion: Project Proposal on Voting Rights in Indiana
Discussion: Substantive and Logistical Questions for the Public Meeting
Public Comment
Future Plans and Actions
Adjournment

Dated: October 19, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–23101 Filed 10–24–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; 2018 Estimates of Compact of Free Association (COFA) Migrants

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before December 26, 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(s) and instructions should be directed to Oliver P. Fischer via U.S. Census Bureau, 4600 Silver Hill Road, Room 6H189, Washington, DC 20233, or (301) 763.6249, or by email at *oliver.p.fischer@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Census Bureau plans to request clearance from the Office of Management and Budget to survey residents of Guam and the Commonwealth of the Northern Mariana Islands (CNMI) to collect basic demographic data to meet the needs of the Compact of Free Association (COFA).

The COFA defines the relationship between the United States Government and the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. The COFA became effective for the Republic of the Marshall Islands and the Federated States of Micronesia in 1986 and for the Republic of Palau in 1994.

The 2003 COFA Amendments Act appropriated $30 million annually in funding ''to aid in defraying costs incurred by affected jurisdictions as a result of increased demands. . .due to the residence in affected jurisdictions of qualified nonimmigrants from the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.'' The ''affected jurisdictions'' in the 2003 COFA Amendments Act are American Samoa, CNMI, Guam, and Hawaii.

COFA migrants (also referred to as qualified nonimmigrants) are migrants, or their children under the age of 18, admitted or resident in one of the affected jurisdictions, who migrated from the Federated States of Micronesia or the Republic of the Marshall Islands during or after 1986, and from the Republic of Palau during or after 1994.

In order to disburse the appropriated funds to the affected jurisdictions, the COFA Amendments Act of 2003 requires an enumeration of COFA migrants residing within the affected jurisdictions no less than every five years. The most recent enumeration of COFA migrants took place in 2013. The 2013 estimates of COFA migrants were derived using data from the 2010 Decennial Census for American Samoa, CNMI, and Guam, and 2009—2011 American Community Survey (ACS) data for Hawaii. These data sources were determined by stakeholders to produce the most accurate, reliable, and cost-effective estimates for the purposes of the 2013 enumeration. The next enumeration is set to take place in 2018. The Department of the Interior has provided the Census Bureau funding for the work required to produce the estimates.

The Census Bureau proposes that the 2018 Estimates of COFA migrants follow the methodology used to produce the 2008 Estimates of COFA migrants. The approach is three-pronged due to differences between the jurisdictions in overall population, expected number of COFA migrants, and currently available data.

The methodology consists of the following:

1. Conduct independent sample surveys for CNMI and Guam. Field enumeration will be required for CNMI and Guam since the Census Bureau has no other reliable up-to-date demographic data source for these areas beyond the 2010 Decennial Census. The survey for CNMI will only include Saipan since the 2010 Decennial Census data indicates low numbers of COFA migrants living in others parts of CNMI. The sample surveys will obtain data on place of birth, residential tenure, age, sex, and relationship to head of household of all members of selected households. The sample will be designed to yield estimates with a margin of error similar to that of three years of ACS data.

2. Perform special tabulations on a three-year average of results from 2015 to 2017 ACS data to create estimates for Hawaii (all islands).

3. Use the 2010 Decennial Census results for American Samoa, and CNMI's Rota and Tinian islands as estimates of the 2018 counts. It would not be cost effective to conduct an independent survey in these areas due to the low numbers of COFA migrants as indicated by the 2010 Decennial Census and the negligible impact these

low numbers will have on the overall distribution of the $30 million in Compact funds.

II. Method of Collection

In Guam, approximately 45 sample blocks totaling about 3,300 sample addresses will be listed and enumerated. In CNMI, approximately 30 sample blocks totaling about 2,000 sample addresses will be listed and enumerated. The data will be collected via in-person interviews. A content re-interview will be conducted to assess the accuracy and reliability of the data collected. For the re-interview, a sample of approximately 400 respondents will be selected and contacted for a follow-up interview via a telephone number they provided during the original interview.

III. Data

OMB Control Number: 0607–XXXX.

Form Number(s): XXXX.

Type of Review: Regular submission.

Affected Public: Residents of Guam and CNMI.

Estimated Number of Respondents: Approximately 4,770 respondents.

Estimated Time per Response: 32 minutes.

Estimated Total Annual Burden Hours: 2,544.

Estimated Total Annual Cost to Public: There is no cost to the respondents other than their time.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. Section 8(b) and Public Law 108–188, The Compact of Free Association Amendments Act of 2003.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–23147 Filed 10–24–17; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Information Systems Technical Advisory Committee: Notice of Partially Closed Meeting—Revised

The Information Systems Technical Advisory Committee (ISTAC) will meet on November 1 and 2, 2017, 9:00 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

Wednesday, November 1

Open Session

1. Welcome and Introductions
2. Working Group Reports
3. Old Business
4. Industry Presentations: Basic Buffer Overflows
5. NIST IoT Cybersecurity Program
6. New business

Thursday, November 2

Closed Session

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than October 25, 2017.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 27, 2017, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 (l0)(d))), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4) and the portion of the meeting concerning matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and l0(a)(3). The remaining portions of the meeting will be open to the public.

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

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2017–23220 Filed 10–24–17; 8:45 am]

BILLING CODE 3510–JT—P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF329

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Low-Energy Geophysical Survey in the Northeastern Pacific Ocean

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 Scripps Institution of Oceanography (SIO) to incidentally harass, by Level A and Level B harassment, marine mammals during a low-energy marine geophysical survey in the northeastern Pacific Ocean.

DATES: This Authorization is valid from September 22, 2017, through September 19, 2018.

FOR FURTHER INFORMATION CONTACT: Jordan Carduner, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and

supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/research.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 potential impacts on the human environment. Accordingly, NMFS prepared an Environmental Assessment (EA) to consider the environmental impacts associated with the issuance of the IHA to SIO. We reviewed all comments submitted in response to the **Federal Register** notice for the proposed IHA (82 FR 39276; August 17, 2017) prior to concluding our NEPA process and deciding whether or not to issue a Finding of No Significant Impact (FONSI). NMFS concluded that issuance of an IHA to SIO would not significantly affect the quality of the human environment and prepared and issued a FONSI in accordance with NEPA and NAO 216–6A. NMFS's EA and FONSI for this activity are available on our Web site at: *http://www.nmfs.noaa.gov/pr/permits/incidental.*

Summary of Request

On March 20, 2017, NMFS received a request from SIO for an IHA to take marine mammals incidental to conducting a low-energy marine geophysical survey in the northeastern Pacific Ocean. On July 5, 2017, we deemed SIO's application for authorization to be adequate and complete. SIO's request is for take of a small number of 27 species of marine mammals by Level B harassment and Level A harassment. Neither SIO nor NMFS expects mortality to result from this activity, and, therefore, an IHA is appropriate. The planned activity is not expected to exceed one year, hence, we do not expect subsequent MMPA incidental harassment authorizations would be issued for this particular activity.

Description of Specified Activity

A detailed description of SIO's low-energy geophysical survey is provided in the **Federal Register** notice for the proposed IHA (82 FR 39276; August 17, 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

NMFS published a notice of proposed IHA in the **Federal Register** on August 17, 2017 (82 FR 39276). During the 30-day public comment period, NMFS received a comment letter from the Marine Mammal Commission (Commission) as well as one comment from a member of the general public. NMFS has posted the comments online at: *http://www.nmfs.noaa.gov/pr/permits/incidental.* NMFS addresses any comments specific to SIO's application related to the statutory and regulatory requirements or findings that NMFS must make under the MMPA in order to issue an Authorization. The following is a summary of the public comments and NMFS' responses.

Comment 1: A comment received from a member of the general public expressed concern that the survey would result in the deaths of marine mammals.

Response: NMFS does not anticipate that SIO's survey will result in the deaths of marine mammals and the authorization does not permit serious injury or mortality of marine mammals.

Comment 2: The Commission expressed concerns regarding SIO's method to estimate the extent of the Level A and Level B harassment zones and the numbers of marine mammal takes. The Commission stated that the model is not the best available science because it assumes spherical spreading, a constant sound speed, and no bottom interactions for surveys in deep water. In light of their concerns, the Commission recommended that NMFS require SIO, in collaboration with Lamont-Doherty Earth Observatory of Columbia University (L–DEO) (which performed the modeling of Level A and Level B harassment zones) to re-estimate the Level A and Level B harassment zones and associated takes of marine mammals using both operational (including number/type/spacing of airguns, tow depth, source level/operating pressure, operational volume) and site-specific environmental (including sound speed profiles, bathymetry, and sediment characteristics at a minimum) parameters.

Response: NMFS acknowledges the Commission's concerns about LDEO's current modeling approach for estimating Level A and Level B harassment zones and takes. SIO's application (LGL, 2017) and the **Federal Register** notice of the proposed IHA (82 FR 39276; August 17, 2017) describe the applicant's approach to modeling Level A and Level B harassment zones. The model L–DEO currently uses does not allow for the consideration of environmental and site-specific parameters as requested by the Commission.

L–DEO's application (LGL, 2017) describes their approach to modeling Level A and Level B harassment zones. In summary, L–DEO acquired field measurements for several array configurations at shallow, intermediate, and deep-water depths during acoustic verification studies conducted in the

northern Gulf of Mexico in 2007 and 2008 (Tolstoy *et al.,* 2009). Based on the empirical data from those studies, L–DEO developed a sound propagation modeling approach that predicts received sound levels as a function of distance from a particular airgun array configuration in deep water. For this survey, L–DEO modeled Level A and Level B harassment zones based on the empirically-derived measurements from the Gulf of Mexico calibration survey (Appendix H of NSF–USGS 2011). For deep water (>1000 m), L–DEO used the deep-water radii obtained from model results down to a maximum water depth of 2,000 m (Figure 2 and 3 in Appendix H of NSF–USGS 2011); the radii for intermediate water depths (100–1,000 m) were derived from the deep-water ones by applying a correction factor (multiplication) of 1.5, such that observed levels at very near offsets fall below the corrected mitigation curve (Fig. 16 in Appendix H of the NSF–USGS 2011).

In 2015, L–DEO explored the question of whether the Gulf of Mexico calibration data described above adequately informs the model to predict exclusion isopleths in other areas by conducting a retrospective sound power analysis of one of the lines acquired during L–DEO's seismic survey offshore New Jersey in 2014 (Crone, 2015). NMFS presented a comparison of the predicted radii (*i.e.,* modeled exclusion zones) with radii based on in situ measurements (*i.e.,* the upper bound [95th percentile] of the cross-line prediction) in a previous notice of issued Authorization for Lamont-Doherty (see 80 FR 27635, May 14, 2015, Table 1). Briefly, the anlysis presented in Crone (2015), specific to the survey site offshore New Jersey, confirmed that in-situ, site specific measurements and estimates of 160 dB and 180 dB isopleths collected by the hydrophone streamer of the *R/V Marcus Langseth* in shallow water were smaller than the modeled (*i.e.,* predicted) zones for two seismic surveys conducted offshore New Jersey in shallow water in 2014 and 2015. In that particular case, Crone's (2015) results showed that L–DEO's modeled 180 dB and 160 dB zones were approximately 28 percent and 33 percent smaller, respectively, than the in-situ, site-specific measurements, thus confirming that L–DEO's model was conservative in that case.

The following is a summary of two additional analyses of in-situ data that support L–DEO's use of the modeled Level A and Level B harassment zones zones in this particular case. In 2010, L–DEO assessed the accuracy of their modeling approach by comparing the sound levels of the field measurements acquired in the Gulf of Mexico study to their model predictions (Diebold *et al.,* 2010). They reported that the observed sound levels from the field measurements fell almost entirely below the predicted mitigation radii curve for deep water (greater than 1,000 m; 3280.8 ft) (Diebold *et al.,* 2010). In 2012, L–DEO used a similar process to model distances to isopleths corresponding to the isopleths corresponding to Level A and Level B harassment thresholds for a shallow-water seismic survey in the northeast Pacific Ocean offshore Washington State. L–DEO conducted the shallow-water survey using the same airgun configuration planned for the surveys considered in this IHA (*i.e.,* 6,600 in^3) and recorded the received sound levels on both the shelf and slope using the *Langseth's* 8 km hydrophone streamer. Crone *et al.* (2014) analyzed those received sound levels from the 2012 survey and confirmed that in-situ, site specific measurements and estimates of the 160 dB and 180 dB isopleths collected by the *Langseth's* hydrophone streamer in shallow water were two to three times smaller than L–DEO's modeling approach had predicted. While the results confirmed bathymetry's role in sound propagation, Crone *et al.* (2014) were also able to confirm that the empirical measurements from the Gulf of Mexico calibration survey (the same measurements used to inform L–DEO's modeling approach for the planned surveys in the southwest Pacific Ocean) overestimated the size of the exclusion and buffer zones for the shallow-water 2012 survey off Washington State and were thus precautionary, in that particular case.

NMFS continues to work with L–DEO to address the issue of incorporating site-specific information for future authorizations for seismic surveys. However, L–DEO's current modeling approach (supported by the three data points discussed previously) represents the best available information for NMFS to reach determinations for this IHA. As described earlier, the comparisons of L–DEO's model results and the field data collected in the Gulf of Mexico, offshore Washington State, and offshore New Jersey illustrate a degree of conservativeness built into L–DEO's model for deep water, which NMFS expects to offset some of the limitations of the model to capture the variability resulting from site-specific factors. Based upon the best available information (*i.e.,* the three data points, two of which are peer-reviewed, discussed in this response), NMFS finds that the Level A and Level B harassment zone calculations are appropriate for use in this particular IHA.

L–DEO has conveyed to NMFS that additional modeling efforts to refine the process and conduct comparative analysis may be possible with the availability of research funds and other resources. Obtaining research funds is typically accomplished through a competitive process, including those submitted to U.S. Federal agencies. The use of models for calculating buffer and exclusion zone radii and for developing take estimates is not a requirement of the MMPA incidental take authorization process. Furthermore, NMFS does not provide specific guidance on model parameters nor prescribe a specific model for applicants as part of the MMPA incidental take authorization process at this time, although we do review methods to ensure adequate for prediction of take. There is a level of variability not only with parameters in the models, but also the uncertainty associated with data used in models, and therefore, the quality of the model results submitted by applicants. NMFS considers this variability when evaluating applications and the take estimates and mitigation measures that the model informs. NMFS takes into consideration the model used, and its results, in determining the potential impacts to marine mammals; however, it is just one component of the analysis during the MMPA authorization process as NMFS also takes into consideration other factors associated with the activity (*e.g.,* geographic location, duration of activities, context, sound source intensity, etc.).

Comment 3: The Commission expressed concern that the method used to estimate the numbers of takes, which summed fractions of takes for each species across project days, does not account for and negates the intent of NMFS' 24-hour reset policy.

NMFS Response: We appreciate the Commission's ongoing concern in this matter. Calculating predicted takes is not an exact science and there are arguments for taking different mathematical approaches in different situations, and for making qualitative adjustments in other situations. We believe, however, that the methodology used for take calculation in this IHA remains appropriate and is not at odds with the 24-hour reset policy the Commission references.

Comment 4: The Commission expressed concern that information was missing in NMFS's **Federal Register** notice of proposed IHA (82 FR 39276; August 17, 2017) and SIO's application,

including operating frequency of the multibeam echosounder (MBES) and sub-bottom profiler (SBP) and information regarding densities, Level A daily ensonified areas, and number of days of activities that informed NMFS's analysis.

NMFS Response: We appreciate the Commission pointing out the deficiencies in the **Federal Register** notice of proposed IHA (82 FR 39276; August 17, 2017). In response to the Commisison's concerns we have done the following, as recommended by the Commission: (1) Used the Dall's porpoise density derived from Beaufort sea states (BSS) of 0–5 rather than 0–3; (2) ensured that pinniped densities are based on the best available information; and (3) ensured the estimated numbers of Level A and B harassment takes are correct based on the relevant densities, daily ensonified areas, and number of days of activities (Table 8). The MBES will operate at 12 kilohertz (kHz) and the SBP will operate at 3.5 kHz.

Description of Marine Mammals in the Area of Specified Activities

Section 4 of the IHA application summarizes available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SAR; *www.nmfs.noaa.gov/pr/sars/*), and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' Web site (*www.nmfs.noaa.gov/pr/species/mammals/*).

Table 1 lists all species with expected potential for occurrence in the northeastern Pacific Ocean and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and 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' SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Pacific SARs (*e.g.,* Carretta *et al.,* 2017). All values presented in Table 1 are the most recent available at the time of publication and are available in the 2017 SARs (Carretta *et al.,* 2017), available online at: *www.nmfs.noaa.gov/pr/sars,* except where noted otherwise.

TABLE 1—MARINE MAMMALS THAT COULD OCCUR IN THE PROJECT AREA

Species	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance [2] (CV, Nmin, most recent abundance survey) [3]	PBR [4]	Relative Occurrence in project area
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)					
Family: Balaenopteridae					
North Pacific right whale [5] (*Eubalaena japonica*).	Eastern North Pacific	E/D; Y	31	0.1	Rare.
Gray whale [5] (*Eschrichtius robustus*).	Eastern North Pacific	-/-; N	20,990 (0.05; 20,125; 2011).	3.1	Common in nearshore areas, rare elsewhere.
Humpback whale [6] (*Megaptera novaeangliae*).	California/Oregon/Washington.	E/T/D; N	1,918 (0.03; 1,876; 2014)	11	Common in nearshore areas, rare elsewhere.
Minke whale (*Balaenoptera acutorostrata)*.	California/Oregon/Washington.	-/-; N	636 (0.72; 369; 2014)	3.5	Rare.
Sei whale (*Balaenoptera borealis)*.	Eastern N Pacific	E/D; Y	519 (0.4; 374; 2014)	0.75	Rare.
Fin whale (*Balaenoptera physalus)*.	California/Oregon/Washington.	E/D; Y	9,029 (0.12; 8,127; 2014)	81	Common.
Blue whale (*Balaenoptera musculus)*.	Eastern N Pacific	E/D; Y	1,647 (0.07; 1,551; 2011)	2.3	Rare.
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)					
Family: Physeteridae					
Sperm whale (*Physeter macrocephalus*).	California/Oregon/Washington.	E/D; Y	2,106 (0.58; 1,332; 2014)	2.7	Common.
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)					
Family: Kogiidae					
Pygmy sperm whale (*Kogia breviceps*).	California/Oregon/Washington.	-/-; N	4,111 (1.12; 1,924; 2014)	19	Rare.

TABLE 1—MARINE MAMMALS THAT COULD OCCUR IN THE PROJECT AREA—Continued

Species	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance [2] (CV, Nmin, most recent abundance survey) [3]	PBR [4]	Relative Occurrence in project area
Dwarf sperm whale (*Kogia sima*).	California/Oregon/Washington.	-/-; N	unknown (unknown; unknown; 2014).	Undet.	Rare.
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)					
Family: delphinidae					
Killer whale (*Orcinus orca*)	West coast transient	-/-; N	243 (n/a; 243; 2009)	2.4	Rare.
	Eastern North Pacific offshore.	-/-; N	240 (0.49; 162; 2014)	1.6	Rare.
False killer whale [7] (*Pseudorca crassidens*).	Hawaii Pelagic	-/-; N	1,540 (0.66; 928; 2010)	9.3	Rare.
Short-finned pilot whale (*Globicephala macrorhynchus*).	California/Oregon/Washington.	-/-; N	836 (0.79; 466; 2014)	4.5	Rare.
Harbor porpoise (*Phocoena phocoena).*	Northern Oregon/Washington Coast.	-/-; N	21,487 (0.44; 15,123; 2011).	151	Abundant.
	Northern California/Southern Oregon.	-/-; N	35,769 (0.52; 23,749; 2011).	475	Abundant.
Dall's porpoise (*Phocoena dalli).*	California/Oregon/Washington.	-/-; N	25,750 (0.45; 17,954; 2014).	172	Abundant.
Bottlenose dolphin (*Tursiops truncatus*).	California/Oregon/Washington Offshore.	-/-; N	1,924 (0.54; 1,255; 2014)	11	Rare.
Striped dolphin (*Stenella coeruleoala*).	California/Oregon/Washington.	-/-; N	29,211 (0.2; 24,782; 2014)	238	Rare.
Risso's dolphin (*Grampus griseus*).	California/Oregon/Washington.	-/-; N	6,336 (0.32; 4,817; 2014)	46	Common.
Short-beaked common dolphin (*Delphinus delphis*).	California/Oregon/Washington.	-; N	969,861 (0.17; 839,325; 2014).	8,393	Common.
Pacific white-sided dolphin (Lagenorhynchus obliquidens).	California/Oregon/Washington.	-; N	26,814 (0.28; 21,195; 2014).	191	Abundant.
Northern right whale dolphin (*Lissodelphis borealis*).	California/Oregon/Washington.	-; N	26,556 (0.44; 18,608; 2014).	179	Common.
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)					
Family: Ziphiidae					
Cuvier's beaked whale (*Ziphius cavirostris*).	California/Oregon/Washington.	-/-; N	6,590 (0.55; 4,481; 2008)	45	Common.
Baird's beaked whale *(Berardius bairdii).*	California/Oregon/Washington.	-; N	847 (0.81; 466; 2008)	4.7	Common.
Mesoplodont beaked whales [8].	California/Oregon/Washington.	-/-; N	694 (0.65; 389; 2008)	3.9	Rare.
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	Rare.
Steller sea lion (*Eumetopias jubatus*).	Eastern U.S.	-; N	41,638 (n/a; 41,638; 2015)	2,498	Common in nearshore areas, rare elsewhere.
Family: Phocidae (earless seals)					
Harbor seal [9] (*Phoca vitulina*).	Oregon/Washington Coast	-; N	24,732 (unk; unk; n/a)	Unknown	Common in nearshore areas, rare elsewhere.
Northern elephant seal (*Mirounga angustirostris*).	California breeding	-; N	179,000 (n/a; 81,368; 2010).	4,882	Common in nearshore areas, rare elsewhere.
Northern fur seal (*Callorhinus ursinus*).	California	-; N	14,050 (n/a; 7,524; 2013)	451	Common in nearshore areas, rare elsewhere.

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR (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] Abundance estimates from Carretta *et al.* (2017) unless otherwise noted.

[3] 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.

[4] Potential biological removal (PBR), defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP).

[5] Values for gray whale and North Pacific right whale are from Muto *et al.* (2016).

[6] Humpback whales in the survey area could originate from either the ESA threatened Mexico DPS or from the ESA endangered Central America DPS.

[7] NMFS does not have a defined stock for false killer whales off the West Coast of the U.S. as they are considered uncommon visitors to the area; any false killer whales observed off the West Coast of the U.S. would likely be part of the eastern North Pacific population. Of the stocks defined by NMFS, the Hawaii Pelagic stock is the most likely to include individuals in the eastern North Pacific population.

[8] Includes the following species: Blainville's beaked whale (*M. densirostris*), Perrin's beaked whale (*M. perrini*), Lesser beaked whale (*M. peruvianus*), Stejneger's beaked whale (*M. stejnegeri*), Gingko-toothed beaked whale (*M. gingkodens*), and Hubbs' beaked whale (*M. carlhubbsi*).

[9] The most recent abundance estimate is from 1999. This is the best available information, but because this abundance estimate is >8 years old, there is no current estimate of abundance available for this stock.

All species that could potentially occur in the planned survey area are included in Table 1. However, as described below, the spatial occurrence of the North Pacific right whale and dwarf sperm whale are such that take is not expected to occur for these species. The North Pacific right whale is one of the most endangered species of whale in the world (Carretta *et al.,* 2017). Only 82 sightings of right whales in the entire eastern North Pacific were reported from 1962 to 1999, with the majority of these occurring in the Bering Sea and adjacent areas of the Aleutian Islands (Brownell *et al.* 2001). Most sightings in the past 20 years have occurred in the southeastern Bering Sea, with a few in the Gulf of Alaska (Wade *et al.* 2011). Despite many miles of systematic aerial and ship-based surveys for marine mammals off the coasts of Washington, Oregon and California over several years, only seven documented sightings of right whales were made from 1990 to 2000 (Waite *et al.* 2003). Because of the small population size and the fact that North Pacific right whales spend the summer feeding in high latitudes, the likelihood that the planned survey would encounter a North Pacific right whale is discountable. Along the U.S. west coast, no at-sea sightings of dwarf sperm whales have ever been reported despite numerous vessel surveys of this region (Barlow 1995; Barlow and Gerrodette 1996; Barlow and Forney 2007; Forney 2007; Barlow 2010, Barlow 2016). Therefore, based on the best available information, we believe the likelihood of the survey encountering a dwarf sperm whale is discountable. SIO requested authorization for the incidental take of dwarf sperm whales (the request was for a combined two takes of pygmy and/or dwarf sperm whales). However as we have determined the likelihood of take of dwarf sperm whales is discountable, we do not authorize take of dwarf sperm whales. Thus, the North Pacific right whale and dwarf sperm whale are not discussed further in this document.

A detailed description of the of the species likely to be affected by SIO's survey, 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 39276; August 17, 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 for generalized species accounts: *www.nmfs.noaa.gov/pr/species/mammals/*.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from marine geophysical survey activities have the potential to result in behavioral harassment and, in a limited number of instances, auditory injury (PTS) of marine mammals in the vicinity of the action area. The **Federal Register** notice of proposed IHA (82 FR 39276; August 17, 2017) included a discussion of the effects of anthropogenic noise on marine mammals and their habitat, therefore that information is not repeated here; please refer to that **Federal Register** notice for that information. No instances of serious injury or mortality are expected as a result of SIO's survey activities.

Estimated Take

This section provides an estimate of the number of incidental takes authorized 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 are primarily by Level B harassment, as use of the seismic airguns have the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result, primarily for high frequency cetaceans and phocid pinnipeds. Auditory injury is unlikely to occur for low- and mid-frequency species given very small modeled zones of injury for those species. The mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable. 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 exposure estimate and associated numbers of take authorized.

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 the best available science 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 to fall under Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 decibedl (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. SIO's planned activity includes the use of impulsive seismic sources. Therefore, the 160 dB re 1 μPa (rms) criteria is applicable for analysis of level B harassment.

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 Technical Guidance identifies the received levels, or thresholds, above which individual marine mammals are predicted to experience changes in their hearing sensitivity for all underwater anthropogenic sound sources, reflects the best available science, and better predicts the potential for auditory injury than does NMFS' historical criteria.

These thresholds were developed by compiling and synthesizing the best available science and soliciting input multiple times from both the public and peer reviewers to inform the final product, and are provided in Table 3 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.* As described above, SIO's planned activity includes the use of intermittent and impulsive seismic sources.

To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2016) described generalized hearing ranges for these marine mammal hearing groups (Table 2). Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

- Low-frequency cetaceans (mysticetes): Generalized hearing is estimated to occur between approximately 7 hertz (Hz) and 35 kHz, with best hearing estimated to be from 100 Hz to 8 kHz;
- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz, with best hearing from 10 to less than 100 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members of the genera *Kogia* and *Cephalorhynchus;* including two members of the genus *Lagenorhynchus,* on the basis of recent echolocation data and genetic data): Generalized hearing is estimated to occur between approximately 275 Hz and 160 kHz.
- Pinnipeds in water; Phocidae (true seals): Generalized hearing is estimated to occur between approximately 50 Hz to 86 kHz, with best hearing between 1–50 kHz;
- Pinnipeds in water; Otariidae (eared seals): Generalized hearing is estimated to occur between 60 Hz and 39 kHz, with best hearing between 2–48 kHz.

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

TABLE 2—MARINE FUNCTIONAL MAMMAL HEARING GROUPS AND THEIR GENERALIZED HEARING RANGES

Hearing group	Generalized hearing range *
Low frequency (LF) cetaceans (baleen whales)	7Hz 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).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Twenty four marine mammal species (all cetaceans) have the reasonable potential to co-occur with the planned survey activities. Please refer to Table 1. Of the cetacean species that may be present, 6 are classified as low-frequency cetaceans (*i.e.,* all mysticete species), 16 are classified as mid-frequency cetaceans (*i.e.,* all delphinid and ziphiid species and the sperm whale), and 2 are classified as high-frequency cetaceans (*i.e.,* Kogia spp.).

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT IN MARINE MAMMALS

Hearing group	PTS onset thresholds	
	Impulsive *	Non-impulsive
Low-Frequency (LF) Cetaceans	$L_{pk,flat}$: 219 dB, $L_{E,LF,24h}$: 183 dB	$L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	$L_{pk,flat}$: 230 dB, $L_{E,MF,24h}$: 185 dB	$L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	$L_{pk,flat}$: 202 dB, $L_{E,HF,24h}$: 155 dB	$L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW)(Underwater)	$L_{pk,flat}$: 218 dB, $L_{E,PW,24h}$: 185 dB	$L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	$L_{pk,flat}$: 232 dB, $L_{E,OW,24h}$: 203 dB	$L_{E,OW,24h}$: 219 dB.

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

Note: Peak sound pressure (Lpk) has a reference value of 1 μPa, and cumulative sound exposure level (LE) has a reference value of 1μPa2s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into estimating the area ensonified above the acoustic thresholds.

The planned survey would entail the use of a 2-airgun array with a total discharge of 90 cubic inches (in^3) at a tow depth of 3 meters (m). The distance to the predicted isopleth corresponding to the threshold for Level B harassment (160 dB re 1 μPa) was calculated based on results of modeling performed by LDEO. Received sound levels were predicted by LDEO's model (Diebold *et al.* 2010) as a function of distance from the airgun array. The LDEO modeling approach uses ray tracing for the direct wave traveling from the array to the receiver and its associated source ghost (reflection at the air-water interface in the vicinity of the array), in a constant-velocity half-space (infinite homogeneous ocean layer unbounded by a seafloor). In addition, propagation measurements of pulses from a 36-airgun array at a tow depth of 6 m have been reported in deep water (~1,600 m), intermediate water depth on the slope (~600–1100 m), and shallow water (~50 m) in the Gulf of Mexico in 2007–2008 (Tolstoy *et al.* 2009; Diebold *et al.* 2010). The estimated distances to the Level B harassment isopleth for the *Revelle* airgun array are shown in Table 4.

TABLE 4—PREDICTED RADIAL DISTANCES FROM R/V REVELLE 90 IN^3 SEISMIC SOURCE TO ISOPLETH CORRESPONDING TO LEVEL B HARASSMENT THRESHOLD

Water depth	Predicted distance to threshold (160 dB re 1 μPa)
>1000 m	448 m.
100–1,000 m	672 m.

For modeling of radial distances to predicted isopleths corresponding to harassment thresholds in deep water (>1,000 m), LDEO used the deep-water radii for various Sound Exposure Levels obtained from LDEO model results down to a maximum water depth of 2,000 m (see Figure 2 in the IHA application). Radial distances to predicted isopleths corresponding to harassment thresholds in intermediate water depths (100–1,000 m) were derived by LDEO from the deep-water distances by applying a correction factor (multiplication) of 1.5, such that observed levels at very near offsets fall below the corrected mitigation curve (Fig. 16 in Appendix H of NSF–USGS 2011). LDEO's modeling methodology is described in greater detail in the IHA application (LGL 2017) and we refer the reader to that document rather than repeating it here.

Predicted distances to Level A harassment isopleths, which vary based on marine mammal functional hearing groups (Table 2), were calculated based on modeling performed by LDEO using the Nucleus software program and the NMFS User Spreadsheet, described below. The updated acoustic thresholds for impulsive sounds (such as airguns) contained in the Technical Guidance (NMFS 2016) were presented as dual metric acoustic thresholds using both cumulative sound exposure level (SEL_{cum}) and peak sound pressure level (SPL) metrics. As dual metrics, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the two metrics is exceeded (*i.e.,* metric resulting in the largest isopleth). The SEL_{cum} metric considers both level and duration of exposure, as well as auditory weighting functions by marine mammal hearing group. In recognition of the fact that the requirement to calculate Level A harassment ensonified areas could be more technically challenging to predict due to the duration component and the use of weighting functions in the new SEL_{cum} thresholds, NMFS developed an optional User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to facilitate the estimation of take numbers.

The values for SEL_{cum} and peak SPL for the *Revelle* airgun array were derived from calculating the modified farfield signature (Table 5). The farfield signature is often used as a theoretical representation of the source level. To compute the farfield signature, the source level is estimated at a large distance below the array (*e.g.,* 9

kilometers (km)), and this level is back projected mathematically to a notional distance of 1 m from the array's geometrical center. However, when the source is an array of multiple airguns separated in space, the source level from the theoretical farfield signature is not necessarily the best measurement of the source level that is physically achieved at the source (Tolstoy *et al.* 2009). Near the source (at short ranges, distances <1 km), the pulses of sound pressure from each individual airgun in the source array do not stack constructively, as they do for the theoretical farfield signature. The pulses from the different airguns spread out in time such that the source levels observed or modeled are the result of the summation of pulses from a few airguns, not the full array (Tolstoy *et al.* 2009). At larger distances, away from the source array center, sound pressure of all the airguns in the array stack coherently, but not within one time sample, resulting in smaller source levels (a few dB) than the source level derived from the farfield signature. Because the farfield signature does not take into account the array effect near the source and is calculated as a point source, the modified farfield signature is a more appropriate measure of the sound source level for distributed sound sources, such as airgun arrays. Though the array effect is not expected to be as pronounced in the case of a 2-airgun array as it would be with a larger airgun array, the modified farfield method is considered more appropriate than use of the theoretical farfield signature.

TABLE 5—MODELED SOURCE LEVELS USING MODIFIED FARFIELD METHOD FOR R/V REVELLE 90-IN^3 AIRGUN ARRAY

Functional hearing group	Peak SPL_{flat}	SEL_{cum}
Low frequency cetaceans ($L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB)	232.805 dB	206.0165 dB.
Mid frequency cetaceans ($L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB)	229.89 dB	205.9638 dB.
High frequency cetaceans ($L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB)	232.867 dB	206.384 dB.
Phocid Pinnipeds (Underwater) ($L_{pk,flat}$: 218 dB; $L_{E,HF,24h}$: 185 dB)	232.356 dB	205.9638 dB.
Otariid Pinnipeds (Underwater) ($L_{pk,flat}$: 232 dB; $L_{E,HF,24h}$: 203 dB)	224.7897 dB	206.806 dB.

In order to more realistically incorporate the Technical Guidance's weighting functions over the seismic array's full acoustic band, unweighted spectrum data for the *Revelle's* airgun array (modeled in 1 Hz bands) was used to make adjustments (dB) to the unweighted spectrum levels, by frequency, according to the weighting functions for each relevant marine mammal hearing group. These adjusted/weighted spectrum levels were then converted to pressures (μPa) in order to integrate them over the entire broadband spectrum, resulting in broadband weighted source levels by hearing group that could be directly incorporated within the User Spreadsheet (*i.e.,* to override the Spreadsheet's more simple weighting factor adjustment). Using the User Spreadsheet's ''safe distance'' methodology for mobile sources (described by Sivle *et al.,* 2014) with the hearing group-specific weighted source levels, and inputs assuming spherical spreading propagation, a source velocity of 2.57 m/second, and shot interval of 7.78 seconds (LGL 2017), potential radial distances to auditory injury zones were then calculated for SEL_{cum} thresholds. Inputs to the User Spreadsheet are shown in Table 5. Outputs from the User Spreadsheet in the form of estimated distances to Level A harassment isopleths are shown in Table 6. As described above, the larger distance of the dual criteria (SEL_{cum} or Peak SPL_{flat}) is used for estimating takes by Level A harassment. The weighting functions used are shown in Table 3 of the IHA application.

TABLE 6—MODELED RADIAL DISTANCES (m) FROM R/V REVELLE 90-IN^3 AIRGUN ARRAY TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT THRESHOLDS

Functional hearing group (Level A harassment thresholds)	Peak SPL_{flat}	SEL_{cum}
Low frequency cetaceans ($L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB)	4.9	7.9
Mid frequency cetaceans ($L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB)	1.0	0
High frequency cetaceans ($L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB)	34.9	0
Phocid Pinnipeds (Underwater) ($L_{pk,flat}$: 218 dB; $L_{E,HF,24h}$: 185 dB)	5.2	0.1
Otariid Pinnipeds (Underwater) ($L_{pk,flat}$: 232 dB; $L_{E,HF,24h}$: 203 dB)	0.4	0

Note that because of some of the assumptions included in the methods used, isopleths produced may be overestimates to some degree, which will ultimately 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 mobile sources, such as the planned seismic survey, the User Spreadsheet predicts the closest distance at which a stationary animal would not incur PTS if the sound source traveled by the animal in a straight line at a constant speed.

Marine Mammal Occurrence

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

The best available scientific information was considered in conducting marine mammal exposure estimates (the basis for estimating take). For most cetacean species, densities calculated by Barlow (2016) were used. These represent the most comprehensive and recent density data available for cetacean species in slope and offshore waters of Oregon and Washington and are based on data collected via NMFS Southwest Fisheries Science Center (SWFSC) ship-based surveys in 1991, 1993, 1996, 2001, 2005, 2008, and 2014. The surveys were conducted up to ~556 km from shore from June or August to November or December. The densities from NMFS SWFSC vessel-based surveys were corrected by the authors for both

trackline detection probability and availability bias. Trackline detection probability bias is associated with diminishing sightability with increasing lateral distance from the trackline and is measured by *f*(0). Availability bias refers to the fact that there is less than 100 percent probability of sighting an animal that is present along the survey trackline, and it is measured by *g*(0). Abundance and density were not estimated for gray whales or harbor porpoises in the NMFS SWFSC surveys because their inshore habitats were inadequately covered in those studies. Gray whale density is derived from the abundance of gray whales that remain between Oregon and British Columbia in summer (updated based on abundance calculated by Calambokidis *et al.* 2014) and the area out to 43 km from shore, using the U.S. Navy (2010) method. Harbor porpoise densities are based on data from aerial line-transect surveys during 2007–2012 for the Northern Oregon/Washington Coast stock (Forney *et al.* 2014).

Systematic, offshore, at-sea survey data for pinnipeds are more limited than those for cetaceans. Densities for pinnipeds were calculated as the estimated number of animals at sea divided by the area encompassing their range. Densities for the Steller sea lion, California sea lion, northern elephant seal, and northern fur seal were calculated using the methods in U.S. Navy (2010) with updated abundance estimates from Carretta *et al.* (2016) and Muto *et al.* (2016), when appropriate. For the harbor seal, densities were calculated using the population estimate for the Oregon/Washington Coastal stock and the range for that stock from Carretta *et al.* (2016).

In the **Federal Register** notice of the proposed IHA (82 FR 39276; August 17, 2017), areas encompassing the ranges of pinniped species, which were used to estimate pinniped densities, were based on areas reported in U.S. Navy (2010). However, after publication of the notice of the proposed IHA, the Commission noted in their comment letter that the best available data on areas encompassing the ranges of pinniped species in the project area is presented in U.S. Navy (2014). We have reviewed U.S. Navy (2014) and have revised densities in the final IHA from those shown in the proposed IHA accordingly, to reflect the best available information on areas encompassing the ranges of pinniped species. The estimates of the numbers of animals at sea that were used to estimate densities in the proposed IHA remains the best available information for all five pinniped species expected to occur in the survey area; thus, in revising estimated densities we used the updated areas from U.S. Navy 2014 (when updated areas were available), and the same estimates of the numbers of animals at sea as those that were used to estimate density in the proposed IHA. For three species (Steller sea lion, northern elephant seal, and northern fur seal) the areas reported in U.S. Navy (2014) were the same as those in U.S. Navy (2010); therefore, there was no need to revise densities for these species. For harbor seal and California sea lion, areas reported in U.S. Navy (2014) were different than those reported in U.S. Navy (2010); therefore, we have revised density estimates of these two species to reflect the best available information. Note that correction factors were applied in some cases in the calculations of density estimates for pinnipeds (see footnotes in Table 8).

There is some uncertainty related to the estimated density data and the assumptions used in their calculations, as with all density data estimates. However, the approach used is based on the best available data.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate. In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in Level A harassment or Level B harassment, radial distances from the airgun array to predicted isopleths corresponding to the Level A harassment threshold and Level B harassment threshold are calculated, as described above. Those radial distances are then used to calculate the area(s) around the airgun array predicted to be ensonified to sound levels that exceed the Level A harassment and Level B harassment thresholds. The area estimated to be ensonified to those thresholds in a single day of the survey is then calculated (Table 7), based on the areas predicted to be ensonified around the array and the estimated trackline distance traveled per day. This number is then multiplied by the number of survey days (*i.e.,* 5). The product is then multiplied by 1.25 to account for the additional 25 percent contingency, as described above. This results in an estimate of the total areas in square kilometers (km^2) expected to be ensonified to the Level A harassment and Level B harassment thresholds (Table 7). For purposes of Level B take calculations, areas estimated to be ensonified to Level A harassment thresholds are subtracted from total areas estimated to be ensonified to Level B harassment thresholds in order to avoid double counting the animals taken (*i.e.,* if an animal is taken by Level A harassment, it is not also counted as taken by Level B harassment). The marine mammals predicted to occur within these respective areas, based on estimated densities, are assumed to be incidentally taken. Areas estimated to be ensonified to the Level B harassment threshold for the planned survey are shown in Table 7. Estimated takes for all marine mammal species are shown in Table 8.

TABLE 7— AREAS (km^2) ESTIMATED TO BE ENSONIFIED TO LEVEL A AND LEVEL B HARASSMENT THRESHOLDS OVER THE DURATION OF THE SURVEY

Level B harassment threshold	Level A harassment threshold [1]				
	All marine mammals	Low frequency cetaceans	Mid frequency cetaceans	High frequency cetaceans	Otariid Pinnipeds
1,276.25	21.1	2.6	96.2	1.2	13.9

Note: Estimated areas based on five survey days and include additional 25 percent contingency (effectively resulting in 6.25 survey days). Level A ensonified areas are estimated based on the greater of the distances calculated to Level A isopleths using dual criteria (SEL_{cum} and $_{peak}SPL$).

Take estimates for Dall's porpoise and harbor porpoise have been been revised from those reflected in the **Federal Register** notice of proposed IHA (82 FR 39276; August 17, 2017). For Dall's porpoise, we have adopted the Commission's suggestion that the take estimate should be based on the density for the species that was derived in BSS

of 0–5 (58.3 animals per km²) versus the density that was derived in BSS of 0–3 (54.4 animals per km²) which was used in the take stimate shown in the proposed IHA, based on the fact that previous geophysical surveys in waters of northern California, Oregon, and Washington have occurred in BSSs of 0–7 during the same season. Additionally, for species for which Level A take is being authorized, the Commission correctly noted that Level A estimates should be subtracted from Level B estimates when calculating the total number of authorized takes (to avoid double counting the animals taken by Level A harassment, as described above); this step had mistakenly not been performed for the take estimates reflected in the proposed IHA. These revisions resulted in a revised estimate of 69 Level B takes (versus 68 as shown in the proposed IHA) and a revised estimate of 74 total takes (versus 73 as shown in the proposed IHA). Harbor porpoise takes were recalculated due to a mathematical error in the take estimate reflected in the proposed IHA, and were also revised to avoid double counting of takes (as described for Dall's porpoise above). This resulted in a revised estimate of 552 Level B takes (versus 582) and a revised estimate of 596 total takes (versus 627).

Take estimates for harbor porpoise and California sea lion have been also been revised based on use of revised density estimates for these species as described above. As noted above, in response to concerns raised by the Commission, density estimates used to estimate take for harbor seal and California sea lion have been revised to reflect the best available information on the range of those species (represented by U.S. Navy (2014)). As areas representing the range of the species for harbor seal and California sea lion reported in U.S. Navy (2014) were greater than those reported in U.S. Navy (2010), and estimates of the numbers of animals at sea remained the same for both species, this resulted in lower estimated densities, and lower estimated take numbers, for both species. For Caifornia sea lion, density was revised from 283.3 animals per 1,000 km² to 33.3 animals per 1,000 km². This resulted in a revised take estimate of 43 takes by Level B harassment (versus the previous estimate of 362 takes by Level B harassment) (Table 8). For harbor seal, density was revised from 292 animals per 1,000 km² to 279 animals per 1,000 km². This resulted in a revised take estimate of 356 takes by Level B harassment; however, as Level A estimates are subtracted from Level B estimates when calculating the total number of authorized takes (to avoid double counting the animals taken by Level A harassment, as described above) the revised take estimate for harbor seals is 352 takes by Level B harassment and 4 takes by Level A harassment (versus the previous estimate of 367 takes by Level B harassment) (Table 8).

TABLE 8—NUMBERS OF POTENTIAL INCIDENTAL TAKE OF MARINE MAMMALS AUTHORIZED

Species	Density (#/1,000 km²)	Estimated and authorized Level A takes	Estimated Level B takes	Authorized Level B takes	Total authorized takes	Total authorized Level A and Level B takes as a percentage of population
Gray whale	2.6	0	4	4	4	<0.1
Humpback whale	2.1	0	3	3	3	0.2
Minke whale	1.3	0	2	2	2	0.3
Sei whale [1]	0.4	0	1	2	2	0.4
Fin whale	4.2	0	6	6	6	<0.1
Blue whale	0.3	0	1	1	1	<0.1
Sperm whale [1]	0.9	0	2	6	6	0.3
Pygmy sperm whale	1.6	0	2	2	2	<0.1
Killer whale [1]	0.9	0	2	8	8	
West coast transient stock						3.3
Eastern No. Pacific offshore stock						3.3
False killer whale [1]	0	0	0	5	5	0.3
Short-finned pilot whale [1]	0.2	0	1	18	18	2.2
Harbor porpoise	467.0	44	552	552	596	
No.California/So. Oregon stock						1.7
Northern Oregon/Washington coast stock						2.7
Dall's porpoise	58.3	5	69	69	74	0.3
Bottlenose dolphin [1]	0	0	0	13	13	6.8
Striped dolphin [1]	7.7	0	10	109	109	3.7
Risso's dolphin [1]	11.8	0	16	28	28	4.4
Short-beaked common dolphin [1]	69.2	0	89	286	286	<0.1
Pacific white sided dolphin [1]	40.7	0	52	62	62	2.3
Northern right whale dolphin [1]	46.4	0	60	63	63	2.5
Cuvier's beaked whale	2.8	0	4	4	4	<0.1
Baird's beaked whale	10.7	0	14	14	14	1.7
Mesoplodont beaked whales [2]	1.2	0	2	2	2	2.9
Northern fur seal [3]	83.4	0	107	107	107	0.8
California sea lion [4]	33.3	0	43	43	43	<0.1
Steller sea lion [5]	15.0	0	20	20	20	<0.1
Harbor seal [6]	292.3	4	352	352	356	1.4
Northern elephant seal [7]	83.1	1	105	105	106	<0.1

[1] The number of authorized takes (Level B harassment only) for these species has been increased from the estimated take to mean group size (as reported in Barlow (2016)).

[2] May be any of the following: Blainville's beaked whale, Perrin's beaked whale, Lesser beaked whale, Stejneger's beaked whale, Gingko-toothed beaked whale, or Hubb's beaked whale.

[3] Estimated density based on abundance of Eastern Pacific stock from Muto et al. (2016) plus California stock from Carretta et al. (2017) subtracting pups for Eastern Pacific stock (Muto *et al.* 2016) and subtracting pups for San Miguel Island (Carretta *et al.* 2017) as it was assumed that pups would not be at sea during the survey. Area representing range of the stock is 6,165,000 km^2 (U.S. Navy 2014).

[4] Estimated density based on abundance estimate from Jeffries et al. (2000). Area representing range of the stock is 150,000 km^2 (U.S. Navy 2014).

[5] Estimated density based on abundance estimate from Muto et al. (2016); abundance estimate was multiplied by 0.25, as an estimate of the percentage of the population at sea (Bonnell and Bowlby 1992; U.S. Navy 2014). Area representing range of the stock is 1,244,000 km^2 (U.S. Navy 2014).

[6] Estimated density based on abundance estimate from Carretta et al. (2017); abundance estimate was multiplied by 0.35, as 35 percent of the population is estimated to be in the water at any given time (Huber et al. 2001; U.S. Navy 2014). Area representing range of the stock is 31,000 km^2 (U.S. Navy 2014).

[7] Estimated density based on abundance estimate from Carretta et al. (2017), with adult males assumed to be at rookeries subtracted from abundance estimate (U.S. Navy, 2014). Area representing range of the stock is 2,032,000 km^2 (U.S. Navy 2014).

Species with Take Estimates Less than Mean Group Size: Using the approach described above to estimate take, the take estimates for the sei whale, sperm whale, killer whale, short-finned pilot whale, false killer whale, bottlenose dolphin, short beaked common dolphin, striped dolphin, Pacific white sided dolphin, Risso's dolphin and Northern right whale dolphin were less than the average group sizes estimated for these species (Table 8). However, information on the social structures and life histories of these species indicates it is common for these species to be encountered in groups. The results of take calculations support the likelihood that SIO's survey is expected to encounter and to incidentally take these species, and we believe it is likely that these species may be encountered in groups, therefore it is reasonable to conservatively assume that one group of each of these species will be taken during the planned survey. We therefore authorize the take of the average (mean) group size for these species and stocks to account for the possibility that SIO's survey encounters a group of any of these species or stocks (Table 8).

No density data were available for the false killer whale or the bottlenose dolphin in the planned survey area, as these species are not typically observed in the planned survey area (Carretta *et al.,* 2017). However, we believe it is possible that these species may be encountered by SIO during the planned survey. Though false killer whales are a tropical species that is usually found in waters warmer than those typical of the planned survey area, they have been observed off the U.S. west coast during warm-water periods. Several sightings were made off California during 2014–2016, when waters were unusually warm, and historically there are very rare records farther north (pers. comm. K. Forney, NMFS Southwest Fisheries Science Center, to J. Carduner, NMFS, July 27, 2017). Bottlenose dolphins have not been observed off the coast of Oregon and Washington (Carretta *et al.,* 2017). However, they occur frequently off the coast of California, and they may range into Oregon and Washington waters during warm-water periods. (Carretta *et al.,* 2017). Though no density data are available, we believe it is reasonable to conservatively assume that SIO's planned survey may encounter and incidentally take false killer whales and bottlenose dolphins. We therefore authorize the take of the average (mean) group size for both species (Table 8).

It should be noted that the take numbers shown in Table 8 are believed to be conservative for several reasons. First, in the calculations of estimated take, 25 percent has been added in the form of operational survey days (equivalent to adding 25 percent to the planned line km to be surveyed) to account for the possibility of additional seismic operations associated with airgun testing, and repeat coverage of any areas where initial data quality is sub-standard. Additionally, marine mammals would be expected to move away from a loud sound source that represents an aversive stimulus, potentially reducing the number of Level A takes. However, the extent to which marine mammals would move away from the sound source is difficult to quantify and is therefore not accounted for in take estimates shown in Table 8.

For some marine mammal species, we authorize a different number of incidental takes than the number of incidental takes requested by SIO (see Table 7 in the IHA application for requested take numbers). For instance, for several species, SIO increased the take request from the calculated take number to 1 percent of the estimated population size. However, we do not believe it is likely that 1 percent of the estimated population size of those species will be taken by SIO's planned survey, therefore we authorize take numbers as shows in Table 8, which we believe are based on the best available information.

To calculate distances to isopleths corresponding to Level A harassment thresholds using Peak SPL_{flat}, LDEO first ran the modeling for a single shot and then applied a high pass filter for each hearing group based on the group's generalized hearing range. A high pass filter is a type of band-pass filter, which pass frequencies within a defined range without reducing amplitude and attenuate frequencies outside that defined range (Yost 2007). LDEO ran the modeling both with and without the application of the high pass filter and SIO included information on isopleths corresponding to Level A harassment thresholds both with and without the high pass filter in their IHA application. The Technical Guidance referred to auditory weighting functions based on a generic band-pass filter (NMFS 2016). However, it is important to note that the two datasets relied upon to define peak SPL thresholds, either directly or as a surrogate means to derive thresholds for groups where no data are available (*i.e.,* a beluga exposed to seismic water gun and harbor porpoise exposed to a single airgun) did not use a filter of any kind (*i.e.,* thresholds provided were flat across the entire spectrum of the sound source). Therefore, for the purposes of modeling isopleths corresponding to Level A harassment thresholds using Peak SPL_{flat}, NMFS believes that sound produced from the *Revelle* airgun array should be considered flat to result in no weighting/high pass filtering of any type at this time. Therefore, for the purposes of the take calculation, we rely on the distances to isopleths corresponding to Level A harassment thresholds using Peak SPL_{flat} based on modeling performed by LDEO without the high pass filter applied. Thus, the Level A take numbers shown in Table 8 for harbor porpoise, Dall's porpoise and harbor seal are higher than the Level A take numbers requested by SIO as they are the result of modeling of isopleths corresponding to Level A harassment thresholds using Peak SPL_{flat} with no weighting/high pass filtering applied. Level A take numbers for other species are not affected.

Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting

the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

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

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

(2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

SIO has reviewed mitigation measures employed during seismic research surveys authorized by NMFS under previous incidental harassment authorizations, as well as recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), Weir and Dolman (2007), Nowacek *et al.* (2013), Wright (2014), and Wright and Cosentino (2015), and has incorporated a suite of mitigation measures into their project description based on the above sources.

To reduce the potential for disturbance from acoustic stimuli associated with the activities, SIO will implement the following mitigation measures for marine mammals:

(1) Vessel-based visual mitigation monitoring;

(2) Establishment of an exclusion zone and buffer zone;

(3) Shutdown procedures;

(4) Ramp-up procedures; and

(5) Ship strike avoidance measures.

In addition to these measures, NMFS proposed the following additional mitigation measures:

(1) Shutdown for a killer whale observed at any distance; and

(2) Shutdown for a north Pacific right whale observed at any distance.

Vessel-Based Visual Mitigation Monitoring

Protected Species Observer (PSO) observations will take place during all daytime airgun operations and nighttime start ups (if applicable) of the airguns. If airguns are operating throughout the night, observations will begin 30 minutes prior to sunrise. If airguns are operating after sunset, observations will continue until 30 minutes following sunset. Following a shutdown for any reason, observations will occur for at least 30 minutes prior to the planned start of airgun operations. Observations will also occur for 30 minutes after airgun operations cease for any reason. Observations will also be made during daytime periods when the *Revelle* is underway without seismic operations, such as during transits, to allow for comparison of sighting rates and behavior with and without airgun operations and between acquisition periods. Airgun operations will be suspended when marine mammals are observed within, or about to enter, the designated Exclusion Zone (EZ) (as described below).

During seismic operations, at least three visual PSOs will be based aboard the *Revelle.* PSOs will be appointed by SIO with NMFS approval. During the majority of seismic operations, two PSOs will monitor for marine mammals around the seismic vessel. A minimum of one PSO must be on duty at all times when the array is active. PSO(s) will be on duty in shifts of duration no longer than 4 hours. Other crew will also be instructed to assist in detecting marine mammals and in implementing mitigation requirements (if practical). Before the start of the seismic survey, the crew will be given additional instruction in detecting marine mammals and implementing mitigation requirements.

The *Revelle* is a suitable platform from which PSOs will watch for marine mammals. The *Revelle* has been used for that purpose during the routine California Cooperative Oceanic Fisheries Investigations surveys. Observing stations are located at the 02 level, with the observer eye level at ~10.4 m above the waterline. At a forward-centered position on the 02 deck, the view is ~240° an aft-centered view includes the 100-m radius area around the GI airguns. The observer eye level on the bridge is ~15 m above sea level. Standard equipment for marine mammal observers will be 7 x 50 reticule binoculars and optical range finders. At night, night-vision equipment will be available. The observers will be in communication with ship's officers on the bridge and scientists in the vessel's operations laboratory, so they can advise promptly of the need for avoidance maneuvers or seismic source shutdown.

The PSOs must have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements. PSO resumes have been be provided to NMFS for approval. At least one PSO must have a minimum of 90 days at-sea experience working as PSOs during a seismic survey. One ''experienced'' visual PSO will be designated as the lead for the entire protected species observation team. The lead will serve as primary point of contact for the vessel operator.

The PSOs must have successfully completed relevant training, including completion of all required coursework and passing a written and/or oral examination developed for the training program, and must have successfully attained a bachelor's degree from an accredited college or university with a major in one of the natural sciences and a minimum of 30 semester hours or equivalent in the biological sciences and at least one undergraduate course in math or statistics. The educational requirements may be waived if the PSO has acquired the relevant skills through alternate training, including (1) secondary education and/or experience comparable to PSO duties; (2) previous work experience conducting academic, commercial, or government-sponsored marine mammal surveys; or (3) previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.

Exclusion Zone and Buffer Zone

An EZ is a defined area within which occurrence of a marine mammal triggers mitigation action intended to reduce the potential for certain outcomes, *e.g.,* auditory injury, disruption of critical behaviors. The PSOs will establish a minimum EZ with a 100 m radius for the airgun array. The 100 m EZ will be based on radial distance from any

element of the airgun array (rather than being based on the center of the array or around the vessel itself). With certain exceptions (described below), if a marine mammal appears within, enters, or appears on a course to enter this zone, the acoustic source will be shut down (see Shut Down Procedures below).

The 100 m radial distance of the standard EZ is precautionary in the sense that it would be expected to contain sound exceeding peak pressure injury criteria for all marine mammal hearing groups (Table 6) while also providing a consistent, reasonably observable zone within which PSOs would typically be able to conduct effective observational effort. In this case, the 100 m radial distance would also be expected to contain sound that would exceed the Level A harassment threshold based on sound exposure level (SEL_{cum}) criteria for all marine mammal hearing groups (Table 6). In the 2011 Programmatic Environmental Impact Statement for marine scientific research funded by NSF or the U.S. Geological Survey (NSF–USGS 2011), Alternative B (the Preferred Alternative) conservatively applied a 100 m EZ for all low-energy acoustic sources in water depths >100 m, with low-energy acoustic sources defined as any towed acoustic source with a single or a pair of clustered airguns with individual volumes of ≤250 in^3. Thus the 100 m EZ for this survey is consistent with the PEIS.

Our intent in prescribing a standard exclusion zone distance is to (1) encompass zones within which auditory injury could occur on the basis of instantaneous exposure; (2) provide additional protection from the potential for more severe behavioral reactions (*e.g.,* panic, antipredator response) for marine mammals at relatively close range to the acoustic source; (3) provide consistency for PSOs, who need to monitor and implement the EZ; and (4) define a distance within which detection probabilities are reasonably high for most species under typical conditions.

PSOs will also establish and monitor a 200 m buffer zone. During use of the acoustic source, occurrence of marine mammals within the buffer zone (but outside the exclusion zone) will be communicated to the operator to prepare for potential shutdown of the acoustic source. The buffer zone is discussed further under *Ramp Up Procedures* below. PSOs will also monitor the entire extent of the Level B zone, or as far as possible if the extent of the Level B zone is not visible.

Shutdown Procedures

If a marine mammal is detected outside the EZ but is likely to enter the EZ, and if the vessel's speed and/or course cannot be changed to avoid having the animal enter the EZ, the airguns will be shut down before the animal is within the EZ. Likewise, if a marine mammal is already within the EZ when first detected, the airguns will be shut down immediately.

Following a shutdown, airgun activity will not resume until the marine mammal has cleared the 100 m EZ. The animal will be considered to have cleared the 100 m EZ if the following conditions have been met:

- It is visually observed to have departed the 100 m EZ, or
- it has not been seen within the 100 m EZ for 15 minutes in the case of small odontocetes, or
- it has not been seen within the 100 m EZ for 30 minutes in the case of mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales.

This shutdown requirement will be in place for all marine mammals, with the exception of small delphinoids under certain circumstances. As defined here, the small delphinoid group is intended to encompass those members of the Family Delphinidae most likely to voluntarily approach the source vessel for purposes of interacting with the vessel and/or airgun array (*e.g.,* bow riding). This exception to the shutdown requirement will apply solely to specific genera of small dolphins—*Tursiops, Stenella, Delphinus, Lagenorhynchus* and *Lissodelphis*—and will only apply if the animals were traveling, including approaching the vessel. If, for example, an animal or group of animals is stationary for some reason (*e.g.,* feeding) and the source vessel approaches the animals, the shutdown requirement applies. An animal with sufficient incentive to remain in an area rather than avoid an otherwise aversive stimulus could either incur auditory injury or disruption of important behavior. If there is uncertainty regarding identification (*i.e.,* whether the observed animal(s) belongs to the group described above) or whether the animals are traveling, the shutdown will be implemented.

We include this small delphinoid exception because shutdown requirements for small delphinoids under all circumstances represent practicability concerns without likely commensurate benefits for the animals in question. Small delphinoids are generally the most commonly observed marine mammals in the specific geographic region and would typically be the only marine mammals likely to intentionally approach the vessel. As described below, auditory injury is extremely unlikely to occur for mid-frequency cetaceans (*e.g.,* delphinids), as this group is relatively insensitive to sound produced at the predominant frequencies in an airgun pulse while also having a relatively high threshold for the onset of auditory injury (*i.e.,* permanent threshold shift). Please see ''Potential Effects of the Specified Activity on Marine Mammals'' above for further discussion of sound metrics and thresholds and marine mammal hearing.

A large body of anecdotal evidence indicates that small delphinoids commonly approach vessels and/or towed arrays during active sound production for purposes of bow riding, with no apparent effect observed in those delphinoids (*e.g.,* Barkaszi *et al.,* 2012). The potential for increased shutdowns resulting from such a measure would require the *Revelle* to revisit the missed track line to reacquire data, resulting in an overall increase in the total sound energy input to the marine environment and an increase in the total duration over which the survey is active in a given area. Although other mid-frequency hearing specialists (*e.g.,* large delphinoids) are no more likely to incur auditory injury than are small delphinoids, they are much less likely to approach vessels. Therefore, retaining a shutdown requirement for large delphinoids would not have similar impacts in terms of either practicability for the applicant or corollary increase in sound energy output and time on the water. We do anticipate some benefit for a shutdown requirement for large delphinoids in that it simplifies somewhat the total range of decision-making for PSOs and may preclude any potential for physiological effects other than to the auditory system as well as some more severe behavioral reactions for any such animals in close proximity to the source vessel.

At any distance, shutdown of the acoustic source will also be required upon observation of any of the following:

- A killer whale;
- a large whale (*i.e.,* sperm whale or any baleen whale) with a calf;
- a north Pacific right whale; or
- an aggregation of large whales of any species (*i.e.,* sperm whale or any baleen whale) that does not appear to be traveling (*e.g.,* feeding, socializing, etc.).

These are the only potential situations that would require shutdown of the array for marine mammals observed beyond the 100 m EZ. Killer whales belonging to the Southern Resident

distinct population segment (DPS) are not expected to occur in the area of the planned survey as the easternmost track lines of the planned survey (those that approach nearest to shore) are further west than the migratory range of the Southern Resident stock off Oregon and southern Washington (pers. comm., B. Hanson, NMFS Northwest Fishery Science Center to J. Carduner, NMFS Office of Protected Resources (OPR), April 12, 2017). As the Eastern North Pacific Southern Resident stock would be expected to occur closer to shore than the planned survey area, the survey is not expected to encounter any individuals from this stock. However, as the known migratory range of the Southern Resident DPS occurs near the planned survey area, and due to the precarious conservation status of the Southern Resident killer whale DPS, NMFS believes it is reasonable to implement measures that are conservative and also practicable in order to prevent the potential for a Southern Resident killer whale to be exposed to airgun sounds. Thus the requirement to shut down the array upon observation of a killer whale at any distance is designed to avoid any potential for harassment of any Southern Resident killer whales.

As described above, we do not expect the survey to encounter a north Pacific right whale and take of north Pacific right whales is not authorized. However, in the extremely rare event that a north Pacific right whale was observed at any distance, the array would be shut down and would not be activated until 30 minutes had elapsed since the most recent sighting.

Ramp-Up Procedures

Ramp-up of an acoustic source is intended to provide a gradual increase in sound levels following a shutdown, enabling animals to move away from the source if the signal is sufficiently aversive prior to its reaching full intensity. Ramp-up will be required after the array is shut down for any reason. Ramp-up will begin with the activation of one 45 in^3 airgun, with the second 45 in^3 airgun activated after 5 minutes.

PSOs are required to monitor during ramp-up. During ramp up, the PSOs will monitor the EZ, and if marine mammals were observed within or approaching the 100 m EZ, a shutdown will be implemented as though the full array were operational. If airguns have been shut down due to PSO detection of a marine mammal within or approaching the 100 m EZ, ramp-up will not be initiated until all marine mammals have cleared the EZ, during the day or night. Criteria for clearing the EZ will be as described above.

Thirty minutes of pre-clearance observation are required prior to ramp-up for any shutdown of longer than 30 minutes (*i.e.,* if the array were shut down during transit from one line to another). This 30 minute pre-clearance period may occur during any vessel activity (*i.e.,* transit). If a marine mammal were observed within or approaching the 100 m EZ during this pre-clearance period, ramp-up will not be initiated until all marine mammals cleared the EZ. Criteria for clearing the EZ will be as described above. If the airgun array has been shut down for reasons other than mitigation (*e.g.,* mechanical difficulty) for a period of less than 30 minutes, it may be activated again without ramp-up if PSOs have maintained constant visual observation and no detections of any marine mammal have occurred within the EZ or buffer zone. Ramp-up will be planned to occur during periods of good visibility when possible. However, ramp-up is allowed at night and during poor visibility if the 100 m EZ and 200 m buffer zone have been monitored by visual PSOs for 30 minutes prior to ramp-up.

The operator will be required to notify a designated PSO of the planned start of ramp-up as agreed-upon with the lead PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up. A designated PSO must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed. The operator must provide information to PSOs documenting that appropriate procedures were followed. Following deactivation of the array for reasons other than mitigation, the operator is required to communicate the near-term operational plan to the lead PSO with justification for any planned nighttime ramp-up.

Speed or Course Alteration

If a marine mammal is detected outside the EZ, based on its position and the relative motion, is likely to enter the EZ, the vessel's speed and/or direct course could be changed. This will be done if operationally practicable while minimizing the effect on the planned science objectives. The activities and movements of the marine mammal (relative to the seismic vessel) will then be closely monitored to determine whether the animal is approaching the EZ. If the animal appears likely to enter the EZ, a shutdown of the seismic source will cocur. Typically, during seismic operations, the source vessel is unable to change speed or course and one or more alternative mitigation measures (as described above) will need to be implemented.

Based on our evaluation of the mitigation measures as described above, NMFS has determined that the mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

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

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

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

• Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and

• Mitigation and monitoring effectiveness.

SIO submitted a marine mammal monitoring and reporting plan in section XIII of their IHA application. Monitoring that is designed specifically to facilitate mitigation measures, such as monitoring of the EZ to inform potential shutdowns of the airgun array, are described above and are not repeated here.

SIO's monitoring and reporting plan includes the following measures:

Vessel-Based Visual Monitoring

As described above, PSO observations will take place during daytime airgun operations and nighttime start ups (if applicable) of the airguns. During seismic operations, three visual PSOs will be based aboard the *Revelle.* PSOs will be appointed by SIO with NMFS approval. During the majority of seismic operations, one PSO will monitor for marine mammals around the seismic vessel. PSOs will be on duty in shifts of duration no longer than 4 hours. Other crew will also be instructed to assist in detecting marine mammals and in implementing mitigation requirements (if practical). During daytime, PSOs will scan the area around the vessel systematically with reticle binoculars (*e.g.,* 7×50 Fujinon), Big-eye binoculars (25×150), and with the naked eye.

PSOs will record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. Data will be used to estimate numbers of animals potentially 'taken' by harassment (as defined in the MMPA). They will also provide information needed to order a shutdown of the airguns when a marine mammal is within or near the EZ. When a sighting is made, the following information about the sighting will be recorded:

1. Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (*e.g.,* none, avoidance, approach, paralleling, etc.), and behavioral pace.

2. Time, location, heading, speed, activity of the vessel, sea state, visibility, and sun glare.

All observations and shutdowns will be recorded in a standardized format. Data will be entered into an electronic database. The accuracy of the data entry will be verified by computerized data validity checks as the data are entered and by subsequent manual checking of the database. These procedures will allow initial summaries of data to be prepared during and shortly after the field program and will facilitate transfer of the data to statistical, graphical, and other programs for further processing and archiving. The time, location, heading, speed, activity of the vessel, sea state, visibility, and sun glare will also be recorded at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

Results from the vessel-based observations will provide:

1. The basis for real-time mitigation (airgun shutdown);

2. Information needed to estimate the number of marine mammals potentially taken by harassment, which must be reported to NMFS;

3. Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted;

4. Information to compare the distance and distribution of marine mammals relative to the source vessel at times with and without seismic activity; and

5. Data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

Reporting

A report will be submitted to NMFS within 90 days after the end of the cruise. The report will describe the operations that were conducted and sightings of marine mammals near the operations. The report will provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report will summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities). The report will also include estimates of the number and nature of exposures that occurred above the harassment threshold based on PSO observations, including an estimate of those on the trackline but not detected.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, our analysis applies to all the species listed in Table 1, given that NMFS expects the anticipated effects of the planned seismic survey to be similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, NMFS has identified species-specific factors to inform the analysis.

NMFS does not anticipate that serious injury or mortality will occur as a result of SIO's planned seismic survey, even in the absence of mitigation. Thus the authorization does not authorize any mortality. As discussed in the *Potential Effects* section, non-auditory physical effects, stranding, and vessel strike are not expected to occur.

We authorize a limited number of instances of Level A harassment (Table 8) for four species. However, we believe that any PTS incurred in marine mammals as a result of the planned activity will be in the form of only a small degree of PTS, not total deafness, and would be unlikely to affect the fitness of any individuals, because of the constant movement of both the *Revelle* and of the marine mammals in the project area, as well as the fact that the vessel is not expected to remain in

any one area in which individual marine mammals would be expected to concentrate for an extended period of time (*i.e.,* since the duration of exposure to loud sounds will be relatively short). Also, as described above, we expect that marine mammals are likely to move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice of the *Revelle's* approach due to the vessel's relatively low speed when conducting seismic surveys. We expect that the majority of takes will be in the form of short-term Level B behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity were occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007).

Potential impacts to marine mammal habitat were discussed previously in this document (see *Potential Effects of the Specified Activity on Marine Mammals and their Habitat*). Marine mammal habitat may be impacted by elevated sound levels, but these impacts will be temporary. Feeding behavior is not likely to be significantly impacted, as marine mammals appear to be less likely to exhibit behavioral reactions or avoidance responses while engaged in feeding activities (Richardson *et al.,* 1995). Prey species are mobile and are broadly distributed throughout the project area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the temporary nature of the disturbance, the availability of similar habitat and resources in the surrounding area, and the lack of important or unique marine mammal habitat, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations. In addition, there are no mating or calving areas known to be biologically important to marine mammals within the planned project area.

The activity is expected to impact a very small percentage of all marine mammal stocks affected by SIO's planned survey (less than 7 percent each for all marine mammal stocks). Additionally, the acoustic ''footprint'' of the planned survey will be very small relative to the ranges of all affected marine mammals . Sound levels will increase in the marine environment in a relatively small area surrounding the vessel compared to the range of the marine mammals within the planned survey area. The seismic array will be active 24 hours per day throughout the duration of the planned survey. However, the very brief overall duration of the planned survey (five days) will further limit potential impacts that may occur as a result of the planned activity. As noted above, take estimates for four species have been revised since we published the proposed IHA. Our analysis reflects these revised numbers (Table 8).

The mitigation measures are expected to reduce the number and/or severity of takes by allowing for detection of marine mammals in the vicinity of the vessel by visual and acoustic observers, and by minimizing the severity of any potential exposures via shutdowns of the airgun array. Based on previous monitoring reports for substantially similar activities that have been previously authorized by NMFS, we expect that the mitigation measures will be effective in preventing at least some extent of potential PTS in marine mammals that may otherwise occur in the absence of the mitigation measures.

Of the marine mammal species under our jurisdiction that are likely to occur in the project area, the following species are listed as endangered under the ESA: Humpback, blue, fin, sei, and sperm whales. Population estimates for humpback whales for the North Pacific have increased substantially from 1,200 in 1966 to approximately 18,000–20,000 whales in 2004 to 2006 (Calambokidis *et al.* 2008) indicating a growth rate of 6–7 percent (Carretta *et al.,* 2017). There are currently insufficient data to determine population trends for blue, fin, sei, and sperm whales (Carretta *et al.,* 2017); however, we are proposing to authorize very small numbers of takes for these species (Table 8), relative to their population sizes, therefore we do not expect population-level impacts to any of these species. The other marine mammal species that may be taken by harassment during SIO's seismic survey are not listed as threatened or endangered under the ESA. There is no designated critical habitat for any ESA-listed marine mammals within the project area; and of the non-listed marine mammals for which we authorize take, none are considered ''depleted'' or ''strategic'' by NMFS under the MMPA.

NMFS concludes that exposures to marine mammal species and stocks due to SIO's planned seismic survey will result in only short-term (temporary and short in duration) effects to individuals exposed, or some small degree of PTS to a very small number of individuals of four species. Animals may temporarily avoid the immediate area, but are not expected to permanently abandon the area. Major shifts in habitat use, distribution, or foraging success are not expected. NMFS does not anticipate the take estimates to impact annual rates of recruitment or survival.

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 marine mammal species or stocks through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- The anticipated impacts of the planned activity on marine mammals will primarily be temporary behavioral changes due to avoidance of the area around the survey vessel. The relatively short duration of the planned survey (5 days) will further limit the potential impacts of any temporary behavioral changes that may occur;
- The number of instances of PTS that may occur are expected to be very small in number (Table 8). Instances of PTS that are incurred in marine mammals would be of a low level, due to constant movement of the vessel and of the marine mammals in the area, and the nature of the survey design (not concentrated in areas of high marine mammal concentration);
- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the planned survey to avoid exposure to sounds from the activity;
- The planned survey area does not contain areas of significance for feeding, mating or calving;
- The potential adverse effects on fish or invertebrate species that serve as prey species for marine mammals from the planned survey would be temporary and spatially limited;
- The mitigation measures, including visual and acoustic monitoring and shutdowns, are expected to minimize potential impacts to marine mammals.

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

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers; 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 8 provides numbers of take by Level A harassment and Level B harassment authorized. These are the numbers we use for purposes of the small numbers analysis.

The numbers of marine mammals that we authorize to be taken, for all species and stocks, would be considered small relative to the relevant stocks or populations (less than 7 percent for all species and stocks). Based on the analysis contained herein of the planned activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks will 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 (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 ESA Interagency Cooperation Division, whenever we propose to authorize take for endangered or threatened species.

The NMFS Permits and Conservation Division are authorizing the incidental take of 5 species of marine mammals which are listed under the ESA: The humpback whale (Mexico DPS), sei whale, fin whale, blue whale and sperm whale. Under Section 7 of the ESA, we initiated consultation with the NMFS OPR Interagency Cooperation Division for the issuance of this IHA. In September, 2017, the NMFS OPR Interagency Cooperation Division issued a Biological Opinion with an incidental take statement, which concluded that the issuance of the IHA was not likely to jeopardize the continued existence of the humpback whale (Mexico DPS), sei whale, fin whale, blue whale and sperm whale. The Biological Opinion also concluded that the issuance of the IHA would not destroy or adversely modify designated critical habitat for these species.

Authorization

NMFS has issued an IHA to the SIO for the potential harassment of small numbers of 27 marine mammal species incidental to a low-energy marine geophysical survey in the northeast Pacific Ocean, provided the previously mentioned mitigation, monitoring and reporting requirements are incorporated.

Dated: October 19, 2017.

Donna S. Wieting,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Integrated Drought Information System (NIDIS), NIDIS Executive Council Meeting

AGENCY: Climate Program Office (CPO), Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open meeting.

SUMMARY: The National Integrated Drought Information System (NIDIS) Program Office will hold an organizational meeting of the NIDIS Executive Council on October 24, 2017.

DATES: The meeting will be held Tuesday, October 24, 2017 from 9:00 a.m. EST to 4:00 p.m. EST. These times and the agenda topics described below are subject to change.

ADDRESSES: The meeting will be held at the National Association of Counties, 660 North Capitol St. NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Veva Deheza, NIDIS Executive Director, David Skaggs Research Center, Room GD102, 325 Broadway, Boulder CO 80305. Email: *Veva.Deheza@noaa.gov;* or visit the NIDIS Web site at *www.drought.gov.*

SUPPLEMENTARY INFORMATION:

Status: This meeting will be open to public participation. Individuals interested in attending should register at *https://cpaess.ucar.edu/meetings/2017/fall-2017-nidis-executive-council-meeting.* Please refer to this Web page for the most up-to-date meeting times and agenda. Seating at the meeting will be available on a first-come, first-served basis.

Special Accommodations: This meeting is physically accessible to people with disabilities. Requests for special accommodations may be directed no later than 12:00 p.m. on October 18, 2017, to Elizabeth Ossowski, Program Coordinator, David Skaggs Research Center, Room GD102, 325 Broadway, Boulder CO 80305; Email: *Elizabeth.Ossowski@noaa.gov.*

Matters To Be Considered: The meeting will include the following topics: (1) NIDIS implementation updates and 2017—2018 priorities, (2) Executive Council member updates and 2017—2018 priorities, (3) Federal coordination around drought early warning, (4) Sub-seasonal to seasonal prediction, (5) Private sector and non-governmental partner engagement, and (6) open discussion on advancing the goals of the NIDIS Public Law and Reauthorization.

The National Integrated Drought Information System (NIDIS) was established by Public Law 109–430 on December 20, 2006, and reauthorized by Public Law 113–86 on March 6, 2014, with a mandate to provide an effective drought early warning system for the United States; coordinate, and integrate as practicable, Federal research in support of a drought early warning system; and build upon existing forecasting and assessment programs and partnerships. *See* 15 U.S.C. 313d. The Public Law also calls for consultation with ''relevant Federal, regional, State, tribal, and local government agencies, research institutions, and the private sector'' in the development of NIDIS. 15 U.S.C. 313d(c). The NIDIS Executive Council provides the NIDIS Program Office with an opportunity to engage in individual consultation with senior resource officials from NIDIS's Federal partners, as well as leaders from state and local government, academia,

nongovernmental organizations, and the private sector.

Dated: September 28, 2017.

David Holst,

Acting Chief Financial Officer/CAO, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2017–21577 Filed 10–23–17; 11:15 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF788

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Groundfish Plan Team will meet November 13 through November 17, 2017.

DATES: The meeting will be held on Monday, November 13, 2017 to Friday, November 17, 2017, from 9 a.m. to 5 p.m. Pacific Time.

ADDRESSES: The meeting will be held at the Alaska Fishery Science Center, Traynor Room 2076, 7600 Sand Point Way NE., Building 4, Seattle, WA 98115.

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

FOR FURTHER INFORMATION CONTACT: Diana Stram or Jim Armstrong, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Agenda

Monday, November 13 to Friday, November 17, 2017

The Plan Teams will compile and review the annual Groundfish Stock Assessment and Fishery Evaluation (SAFE) reports, (including the Economic Report, the Ecosystems/assessment and status report, and the stock assessments for BSAI and GOA groundfishes), and recommend final groundfish harvest specifications for 2017/2018.

The Agenda is subject to change, and the latest version will be posted at *http://www.npfmc.org/fishery-management-plan-team/goa-bsai-groundfish-plan-team/.*

Special Accommodations

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

Dated: October 20, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–23190 Filed 10–24–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF507

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Boost-Back and Landing of Falcon 9 Rockets

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 Space Exploration Technology Corporation (SpaceX) for authorization to take marine mammals incidental to boost-back and landing of Falcon 9 rockets at Vandenberg Air Force Base in California, and at contingency landing locations in the Pacific Ocean. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to SpaceX to incidentally take marine mammals, by Level B harassment only, 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 November 24, 2017.

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

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/research.htm* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Jordan Carduner, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/research.htm.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

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

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect

the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

National Environmental Policy Act

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

This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NAO 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 in making a final decision on the IHA request.

Summary of Request

NMFS received a request from SpaceX for an IHA to take marine mammals incidental to Falcon 9 First Stage recovery activities, including in-air boost-back maneuvers and landings of the First Stage of the Falcon 9 rocket at Vandenberg Air Force Base (VAFB) in California, and at contingency landing locations offshore. SpaceX's request was for harassment only and NMFS concurs that mortality is not expected to result from this activity. Therefore, an IHA is appropriate.

SpaceX's application for incidental take authorization was received on July 11, 2017. SpaceX submitted a revised version of the request on October 13, 2017. This revised version of the application was deemed adequate and complete. The planned activity may exceed one year, hence subsequent MMPA incidental harassment authorizations may be requested for this particular activity.

The planned activities include in-air boost-back maneuvers and landings of the First Stage of the Falcon 9 rocket. The action may occur as many as 12 times and may occur at any time of year. Species that are expected to be taken by the planned activity include harbor seal, California sea lion, Steller sea lion, northern elephant seal, northern fur seal, and Guadalupe fur seal. SpaceX's activities are expected to produce noise, in the form of sonic booms, that are expected to result in harassment of marine mammals that are hauled out of the water. Take by Level B harassment only is expected; no injury or mortality of marine mammals is expected to result from the proposed activity.

If issued, this would be the second IHA issued for this activity. SpaceX applied for, and was granted, an IHA in 2016 that was valid from June 30, 2016 through June 29, 2017 (81 FR 34984, June 30, 2016). SpaceX complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous IHA.

Description of Proposed Activity

Overview

The Falcon 9 is a two-stage rocket designed and manufactured by SpaceX for transport of satellites and SpaceX's Dragon spacecraft into orbit. SpaceX currently operates the Falcon Launch Vehicle Program at Space Launch Complex 4E (SLC–4E) at VAFB. SpaceX proposes regular employment of First Stage recovery by returning the Falcon 9 First Stage to SLC–4 West (SLC–4W) at VAFB for potential reuse, up to twelve times per year. This includes performing boost-back maneuvers (in-air) and landings of the Falcon 9 First Stage on the pad at SLC–4W. The reuse of the Falcon 9 First Stage enables SpaceX to efficiently conduct lower cost launch missions from VAFB in support of commercial and government clients.

Although SLC–4W is the preferred landing location, SpaceX has identified the need for contingency landing locations should it not be feasible to land the First Stage at SLC–4W. The first contingency landing option is on a barge located at least 27 nautical miles (nm) (50 kilometers (km) offshore of VAFB. The second contingency landing option is on a barge within the Iridium Landing Area, an area approximately 33,153 square kilometers (km^2) area that is located approximately 122 nm (225 km) southwest of San Nicolas Island and 133 nm (245 km) southwest of San Clemente Island (see Figure 1–3 in the IHA application).

During descent, a sonic boom (overpressure of high-energy impulsive sound) would be generated when the First Stage reaches a rate of travel that exceeds the speed of sound. Sonic booms would occur in proximity to the landing areas and may be heard during or briefly after the boost-back and landing, depending on the location of the observer. Sound from the sonic boom would have the potential to result in harassment of marine mammals, either on the mainland at or near VAFB, or at the Northern Channel Islands (NCI), as described in more detail later in this document.

Dates and Duration

The planned project would occur from December 1, 2017 through November 30, 2018. Up to twelve Falcon 9 First Stage recovery activities would occur per year. Precise dates of Falcon 9 First Stage recovery activities are not known. Falcon 9 First Stage recovery activities may take place at any time of year and at any time of day. The IHA, if issued, would be valid from December 1, 2017 through November 30, 2018.

Specified Geographic Region

Falcon 9 First Stage recovery activities will originate at VAFB. Areas potentially affected include VAFB, areas on the coastline surrounding VAFB and the NCI. VAFB operates as a missile test base and aerospace center, supporting west coast space launch activities for the U.S. Air Force (USAF), Department of Defense, National Aeronautics and Space Administration, and commercial contractors. VAFB is the main west coast launch facility for placing commercial, government, and military satellites into polar orbit on expendable (unmanned) launch vehicles, and for testing and evaluating intercontinental ballistic missiles and sub-orbital target and interceptor missiles.

VAFB occupies approximately 99,100 acres of central Santa Barbara County, California. VAFB is divided by the Santa Ynez River and State Highway 246 into two distinct parts: North Base and South Base. SLC–4W is located on South Base, approximately 0.5 mile (0.8 km) inland from the Pacific Ocean (see Figure 1–2 in SpaceX's IHA application). SLC–4E, the launch facility for SpaceX's Falcon 9 program, is located approximately 427 meters (m) to the east of SLC–4W, the proposed landing site for the Falcon 9 First Stage

(see Figure 1–2 in SpaceX's IHA application).

Although SLC–4W is the preferred landing location, SpaceX has identified the need for a contingency landing option. As described above, a contingency landing would occur on a barge located either at a pre-determined location at least 27 nautical miles (nm) (50 km) offshore of VAFB (see Figure 1–7 in the IHA application) or within the Iridium Landing Area located approximately 122 nm (225 km) southwest of San Nicolas Island and 133 nm (245 km) southwest of San Clemente Island (see Figure 1–8 in the IHA application). The NCI are also considered part of the project area for the purposes of this proposed authorization, as landings at VAFB could result in sonic booms that impact the NCI. The NCI are four islands (San Miguel, Santa Rosa, Santa Cruz, and Anacapa) located approximately 50 km south of Point Conception, which is located on the mainland approximately 6.5 km south of the southern border of VAFB. The closest part of the NCI to VAFB (Harris Point on San Miguel Island (SMI)) is located more than 55 km south-southeast of SLC–4E, the launch facility for the Falcon 9 rocket.

Detailed Description of Specific Activities

The Falcon 9 is a two-stage rocket designed and manufactured by SpaceX for transport of satellites and SpaceX's Dragon spacecraft into orbit. The First Stage of the Falcon 9 is designed to be reusable, while the second stage is not reusable. The Falcon 9 First Stage is 12 feet (ft.) in diameter and 160 ft. in height, including the interstage that would remain attached during landing. The proposed action includes up to twelve Falcon 9 First Stage recoveries, including in-air boost-back maneuvers and landings of the First Stage, at VAFB or at a contingency landing location as described above.

After launch of the Falcon 9, the boost-back and landing sequence begins when the rocket's First Stage separates from the second stage and the Merlin engines of the First Stage cut off. After First Stage engine cutoff, rather than dropping the First Stage in the Pacific Ocean, exoatmospheric cold gas thrusters would be triggered to flip the First Stage into position for retrograde burn. Three of the nine First Stage Merlin engines would be restarted to conduct the retrograde burn in order to reduce the velocity of the First Stage and to place the First Stage in the correct angle to land. Once the First Stage is in position and approaching its landing target, the three engines would cut off to end the boost-back burn. The First Stage would then perform a controlled descent using atmospheric resistance to slow the stage down and guide it to the landing pad target. The First Stage is outfitted with grid fins that allow cross range corrections as needed. The landing legs on the First Stage would then deploy in preparation for a final single engine burn that would slow the First Stage to a velocity of zero before landing on the landing pad at SLC–4W.

During descent, a sonic boom (overpressure of high-energy impulsive sound) would be generated when the First Stage reaches a rate of travel that exceeds the speed of sound. Sonic booms would occur in proximity to the landing area with the highest sound levels generated from sonic booms generally focused in the direction of the landing area, and may be heard during or briefly after the boost-back and landing, depending on the location of the observer. Sound from the sonic booms would have the potential to result in harassment of marine mammals, as described in greater detail later in this document. Based on model results, a boost-back and landing of the Falcon 9 First Stage at SLC–4W would produce sonic booms with overpressures that would potentially be as high as 8.5 pounds per square foot (psf) at VAFB and potentially as high as 3.1 psf at the NCI. Sonic boom modeling indicates that landings that occur at either of the proposed contingency landing locations offshore would result in sonic booms below 1.0 psf. Take of marine mammals that are hauled out of the water are expected to occur only when those hauled out marine mammals experience sonic booms greater than 1.0 psf (this is discussed in greater detail below in the section on Estimated Take by Incidental Harassment). Therefore, take of marine mammals may occur as a result of landings that occur at VAFB; however, take of marine mammals is not expected to occur as a result of landings that occur at either of the proposed contingency landing locations offshore. Please see Figure 1–4 in the IHA application for a graphical depiction of the boost-back and landing sequence, and see Figure 1–5 in the IHA application for an example of the boost-back trajectory of the First Stage and the second stage trajectory.

As a contingency action to landing the Falcon 9 First Stage on the SLC–4W pad at VAFB, SpaceX proposes to return the Falcon 9 First Stage booster to a barge in the Pacific Ocean (Figure 1–6 in the IHA application). The barge is specifically designed to be used as a First Stage landing platform and would be located at least 27 nm (50 km) offshore of VAFB (Figure 1–7 in the IHA application) or within the Iridium Landing Area (Figure 1–8 in the IHA application). These contingency landing locations would be used when landing at SLC–4W would not be feasible. The maneuvering and landing process described above for a pad landing would be the same for a barge landing. Three vessels would be required to support a barge landing, if it were required: A barge/landing platform (300 ft long and 150 ft wide); a support vessel (165 ft long research vessel); and an ocean tug (120 ft long open water commercial tug).

Landing Noise

Landing noise would be generated during each boost-back event. SpaceX proposes to use a three-engine burn during landing. This engine burn, lasting approximately 17 seconds, would generate noise between 70 and 110 decibels (dB) re 20 μPa (non-pulse, in-air noise) centered on SLC–4W, but affecting an area up to 15 nm (27.8 km) offshore of VAFB (Figure 2–10 in the IHA application). This landing noise event would be of short duration (approximately 17 seconds). Although, during a landing event at SLC–4W, landing noise between 70 and 90 dB would be expected to overlap pinniped haulout areas at and near Point Arguello and Purisima Point, no pinniped haulouts would experience landing noises of 90 dB or greater (see Figure 2–10 in the IHA application).

NMFS's recommended acoustic thresholds for in-air acoustic impacts assume that Level B harassment of harbor seals occurs at 90 dB rms re 20 μPa and Level B harassment of all other pinnipeds occurs at 100 dB rms re 20 μPa (Table 1). Therefore, harassment of marine mammals hauled out at VAFB from engine noise generated during landings is not expected to occur. Engine noise would also be produced during a contingency barge landing of the Falcon 9 First Stage. Engine noise during a barge landing is expected to be between 70 and 110 dB re 20 μPa affecting a radial area up to 15 nm (27.8 km) around the contingency landing location (Figure 2–11 in the IHA application) and the Iridium 38 Landing Area (Figure 2–12 in the IHA application). No pinniped haulouts are located within the areas predicted to experience engine noise of 90 dB and above during Falcon 9 First Stage landings at contingency landing locations and the Iridium Landing Area (Figures 2–11 and 2–12 in the IHA application). Therefore, the likelihood

of engine noise associated with the landing of the Falcon 9 First Stage resulting in take of marine mammals is considered so low as to be discountable, and landing noise is therefore not discussed further in this document.

TABLE 1—RECOMMENDED CRITERIA FOR PINNIPED HARASSMENT FROM EXPOSURE TO AIRBORNE SOUND

Species	Level B harassment threshold
Harbor seals	90 dB re 20 μPa.
All other pinniped species.	100 dB re 20 μPa.

Unsuccessful Barge Landing

In the event of an unsuccessful barge landing, the First Stage would explode upon impact with the barge. The direct sound from an explosion would last less than a second. Furthermore, the proposed activities would be dispersed in time, with maximum of twelve barge landing attempts occurring within a twelve month time period. If an explosion occurred on the barge, as in the case of an unsuccessful barge landing attempt, some amount of the explosive energy would be transferred through the ship's structure and would enter the water and propagate away from the ship.

There is very little published literature on the ratio of explosive energy that is absorbed by a ship's hull versus the amount of energy that is transferred through the ship into the water. However, based on the best available information, we have determined that exceptionally little of the acoustic energy from the explosion would transmit into the water (Yagla and Stiegler, 2003). An explosion on the barge would create an in-air blast that propagates away in all directions, including toward the water's surface; however the barge's deck would act as a barrier that would attenuate the energy directed downward toward the water (Yagla and Stiegler, 2003). Most sound enters the water in a narrow cone beneath the sound source (within 13 degrees of vertical). Since the explosion would occur on the barge, most of this sound would be reflected by the barge's surface, and sound waves would approach the water's surface at angles higher than 13 degrees, minimizing transmission into the ocean. An explosion on the barge would also send energy through the barge's structure, into the water, and away from the barge. This effect was investigated in conjunction with the measurements described in Yagla and Steigler (2003). Yagla and Steigler (2003) reported that the energy transmitted through a ship to the water for the firing of a typical 5-inch round was approximately six percent of that from the air blast impinging on the water (Yagla and Stiegler, 2003). Therefore, sound transmitted from the blast through the hull into the water was a minimal component of overall firing noise, and would likewise be expected to be a minimal component of an explosion occurring on the surface of the barge.

Depending on the amount of fuel remaining in the booster at the time of the explosion, the intensity of the explosion would likely vary. Based on previous Falcon 9 boost-back and landing activities, the explosive equivalence of the First Stage with maximum fuel and oxidizer would be expected to be approximately 500 lb. of trinitrotoluene (TNT). Explosion shock theory has proposed specific relationships for the peak pressure and time constant in terms of the charge weight and range from the detonation position (Pater 1981; Plotkin *et al.* 2012). For an in-air explosion equivalent to 500 lb. of TNT, at 0.5 feet the explosion would be approximately 250 dB re 20 μPa. Based on the assumption that the structure of the barge would absorb and reflect approximately 94 percent of this energy, with approximately six percent of the energy from the explosion transmitted into the water (Yagla and Stiegler, 2003), the amount of energy that would be transmitted into the water would be far less than the lowest threshold for Level B harassment for both pinnipeds and cetaceans based on NMFS's current acoustic criteria for in-water explosive noise (160 dB re 1 μpa). As a result, the likelihood of in-water sound generated by an explosion of the Falcon 9 First Stage during an unsuccessful barge landing attempt resulting in take of marine mammals is considered so low as to be discountable and is therefore not discussed further in this document.

As discussed above, in the event of an unsuccessful contingency landing attempt, the First Stage would be expected to explode upon impact with the barge. SpaceX has experience performing recovery operations after water and unsuccessful barge landings for previous Falcon 9 First Stage landing attempts. This experience, in addition to the debris catalog that identifies all floating debris, has revealed that approximately 25 pieces of debris remain floating after an unsuccessful barge landing. The approximately 25 pieces of debris would primarily be made of Carbon Over Pressure Vessels (COPVs), the liquid oxygen fill line, and carbon fiber constructed legs. The vast majority of debris would be recovered. All other debris is expected to sink to the bottom of the ocean. Denser debris that would not float on the surface would sink relatively quickly and is composed of inert materials which would not affect water quality or bottom substrate potentially used by marine mammals. The rate of deposition would vary with the type of debris; however, none of the debris is so dense or large that benthic habitat would be degraded.

The surface area potentially impacted with debris would be less than 0.46 km^2. Since the area impacted by debris is very small, the likelihood of adverse effects to marine mammals is very low. During previous landing attempts in other locations, SpaceX has performed successful debris recovery. All of the recovered debris would be transported back to Long Beach Harbor for proper disposal. Most of the fuel remaining in the First Stage would be released onto the barge deck at the location of impact. Therefore, the likelihood of take of marine mammals as a result of contact with exploded First Stage materials is considered so low as to be discountable, and explosion of the Falcon 9 First Stage is therefore not discussed further in this document.

In the event that a contingency landing action is required, there is the potential that the Falcon 9 First Stage would miss the barge entirely and land instead in the ocean. However, the likelihood of the First Stage missing the barge entirely and landing in the Pacific Ocean is considered so unlikely as to be discountable. This is supported by several previous attempts by SpaceX at Falcon 9 First Stage barge landings, none of which have missed the barge. Therefore, the likelihood of take of marine mammals associated with a Falcon 9 First Stage landing in the ocean is considered so low as to be discountable, and landing of the Falcon 9 First Stage in the ocean is not considered further in this document.

NMFS has previously issued regulations and Letters of Authorization (LOA) that authorize the take of marine mammals, by Level B harassment, incidental to launches of up to 50 rockets per year (including the Falcon 9) from VAFB (79 FR 10016, February 24, 2014). The regulations, titled ''*Taking of Marine Mammals Incidental to U.S. Air Force Launches, Aircraft and Helicopter Operations, and Harbor Activities Related to Vehicles from Vandenberg Air Force Base, California,*'' published February 24, 2014, are effective from March 2014 to March 2019. The activities proposed by SpaceX are limited to Falcon 9 First Stage recovery events (Falcon 9 boost-back maneuvers

and landings); launches of the Falcon 9 rocket are not part of the proposed activities, and incidental take (Level B harassment) resulting from Falcon 9 rocket launches from VAFB is already authorized in the above referenced LOA. As such, NMFS does not propose to authorize take of marine mammals incidental to launches of the Falcon 9 rocket; incidental take resulting from Falcon 9 rocket launches is therefore not analyzed further in this document. The LOA application (USAF 2013a), and links to the **Federal Register** notice of the final rule (79 FR 10016, February 24, 2014) and the **Federal Register** notice of issuance of the LOA (79 FR 18528, April 2, 2014), can be found on the NMFS Web site at: *http://www.nmfs.noaa.gov/pr/permits/incidental/research.*

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see ''Proposed Mitigation'' and ''Proposed Monitoring and Reporting'').

Description of Marine Mammals in the Area of Specified Activities

There are six marine mammal species with expected occurrence in the project area (including at VAFB, on the NCI, and in the waters surrounding VAFB, the NCI and the contingency landing location) that are expected to be affected by the specified activities. These include the Steller sea lion (*Eumetopias jubatus*), northern fur seal (*Callorhinus ursinus*), northern elephant seal (*Mirounga angustirostris*), Guadalupe fur seal (*Arctocephalus philippii townsendi*), California sea lion (*Zalophus californianus*), and Pacific harbor seal (*Phoca vitulina richardii*). This section provides summary information regarding local occurrence of these species. We have reviewed SpaceX's detailed species descriptions, including life history information, for accuracy and completeness and refer the reader to Section 3 of SpaceX's IHA application, as well as to NMFS's Stock Assessment Reports (SAR; *www.nmfs.noaa.gov/pr/sars/*), rather than reprinting all of the information here. Additional general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's Web site (*www.nmfs.noaa.gov/pr/species/mammals/*).

There are an additional 28 species of cetaceans with expected or possible occurrence in the project area. However, we have determined that the only potential stressor associated with the activity that could result in take of marine mammals (sonic booms) only has the potential to result in harassment of marine mammals that are hauled out of the water. Therefore, we have concluded that the likelihood of the proposed activities resulting in the harassment of any cetacean to be so low as to be discountable. As we have concluded that the likelihood of any cetacean being taken incidentally as a result of SpaceX's proposed activities to be so low as to be discountable, cetaceans are not considered further in this proposed authorization. Please see Table 3–1 in SpaceX's IHA application for a complete list of species with expected or potential occurrence in the project area.

Table 2 lists the marine mammal species with expected potential for occurrence in the vicinity of the project during the project timeframe that are likely to be affected by the specified activities, and summarizes information related to the population or stock, including PBR, where known. For taxonomy, we follow Committee on Taxonomy (2016). For status of species, we provide information regarding U.S. regulatory status under the MMPA and ESA. Abundance estimates presented here represent the total number of individuals that make up a given stock or the total number estimated within a particular study area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. PBR, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population, is considered in concert with known sources of ongoing anthropogenic mortality to assess the population-level effects of the anticipated mortality from a specific project (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality are included here as gross indicators of the status of the species and other threats.

All values presented in Table 2 are the most recent available at the time of publication and are available in NMFS's SARs (*e.g.,* Carretta *et al.,* 2017; Muto *et al.,* 2017). Please see the SARs, available at *www.nmfs.noaa.gov/pr/sars,* for more detailed accounts of these stocks' status and abundance.

TABLE 2—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN THE PROJECT AREA

Species	Stock	ESA/MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Annual M/SI [4]	Relative occurrence in project area; season of occurrence
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions)						
California sea lion	U.S.	-; N	296,750 (n/a; 153,337; 2011).	9,200	389	Abundant; year-round.
Northern fur seal	California	-; N	14,050 (n/a; 7,524; 2013).	451	1.8	Abundant; year-round; peak occurrence during summer.
Guadalupe fur seal	n/a	T/D; Y	20,000 (n/a; 15,830; 2010).	542	3.2	Rare; slightly more common in summer.
Steller sea lion	Eastern U.S.	-; N	71,562 (n/a; 41,638; 2015).	2,498	108	Rare; year-round.

TABLE 2—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN THE PROJECT AREA—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 project area; season of occurrence
Family Phocidae (earless seals)						
Harbor seal	California	-; N	30,968 (n/a; 27,348; 2012).	1,641	43	Abundant; year-round.
Northern elephant seal.	California breeding	-; N	179,000 (n/a; 81,368; 2010).	4,882	8.8	Abundant; year-round; peak occurrence during winter.

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

[2] NMFS marine mammal stock assessment reports online at: *www.nmfs.noaa.gov/pr/sars/.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[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 mortality/serious injury (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.

Pacific Harbor Seal

Harbor seals inhabit coastal and estuarine waters and shoreline areas of the northern hemisphere from temperate to polar regions. The eastern North Pacific subspecies is found from Baja California north to the Aleutian Islands and into the Bering Sea. Multiple lines of evidence support the existence of geographic structure among harbor seal populations from California to Alaska (Carretta *et al.,* 2016). However, because stock boundaries are difficult to meaningfully draw from a biological perspective, three separate harbor seal stocks are recognized for management purposes along the west coast of the continental United States: (1) Washington inland waters, (2) Oregon and Washington coast, and (3) California (Carretta *et al.,* 2016). In addition, harbor seals may occur in Mexican waters, but these animals are not considered part of the California stock. Only the California stock is considered in this proposed authorization due to the distribution of the stock and the geographic scope of the proposed activities. Although the need for stock boundaries for management is real and is supported by biological information, it should be noted that the exact placement of a boundary between California and Oregon for stock delineation purposes was largely a political/jurisdictional convenience (Carretta *et al.* 2015).

Pacific harbor seals are nonmigratory, with local movements associated with such factors as tides, weather, season, food availability, and reproduction (Scheffer and Slipp 1944, Fisher 1952, Bigg 1969, 1981, Hastings *et al.* 2004). In California, over 500 harbor seal haulout sites are widely distributed along the mainland and offshore islands, and include rocky shores, beaches and intertidal sandbars (Lowry *et al.* 2005). Harbor seals mate at sea and females give birth during the spring and summer, though the pupping season varies with latitude. Harbor seal pupping takes place at many locations and rookery size varies from a few pups to many hundreds of pups.

Harbor seals are the most common marine mammal inhabiting VAFB, congregating on multiple rocky haulout sites along the VAFB coastline. They are local to the area, rarely traveling more than 50 km from haul-out sites. There are 12 harbor seal haulout sites on south VAFB; of these, 10 sites represent an almost continuous haulout area which is used by the same animals. Virtually all of the haulout sites at VAFB are used during low tides and are wave-washed or submerged during high tides. Additionally, the harbor seal is the only species that regularly hauls out near the VAFB harbor. The main harbor seal haulouts on VAFB are near Purisima Point and at Lion's Head (approximately 0.6 km south of Point Sal) on north VAFB and between the VAFB harbor north to South Rocky Point Beach on south VAFB (ManTech 2009).

Pups are generally present in the region from March through July. Within the affected area on VAFB, a total of up to 332 adults and 34 pups have been recorded, at all haulouts combined, in monthly counts from 2013 to 2015 (ManTech 2015). Harbor seals also haul out, breed, and pup in isolated beaches and coves throughout the coasts of San Miguel, Santa Rosa, and Santa Cruz Islands (Lowry 2002). During aerial surveys conducted by NMFS in May 2002 and May and June of 2004, between 521 and 1,004 harbors seals were recorded at SMI, between 605 and 972 at Santa Rosa Island, and between 599 and 1,102 Santa Cruz Island (M. Lowry, NOAA Fisheries, unpubl. data).

The harbor seal population at VAFB has undergone an apparent decline in recent years (USAF 2013b). This decline has been attributed to a series of natural landslides at south VAFB, resulting in the abandonment of many haulout sites. These slides have also resulted in extensive down-current sediment deposition, making these sites accessible to coyotes, which are now regularly seen in the area. Some of the displaced seals have moved to other sites at south VAFB, while others likely have moved to Point Conception, about 6.5 km south of the southern boundary of VAFB.

Pacific harbor seals frequently use haul-out sites on the NCI, including San Miguel, Santa Rosa, Santa Cruz; and Anacapa. On SMI, they occur along the north coast at Tyler Bight and from Crook Point to Cardwell Point. Additionally, they regularly breed on SMI. On Santa Cruz Island, they inhabit small coves and rocky ledges along much of the coast. Harbor seals are scattered throughout Santa Rosa Island and also are observed in small numbers on Anacapa Island.

California Sea Lion

California sea lions range from the Gulf of California north to the Gulf of Alaska, with breeding areas located in the Gulf of California, western Baja California, and southern California. Five

genetically distinct geographic populations have been identified: (1) Pacific Temperate, (2) Pacific Subtropical, (3) Southern Gulf of California, (4) Central Gulf of California and (5) Northern Gulf of California (Schramm *et al.,* 2009). Rookeries for the Pacific Temperate population are found within U.S. waters and just south of the U.S.-Mexico border, and animals belonging to this population may be found from the Gulf of Alaska to Mexican waters off Baja California. Animals belonging to other populations (*e.g.,* Pacific Subtropical) may range into U.S. waters during non-breeding periods. For management purposes, a stock of California sea lions comprising those animals at rookeries within the United States is defined (*i.e.,* the U.S. stock of California sea lions) (Carretta *et al.,* 2017). There are indications that the California sea lion may have reached or is approaching carrying capacity, although more data are needed to confirm that leveling in growth persists (Carretta *et al.,* 2017).

Beginning in January 2013, elevated strandings of California sea lion pups were observed in southern California, with live sea lion strandings nearly three times higher than the historical average. Findings to date indicate that a likely contributor to the large number of stranded, malnourished pups was a change in the availability of sea lion prey for nursing mothers, especially sardines. The Working Group on Marine Mammal Unusual Mortality Events determined that the ongoing stranding event meets the criteria for an Unusual Mortality Event (UME) and declared California sea lion strandings from 2013 through 2017 to be one continuous UME. The causes and mechanisms of this event remain under investigation. For more information on the UME, see: *www.nmfs.noaa.gov/pr/health/mmume/californiasealions2013.htm.*

Rookery sites in southern California are limited to SMI and the southerly Channel Islands of San Nicolas, Santa Barbara, and San Clemente (Carretta *et al.,* 2015). Males establish breeding territories during May through July on both land and in the water. Females come ashore in mid-May and June where they give birth to a single pup approximately four to five days after arrival and will nurse pups for about a week before going on their first feeding trip. Adult and juvenile males will migrate as far north as British Columbia, Canada while females and pups remain in southern California waters in the non-breeding season. In warm water (El Niño) years, some females are found as far north as Washington and Oregon, presumably following prey.

California sea lions are common offshore of VAFB and haul out on rocks and beaches along the coastline of VAFB. At south VAFB, California sea lions haul out on north Rocky Point, with numbers often peaking in spring. They have been reported at Point Arguello and Point Pedernales (both on south VAFB) in the past, although none have been noted there over the past several years. Individual sea lions have been noted hauled out throughout the VAFB coast; these were transient or stranded specimens. They regularly haul out on Lion Rock, north of VAFB and immediately south of Point Sal, and occasionally haul out on Point Conception, south of VAFB. In 2014, counts of California sea lions at haulouts on VAFB increased substantially, ranging from 47 to 416 during monthly counts. Despite their prevalence at haulout sites at VAFB, California sea lions rarely pup on the VAFB coastline (ManTech 2015); no pups were observed in 2013 or 2014 (ManTech 2015) and 1 pup was observed in 2015 (VAFB, unpubl. data).

Pupping occurs in large numbers on SMI at the rookeries found at Point Bennett on the west end of the island and at Cardwell Point on the east end of the island (Lowry 2002). Sea lions haul out at the west end of Santa Rosa Island at Ford Point and Carrington Point. A few California sea lions have been born on Santa Rosa Island, but no rookery has been established. On Santa Cruz Island, California sea lions haul out from Painted Cave almost to Fraser Point, on the west end. Fair numbers haul out at Gull Island, off the south shore near Punta Arena. Pupping appears to be increasing there. Sea lions also haul out near Potato Harbor, on the northeast end of Santa Cruz. California sea lions haul out by the hundreds on the south side of East Anacapa Island.

During aerial surveys conducted by NMFS in February 2010 of the NCI, 21,192 total California sea lions (14,802 pups) were observed at haulouts on SMI and 8,237 total (5,712 pups) at Santa Rosa Island (M. Lowry, NOAA Fisheries, unpubl. data). During aerial surveys in July 2012, 65,660 total California sea lions (28,289 pups) were recorded at haulouts on SMI, 1,584 total (3 pups) at Santa Rosa Island, and 1,571 total (zero pups) at Santa Cruz Island (M. Lowry, NOAA Fisheries, unpubl. data).

Northern Elephant Seal

Northern elephant seals range in the eastern and central North Pacific Ocean, from as far north as Alaska and as far south as Mexico. They spend much of the year, generally about nine months, in the ocean. They spend much of their lives underwater, diving to depths of about 1,000 to 2,500 ft (330–800 m) for 20- to 30-minute intervals with only short breaks at the surface, and are rarely seen at sea for this reason. Northern elephant seals breed and give birth in California and Baja California (Mexico), primarily on offshore islands, from December to March (Stewart et al. 1994). Adults return to land between March and August to molt, with males returning later than females. Adults return to their feeding areas again between their spring/summer molting and their winter breeding seasons.

Populations of northern elephant seals in the U.S. and Mexico are derived from a few tens or hundreds of individuals surviving in Mexico after being nearly hunted to extinction (Stewart *et al.,* 1994). Given the recent derivation of most rookeries, no genetic differentiation would be expected. Although movement and genetic exchange continues between rookeries, most elephant seals return to their natal rookeries when they start breeding (Huber *et al.,* 1991). The California breeding population is now demographically isolated from the Baja California population and is considered to be a separate stock.

Northern elephant seals haul out sporadically on rocks and beaches along the coastline of VAFB; monthly counts in 2013 and 2014 recorded between 0 and 191 elephant seals within the affected area (ManTech 2015) and northern elephant seal pupping at VAFB was documented for the first time in January 2017 (Pers. comm., R. Evans, United States Air Force, to J. Carduner, NMFS, February 1, 2017). The nearest regularly used haul-out site on the mainland coast is at Point Conception. Eleven northern elephant seals were observed during aerial surveys of the Point Conception area by NMFS in February of 2010 (M. Lowry, NOAA Fisheries, unpubl. data).

Point Bennett on the west end of SMI is the primary northern elephant seal rookery in the NCI, with another rookery at Cardwell Point on the east end of SMI (Lowry 2002). They also pup and breed on Santa Rosa Island, mostly on the west end. Northern elephant seals are rarely seen on Santa Cruz and Anacapa Islands. During aerial surveys of the NCI conducted by NMFS in February 2010, 21,192 total northern elephant seals (14,802 pups) were recorded at haulouts on SMI and 8,237 total (5,712 pups) were observed at Santa Rosa Island (M. Lowry, NOAA Fisheries, unpubl. data). None were observed at Santa Cruz Island (M. Lowry, NOAA Fisheries, unpubl. data).

Steller Sea Lion

Steller sea lions are distributed mainly around the coasts to the outer continental shelf along the North Pacific rim from northern Hokkaido, Japan through the Kuril Islands and Okhotsk Sea, Aleutian Islands and central Bering Sea, southern coast of Alaska and south to California (Loughlin *et al.,* 1984). The species as a whole was ESA-listed as threatened in 1990 (55 FR 49204, November 26, 1990). In 1997, the species was divided into western and eastern distinct population segments (DPS), with the western DPS reclassified as endangered under the ESA and the eastern DPS retaining its threatened listing (62 FR 24345, May 5, 2997). On October 23, 2013, NMFS found that the eastern DPS has recovered; as a result of the finding, NMFS removed the eastern DPS from ESA listing. Only the eastern DPS is considered in this proposed authorization due to its distribution and the geographic scope of the action.

Prior to 2012, there were no records of Steller sea lions observed at VAFB. In April and May 2012, Steller sea lions were observed hauled out at North Rocky Point on VAFB, representing the first time the species had been observed on VAFB during launch monitoring and monthly surveys conducted over the past two decades (Marine Mammal Consulting Group and Science Applications International Corporation 2013). Since 2012, Steller sea lions have been observed frequently in routine monthly surveys, with as many as 16 individuals recorded. In 2014, up to five Steller sea lions were observed in the affected area during monthly marine mammal counts (ManTech 2015) and a maximum of 12 individuals were observed during monthly counts in 2015 (VAFB, unpublished data). However, up to 16 individuals were observed in 2012 (SAIC 2012). Steller sea lions once had two small rookeries on SMI, but these were abandoned after the 1982–1983 El Niño event (DeLong and Melin 2000; Lowry 2002); these rookeries were once the southernmost colonies of the eastern stock of this species. In recent years, between two to four juvenile and adult males have been observed on a somewhat regular basis on SMI (pers. comm. Sharon Melin, NMFS Alaska Fisheries Science Center, to J. Carduner, NMFS, Feb 11, 2016). Steller sea lions are not observed on the other NCI.

Northern Fur Seal

Northern fur seals occur from southern California north to the Bering Sea and west to the Okhotsk Sea and Honshu Island, Japan. Due to differing requirements during the annual reproductive season, adult males and females typically occur ashore at different, though overlapping, times. Adult males occur ashore and defend reproductive territories during a three month period from June through August, though some may be present until November (well after giving up their territories). Adult females are found ashore for as long as six months (June-November). After their respective times ashore, fur seals of both sexes spend the next seven to eight months at sea (Roppel 1984). Peak pupping is in early July and pups are weaned at three to four months. Some juveniles are present year-round, but most juveniles and adults head for the open ocean and a pelagic existence until the next year. Northern fur seals exhibit high site fidelity to their natal rookeries. Two stocks of northern fur seals are recognized in U.S. waters: An eastern Pacific stock and a California stock (formerly referred to as the San Miguel Island stock). Only the California stock is considered in this proposed authorization due to its geographic distribution.

Northern fur seals have rookeries on SMI at Point Bennett and on Castle Rock. Comprehensive count data for northern fur seals on SMI are not available. SMI is the only island in the NCI on which northern fur seals have been observed. Although the population at SMI was established by individuals from Alaska and Russian Islands during the late 1960s, most individuals currently found on San Miguel are considered resident to the island. No haulout or rookery sites exist for northern fur seals on the mainland coast. The only individuals that appear on mainland beaches are stranded animals.

Guadalupe Fur Seal

Guadalupe fur seals are found along the west coast of the United States. They were abundant prior to seal exploitation, when they were likely the most abundant pinniped species on the Channel Islands, but are considered uncommon in Southern California. They are typically found on shores with abundant large rocks, often at the base of large cliffs (Belcher and Lee 2002). Increased strandings of Guadalupe fur seals started occurring along the entire coast of California in early 2015. This event was declared a marine mammal UME. Strandings were eight times higher than the historical average, peaking from April through June 2015, and have since lessened but continue at a rate that is well above average. Most stranded individuals have been weaned pups and juveniles (1–2 years old). For more information on this UME, see: *http://www.nmfs.noaa.gov/pr/health/mmume/guadalupefurseals2015.html.*

Comprehensive survey data on Guadalupe fur seals in the NCI is not readily available. On SMI, one to several male Guadalupe fur seals had been observed annually between 1969 and 2000 (DeLong and Melin 2000) and juvenile animals of both sexes have been seen occasionally over the years (Stewart *et al.* 1987). The first adult female at SMI was seen in 1997. In June 1997, she gave birth to a pup in rocky habitat along the south side of the island and, over the next year, reared the pup to weaning age. This was apparently the first pup born in the Channel Islands in at least 150 years. Since 2008, individual adult females, subadult males, and between one and three pups have been observed annually on SMI. There are estimated to be approximately 20–25 individuals that have fidelity to San Miguel, mostly inhabiting the southwest and northwest ends of the island. A total of 14 pups have been born on the island since 2009, with no more than 3 born in any single season (pers. comm., S. Melin, NMFS National Marine Mammal Laboratory, to J. Carduner, NMFS, Aug. 28, 2015). Thirteen individuals and two pups were observed in 2015 (NMFS 2016). No haulout or rookery sites exist for Guadalupe fur seals on the mainland coast, including VAFB. The only individuals that do appear on mainland beaches are stranded animals.

Marine Mammal Hearing—Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Subsequently, NMFS (2016) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms. The relevant functional groups and the associated

frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

- Pinnipeds in water; Phocidae (true seals): Generalized hearing is estimated to occur between approximately 50 hertz (Hz) to 86 kilohertz (kHz), with best hearing between 1–50 kHz;
- Pinnipeds in water; Otariidae (eared seals): Generalized hearing is estimated to occur between 60 Hz and 39 kHz, with best hearing between 2–48 kHz.

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

TABLE 3—RELEVANT MARINE MAMMAL FUNCTIONAL HEARING GROUPS AND THEIR GENERALIZED HEARING RANGES

Hearing group	Generalized hearing range *
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).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Of the six marine mammal species that may be affected by the proposed activities, four are classified as otariids and two are classified as phocids.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis and Determination'' section will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, and the ''Proposed Mitigation'' section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks. Potential effects of the proposed action include acoustic effects as well as visual stimuli.

Acoustic Effects

This section contains a brief technical background on sound, the characteristics of certain sound types, and on metrics used in this proposal inasmuch as the information is relevant to the specified activity and to a discussion of the potential effects of the specified activity on marine mammals found later in this document.

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in Hz or cycles per second. Wavelength is the distance between two peaks or corresponding points of a sound wave (length of one cycle). Higher frequency sounds have shorter wavelengths than lower frequency sounds, and typically attenuate (decrease) more rapidly, except in certain cases in shallower water. Amplitude is the height of the sound pressure wave or the ''loudness'' of a sound and is typically described using the relative unit of the dB. A sound pressure level (SPL) in dB is described as the ratio between a measured pressure and a reference pressure and is a logarithmic unit that accounts for large variations in amplitude; therefore, a relatively small change in dB corresponds to large changes in sound pressure. The source level (SL) represents the SPL referenced at a distance of 1 m from the source while the received level is the SPL at the listener's position. Note that 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. Root mean square is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Root mean square accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

Sound exposure level (SEL; represented as dB re 1 μPa^2-s) represents the total energy contained within a pulse and considers both intensity and duration of exposure. Peak sound pressure (also referred to as zero-to-peak sound pressure or 0-p) is the maximum instantaneous sound pressure measurable in the water at a specified distance from the source and is represented in the same units as the rms sound pressure. Another common metric is peak-to-peak sound pressure (pk-pk), which is the algebraic difference between the peak positive and peak negative sound pressures. Peak-to-peak pressure is typically approximately 6 dB higher than peak pressure (Southall *et al.,* 2007).

A-weighting is applied to instrument-measured sound levels in an effort to account for the relative loudness perceived by the human ear, as the ear is less sensitive to low audio frequencies, and is commonly used in measuring airborne noise. The relative sensitivity of pinnipeds listening in air to different frequencies is more-or-less similar to that of humans (Richardson *et al.* 1995), so A-weighting may, as a first approximation, be relevant to pinnipeds listening to moderate-level sounds.

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 human 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 a given activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals. Details of source types are described in the following text.

Sounds are often considered to fall into one of two general 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.,* airguns, 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, 2005; Harris, 1998; NIOSH, 1998; ISO, 2003) 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.

The effects of sounds on marine mammals are dependent on several factors, including the species, size, behavior (feeding, nursing, resting, etc.), and, if underwater, depth of the animal; the intensity and duration of the sound; and the sound propagation properties of the environment. Impacts to marine species can result from physiological and behavioral responses to both the type and strength of the acoustic signature (Viada *et al.,* 2008). The type and severity of behavioral impacts are more difficult to define due to limited studies addressing the behavioral effects of sounds on marine mammals. Potential effects from impulsive sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight injury of the internal organs and the auditory system, or mortality (Yelverton *et al.,* 1973).

The effects of sounds from the proposed activities are expected to result in behavioral disturbance of marine mammals. Due to the expected sound levels of the activities proposed and the distance of the activity from marine mammal habitat, the effects of sounds from the proposed activities are not expected to result in temporary or permanent hearing impairment (TTS and PTS, respectively), non-auditory physical or physiological effects, or masking in marine mammals. Data from monitoring reports associated with IHAs issued previously for similar activities in the same location as the planned activities provides further support for the assertion that TTS, PTS, non-auditory physical or physiological effects, and masking are not likely to occur (USAF 2013b; SAIC 2012). Therefore, TTS, PTS, non-auditory physical or physiological effects, and masking are not discussed further in this section.

Disturbance Reactions

Disturbance includes a variety of effects, including subtle changes in behavior, more conspicuous changes in activities, and displacement. Behavioral responses to sound are highly variable and context-specific and reactions, if any, depend on species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007).

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. Behavioral state may affect the type of response as well. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003).

Controlled experiments with captive marine mammals have shown pronounced behavioral reactions, including avoidance of loud underwater sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic guns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; Thorson and Reyff, 2006; see also Gordon *et al.,* 2004; Wartzok *et al.,* 2003; Nowacek *et al.,* 2007).

The onset of noise can result in temporary, short term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include: Reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior; avoidance of areas where sound sources are located; and/or flight responses (Richardson *et al.,* 1995).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could potentially be biologically significant if the change affects growth, survival, or reproduction. The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.,* 2007).

Marine mammals that occur in the project area could be exposed to airborne sounds associated with Falcon 9 boost-back and landing activities that have the potential to result in behavioral harassment, depending on an animal's distance from the sound. Airborne sound could potentially affect pinnipeds that are hauled out. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled out pinnipeds to exhibit changes in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon their habitat and move further from the source. Hauled out pinnipeds may flush from a haulout into the water. Though pup abandonment could theoretically result from these reactions, site-specific monitoring data (described below) indicate that pup abandonment is not likely to occur as a result of the specified activity.

Description of Effects From the Specified Activity

This section includes a discussion of the active acoustic sound sources associated with SpaceX's proposed activity and the likelihood for these sources to result in harassment of

marine mammals. Potential acoustic sources associated with SpaceX's proposed activity include sonic booms, Falcon 9 First Stage landings, and potential explosions as a result of unsuccessful Falcon 9 First Stage landing attempts. Sounds produced by the proposed activities may be impulsive, due to sonic booms, and non-pulse (but short-duration) noise, due to combustion effects of the Falcon 9 First Stage. As described above, sounds associated with Falcon 9 First Stage landings and potential explosions as a result of unsuccessful Falcon 9 First Stage landing attempts are not expected to result in take of marine mammals and are therefore not addressed here.

Sonic Boom

As described above, during descent when the First Stage is supersonic, a sonic boom would be generated. The USAF has monitored pinniped responses to rocket launches from VAFB for nearly 20 years. Though rocket launches are not part of the proposed activities (as described above), the acoustic stimuli (sonic booms) associated with launches is expected to be substantially similar to those expected to occur with Falcon 9 boost-backs and landings; therefore, we rely on observational data on responses of pinnipeds to sonic booms associated with rocket launches from VAFB in making assumptions about expected pinniped responses to sonic booms associated with Falcon 9 boost-backs and landings.

Observed reactions of pinnipeds at the NCI to sonic booms have ranged from no response to heads-up alerts, from startle responses to some movements on land, and from some movements into the water to occasional stampedes (especially involving California sea lions on the NCI). We therefore assume sonic booms generated during the return flight of the Falcon 9 First Stage may elicit an alerting or other short-term behavioral reaction, including flushing into the water if hauled out.

Data from launch monitoring by the USAF on the NCI has shown that pinniped reactions to sonic booms are correlated with the level of the sonic boom. Low energy sonic booms (<1.0 psf have resulted in little to no behavioral responses, including head raising and briefly alerting but returning to normal behavior shortly after the stimulus (Table 5). More powerful sonic booms have resulted in pinnipeds flushing from haulouts. No pinniped mortalities have been associated with sonic booms. No sustained decreases in numbers of animals observed at haulouts have been observed after the stimulus. Table 5 presents a summary of monitoring efforts at the NCI from 1999 to 2014. These data show that reactions to sonic booms tend to be insignificant below 1.0 psf and that, even above 1.0 psf, only a portion of the animals present have reacted to the sonic boom. Time-lapse video photography during four launch events revealed that harbor seals that reacted to the rocket launch noise but did not leave the haul-out were all adults.

Data from previous monitoring also suggests that for those pinnipeds that flush from haulouts in response to sonic booms, the amount of time it takes for those animals to begin returning to the haulout site, and for numbers of animals to return to pre-launch levels, is correlated with sonic boom sound levels. Pinnipeds may begin to return to the haul-out site within 2–55 min of the launch disturbance, and the haulout site usually returned to pre-launch levels within 45–120 min. Monitoring data from launches of the Athena IKONOS rocket from VAFB, with 107.3 and 107.8 dB (A-weighted SEL) recorded at the closest haul-out site, showed seals that flushed to the water on exposure to the sonic boom began to return to the haul-out approximately 16–55 minutes post-launch (Thorson *et al.,* 1999a; 1999b). In contrast, in the cases of Atlas rocket launches and several Titan II rocket launches with SELs (A-weighted) ranging from 86.7 to 95.7 dB recorded at the closest haul-out, seals began to return to the haul-out site within 2–8 minutes post-launch (Thorson and Francine, 1997; Thorson *et al.,* 2000).

Monitoring data has consistently shown that reactions among pinnipeds vary between species, with harbor seals and California sea lions tending to be more sensitive to disturbance than northern elephant seals and northern fur seals (Table 5). Because Steller sea lions and Guadalupe fur seals occur in the project area relatively infrequently, no data has been recorded on their reactions to sonic booms). At VAFB, harbor seals generally alert to nearby launch noises, with some or all of the animals going into the water. Usually the animals haul out again from within minutes to two hours or so of the launch, provided rising tides or breakers have not submerged the haul-out sites. Post-launch surveys often indicate as many or more animals hauled out than were present at the time of the launch, unless rising tides, breakers or other disturbances are involved (SAIC 2012). When launches occurred during high tides at VAFB, no impacts have been recorded because virtually all haul-out sites were submerged.

At the Channel Islands, California sea lions have been observed to react more strongly to sonic booms than other species present there. Pups sometimes react more than adults, either because they are more easily frightened or because their hearing is more acute. Harbor seals generally appear to be more sensitive to sonic booms than most other pinnipeds, often startling and fleeing into the water. Northern fur seals generally show little or no reaction. Northern elephant seals generally exhibit no reaction at all, except perhaps a heads-up response or some stirring, especially if sea lions in the same area or mingled with the elephant seals react strongly to the boom. Post-launch monitoring generally reveals a return to normal patterns within minutes up to an hour or two of each launch, regardless of species (SAIC 2012).

Table 5 summarizes monitoring efforts at San Miguel Island during which acoustic measurements were successfully recorded and during which pinnipeds were observed. During more recent launches, night vision equipment was used. The table shows only launches during which sonic booms were heard and recorded. The table shows that little or no reaction from the four species usually occurs when overpressures are below 1.0 psf. In general, as described above, elephant seals do not react unless other animals around them react strongly or if the sonic boom is extremely loud, and northern fur seals seem to react similarly. Not enough data exist to draw conclusions about harbor seals, but considering their reactions to launch noise at VAFB, it is likely that they are also sensitive to sonic booms (SAIC 2012).

TABLE 5—OBSERVED PINNIPED RESPONSES TO SONIC BOOMS AT SAN MIGUEL ISLAND

Launch event	Sonic boom level (psf)	Monitoring location	Species and associated reactions
Athena II (April 27, 1999)	1.0	Adams Cove	California sea lion—866 alerted; 232 (27%) flushed into water, Northern elephant seal—alerted but did not flush, Northern fur seal—alerted but did not flush.
Athena II (September 24, 1999)	0.95	Point Bennett	California sea lion—12 of 600 (2%) flushed into water, Northern elephant seal—alerted but did not flush, Northern fur seal—alerted but did not flush.
Delta II 20 (November 20, 2000)	0.4	Point Bennett	California sea lion—60 pups flushed into water; no reaction from focal group, Northern elephant seal—no reaction.
Atlas II (September 8, 2001)	0.75	Cardwell Point	California sea lion (Group 1)—no reaction (1,200 animals), California sea lion (Group 2)—no reaction (247 animals), Northern elephant seal—no reaction, Harbor seal—2 of 4 flushed into water.
Delta II (February 11, 2002)	0.64	Point Bennett	California sea lion and northern fur seal—no reaction among 485 animals in 3 groups, Northern elephant seal—no reaction among 424 animals in 2 groups.
Atlas II (December 2, 2003)	0.88	Point Bennett	California sea lion—approximately 40% alerted; several flushed to water (number unknown—night launch), Northern elephant seal—no reaction.
Delta II (July 15, 2004)	1.34	Adams Cove	California sea lion—10% alerted (number unknown—night launch).
Atlas V (March 13, 2008)	1.24	Cardwell Point	Northern elephant seal—no reaction (109 pups).
Delta II (May 5, 2009)	0.76	West of Judith Rock.	California sea lion—no reaction (784 animals).
Atlas V (April 14, 2011)	1.01	Cuyler Harbor	Northern elephant seal—no reaction (445 animals).
Atlas V (September 13, 2012)	2.10	Cardwell Point	California sea lion—no reaction (460 animals), Northern elephant seal—no reaction (68 animals), Harbor seal—20 of 36 (56%) flushed into water.
Atlas V (April 3, 2014)	0.74	Cardwell Point	Harbor seal—1 of ~25 flushed into water; no reaction, from others.
Atlas V (December 12, 2014)	1.16	Point Bennett	Calif. sea lion—5 of ~225 alerted; none flushed.

Physiological Responses to Sonic Booms

To determine if harbor seals experience changes in their hearing sensitivity as a result of sounds associated with rocket launches (including sonic booms), Auditory Brainstem Response (ABR) testing was conducted on 14 harbor seals following four launches of the Titan IV rocket, one launch of the Taurus rocket, and two launches of the Delta IV rocket from VAFB, in accordance with NMFS scientific research permits. ABR tests have not yet been performed following Falcon 9 rocket landings nor launches, however results of ABR tests that followed launches of other rockets from VAFB are nonetheless informative as the sound source (sonic boom) is expected to be the same as that associated with the activities proposed by SpaceX.

Following standard ABR testing protocol, the ABR was measured from one ear of each seal using sterile, subdermal, stainless steel electrodes. A conventional electrode array was used, and low-level white noise was presented to the non-tested ear to reduce any electrical potentials generated by the non-tested ear. A computer was used to produce the click and an eight kHz tone burst stimuli, through standard audiometric headphones. Over 1,000 ABR waveforms were collected and averaged per trial. Initially the stimuli were presented at SPLs loud enough to obtain a clean reliable waveform, and then decreased in 10 dB steps until the response was no longer reliably observed. Once response was no longer reliably observed, the stimuli were then increased in 10 dB steps to the original SPL. By obtaining two ABR waveforms at each SPL, it was possible to quantify the variability in the measurements.

Good replicable responses were measured from most of the seals, with waveforms following the expected pattern of an increase in latency and decrease in amplitude of the peaks, as the stimulus level was lowered. Detailed analysis of the changes in waveform latency and waveform replication of the ABR measurements for the 14 seals showed no detectable changes in the seals' hearing sensitivity as a result of exposure to the launch noise. The delayed start (1.75 to 3.5 hours after the launches) for ABR testing allows for the possibility that the seals may have recovered from a TTS before testing began. However, it can be said with confidence that the post-launch tested animals did not have permanent hearing changes due to exposure to the launch noise from the sonic booms associated with launches of the rockets from VAFB (SAIC 2013).

We also note that stress from long-term cumulative sound exposures can result in physiological effects on reproduction, metabolism, and general health, or on the animals' resistance to disease. However, this is not likely to occur as a result of the proposed activities because of the infrequent nature and short duration of the noise (up to twelve sonic booms annually). Research indicates that population levels at these haul-out sites have remained constant in recent years (with decreases only noted in some areas because of the increased presence of coyotes), giving support to this conclusion.

In conclusion, based on data from numerous years of monitoring of similar activities to the activities proposed by SpaceX, in the same geographic area as the geographic area of the SpaceX's proposed activities, we expect that any behavioral responses by pinnipeds to sonic booms resulting from the proposed activities would range from no response to heads-up alerts, startle responses, some movements on land, and some movements into the water (flushing).

Non-Acoustic Effects of the Proposed Activity

This section includes a discussion of potential effects of SpaceX's proposed activity other than those related to sound.

Visual Stimuli

Visual stimuli resulting from Falcon 9 First Stage landings would have the

potential to cause pinnipeds to lift their heads, move towards the water, or enter the water. However, SpaceX has determined that the trajectory of the return flight includes a nearly vertical descent to the SLC–4W landing pad (see Figure 1–7 and 1–8 in the IHA application) and the contingency landing location (see Figure 1–5 in the IHA application). As a result, the descending Falcon 9 First Stage would either be shielded by coastal bluffs (for a SLC–4W landing) or would be too far away from any pinniped haulouts to result in significant stimuli (in the case of a barge landing). Further, the visual stimulus of the Falcon 9 First Stage would not be coupled with the sonic boom, since the First Stage would be at significant altitude when the overpressure is produced, further decreasing the likelihood of a behavioral response. Therefore, the likelihood of takes of marine mammals resulting from visual stimuli associated with the proposed activity is so low as to be considered discountable. As such, visual stimuli associated with the proposed activity is not discussed further in this document.

Effects on Marine Mammal Habitat

We do not anticipate that the proposed activities would result in any temporary or permanent effects on the habitats used by the marine mammals in the proposed area, including the food sources they use (*i.e.* fish and invertebrates). Behavioral disturbance caused by in-air acoustic stimuli may result in marine mammals temporarily moving away from or avoiding the exposure area but are not expected to have long term impacts, as supported by over two decades of launch monitoring studies on the NCI by the U.S. Air Force (MMCG and SAIC 2012).

The proposed activities would not result in in-water acoustic stimuli that would cause significant injury or mortality to prey species and would not create barriers to movement for marine mammal prey. As described above, in the event of an unsuccessful barge landing and a resulting explosion of the Falcon 9 First Stage, up to 25 pieces of debris would likely remain floating. SpaceX would recover all floating debris. Denser debris that would not float on the surface is anticipated to sink relatively quickly and would be composed of inert materials. The area of benthic habitat impacted by falling debris would be very small (approximately 0.000706 km^2) (ManTech 2015) and all debris that would sink are composed of inert materials that would not affect water quality or bottom substrate potentially used by marine mammals. None of the debris would be so dense or large that benthic habitat would be degraded. As a result, debris from an unsuccessful barge landing that enters the ocean environment approximately 50 km offshore of VAFB would not have a significant effect on marine mammal habitat.

In summary, since the acoustic impacts associated with the proposed activities are of short duration and infrequent (up to twelve events annually), the associated behavioral responses in marine mammals are expected to be temporary. Therefore, the proposed activities are unlikely to result in long term or permanent avoidance of the exposure areas or loss of habitat. The proposed activities are also not expected to result in any reduction in foraging habitat or adverse impacts to marine mammal prey. 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).

All authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to sounds associated with the planned activities. Based on the nature of the activity, Level A harassment, serious injury, and mortality are neither anticipated nor proposed to be authorized.

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; (2) the area 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 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 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). As described above, Level A harassment is not expected to occur as a result of the proposed activities and we do not propose to authorize take by Level A harassment, thus criteria and thresholds for Level A harassment are not discussed further. Thresholds have been developed identifying the received level of in-air sound above which exposed pinnipeds would likely be behaviorally harassed. In this case, we are concerned only with in-air sound as the proposed activities are not expected to result in harassment of marine mammals that are underwater. Thus only in-air thresholds are discussed further.

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, 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 typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. As described above, for in-air sounds, NMFS expects that harbor seals exposed to sound above received levels of 90 dB re 20 μPa (rms) will be behaviorally harassed, and all other species of pinnipeds exposed to sound above received levels of 100 dB re 20 μPa (rms) will be behaviorally harassed (Table 1).

Typically, NMFS relies on the acoustic criteria shown in Table 1 to estimate take as a result of exposure to airborne sound from a given activity. However, in this case we have the

benefit of more than 20 years of observational data on pinniped responses to the stimuli associated with the proposed activity that we expect to result in harassment (sonic booms) in the particular geographic area of the proposed activity (VAFB and the NCI). Therefore, we consider these data to be the best available information in regard to estimating take based on modeled exposures among pinnipeds to sounds associated with the proposed activities. These data suggest that pinniped reactions to sonic booms are dependent on the species and the intensity of the sonic boom (Table 5).

As described above, data from launch monitoring by the USAF on the NCI and at VAFB have shown that pinniped reactions to sonic booms are correlated to the level of the sonic boom. Low energy sonic booms (<1.0 psf) have typically resulted in little to no behavioral responses, including head raising and briefly alerting but returning to normal behavior shortly after the stimulus. More powerful sonic booms have flushed animals from haulouts (but not resulted in any mortality or sustained decreased in numbers after the stimulus). Table 5 presents a summary of monitoring efforts at the NCI from 1999 to 2014. These data show that reactions to sonic booms tend to be insignificant below 1.0 psf and that, even above 1.0 psf, only a portion of the animals present react to the sonic boom. Therefore, for the purposes of estimating the extent of take that is likely to occur as a result of the proposed activities, we assume that Level B harassment occurs when a pinniped (on land) is exposed to a sonic boom at or above 1.0 psf. Therefore the number of expected takes by Level B harassment is based on estimates of the numbers of animals that would be within the areas exposed to sonic booms at levels at or above 1.0 psf.

The data recorded by USAF at VAFB and the NCI over the past 20 years has also shown that pinniped reactions to sonic booms vary between species. As described above, little or no reaction has been observed in northern fur seals and northern elephant seals when overpressures were below 1.0 psf. At the NCI sea lions have reacted more strongly to sonic booms than most other species. Harbor seals also appear to be more sensitive to sonic booms than most other pinnipeds, often resulting in startling and fleeing into the water. Northern fur seals generally show little or no reaction, and northern elephant seals generally exhibit no reaction at all, except perhaps a heads-up response or some stirring, especially if sea lions in the same area mingled with the elephant seals react strongly to the boom. No data is available on Steller sea lion or Guadalupe fur seal responses to sonic booms.

Ensonified Area

As described above, modeling was performed to estimate overpressure levels that would be created during the return flight of the Falcon 9 First Stage. The predicted acoustic footprint of the sonic boom was computed using the computer program PCBoom (Plotkin and Grandi 2002; Page et al. 2010). As described above, the highest sound generated by a sonic boom would generally be focused on the area where the Falcon 9 ultimately lands. Based on model results, a boost-back and landing of the Falcon 9 First Stage at SLC–4W would produce a sonic boom with overpressures as high as 8.5 psf at SLC–4W, which would attenuate to levels below 1.0 psf at approximately 15.90 mi. (25.59 km) from the landing area (Figure 2–2 in the IHA application). This estimate is based, in part, on actual observations from Falcon 9 boost-back and landing activities at Cape Canaveral, Florida. A boost-back and landing of the Falcon 9 First Stage at SLC–4W would produce a sonic boom with overpressures up to 3.1 psf on the NCI (San Miguel Island, Santa Rosa Island, and Santa Cruz Island) based on model results.

During a contingency barge landing event, sonic boom overpressure would be directed at the ocean surface while the first-stage booster is supersonic. Model results indicate that sonic booms would not exceed 1.0 psf on any part of the NCI during a boost-back and landing of the Falcon 9 First Stage at the contingency landing location at least 27 nm (50 km) offshore (Figure 2–6 and Figure 2–7 in the IHA application). Additionally, First Stage boost-backs and landings within the Iridium Landing Area would not likely produce measurable overpressures at any land surface (Figure 2–8 and Figure 2–9 in the IHA application). Therefore, take of marine mammals is not expected to occur as a result of boost-back and landing activities at the contingency landing location at least 27 nm (50 km) offshore, nor within the Iridium Landing Area. Estimated takes are therefore based on the possibility of boost-back and landing activities occurring at SLC–4W.

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. Data collected from marine mammal surveys, including monthly marine mammal surveys conducted by the USAF at VAFB as well as data collected by NMFS, represent the best available information on the occurrence of the six pinniped species expected to occur in the project area. The quality and amount of information available on pinnipeds in the project area varies depending on species; some species are surveyed regularly at VAFB and the NCI (*e.g.,* California sea lion), while other species are surveyed less frequently (*e.g.,* northern fur seals and Guadalupe fur seals). However, the best available data was used to estimate take numbers. Take estimates for all species are shown in Table 6.

Harbor Seal—Pacific harbor seals are the most common marine mammal inhabiting VAFB, congregating on several rocky haulout sites along the VAFB coastline. They also haul out, breed, and pup in isolated beaches and coves throughout the coasts of the NCI. Harbor seals may be exposed to sonic booms above 1.0 psf on the mainland and the NCI. Take of harbor seals at VAFB was estimated based on the maximum count totals from monthly surveys of VAFB haulout sites from 2013–2016 (ManTech SRS Technologies, Inc., 2014, 2015, 2016; VAFB, unpubl. data). Take of harbor seals at the NCI and at Point Conception was estimated based on the maximum count totals from aerial survey data collected from 2002 to 2012 by the NMFS SWFSC (M. Lowry, NMFS SWFSC, unpubl. data).

California sea lion—California sea lions are common offshore of VAFB and haul out on rocks and beaches along the coastline of VAFB, though pupping rarely occurs on the VAFB coastline. They haul out in large numbers on the NCI and rookeries exist on San Miguel and Santa Cruz islands. California sea lions may be exposed to sonic booms above 1.0 psf on the mainland and the NCI. Take of California sea lions at VAFB was estimated based on the maximum count totals from monthly surveys of VAFB haulout sites from 2013–2016 (ManTech SRS Technologies, Inc., 2014, 2015, 2016; VAFB, unpubl. data). Take of California sea lions at the NCI was estimated based on the maximum count totals from aerial survey data collected from 2002 to 2012 by the NMFS Southwest Fisheries Science Center (SWFSC) (M. Lowry, NMFS SWFSC, unpubl. data).

Steller Sea Lion—Steller sea lions occur in small numbers at VAFB and on San Miguel Island. They have not been observed on the Channel Islands other than at San Miguel Island and they do not currently have rookeries at VAFB or the NCI. Steller sea lions may be

exposed to sonic booms above 1.0 psf on the mainland and the NCI. Take of Steller sea lions at VAFB was estimated based on the largest count totals from monthly surveys of VAFB haulout sites from 2013–2016 (ManTech SRS Technologies, Inc., 2014, 2015, 2016; VAFB, unpubl. data). Steller sea lions haul out in very small numbers on the NCI, and comprehensive survey data for Steller sea lions in the NCI is not available. Take of Steller sea lions at the NCI was estimated based on subject matter expert input suggesting that as many as four Steller sea lions have been observed on San Miguel Island at a time (pers. comm., S. Melin, NMFS Marine Mammal Laboratory (MML), to J. Carduner, NMFS, Feb 11, 2016).

Northern elephant seal—Northern elephant seals haul out sporadically on rocks and beaches along the coastline of VAFB and at Point Conception and have rookeries on San Miguel Island and Santa Rosa Island and at one location at VAFB. Northern elephant seals may be exposed to sonic booms above 1.0 psf on the mainland and the NCI. Take of northern elephant seals at VAFB was estimated based on the largest count totals from monthly surveys of VAFB haulout sites from 2013–2016 (ManTech SRS Technologies, Inc., 2014, 2015, 2016; VAFB, unpubl. data). Take of northern elephant seals at the NCI and at Point Conception was estimated based on the maximum count totals from aerial survey data collected from 2002 to 2012 by the NMFS Southwest Fisheries Science Center (SWFSC) (M. Lowry, NMFS SWFSC, unpubl. data).

Northern fur seal—Northern fur seals have rookeries on San Miguel Island, the only island in the NCI on which they have been observed. No haulouts or rookeries exist for northern fur seals on the mainland coast, including VAFB, thus they may be exposed to sonic booms above 1.0 psf at the NCI but not on the mainland. Comprehensive survey data for northern fur seals in the project area is not available. Estimated take of northern fur seals was based on subject matter expert input which suggested a maximum of approximately 6,000–8,000 northern fur seals may be present on San Miguel Island at the height of breeding/pupping season (early July). After the height of the breeding/pupping season, numbers fluctuate but decrease as females go on foraging trips and males begin to migrate in late July/August. Numbers continue to decrease until November when most of the population is absent from the island until the following breeding/pupping period (starting the following June) (pers. comm., T. Orr, NMFS NMML, to J. Carduner, NMFS OPR, February 27, 2016). It was therefore conservatively estimated that numbers peak at 8,000 animals hauled out at any given time in July and decrease to a minimum of 2,000 animals hauled out at any given time in the winter, then increase again until the following July. This results in an average estimate of 5,000 northern fur seals hauled out at San Miguel Island at any given time over the course of the entire year.

Guadalupe fur seal—There are estimated to be approximately 20–25 individual Guadalupe fur seals that have fidelity to San Miguel Island (pers. comm. S. Mellin, NMFS NMML, to J. Carduner, NMFS OPR, February 11, 2016). No haulouts or rookeries exist for Guadalupe fur seals on the mainland coast, including VAFB, thus they may be exposed to sonic booms above 1.0 psf at the NCI but not on the mainland. Comprehensive survey data on Guadalupe fur seals in the project area is not readily available. Estimated take of Guadalupe fur seals was based on the maximum number of Guadalupe fur seals observed at any one time on San Miguel Island (13) (pers. comm., J. LaBonte, ManTech SRS Technologies Inc., to J. Carduner, NMFS, Feb. 29, 2016); it was therefore conservatively assumed that 13 Guadalupe fur seals may be hauled out at San Miguel Island at any given time.

Take Calculation and Estimation

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

NMFS currently uses a three-tiered scale to determine whether the response of a pinniped on land to acoustic or visual stimuli is considered an alert, a movement, or a flush. NMFS considers the behaviors that meet the definitions of both movements and flushes to qualify as behavioral harassment. Thus a pinniped on land is considered by NMFS to have been behaviorally harassed if it moves greater than two times its body length, or if the animal is already moving and changes direction and/or speed, or if the animal flushes from land into the water. Animals that become alert without such movements are not considered harassed. See Table 4 for a summary of the pinniped disturbance scale.

TABLE 4—LEVELS OF PINNIPED BEHAVIORAL DISTURBANCE ON LAND

Level	Type of response	Definition	Characterized as behavioral harassment by NMFS
1	Alert	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length.	No.
2	Movement	Movements away from the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.	Yes.
3	Flush	All retreats (flushes) to the water	Yes.

As described above, the likelihood of pinnipeds exhibiting responses to sonic booms that would be considered behavioral harassment (based on the levels of pinniped disturbance as shown in Table 4) is dependent on both the species and on the intensity of the sonic boom. Data from rocket launch monitoring by the USAF at VAFB and the NCI show that pinniped reactions to sonic booms are correlated to the level of the sonic boom, with low energy sonic booms (<1.0 psf) typically resulting in little to no behavioral responses, and higher energy sonic booms resulting in responses ranging from no response to heads-up alerts, startle responses, some movements on land, and some movements into the water (flushing). Based on model results, a boost-back and landing of the Falcon 9 First Stage at SLC–4W would produce a sonic boom with greater intensity at VAFB (overpressures potentially as high as 8.5 psf) than at the NCI (overpressures potentially as high as 3.1 psf). Responses of pinnipeds to

sonic booms are also highly dependent on species, with harbor seals, California sea lions and Steller sea lions generally displaying greater sensitivity to sonic booms than northern elephant seals and northern fur seals (Table 5). We are not aware of any data on Guadalupe fur seal responses to sonic booms, but we assume responses by Guadalupe fur seal responses to be similar to those observed in northern fur seals as the two species are physiologically and behaviorally very similar.

Take estimates were calculated by overlaying the modeled acoustic footprints of sonic booms from boost-back and landing events at SLC–4W with known pinniped haulouts on the mainland (including those at VAFB) and the NCI to determine the pinniped haulouts that would potentially be affected by sonic booms with overpressures of 1.0 psf and above. Only haulouts along northeastern San Miguel Island, northern and northwestern Santa Rosa Island, and northwestern Santa Cruz Island would be expected to experience overpressures greater than 1.0 psf during a boost-back and landing at SLC–4W (Figure 2–3, 2–4, 2–5 and 2–6 in the IHA application). Take estimates also account for the likely intensity of the sonic boom as well as the relative sensitivity of the marine mammal species present, based on monitoring data as described above.

A boost-back and landing of the Falcon 9 First Stage at SLC–4W that results in a sonic boom of 1.0 psf and above at VAFB was conservatively estimated to result in behavioral harassment of 100 percent of all species hauled out at or near VAFB and Point Conception (Table 6). A boost-back and landing of the Falcon 9 First Stage at SLC–4W that results in a sonic boom of 1.0 psf and above at the NCI was estimated to result in the behavioral harassment of 100 percent of California sea lions, harbor seals, and Steller sea lions that are hauled out at the NCI and of five percent of northern elephant seals, northern fur seals, and Guadalupe fur seals that are hauled out at the NCI. The five percent adjustment in the take estimates for these species at the NCI is also considered conservative, as launch monitoring data shows that elephant seals and fur seals sometimes alert to sonic booms but have never been observed flushing to the water or responding in a manner that would be classified as behavioral harassment even when sonic booms were measured at >1.0 psf (see Table 5 for a summary of launch monitoring data).

The take calculations presented in Table 6 are based on the best available information on marine mammal populations in the project location and responses among marine mammals to the stimuli associated with the proposed activities.

TABLE 6—ESTIMATED NUMBERS OF MARINE MAMMALS, AND PERCENTAGE OF MARINE MAMMAL POPULATIONS, POTENTIALLY TAKEN AS A RESULT OF THE PROPOSED ACTIVITIES

Species	Geographic location	Estimated number of Level B harassment exposures per event, by location	Estimated combined number of Level B harassment exposures per event	Total number of takes by Level B harassment proposed for authorization ^	Takes by Level B harassment proposed for authorization as a percentage of population
Pacific Harbor Seal	VAFB	366	1,384	1,384	4.4
	Pt. Conception	516			
	San Miguel Island	310			
	Santa Rosa Island	192			
	Santa Cruz Island	0			
California Sea Lion	VAFB	416	4,561	54,732	18.4
	Pt. Conception	N/A			
	San Miguel Island	2,134			
	Santa Rosa Island	1,200			
	Santa Cruz Island	811			
Northern Elephant Seal	VAFB	190	227	2,724	1.5
	Pt. Conception	11			
	San Miguel Island *	18			
	Santa Rosa Island *	8			
	Santa Cruz Island	0			
Steller Sea Lion	VAFB	16	20	240	0.3
	Pt. Conception	N/A			
	San Miguel Island	4			
	Santa Rosa Island	N/A			
	Santa Cruz Island	N/A			
Northern Fur Seal	VAFB	N/A	250	3,000	21.4
	Pt. Conception	N/A			
	San Miguel Island *	250			
	Santa Rosa Island	N/A			
	Santa Cruz Island	N/A			
Guadalupe Fur Seal	VAFB	N/A	1	12	0.1
	Pt. Conception	N/A			
	San Miguel Island *	1			
	Santa Rosa Island	N/A			
	Santa Cruz Island	N/A			

^ Based on twelve boost-back and landing events.

* Number shown reflects five percent of total number of predicted potential exposures, *i.e.,* five percent of animals exposed to sonic booms above 1.0 psf at these locations are assumed to experience Level B harassment.

Take estimates are believed to be conservative based on the assumption that all twelve Falcon 9 First Stage recovery actions would result in landings at SLC–4W, with no landings occurring at the contingency barge landing location. However, some or all actual landing events may ultimately occur at the contingency landing location or within the Iridium Landing Area; as described above, landings at the contingency landing location or within the Iridium Landing Area would be expected to result in no takes of marine mammals. However, the number of landings at each location is not known in advance, therefore we assume all landings would occur at SLC–4W. In addition, as described above, it is conservatively assumed that 100 percent of all any species of pinnipeds hauled out on the mainland (VAFB and Point Conception) and 100 percent of harbor seals, California sea lions and Steller sea lions hauled out at the NCI would be harassed (Level B harassment only) by a Falcon 9 boost-back and landing events at SLC–4W that result in a psf of <1.0. However, it is possible that less than this percentage of hauled out pinnipeds will be behaviorally harassed by a Falcon 9 boost-back and landing at SLC–4W. While there may be some limited behavioral harassment of pinnipeds that occurs at psf levels <1.0, we account for that in the overall conservativeness of the total take number, as described above.

Given the many uncertainties in predicting the quantity and types of impacts of sound on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound. In practice, depending on the amount of information available to characterize daily and seasonal movement and distribution of affected marine mammals, it can be difficult to distinguish between the number of individuals harassed and the instances of harassment and, when duration of the activity is considered, it can result in a take estimate that overestimates the number of individuals harassed. For instance, an individual animal may accrue a number of incidences of harassment over the duration of a project, as opposed to each incident of harassment accruing to a new individual. This is especially likely if individual animals display some degree of residency or site fidelity and the impetus to use the site is stronger than the deterrence presented by the harassing activity.

Take estimates shown in Table 6 are considered reasonable estimates of the number of instances of marine mammal exposures to sound resulting in Level B harassment that are likely to occur as a result of the proposed activities, and not necessarily the number of individual animals exposed.

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully balance two primary factors: (1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat—which considers the nature of the potential adverse impact being mitigated (likelihood, scope, range), as well as the likelihood that the measure will be effective if implemented; and the likelihood of effective implementation, and; (2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

3. A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing the severity of harassment takes only).

5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Mitigation for Marine Mammals and Their Habitat

SpaceX's IHA application contains descriptions of the mitigation measures proposed to be implemented during the specified activities in order to effect the least practicable adverse impact on the affected marine mammal species and stocks and their habitats.

It should be noted that it would not be feasible to stop or divert an inbound Falcon 9 First Stage booster. Once the boost-back and landing sequence is underway, there would be no way for SpaceX to change the trajectory of the Falcon 9 First Stage to avoid potential impacts to marine mammals. The proposed mitigation measures include the following:

- Unless constrained by other factors including human safety or national security concerns, launches would be scheduled to avoid boost-backs and landings during the harbor seal pupping season of March through June, when practicable.

Based on our evaluation of SpaceX's proposed mitigation measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable

impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

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

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

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

Proposed Monitoring

SpaceX submitted a monitoring plan as part of their IHA application. SpaceX's proposed marine mammal monitoring plan was created with input from NMFS and was based on similar plans that have been successfully implemented by other action proponents under previous authorizations for similar projects, specifically the USAF's monitoring of rocket launches from VAFB. The plan may be modified or supplemented based on comments or new information received from the public during the public comment period.

Marine Mammal Monitoring

SpaceX would determine a monitoring location for each boost-back and landing activity, taking into consideration predictions of the areas likely to receive the greatest sonic boom intensity as well as current haulout locations and the distribution of pinniped species and their behavior. The selection of the monitoring location would also be based on what species (if any) have pups at haulouts and which of those species would be expected to be the most reactive to sonic booms. SpaceX prioritizes the selection of rookery locations if they are expected to be impacted by a sonic boom and prioritizes the most reactive species if there are multiple species that are expected to be hauled out in the modeled sonic boom impact area. For instance, if harbor seals were pupping, SpaceX would tend to select a harbor seal rookery for monitoring because they tend to be the most reactive species to sonic booms. There is also thought given to the geography and wind exposure of the specific beaches that are predicted to be impacted, to avoid inadvertently selecting a portion of a beach that tends to be abandoned by pinnipeds every afternoon as a result high winds. As VAFB is an active military base, the selection of appropriate monitoring locations must also take into account security restrictions and human safety as unexploded ordnance is present in some areas.

Marine mammal monitoring protocols would vary based on modeled sonic boom intensity, the location and the season. As described above, sonic boom modeling would be performed prior to all boost-back and landing activities. Although the same rockets would be used, other parameters specific to each launch would be incorporated into each model. These include direction and trajectory, weight, length, engine thrust, engine plume drag, position versus time from initiating boost-back to additional engine burns, among other aspects. Various weather scenarios would be analyzed from NOAA weather records for the region, then run through the model. Among other factors, these would include the presence or absence of the jet stream, and if present, its direction, altitude and velocity. The type, altitude, and density of clouds would also be considered. From these data, the models would predict peak amplitudes and impact locations. As described above, impacts to pinnipeds on the NCI, including pups, have been shown through more than two decades of monitoring reports to be minimal and temporary (MMCG and SAIC 2012a). Therefore monitoring requirements at the NCI would be dependent on modeled sonic boom intensity and would be based on the harbor seal pupping season, such that monitoring requirements would be greater when pups would be expected to be present. At the height of the pupping season (between March 1 and June 30) monitoring is required if sonic boom model results indicate a peak overpressure of 1.0 psf or greater is likely to impact one of the NCI. Between July 1 and September 30 monitoring is required if sonic boom model results indicate a peak overpressure of 1.5 psf or greater is likely to impact one of the NCI. Between October 1 and February 28, monitoring is required if sonic boom model results indicate a peak overpressure of 2.0 psf or greater is likely to impact one of the NCI.

Marine mammal monitoring procedures would consist of the following:

- To conduct monitoring of Falcon 9 First Stage boost-back and landing activities, SpaceX would designate qualified, on-site observers that would be approved in advance by NMFS;
- If sonic boom model results indicate a peak overpressure of 1.0 psf or greater is likely to impact VAFB, then acoustic and biological monitoring at VAFB would be implemented;
- If sonic boom model results indicate a peak overpressure of 1.0 psf or greater is likely to impact one of the NCI between March 1 and June 30; a peak overpressure of greater than 1.5 psf is likely to impact one of the NCI between July 1 and September 30, or a peak overpressure of greater than 2.0 psf is likely to impact one of the NCI between October 1 and February 28, then monitoring of haulout sites on the NCI would be implemented.
- Monitoring would be conducted at the haulout site closest to the predicted sonic boom impact area;
- Monitoring would commence at least 72 hours prior to the boost-back and continue until at least 48 hours after the event;

• Monitoring would include multiple surveys each day that record the species; number of animals; general behavior; presence of pups; age class; gender; and reaction to noise associated with Falcon 9 First Stage recovery activities, sonic booms or other natural or human caused disturbances, in addition to recording environmental conditions such as tide, wind speed, air temperature, and swell;

• If the boost-back and landing is scheduled during daylight, time lapse photography or video recording would be used to document the behavior of marine mammals during Falcon 9 First Stage recovery activities;

• For Falcon 9 First Stage recovery activities scheduled during harbor seal pupping season (March through June), follow-up surveys would be conducted within two weeks of the boost-back and landing;

• New northern elephant seal pupping location(s) at VAFB would be prioritized for monitoring when landings occur at SLC–4W during northern elephant seal pupping season (January through February) when practicable.

Acoustic Monitoring

Acoustic measurements of the sonic boom created during boost-back at the monitoring location would be recorded to determine the overpressure level. Typically this would entail use of a digital audio tape (DAT) recorder and a high quality microphone to monitor the sound environment and measure the sonic boom. This system would be specially tailored for recording the low frequency sound associated with rocket launches and sonic booms. The DAT system would record the launch noise and sonic boom digitally to tape, which would allow for detailed post-analysis of the frequency content, and the calculation of other acoustic metrics, and would record the ambient noise and sonic boom. The DAT recorder would be placed near the marine mammal monitoring site when practicable.

Proposed Reporting

SpaceX would report data collected during marine mammal monitoring and acoustic monitoring as described above. The monitoring report would include a description of project related activities, counts of marine mammals by species, sex and age class, a summary of marine mammal species/count data, and a summary of observed marine mammal responses to project-related activities.

A launch monitoring report would be submitted by SpaceX to the NMFS Office of Protected Resources and the NMFS West Coast Region within 60 days after each Falcon 9 First Stage recovery action. This report would contain information on the date(s) and time(s) of the Falcon 9 First Stage recovery action, the design of the monitoring program; and results of the monitoring program, including, but not necessarily limited to the following:

• Numbers of pinnipeds present on the monitored haulout prior to the Falcon 9 First Stage recovery;

• Numbers of pinnipeds that may have been harassed (based on observations of pinniped responses and the pinniped disturbance scale as shown in Table 4);

• The length of time pinnipeds remained off the haulout or rookery for pinnipeds estimated to have entered the water as a result of Falcon 9 First Stage recovery noise;

• Any other observed behavioral modifications by pinnipeds that were likely the result of Falcon 9 First Stage recovery activities, including sonic boom; and

• Results of acoustic monitoring including comparisons of modeled sonic booms with actual acoustic recordings of sonic booms.

In addition, a final monitoring report would be submitted by SpaceX to the NMFS Office of Protected Resources. A draft of the report would be submitted within 90 days of the expiration of the IHA, or, within 45 days of the requested renewal of the IHA (if applicable). A final version of the report would be submitted within 30 days following resolution of comments on the draft report from NMFS. The report would summarize the information from the 60-day post-activity reports (as described above), including but not necessarily limited to the following:

• Date(s) and time(s) of the Falcon 9 First Stage recovery actions;

• Design of the monitoring program; and

• Results of the monitoring program, including the information components contained in the 60-day launch reports, as well as any documented cumulative impacts on marine mammals as a result of the activities, such as long term reductions in the number of pinnipeds at haulouts as a result of the activities.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner not authorized by the proposed IHA (if issued), such as a Level A harassment, or a take of a marine mammal species other than those proposed for authorization, SpaceX would immediately cease the specified activities and immediately report the incident to the NMFS Office of Protected Resources. The report would include the following information:

• Time, date, and location (latitude/longitude) of the incident;

• Description of the incident;

• Status of all Falcon 9 First Stage recovery activities in the 48 hours preceding the incident;

• Description of all marine mammal observations in the 48 hours preceding the incident;

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

• Fate of the animal(s); and

• Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with SpaceX to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. SpaceX would not be able to resume their activities until notified by NMFS via letter, email, or telephone.

In the event that SpaceX discovers an injured or dead marine mammal, and the lead observer determines the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition), SpaceX would immediately report the incident to the NMFS Office of Protected Resources and the NMFS West Coast Region Stranding Coordinator. The report would include the same information identified in the paragraph above. Authorized activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with SpaceX to determine whether modifications in the activities are appropriate.

In the event that SpaceX discovers an injured or dead marine mammal, and the lead MMO determines the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), SpaceX would report the incident to the NMFS Office of Protected Resources and NMFS West Coast Region Stranding Coordinator, within 24 hours of the discovery. SpaceX would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

If issued, this would be the second IHA issued to SpaceX for the proposed activity. SpaceX did not perform any Falcon 9 boost-back and landing activities that resulted in return flights to VAFB nor that generated sonic booms that impacted the NCI. SpaceX did

perform boost-back and landing activities at a contingency landing location located offshore during the period of validity for the prior IHA, however the contingency landing location was located so far offshore that there were no impacts predicted to marine mammals by sonic boom modeling, thus marine mammal monitoring was not required.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analyses applies to all the species listed in Table 2, given that the anticipated effects of this activity on these different marine mammal species are expected to be similar. Activities associated with the proposed Falcon 9 First Stage recovery 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 B harassment (behavioral disturbance) only, from airborne sounds of sonic booms. Potential takes could occur if marine mammals are hauled out in areas where a sonic boom above 1.0 psf occurs, which is considered likely given the modeled sonic booms of the proposed activities and the occurrence of pinnipeds in the project area. Based on the best available information, including monitoring reports from similar activities that have been authorized by NMFS, behavioral responses will likely be limited to reactions such as alerting to the noise, with some animals possibly moving toward or entering the water, depending on the species and the intensity of the sonic boom. Repeated exposures of individuals to levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. Thus, even repeated Level B harassment of some small subset of an overall stock is unlikely to result in any significant realized decrease in fitness to those individuals, and thus would not result in any adverse impact to the stock as a whole. Level B harassment would be reduced to the level of least practicable impact through use of mitigation measures described above.

If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals or on the stock or species could potentially be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007). Flushing of pinnipeds into the water has the potential to result in mother-pup separation, or could result in a stampede, either of which could potentially result in serious injury or mortality and thereby could potentially impact the stock or species. However, based on the best available information, including reports from over 20 years of launch monitoring at VAFB and the NCI, no serious injury or mortality of marine mammals is anticipated as a result of the proposed activities.

Even in the instances of pinnipeds being behaviorally disturbed by sonic booms from rocket launches at VAFB, no evidence has been presented of abnormal behavior, injuries or mortalities, or pup abandonment as a result of sonic booms (SAIC 2013). These findings came as a result of more than two decades of surveys at VAFB and the NCI (MMCG and SAIC, 2012). Post-launch monitoring generally reveals a return to normal behavioral patterns within minutes up to an hour or two of each launch, regardless of species. For instance, a total of eight Delta II and Taurus space vehicle launches occurred from north VAFB, near the Spur Road and Purisima Point haulout sites, from February, 2009 through February, 2014. Of these eight launches, three occurred during the harbor seal pupping season. The continued use by harbor seals of the Spur Road and Purisima Point haulout sites indicates that it is unlikely that these rocket launches (and associated sonic booms) resulted in long-term disturbances of pinnipeds using the haulout sites. San Miguel Island represents the most important pinniped rookery in the lower 48 states, and as such extensive research has been conducted there for decades. From this research, as well as stock assessment reports, it is clear that VAFB operations (including associated sonic booms) have not had any significant impacts on San Miguel Island rookeries and haulouts (SAIC 2012).

In summary, this negligible impact analysis is founded on the following factors:

- No injury, serious injury, or mortality are anticipated or authorized;
- The anticipated incidences of Level B harassment are expected to consist of, at worst, temporary modifications in behavior (*i.e.,* short distance movements and occasional flushing into the water with return to haulouts within at most two days), which are not expected to adversely affect the fitness of any individuals;
- The proposed activities are expected to result in no long-term changes in the use by pinnipeds of rookeries and haulouts in the project area, based on over 20 years of monitoring data; and
- The presumed efficacy of planned mitigation measures in reducing the effects of the specified activity to the level of least practicable impact.

In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activity will be short-term on individual animals. The specified activity is not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on 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, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The numbers of proposed authorized takes would be considered small relative to the relevant stocks or populations (less than 22 percent for all species and stocks). It is important to note that the number of expected takes does not necessarily represent of the number of individual animals expected to be taken. Our small numbers analysis accounts for this fact. Multiple exposures to Level B harassment can accrue to the same individual animals over the course of an activity that occurs multiple times in the same area (such as SpaceX's proposed activity). This is especially likely in the case of species that have limited ranges and that have site fidelity to a location within the project area, as is the case with Pacific harbor seals.

As described above, harbor seals are non-migratory, rarely traveling more than 50 km from their haul-out sites. Thus, while the estimated abundance of the California stock of Pacific harbor seals is 30,968 (Carretta *et al.* 2017), a substantially smaller number of individual harbor seals is expected to occur within the project area. We expect that, because of harbor seals' documented site fidelity to haulout locations at VAFB and the NCI, and because of their limited ranges, the same individuals are likely to be taken repeatedly over the course of the proposed activities (maximum of twelve Falcon 9 First Stage recovery actions). Therefore, the proposed number of instances of Level B harassment among harbor seals over the course of the proposed authorization (*i.e.,* the total number of takes shown in Table 6) is expected to accrue to a much smaller number of individuals encompassing a small portion of the overall regional stock. Thus while we propose to authorize the instances of incidental take of harbor seals shown in Table 6, we believe that the number of individual harbor seals that would be incidentally taken by the proposed activities would, in fact, be substantially lower than this numbers. The maximum number of harbor seals expected to be taken by Level B harassment, per Falcon 9 First Stage recovery action, is 1,384. As we believe the same individuals are likely to be taken repeatedly over the duration of the proposed activities, we use the estimate of 1,165 individual animals taken per Falcon 9 First Stage recovery activity for the purposes of estimating the percentage of the stock abundance likely to be taken.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

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

Endangered Species Act (ESA)

There is one marine mammal species (Guadalupe fur seal) listed under the ESA with confirmed occurrence in the area expected to be impacted by the proposed activities. The NMFS West Coast Region has determined that the NMFS OPR's proposed authorization of SpaceX's Falcon 9 First Stage recovery activities is not likely to adversely affect the Guadalupe fur seal. Therefore, formal ESA section 7 consultation on this proposed authorization is not required.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to SpaceX, to conduct Falcon 9 First Stage recovery activities at Vandenberg Air Force Base, in the Pacific Ocean offshore Vandenberg Air Force Base, and at the Northern Channel Islands, California, from December 1, 2017 through November 30, 2018, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This Incidental Harassment Authorization (IHA) is valid from December 1, 2017 through November 30, 2018.

(a) This IHA is valid only for Falcon 9 First Stage recovery activities at Vandenberg Air Force Base, California, and at auxiliary landing sites offshore.

2. General Conditions.

(a) A copy of this IHA must be in the possession of SpaceX, its designees, and work crew personnel operating under the authority of this IHA.

(b) The species authorized for taking are the Pacific harbor seal (*Phoca vitulina richardii*), California sea lion (*Zalophus californianus*), Steller sea lion (*Eumetopias jubatus*), northern elephant seal (*Mirounga angustirostris*), northern fur seal (*Callorhinus ursinus*), and Guadalupe fur seal (*Arctocephalus philippii townsendi*).

(c) The taking, by Level B harassment only, is limited to the species listed in condition 2(b). See Table 6 for numbers of take authorized.

(d) The taking by injury (Level A harassment), serious injury, or death of any of the species listed in condition 2(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.

3. Mitigation Measures.

The holder of this Authorization must implement the following mitigation measure: Unless constrained by other factors including human safety or national security concerns, launches must be scheduled to avoid, whenever possible, boost-backs and landings during the harbor seal pupping season of March through June.

4. Monitoring.

The holder of this Authorization mustconduct marine mammal and acoustic monitoring as described below.

(a) SpaceX must notify the Administrator, West Coast Region, NMFS, by letter or telephone, at least two weeks prior to activities possibly involving the taking of marine mammals;

(b) To conduct monitoring of Falcon 9 First Stage recovery activities, SpaceX must designate qualified, on-site individuals approved in advance by NMFS;

(c) If sonic boom model results indicate that a peak overpressure of 1.0 psf or greater is likely to impact VAFB, then acoustic and biological monitoring at VAFB must be implemented;

(d) If sonic boom model results indicate a peak overpressure of 1.0 psf or greater is likely to impact VAFB during January and February, then acoustic and biological monitoring must be implemented at northern elephant seal rookeries at VAFB, when practicable;

(e) If sonic boom model results indicate that a peak overpressure of 1.0 psf or greater is predicted to impact the Channel Islands between March 1 and June 30, greater than 1.5 psf between July 1 and September 30, and greater than 2.0 psf between October 1 and February 28, monitoring of haulout sites on the Channel Islands must be implemented. Monitoring will be conducted at the haulout site closest to the predicted sonic boom impact area;

(f) Monitoring will be conducted for at least 72 hours prior to any planned Falcon 9 First Stage recovery and continue until at least 48 hours after the event;

(g) For Falcon 9 First Stage recovery activities that occur during March through June, follow-up surveys of harbor seal haulouts will be conducted within two weeks of the Falcon 9 First Stage recovery;

(h) If Falcon 9 First Stage recovery activities are scheduled during daylight, time-lapse photography or video recording must be used to document the behavior of marine mammals during Falcon 9 First Stage recovery activities;

(i) Monitoring will include multiple surveys each day that record the species, number of animals, general behavior, presence of pups, age class, gender and reaction to noise associated with Falcon 9 First Stage recovery, sonic booms or other natural or human caused disturbances, in addition to recording environmental conditions such as tide, wind speed, air temperature, and swell; and

(j) Acoustic measurements of the sonic boom created during boost-back at the monitoring location must be recorded to determine the overpressure level.

5. Reporting.

The holder of this Authorization is required to:

(a) Submit a report to the Office of Protected Resources, NMFS, and the West Coast Regional Administrator, NMFS, within 60 days after each Falcon 9 First Stage recovery action. This report must contain the following information:

(1) Date(s) and time(s) of the Falcon 9 First Stage recovery action;

(2) Design of the monitoring program; and

(3) Results of the monitoring program, including, but not necessarily limited to:

(i) Numbers of pinnipeds present on the haulout prior to the Falcon 9 First Stage recovery;

(ii) Numbers of pinnipeds that may have been harassed as a result of Falcon 9 First Stage recovery activities;

(iii) For pinnipeds estimated to have been harassed as a result of Falcon 9 First Stage recovery noise, the length of time pinnipeds remained off the haulout or rookery;

(iv) Any other observed behavioral modifications by pinnipeds that were likely the result of Falcon 9 First Stage recovery activities, including sonic boom; and

(v) Results of acoustic monitoring including comparisons of modeled sonic booms with actual acoustic recordings of sonic booms.

(b) Submit an annual report on all monitoring conducted under the IHA. A draft of the annual report must be submitted within 90 calendar days of the expiration of this IHA, or, within 45 calendar days of the requested renewal of the IHA (if applicable). A final annual report must be prepared and submitted within 30 days following resolution of comments on the draft report from NMFS. The annual report will summarize the information from the 60-day post-activity reports, including but not necessarily limited to:

(1) Date(s) and time(s) of the Falcon 9 First Stage recovery action;

(2) Design of the monitoring program; and

(3) Results of the monitoring program, including, but not necessarily limited to:

(i) Numbers of pinnipeds present on the haulout prior to the Falcon 9 First Stage recovery;

(ii) Numbers of pinnipeds estimated to have been harassed as a result of Falcon 9 First Stage recovery activities at the monitoring location;

(iii) For pinnipeds estimated to have been harassed as a result of Falcon 9 First Stage recovery noise, the length of time pinnipeds remained off the haulout or rookery;

(iv) Any other observed behavioral modifications by pinnipeds that were likely the result of Falcon 9 First Stage recovery activities, including sonic boom;

(v) Any cumulative impacts on marine mammals as a result of the activities, such as long term reductions in the number of pinnipeds at haulouts as a result of the activities; and

(vi) Results of acoustic monitoring including comparisons of modeled sonic booms with actual acoustic recordings of sonic booms.

(c) Reporting injured or dead marine mammals:

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

A. Time and date of the incident;

B. Description of the incident;

C. Status of all Falcon 9 First Stage recovery activities in the 48 hours preceding the incident;

D. Description of all marine mammal observations in the 48 hours preceding the incident;

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

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

G. Fate of the animal(s); and

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

Activities will not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with SpaceX to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. SpaceX may not resume their activities until notified by NMFS via letter, email, or telephone.

(2) In the event that SpaceX 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), SpaceX will immediately report the incident to the NMFS Office of Protected Resources and the NMFS West Coast Region Stranding Coordinator. The report must include the same information identified in 5(c)(1) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident and makes a final determination on the cause of the reported injury or death. NMFS will work with SpaceX to determine whether additional mitigation measures or modifications to the activities are appropriate.

(3) In the event that SpaceX 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), SpaceX will report the incident to the NMFS Office of Protected Resources and

the NMFS West Coast Region Stranding Coordinator, within 24 hours of the discovery. SpaceX will provide photographs or video footage or other documentation of the stranded animal sighting to NMFS. The cause of injury or death may be subject to review and a final determination by NMFS.

6. Modification and suspension.

(a) This IHA may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines that 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 analysis, the draft authorization, and any other aspect of this Notice of Proposed IHA for SpaceX Falcon 9 First Stage recovery activities. Please include with your comments any supporting data or literature citations to help inform our final decision on SpaceX's request for an MMPA authorization.

Dated: October 19, 2017.

Donna S. Wieting,

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

[FR Doc. 2017–23134 Filed 10–24–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF790

Mid-Atlantic Fishery Management Council (MAFMC); Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold a public webinar meeting.

DATES: The meeting will be held on Thursday November 9, 2017, from 10 a.m. to 12 noon.

ADDRESSES: The meeting will be held via webinar with a telephone-only connection option. The webinar can be accessed at *http://mafmc.adobeconnect.com/chub_hms_diet/.* Audio can be accessed through the webinar link or by dialing 1–800–832–0736 and entering meeting room number 5068871.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The goal of this webinar is to understand the importance of Atlantic chub mackerel (*Scomber colias*) to the diets of highly migratory species (HMS) predators in U.S. waters, with a focus on recreationally-important predators such as large tunas and billfish. The objectives of the meeting are to: (1) Convene a panel of scientific experts on HMS diets, (2) clarify what is known about the importance of chub mackerel to HMS diets based on currently available data, and (3) develop recommendations for future studies to quantify the role of chub mackerel in HMS diets. Meeting these objectives will help the Council analyze the potential impacts of chub mackerel management alternatives on HMS predators as well as on recreational fisheries for those predators. The Council is developing a chub mackerel amendment to the Mackerel, Squid, and Butterfish Fishery Management Plan. More information on the amendment is available at: *http://www.mafmc.org/actions/chub-mackerel-amendment.* To facilitate productive discussions among the invited experts, public participation during this webinar will be limited to designated question and answer and comment periods. Members of the public are invited to email questions for the invited experts to Council staff (*jbeaty@mafmc.org*) in advance of the meeting.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: October 20, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–23191 Filed 10–24–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Governor's Opt-Out Notice To Conduct State Radio Access Network

AGENCY: National Telecommunications and Information Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Middle Class Tax Relief and Job Creation Act of 2012 (Act) requires a Governor of a State to notify the First Responder Network Authority (FirstNet), the National Telecommunications and Information Administration (NTIA), and the Federal Communications Commission (FCC) of a State's decision to opt-out of participation in the deployment of the nationwide public safety broadband network (NPSBN) as proposed by FirstNet and to conduct its own deployment of a Radio Access Network in the State. This Notice provides instructions for such ''opt-out'' notices to NTIA.

DATES: Applicable on October 25, 2017.

ADDRESSES: All opt-out notices must be filed via the dedicated email address: *sapp@ntia.doc.gov,* or via certified mail to the Office of Public Safety Communications, National Telecommunications and Information Administration, United States Department of Commerce, 1401 Constitution Ave NW., Washington, DC 20230, ATTN: Marsha MacBride.

FOR FURTHER INFORMATION CONTACT: Carolyn Dunn; Office of Public Safety Communications; National Telecommunications and Information Administration; U.S. Department of Commerce; 1401 Constitution Avenue NW; Washington, DC 20230; *cdunn@ntia.doc.gov;* (202) 482–4103.

SUPPLEMENTARY INFORMATION:

Under section 6302(e)(2) of the Act, the Governor of each State or Territory has 90 days from the receipt of notice by FirstNet under section 6302(e)(1) of the Act to decide whether to participate in the deployment of the NPSBN as proposed by FirstNet or whether to conduct its own deployment of a Radio Access Network in the State.[1] Section 6302(e)(3)(A) of the Act requires a Governor of a State or Territory to notify FirstNet, NTIA, and the FCC of a State's decision to opt-out.[2] This Notice

[1] See 47 U.S.C. 1442(e).

[2] 47 U.S.C. 1442(e)(3)(A). Please note that States that choose to participate in the deployment of the NPSBN as proposed by FirstNet are not required to file a notice of such participation with NTIA.

provides the instructions and address for submission of such ''opt-out'' notices to NTIA.

All opt-out notices must be filed via the dedicated email address: *sapp@ntia.doc.gov,* or via certified mail to the Office of Public Safety Communications, National Telecommunications and Information Administration, United States Department of Commerce, 1401 Constitution Ave NW., Washington, DC 20230, ATTN: Marsha MacBride.

An opt-out notice must be made by the Governor or the Governors' duly authorized designee, and if made by the latter, evidence of such delegation must be provided to NTIA with the notice. An opt-out notice should also certify concurrent notification of the opt-out decision to FirstNet and the FCC.[3]

Dated: October 20, 2017.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2017–23144 Filed 10–24–17; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Government-Industry Advisory Panel; Notice of Federal Advisory Committee Meeting

AGENCY: Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics), Department of Defense (DoD).

ACTION: Federal advisory committee meeting notice.

SUMMARY: The DoD is publishing this notice to announce the following Federal advisory committee meeting of the Government-Industry Advisory Panel. This meeting is open to the public.

DATES: The meeting will be held from 9:00 a.m. to 5:00 p.m. on Wednesday and Thursday, November 15 and 16, 2017. Public registration will begin at 8:45 a.m. on each day. For entrance into the meeting, you must meet the necessary requirements for entrance into the Pentagon. For more detailed information, please see the following link: *http://www.pfpa.mil/access.html.*

ADDRESSES: Pentagon Library, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155. The meeting room will be displayed on the information screen for both days. The Pentagon Library is located in the Pentagon Library and Conference Center (PLC2) across the Corridor 8 bridge.

FOR FURTHER INFORMATION CONTACT: LTC Robert McDonald, Office of the Assistant Secretary of Defense (Acquisition), 3600 Defense Pentagon, Washington, DC 20301–3600, email: *Robert.L.McDonald.mil@mail.mil,* phone: 571–256–9006 or Peter Nash, email: *peter.b.nash3.ctr@mail.mil,* phone: 703–693–5111.

SUPPLEMENTARY INFORMATION:

Purpose of the Meetings: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (FACA) (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 102–3.150. The Government-Industry Advisory Panel will review sections 2320 and 2321 of title 10, United States Code (U.S.C.), regarding rights in technical data and the validation of proprietary data restrictions and the regulations implementing such sections, for the purpose of ensuring that such statutory and regulatory requirements are best structured to serve the interest of the taxpayers and the national defense. The scope of the panel is as follows: (1) Ensuring that the DoD does not pay more than once for the same work, (2) Ensuring that the DoD contractors are appropriately rewarded for their innovation and invention, (3) Providing for cost-effective reprocurement, sustainment, modification, and upgrades to the DoD systems, (4) Encouraging the private sector to invest in new products, technologies, and processes relevant to the missions of the DoD, and (5) Ensuring that the DoD has appropriate access to innovative products, technologies, and processes developed by the private sector for commercial use.

Agenda: This will be the twenty-second meeting of the Government-Industry Advisory Panel and continued recurring teleconference meetings. The panel will cover details of 10 U.S.C. 2320 and 2321, begin understanding the implementing regulations and detail the necessary groups within the private sector and government to provide supporting documentation for their review of these codes and regulations during follow-on meetings. Agenda items for this meeting will include the following: (1) Final review of tension point information papers; (2) Rewrite FY17 NDAA 2320 and 2321 language; (3) Review Report Framework and Format for Publishing; (4) Comment Adjudication & Planning for follow-on meeting.

Availability of Materials for the Meeting: A copy of the agenda or any updates to the agenda for the November 15 and 16 meeting will be available as requested or at the following site: *https://www.facadatabase.gov/committee/committee.aspx?cid=2561&aid=41.* It will also be distributed upon request. Minor changes to the agenda will be announced at the meeting. All materials will be posted to the FACA database after the meeting.

Public Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, this meeting is open to the public. Registration of members of the public who wish to attend the meeting will begin upon publication of this meeting notice and end three business days (November 9) prior to the start of the meeting. All members of the public must contact LTC McDonald or Mr. Nash at the phone number or email listed in the **FOR FURTHER INFORMATION CONTACT** section to make arrangements for Pentagon escort, if necessary. Public attendees should arrive at the Pentagon's Visitor's Center, located near the Pentagon Metro Station's south exit and adjacent to the Pentagon Transit Center bus terminal with sufficient time to complete security screening no later than 8:30 a.m. on November 15 and 16. To complete security screening, please come prepared to present two forms of identification of which one must be a pictured identification card. Government and military DoD CAC holders are not required to have an escort, but are still required to pass through the Visitor's Center to gain access to the Building. Seating is limited and is on a first-to-arrive basis. Attendees will be asked to provide their name, title, affiliation, and contact information to include email address and daytime telephone number to the Designated Federal Officer (DFO) listed in the **FOR FURTHER INFORMATION CONTACT** section. Any interested person may attend the meeting, file written comments or statements with the committee, or make verbal comments from the floor during the public meeting, at the times, and in the manner, permitted by the committee.

Special Accommodations: The meeting venue is fully handicap accessible, with wheelchair access. Individuals requiring special accommodations to access the public meeting or seeking additional information about public access procedures, should contact LTC McDonald, the committee DFO, or Mr.

[3] *See also* FCC, Public Notice, ''Public Safety and Homeland Security Bureau Announces 90-Day Deadline for Governors to Elect Whether to Opt Out of the FirstNet Radio Access Network,'' DA 17–956, PS Dkt. No. 16–269 (rel. Oct. 2, 2017).

Nash at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section, at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Comments or Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the Government-Industry Advisory Panel about its mission and/or the topics to be addressed in this public meeting. Written comments or statements should be submitted to LTC McDonald, the committee DFO, via electronic mail, the preferred mode of submission, at the email address listed in the **FOR FURTHER INFORMATION CONTACT** section in the following formats: Adobe Acrobat or Microsoft Word. The comment or statement must include the author's name, title, affiliation, address, and daytime telephone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the committee DFO at least five (5) business days prior to the meeting so that they may be made available to the Government-Industry Advisory Panel for its consideration prior to the meeting. Written comments or statements received after this date may not be provided to the panel until its next meeting. Please note that because the panel operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection.

Verbal Comments: Members of the public will be permitted to make verbal comments during the meeting only at the time and in the manner allowed herein. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three (3) business days in advance to the committee DFO, via electronic mail, the preferred mode of submission, at the email address listed in the **FOR FURTHER INFORMATION CONTACT** section. The committee DFO will log each request to make a comment, in the order received, and determine whether the subject matter of each comment is relevant to the panel's mission and/or the topics to be addressed in this public meeting. A 30-minute period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described in this paragraph, will be allotted no more than five (5) minutes during this period, and will be invited to speak in the order in which their requests were received by the DFO.

Dated: October 20, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–23189 Filed 10–24–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Availability of a Draft Integrated Feasibility Report (Feasibility Report/Environmental Impact Statement), Aliso Creek Mainstem Ecosystem Restoration Study, Orange County, California

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice; extension of comment period.

SUMMARY: The comment period for the Availability of a Draft Integrated Feasibility Report (Feasibility Report/Environmental Impact Statement), Aliso Creek Mainstem Ecosystem Restoration Study, Orange County, CA published in the **Federal Register** on Friday, September 29, 2017 and required comments be submitted by November 13, 2017. The comment period has been extended to November 28, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Lamb, U.S. Army Corps of Engineers, Los Angeles District, phone number (213) 452–3798.

SUPPLEMENTARY INFORMATION: None.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2017–23154 Filed 10–24–17; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Inland Waterways Users Board Meeting Notice

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice; correction.

SUMMARY: The notice of an open meeting scheduled for November 3, 2017 published in the **Federal Register** on September 29, 2017 (82 FR 45583) has a new meeting location. It will now be held at the U.S. Army Corps of Engineers Vicksburg District Office Building, main Multi-purpose Conference Room, 4155 East Clay Street, Vicksburg, MS 39183.

FOR FURTHER INFORMATION CONTACT: Mr. Mark R. Pointon, the Designated Federal Officer (DFO) for the committee, in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–GM, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by telephone at 703–428–6438; and by email at *Mark.Pointon@usace.army.mil.* Alternatively, contact Mr. Kenneth E. Lichtman, the Alternate Designated Federal Officer (ADFO), in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–GW, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by telephone at 703–428–8083; and by email at *Kenneth.E.Lichtman@usace.army.mil.*

SUPPLEMENTARY INFORMATION: None.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2017–23153 Filed 10–24–17; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF ENERGY

Meeting of Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Monday, November 13, 2017, 1:00 p.m.–5:00 p.m. Tuesday, November 14, 2017, 9:00 a.m.–5:00 p.m.

ADDRESSES: Hilton Garden Inn, 1065 Stevens Creek Road, Augusta, GA 30907.

FOR FURTHER INFORMATION CONTACT: Susan Clizbe, Office of External Affairs, Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC, 29802; Phone: (803) 952–8281.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration,

waste management, and related activities.

Tentative Agenda

Monday, November 13, 2017

Opening, Chair Update, and Agenda Review
Agency Updates
Break
Administrative & Outreach Committee Update
Facilities Disposition & Site Remediation Committee Update
Nuclear Materials Committee Update
Strategic & Legacy Management Committee Update
Waste Management Committee Update
Ad Hoc Committee on Balancing the Demands of EM Scope with Pension Funding
Draft Recommendation Discussion
Public Comments
Recess

Tuesday, November 14, 2017

Reconvene
Agenda Review
Presentations:
- Annual Site Environmental Report
- Radiological Education, Monitoring and Outreach Project
- Tank Closure Cesium Removal

Lunch Break
Presentations:
- Solid Waste Program and Waste Isolation Pilot Plant Update
- 235–F Deactivation
- EM Performance Metrics

Public Comments
Voting:
- Chair and Vice Chair Election
- Draft Recommendations

Break
Presentation: Continuous Improvement
Adjourn

Public Participation: The EM SSAB, Savannah River Site, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Susan Clizbe at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Susan Clizbe's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Susan Clizbe at the address or phone number listed above. Minutes will also be available at the following Web site: *http://cab.srs.gov/srs-cab.html.*

Issued at Washington, DC, on October 19, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–23161 Filed 10–24–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Meeting of the Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Saturday, November 18, 2017, 11:00 a.m.

ADDRESSES: West Kentucky Community and Technical College, Emerging Technology Center, 4810 Alben Barkley Drive, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Jennifer Woodard, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001; telephone: (270) 441–6825.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management and related activities.

Tentative Agenda:
- Call to Order, Introductions, Review of Agenda
- Administrative Issues
- Public Comments (15 minutes)
- Adjourn

Breaks Taken As Appropriate

Public Participation: The EM SSAB, Paducah, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Jennifer Woodard as soon as possible in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Jennifer Woodard at the telephone number listed above. Requests must be received as soon as possible prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments. The EM SSAB, Paducah, will hear public comments pertaining to its scope (clean-up standards and environmental restoration; waste management and disposition; stabilization and disposition of non-stockpile nuclear materials; excess facilities; future land use and long-term stewardship; risk assessment and management; and clean-up science and technology activities). Comments outside of the scope may be submitted via written statement as directed above.

Minutes: Minutes will be available by writing or calling Jennifer Woodard at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.pgdpcab.energy.gov/2017_meetings.htm.*

Issued at Washington, DC, on October 19, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–23160 Filed 10–24–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Senior Executive Service Performance Review Board

AGENCY: Department of Energy.

ACTION: Designation of Performance Review Board Chair.

SUMMARY: This notice provides the Performance Review Board Chair designee for the Department of Energy.

This listing supersedes all previously published lists of Performance Review Board Chair.

DATES: This appointment is applicable as of September 30, 2017: Dennis M. Miotla.

Issued in Washington, DC, on September 26, 2017.

Erin S. Moore,

Director, Office of Corporate Executive Management, Office of the Chief Human Capital Officer.

[FR Doc. 2017–23166 Filed 10–24–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Meeting of the Biomass Research and Development Technical Advisory Committee

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

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee. The Federal Advisory Committee Act requires that agencies publish these notices in the **Federal Register** to allow for public participation.

DATES: November 15, 2017, 8:30 a.m.–5:30 p.m.; November 16, 2017, 8:30 a.m.–2:00 p.m.

ADDRESSES: Holiday Inn Washington DC—Capitol; 550 C St SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Elless, Designated Federal Officer, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; email: *Mark.Elless@ee.doe.gov* and Roy Tiley at (410) 997–7778 ext. 220; email: *rtiley@bcs-hq.com.*

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To develop advice and guidance that promotes research and development leading to the production of biobased fuels and biobased products.

Tentative Agenda: Agenda will include the following:

- Update on USDA Biomass R&D Activities
- Update on DOE Biomass R&D Activities
- Presentations from industry, national laboratories, and federal agencies on improving feedstock supply chain cost and efficiency and upgrading of biomass into feedstocks.

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the Biomass Research and Development Technical Advisory Committee. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, you must contact Dr. Mark Elless at email: *Mark.Elless@ee.doe.gov* and Roy Tiley at (410) 997–7778 ext. 220; email: *rtiley@bcs-hq.com* at least 5 business days prior to the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Co-chairs of the Committee will make every effort to hear the views of all interested parties. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. The Co-chairs will conduct the meeting to facilitate the orderly conduct of business.

Minutes: The summary of the meeting will be available for public review and copying at *http://biomassboard.gov/committee/meetings.html.*

Issued at Washington, DC, on October 19, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–23156 Filed 10–24–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Orders Issued Under Section 3 of the Natural Gas Act During July 2017

	FE Docket Nos.
DELFIN LNG, LLC	13–147–LNG
LOUISIANA LNG ENERGY LLC	14–19–LNG; 14–29–LNG
BNP PARIBAS ENERGY CANADA CORP	15–176–NG
NEW ENGLAND NG SUPPLY LIMITED	16–103–NG
ALTAGAS MARKETING (U.S.) INC	17–74–NG
OZARK GAS LLC	17–81–NG
SEMPRA LNG INTERNATIONAL, LLC	17–78–NG
CASTLETON COMMODITIES CANADA LP	17–75–NG
CONOCOPHILLIPS COMPANY	17–76–NG
TRAILSTONE ENERGY MARKETING DE MEXICO, S. DE R.L. DE C.V	17–80–NG
OXY ENERGY CANADA, INC	17–77–NG
CENOVUS ENERGY MARKETING SERVICES LTD	17–84–NG
UNIPER GLOBAL COMMODITIES NORTH AMERICA LLC	17–83–NG
ELEMENT MARKETS RENEWABLE ENERGY LLC	17–82–NG
AVISTA CORPORATION	17–85–NG; 15–116–NG
PENTAGON ENERGY, LLC	17–73–CNG
TUSCAROWA TRADING, LLC	17–88–NG
SEVEN GENERATIONS ENERGY (US) CORP	17–91–NG
NEW WORLD GLOBAL, LLC	17–89–NG
POTELCO, INC	17–92–LNG
CITIGROUP ENERGY INC	17–94–LNG
SAN DIEGO GAS & ELECTRIC COMPANY	17–93–NG
REPSOL ENERGY NORTH AMERICA CORPORATION	17–95–NG
STATOIL NATURAL GAS LLC	17–96–NG
PORTLAND GENERAL ELECTRIC COMPANY	17–97–NG

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during July 2017, it issued orders under section 3 of the Natural Gas Act, 15 U.S.C. 717b, as summarized in the attached appendix. These orders may be found on the FE Web site at *http://energy.gov/fe/listing-doefe-authorizationsorders-issued-2017.*

They are also available for inspection and copying in the U.S. Department of Energy (FE–34), Division of Natural Gas Regulation, Office of Regulation and

International Engagement, Office of Fossil Energy, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

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

John A. Anderson,

Director, Office of Regulation and International Engagement, Office of Oil and Natural Gas.

Appendix

DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS

No Order Number Assigned.	07/28/17	13–147–LNG	Delfin LNG, LLC	Order granting request for Rehearing for the Purpose of Further Consideration.
3482–A	07/24/17	14–19–LNG; 14–29–LNG.	Louisiana LNG, Energy LLC	Order 3482–A vacating long-term, Multi-contract authority to export LNG by vessel to Free Trade Agreement Nations and Dismissing Application to export LNG by vessel to Non-free Trade Agreement Nations.
3776–A	07/28/17	15–176–NG	BNP Paribas Energy Canada Corp.	Order 3776–A vacating authority to import/export natural gas from/to Canada.
3995–A	07/13/17	16–103–NG	New England NG Supply Limited.	Order 3995–A vacating authority long-term authority to export natural gas to Canada.
4056	07/11/17	17–74–NG	AltaGas Marketing (U.S.) Inc	Order 4056 granting blanket authority to import/export natural gas from/to Canada.
4057	07/11/17	17–81–NG	Ozark Gas LLC	Order 4057 granting blanket authority to export natural gas to Mexico.
4058	07/11/17	17–78–NG	Sempra LNG International, LLC.	Order 4058 granting blanket authority to import/export natural gas from/to Mexico.
4059	07/13/17	17–75–NG	Castleton Commodities Canada LP.	Order 4059 granting blanket authority to import/export natural gas from/to Canada.
4060	07/17/17	17–76–NG	ConocoPhillips Company	Order 4060 granting blanket authority to import/export natural gas from/to Canada/Mexico.
4061	07/17/17	17–80–NG	TrailStone Energy Marketing de Mexico, S. de R.L. de C.V.	Order 4061 granting blanket authority to import/export natural gas from/to Mexico.
4062	07/17/17	17–77–NG	Oxy Energy Canada, Inc	Order 4062 granting blanket authority to import/export natural gas from/to Canada.
4063	07/17/17	17–84–NG	Cenovus Energy Marketing Services Ltd.	Order 4063 granting blanket authority to import natural gas from Canada.
4064	07/17/17	17–83–NG	Uniper Global Commodities North America LLC.	Order 4064 granting blanket authority to import/export natural gas from/to Canada.
4065	07/17/17	17–82–NG	Element Markets Renewable Energy LLC.	Order 4065 granting blanket authority to import/export natural gas from/to Canada/Mexico.
4066	07/21/17	17–85–NG; 15–116–NG.	Avista Corporation	Order 4066 granting blanket authority to import/export natural gas from/to Canada, and vacating prior authorization.
4067	07/28/17	17–73–CNG	Pentagon Energy, LLC	Order 4067 granting blanket authority to export CNG to Mexico by vessel and truck.
4068	07/26/17	17–88–NG	Tuscarowa Trading, LLC	Order 4068 granting blanket authority to export natural gas to Mexico.
4069	07/25/17	17–91–NG	Seven Generations Energy (US) Corp.	Order 4069 granting blanket authority to import natural gas from Canada.
4070	07/31/17	17–89–NG	New World Global, LLC	Order 4070 granting blanket authority to export natural gas to Mexico, to export LNG to Mexico by truck, and vacating prior authorization.
4071	07/31/17	17–92–LNG	Potelco, Inc	Order 4071 granting blanket authority to import LNG from Canada by truck.
4072	07/28/17	17–94–LNG	Citigroup Energy Inc	Order 4072 granting blanket authority to import LNG from various international sources by vessel.
4073	07/27/17	17–93–NG	San Diego Gas & Electric Company.	Order 4073 granting blanket authority to import/export natural gas from/to Mexico.
4074	07/28/17	17–95–NG	Repsol Energy North America Corporation.	Order 4074 granting blanket authority to import/export natural gas from/to Mexico, to import/export LNG from/to Mexico by truck, to import/export LNG from/to Mexico by vessel.
4075	07/28/17	17–96–NG	Statoil Natural Gas LLC	Order 4075 granting blanket authority to import natural gas from Canada.
4076	07/28/17	17–97–NG	Portland General Electric Company.	Order 4076 granting blanket authority to import/export natural gas from/to Canada.

[FR Doc. 2017–23170 Filed 10–24–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Meeting of the Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, November 15, 2017, 1:00 p.m.–5:15 p.m.

ADDRESSES: El Monte Sagrado, Rio Grande Ballroom, 317 Kit Carson Road, Taos, New Mexico 87571.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board (NNMCAB), 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–0393; Fax (505) 989–1752 or Email: *Menice.Santistevan@em.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Call to Order
- Welcome and Introductions
- Approval of Agenda and Meeting Minutes of September 27, 2017
- Old Business
  - Report from Chair
  - Report from EM SSAB Chairs Meeting at Hanford
  - Other Items
- New Business
- Update from Co-Deputy Designated Federal Officer and Executive Director
- Update on Consent Order
- Break
- Public Comment Period
- Updates from EM Los Alamos Field Office and New Mexico Environment Department
- Wrap-Up Comments from NNMCAB Members
- Adjourn

Public Participation: The EM SSAB, Northern New Mexico, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Menice Santistevan at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the Internet at: *https://energy.gov/em/nnmcab/meeting-materials.*

Issued at Washington, DC, on October 19, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–23159 Filed 10–24–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Meeting of the Fusion Energy Sciences Advisory Committee

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting (teleconference) of the Fusion Energy Sciences Advisory Committee. The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, November 15, 2017 3:00 p.m.—5:00 p.m. EDT

ADDRESSES: Teleconference: Remote attendance of the FESAC meeting will be possible via Zoom. Instructions will be posted on the FESAC Web site at: *(http://science.energy.gov/fes/fesac/meetings/)* prior to the meeting and can also be obtained by contacting Dr. Samuel J. Barish by email at (*sam.barish@science.doe.gov)* or by phone at (301) 903–2917).

FOR FURTHER INFORMATION CONTACT: Samuel J. Barish, Acting Designated Federal Officer, Office of Fusion Energy Sciences (FES); U.S. Department of Energy; 1000 Independence Avenue SW., Washington, DC 20585–1290; Telephone: (301) 903–2917.

SUPPLEMENTARY INFORMATION:

Purpose of the meeting: To discuss a new charge to FESAC concerning the National Spherical Torus-Upgrade (NSTX–U) project.

Tentative Agenda Items:

- New Charge Concerning the NSTX–U Project
- Public Comment
- Adjourn

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make an oral statement regarding any of the items on the agenda, you should contact Dr. Samuel J. Barish at 301–903–8584 (fax) or *sam.barish@science.doe.gov* (email). Reasonable provision will be made to include the scheduled oral statements during the Public Comments time on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available for public review and copying within 30 days on the Fusion Energy Sciences Advisory Committee Web site at: *http://science.energy.gov/fes/fesac/.*

Issued at Washington, DC, on October 19, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–23162 Filed 10–24–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Meeting of the Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, November 8, 2017, 4:00 p.m.

ADDRESSES: Frank H. Rogers Science and Technology Building, 755 East Flamingo, Las Vegas, Nevada 89119.

FOR FURTHER INFORMATION CONTACT: Barbara Ulmer, Board Administrator,

232 Energy Way, M/S 167, North Las Vegas, Nevada 89030. Phone: (702) 630–0522; Fax (702) 295–2025 or Email: *NSSAB@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Briefing for Community Interests Analysis—Work Plan Item #6
2. Briefing and Recommendation Development for Core Library—Work Plan Item #2

Public Participation: The EM SSAB, Nevada, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Barbara Ulmer at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Barbara Ulmer at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments can do so during the 15 minutes allotted for public comments.

Minutes: Minutes will be available by writing to Barbara Ulmer at the address listed above or at the following Web site: *http://www.nnss.gov/NSSAB/pages/MM_FY17.html.*

Issued at Washington, DC, on October 19, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–23158 Filed 10–24–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Senior Executive Service Performance Review Board

AGENCY: Department of Energy.

ACTION: Designation of Performance Review Board Standing Register.

SUMMARY: This notice provides the Performance Review Board Standing Register for the Department of Energy. This listing supersedes all previously published lists of PRB members.

DATES: This appointment is applicable as of September 30, 2017.

Alexander, Kathleen
Allison, Jeffrey
Barhydt, Laura
Black, Steven
Dixon, Robert
Donaldson, Jason
Grose, Amy
Johnson, Thomas
Kaplan, Stan
Lee, Terri
LeBeau, Tracey
Martin, Stephanie
Mays, Cynthia
Mollot, Darren
Moore, Johnny
Nelson-Jean, Natalie
O'Konski, Peter
Reilly, Thomas
Sissel, Ronald

Issued in Washington, DC on September 26, 2017.

Erin S. Moore,

Director, Office of Corporate Executive Management, Office of the Chief Human Capital Officer.

[FR Doc. 2017–23165 Filed 10–24–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Meeting of the Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. The Federal Advisory Committee requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, November 8, 2017, 8:30 a.m.–5:00 p.m.

Thursday, November 9, 2017, 8:30 a.m.–12:00 p.m.

ADDRESSES: Shilo Inn, 50 Comstock Drive, Richland, WA 99352.

FOR FURTHER INFORMATION CONTACT: Mark Heeter, Federal Coordinator, Department of Energy Richland Operations Office, P.O. Box 550, H5–20, Richland, WA, 99352; Phone: (509) 373–1970; or Email: *mark.heeter@rl.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Potential Draft Advice
  - Fiscal Year 2019 Budget
  - State of the Site Meetings
- Discussion Topics
  - Tri-Party Agreement Agencies' Updates
  - Hanford Advisory Board Work Plan and Calendar
  - Hanford Advisory Board Committee Reports
  - Board Business

Public Participation: The meeting is open to the public. The EM SSAB, Hanford, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Mark Heeter at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mark Heeter at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Mark Heeter's office at the address or phone number listed above. Minutes will also be available at the following Web site: *http://www.hanford.gov/page.cfm/hab/FullBoardMeetingInformation.*

Issued at Washington, DC on October 19, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–23157 Filed 10–24–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–4–000]

Notice of Application; Gulf South Pipeline Company, LP

Take notice that on October 6, 2017, Gulf South Pipeline Company, LP (Gulf South), 9 Greenway Plaza, Suite 2800, Houston, Texas 77046, filed in Docket

No. CP18–4–000 an application pursuant to section 7(b) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations requesting authorization to abandonment by sale to Shongaloo Midstream, LLC (Shongaloo Midstream) gathering and transmission pipelines, meter and regulator stations, including ancillary auxiliary facilities, and appurtenances located in Claiborne and Webster Parishes, Louisiana. Gulf South states that the facilities have been inactive since the summer of 2011 due to a lack of natural gas supply and expiration of transportation agreements. Gulf South avers that transferring the Facilities avoids the underutilization of existing natural gas pipeline assets and the associated costs, and places them under the control of an entity which can compete in the natural gas gathering business while eliminating environmental disturbance associated with the potential construction of duplicative pipeline facilities.

Specifically, Gulf South proposes to abandon by sale to Shongaloo Midstream approximately 24.5 miles of multiple 4-inch-diameter and 6-inch-diameter transmission pipelines. Also, Gulf South will sell to Shongaloo Midstream approximately 7.5 miles of multiple 4-inch-diameter non-certificated gathering pipeline facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also 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, (866) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to J. Kyle Stephens, Vice President, Regulatory Affairs, Gulf South Pipeline Company, LP, 9 Greenway Plaza, Suite 2800, Houston, Texas 77046; by telephone at (713) 479–8033; by fax at (713) 479–1846; or by email at *kyle.stephens@bwpmlp.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 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 for Environmental Review 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 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 five 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 commentors 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 commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors 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 five 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 November 8, 2017.

Dated: October 18, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–23108 Filed 10–24–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Staff Attendance at the Southwest Power Pool Regional Entity Trustee, Regional State Committee, Members' Committee and Board of Directors' Meetings

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of its staff may attend the meetings of the Southwest Power Pool, Inc. Regional State Committee (RSC), Regional Entity Trustee (RET), Members' Committee and Board of Directors as noted below. Their attendance is part of the Commission's ongoing outreach efforts.

The meetings will be held at SPP's Corporate Center, 201 Worthen Drive, Little Rock, Arkansas 72223. The phone number is (877) 932–5833. All meetings are Central Time.

SPP RET

October 30, 2017 (8:00 a.m.–3:00 p.m.)

SPP RSC

October 30, 2017 (1:00 p.m.–5:00 p.m.)

SPP Members/Board of Directors

October 31, 2017 (8:00 a.m.–3:00 p.m.)

The discussions may address matters at issue in the following proceedings:

Docket No. ER12–1179, *Southwest Power Pool, Inc.*

Docket No. ER15–1809, *ATX Southwest, LLC*

Docket No. ER15–2028, *Southwest Power Pool, Inc.*
Docket No. ER15–2115, *Southwest Power Pool, Inc.*
Docket No. ER15–2236, *Midwest Power Transmission Arkansas, LLC*
Docket No. ER15–2237, *Kanstar Transmission, LLC*
Docket No. ER15–2324, *Southwest Power Pool, Inc.*
Docket No. ER15–2594, *South Central MCN LLC*
Docket No. EL16–91, *Southwest Power Pool, Inc.*
Docket No. EL16–108, *Tilton Energy* v. *Midcontinent Independent System Operator, Inc.*
Docket No. EL16–110, *Southwest Power Pool, Inc.*
Docket No. ER16–204, *Southwest Power Pool, Inc.*
Docket No. ER16–209, *Southwest Power Pool, Inc.*
Docket No. ER16–791, *Southwest Power Pool, Inc.*
Docket No. ER16–829, *Southwest Power Pool, Inc.*
Docket No. ER16–1341, *Southwest Power Pool, Inc.*
Docket No. ER16–1546, *Southwest Power Pool, Inc.*
Docket No. ER16–2522, *Southwest Power Pool, Inc.*
Docket No. ER16–2523, *Southwest Power Pool, Inc.*
Docket No. EL17–11, *Alabama Power Co.* v. *Southwest Power Pool, Inc.*
Docket No. EL17–21, *Kansas Electric Co.* v. *Southwest Power Pool, Inc.*
Docket No. EL17–86, *Nebraska Public Power District* v. *Southwest Power Pool, Inc.*
Docket No. EL17–69, *Buffalo Dunes et al.* v. *Southwest Power Pool, Inc.*
Docket No. ER17–358, *Southwest Power Pool, Inc.*
Docket No. ER17–426, *Southwest Power Pool, Inc.*
Docket No. ER17–428, *Southwest Power Pool, Inc.*
Docket No. ER17–772, *Southwest Power Pool, Inc.*
Docket No. ER17–889, *Southwest Power Pool, Inc.*
Docket No. ER17–906, *Southwest Power Pool, Inc.*
Docket No. ER17–953, *South Central MCN LLC*
Docket No. ER17–1092, *Southwest Power Pool, Inc.*
Docket No. ER17–1107, *Southwest Power Pool, Inc.*
Docket No. ER17–1110, *Southwest Power Pool, Inc.*
Docket No. ER17–1140, *Southwest Power Pool, Inc.*
Docket No. ER17–1333, *Southwest Power Pool, Inc.*
Docket No. ER17–1379, *Southwest Power Pool, Inc.*
Docket No. ER17–1406, *South Central MCN LLC*
Docket No. ER17–1482, *Southwest Power Pool, Inc.*
Docket No. ER17–1568, *Southwest Power Pool, Inc.*
Docket No. ER17–1575, *Southwest Power Pool, Inc.*
Docket No. ER17–1643, *Southwest Power Pool, Inc.*
Docket No. ER17–1741, *Southwest Power Pool, Inc.*
Docket No. ER17–1795, *Southwest Power Pool, Inc.*
Docket No. ER17–1936, *Southwest Power Pool, Inc.*
Docket No. ER17–2027, *Southwest Power Pool, Inc.*
Docket No. ER17–2042, *Southwest Power Pool, Inc.*
Docket No. ER17–2256, *Southwest Power Pool, Inc.*
Docket No. ER17–2257, *Southwest Power Pool, Inc.*
Docket No. ER17–2306, *Southwest Power Pool, Inc.*
Docket No. ER17–2312, *Southwest Power Pool, Inc.*
Docket No. ER17–2388, *Southwest Power Pool, Inc.*
Docket No. ER17–2441, *Southwest Power Pool, Inc.*
Docket No. ER17–2442, *Southwest Power Pool, Inc.*
Docket No. ER17–2454, *Southwest Power Pool, Inc.*
Docket No. ER17–2523, *Southwest Power Pool, Inc.*
Docket No. ER17–2537, *Southwest Power Pool, Inc.*
Docket No. ER17–2543, *Southwest Power Pool, Inc.*
Docket No. ER17–2563, *Southwest Power Pool, Inc.*
Docket No. ER17–2583, *Southwest Power Pool, Inc.*
Docket No. ER18–11, *Southwest Power Pool, Inc.*
Docket No. ER18–16, *Southwest Power Pool, Inc.*
Docket No. ER18–24, *Southwest Power Pool, Inc.*
Docket No. ER18–25, *Southwest Power Pool, Inc.*
Docket No. EL18–9–000, *Xcel Energy Services, Inc.* v. *Southwest Power Pool, Inc.*
Docket No. EL18–20–000, *Indicated SPP Transmission Owners* v. *Southwest Power Pool, Inc.*

These meetings are open to the public.

For more information, contact Patrick Clarey, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov.*

Dated: October 19, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–23111 Filed 10–24–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2716–047]

Notice of Application for Partial Transfer of License and Soliciting Comments, Motions To Intervene, and Protests: Virginia Electric and Power Company d/b/a Dominion Energy Virginia; Allegheny Generating Company; Bath County Energy, LLC

On September 29, 2017, Virginia Electric and Power Company, d/b/a Dominion Energy Virginia (VEPCO) and Allegheny Generating Company (AGC) (co-licensees/transferors) and Bath County Energy, LLC (transferee/BCE) filed an application to partially transfer the license for the Bath County Pumped Storage Project No. 2716. The project is located Back Creek and Little Back Creek in Bath County, Virginia. The project does not occupy Federal lands.

The applicants seek Commission approval to partially transfer the license for the Bath County Pumped Storage Project from the Virginia Electric and Power Company, d/b/a Dominion Energy Virginia and Allegheny Generating Company as co-licensees to add Bath County Energy, LLC as a third co-licensee.

Applicants Contact: For transferors: VEPCO: Mr. Donald H. Clarke and Mr. Joshua E. Adrian, Duncan, Weinberg, Genzer & Pembroke, P.C., 1615 M Street NW., Suite 800, Washington, DC 20036, Phone: 202–467–6370, Emails: *dhc@dwgp.com* and *jea@dwgp.com* and Mr. Michael Regulinski, Managing General Counsel and Ms. Cherie Yochelson, Senior Counsel, Dominion Energy Services, Inc., 120 Tredegar Street, RS–2, Richmond, VA 23219, Phone: 804–819–2794, Emails: *Michael.Regulinski@dominionenergy.com* and *Cherie.M.Yochelson@dominionenergy.com.*

AGC: Mr. John A. Whittaker. IV and Ms. Kimberly Ognisty, Winston & Strawn LLP, 1700 K Street NW., Washington, DC 20006, Phones: 202–282–5766 and 202–282–5217, Emails: *jwhittak@winston.com* and *kognisty@winston.com* and Mr. Morgan E. Parke, Associate General Counsel and Karen A. Sealy, Attorney, FirstEnergy Service Company, 76 South Main Street, Arkon, OH 44308, Phones: 330–384–4595 and

330–761–7869, Emails: *mparke@firstenergycorp.com* and *ksealy@firstenergycorp.com.*

For transferee: BCE: Mr. David R. Poe and Ms. Serena A. Rwejuna, Bracewell LLP, 2001 M Street NW., Suite 900, Washington, DC 20036, Phone: 202–467–6370, Emails: *dave.poe@bracewelllaw.com* and *serena.rwejuna@bracewell.com.*

FERC Contact: Patricia W. Gillis, (202) 502–8735, *patricia.gillis@ferc.gov.*

Deadline for filing comments, motions to intervene, and protests: 30 days from the date that the Commission issues this notice. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2716–047.

Dated: October 18, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–23112 Filed 10–24–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–19–000]

Notice of Institution of Section 206 Proceeding and Refund Effective Date; Southwest Power Pool, Inc.

On October 19, 2017, the Commission issued an order in Docket No. EL18–19–000, *Southwest Power Pool, Inc.,* 161 FERC 61,062 (2017) (October 2017 Order), pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation to examine the Southwest Power Pool, Inc. (SPP) Membership Agreement and any other Commission-jurisdictional SPP documents that must be revised to fully implement the refund commitment concerns identified in the Commission's July 21, 2016 order in Docket No. EL16–91–000 in *Southwest Power Pool, Inc.,* 156 FERC 61,059 (2016). The October 2017 Order also consolidated Docket Nos. EL16–91–000 and EL18–19–000.

The refund effective date in Docket No. EL18–19–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL18–19–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, within 21 days of the date of issuance of the order.

Dated: October 19, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–23110 Filed 10–24–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–5–000]

Notice of Petition for Declaratory Order; Constitution Pipeline Company, LLC

Take notice that on October 12, 2017, pursuant to section 385.207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 385.207(2017), Constitution Pipeline Company, LLC (Constitution) filed a Petition for Declaratory Order finding that New York State Department of Environmental Conservation failed to act within a reasonable period of time on Constitution's Clean water Act Section 401 application, and that such failure to act constitutes a waiver of Section 401 water quality certification requirement for federal authorizations related to the New York State portion of Constitution's pipeline project, all as more fully explained in the petition.

Any person desiring to intervene or to protest in this proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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 November 9, 2017

Dated: October 19, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–23109 Filed 10–24–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–490–000]

Notice of Intent To Prepare an Environmental Assessment for the Proposed Riverdale South to Market Project, and Request for Comments on Environmental Issues; Transcontinental Gas Pipe Line Company, LLC

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of

the Riverdale South to Market Project involving construction and operation of facilities by Transcontinental Gas Pipe Line Company, LLC (Transco) in Bergen, Hudson, and Union Counties, New Jersey. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before November 20, 2017.

If you sent comments on this project to the Commission before the opening of this docket on August 31, 2017, you will need to file those comments in Docket No. CP17–490–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

Transco provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

Public Participation

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on *eRegister.* If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP17–490–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Summary of the Proposed Project

Transco proposes to construct, modify, upgrade, and operate various facilities in connection with its proposed Riverdale South to Market Project located in Bergen, Hudson, and Union Counties, New Jersey. According to Transco, the Project would increase the firm delivery transportation capacity of its existing pipeline system by 190,000 dekatherms per day (Dth/d) of natural gas per day from the Riverdale interconnection to existing Compressor Station 210 in Mercer County and the Central Manhattan Metering and Regulating Station (M&R) in Hudson County. The Compressor Station 210 pooling point would receive 140,000 Dth/d, and the Central Manhattan Metering and Regulating Station would receive 50,000 Dth/d.

The Project would consist of the following facilities:

- Uprate of 10.35 miles of Transco's existing 24-inch-diameter North New Jersey Extension pipeline in Bergen County;
- Upgrades to the existing Orange and Rockland M&R, Emerson M&R, and Paramus M&R in Bergen County to accommodate additional capacity;
- Construction of approximately 0.61 mile of new 42-inch-diameter pipeline loop [1] along Transco's existing Mainline A in Bergen County;
- Modifications to the Central Manhattan M&R in Hudson County;
- Removal of the J199 Valve in Bergen County; and
- Installation of appurtenant ancillary facilities.

The general location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 58 acres of land for the aboveground facilities and the pipeline. Following construction, Transco would maintain about 10 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses. The majority of the project would be constructed within existing rights-of-way or within existing fenced facilities.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [3] to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- Land use;
- Water resources, fisheries, and wetlands;
- Cultural resources;

[1] A pipeline loop is a segment of pipe constructed parallel to an existing pipeline to increase capacity.

[2] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called eLibrary or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] We, us, and our refer to the environmental staff of the Commission's Office of Energy Projects.

- Vegetation and wildlife;
- Air quality and noise;
- Endangered and threatened species;
- Public safety; and
- Cumulative impacts.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[4] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[5] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an intervenor which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the Document-less Intervention Guide under the e-filing link on the Commission's Web site. Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.*

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on General Search and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* CP17–490). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/Event Calendar/EventsList.aspx* along with other related information.

Dated: October 19, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–23107 Filed 10–24–17; 8:45 am]

BILLING CODE 6717–01–P

[4] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[5] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 8936–024]

Notice of Application for Surrender of License, Soliciting Comments, Motions To Intervene, And Protests; Far West Power Corporation

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Proceeding:* Application for surrender of license.

b. *Project No.:* 8936–024.

c. *Date Filed:* August 1, 2017.

d. *Licensee:* Far West Power Corporation.

e. *Name of Project:* Power Canal Hydroelectric Project.

f. *Location:* The project is located on the tailrace canal of Pacific Gas and Electric Company's (PG&E) Potter Valley Hydroelectric Project No. 77, on the East Fork Russian River, in Mendocino County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Licensee Contact:* Mr. Ross Goodwin, Far West Power Corporation,

3330 Clayton Road, Suite B, Concord, CA 94518, Telephone: (925) 692–2198.

i. *FERC Contact:* Mr. Ashish Desai, (202) 502–8370, *Ashish.Desai@ferc.gov*.

j. Deadline for filing comments, interventions, and protests is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–8936–024.

k. *Description of Project Facilities:* The project consists of: (a) A 6-foot-high diversion dam; (b) an intake structure; (c) a 150-foot-long, 49-foot-square flume; (d) a 36-inch-diameter, 28-foot-long penstock; (e) a powerhouse containing two generating units, each with an installed capacity of 200 kilowatts; (f) 0.48-kilovolt (kV) generator leads with a 12.7–kV step-up transformer; (g) 60-foot-long, 12.7–kV transmission line connecting to an existing PG&E transmission line; and (h) appurtenant facilities.

l. *Description of Request:* The licensee proposes to surrender the project as it no longer intends to operate the project. The existing water right for the project has been surrendered and the power sales agreement has been terminated. No ground disturbance is associated with the proposed surrender and project features will remain in place.

m. This filing may be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction in the Commission's Public Reference Room located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .212 and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title COMMENTS, PROTEST, or MOTION TO INTERVENE as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to the surrender application that is the subject of this notice. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

q. Agency Comments—Federal, state, and local agencies are invited to file comments on the described proceeding. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

Dated: October 19, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–23113 Filed 10–24–17; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0208]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before November 24, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email

Nicholas_A._Fraser@omb.eop.gov; and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <*http://www.reginfo.gov/public/do/PRAMain*>, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0208.

Title: Section 73.1870, Chief Operators.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit; Not-for-profit institutions.

Number of Respondents and Responses: 18,498 respondents; 36,996 responses.

Estimated Time per Response: 0.166–26 hours.

Frequency of Response: Recordkeeping requirement; Third party disclosure requirement.

Total Annual Burden: 484,019 hours.

Total Annual Cost: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: The information collection requirements contained in 47 CFR 73.1870 require that the licensee of an AM, FM, or TV broadcast station designate a chief operator of the station. Section 73.1870(b)(3) requires that this designation must be in writing and posted with the station license. Section 73.1870(c)(3) requires that the chief operator, or personnel delegated and supervised by the chief operator, review the station records at least once each week to determine if required entries are being made correctly, and verify that the station has been operated in accordance with FCC rules and the station authorization. Upon completion of the review, the chief operator must date and sign the log, initiate corrective action which may be necessary and advise the station licensee of any condition which is repetitive. The posting of the designation of the chief operator is used by interested parties to readily identify the chief operator. The review of the station records is used by the chief operator, and FCC staff in investigations, to ensure that the station is operating in accordance with its station authorization and the FCC rules and regulations.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2017–23089 Filed 10–24–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before November 24, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <*http://www.reginfo.gov/public/do/PRAMain*>, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4)

select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–XXXX.

Title: Part 32 Uniform System of Accounts.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,176 respondents; 2,458 responses.

Estimated Time per Response: 20–40 hours.

Frequency of Response: One-time, on occasion, and annual reporting requirements; recordkeeping requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 10, 201, 219–220, 224, 254(k), 272(e)(3), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 160, 201, 219–220, 224, 254(k), 272(e)(3), and 403.

Total Annual Burden: 103,240 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Respondents are not being asked to submit confidential information to the Commission. If the Commission requests respondents to submit information which respondents believe is confidential, respondents may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: On February 24, 2017, the Commission released the *Part 32 Order,* WC Docket No. 14–130, CC Docket No. 80–286, FCC 17–15, which minimized the compliance burdens imposed by the Uniform System of Accounts (USOA) on price cap and rate-of-return telephone companies, while ensuring that the Commission retains access to the information it needs to fulfill its regulatory duties.

The Commission consolidated Class A and Class B accounts by eliminating the current classification of carriers, which divides incumbent LECS into two classes for accounting purposes based on annual revenues. Carriers subject to Part 32's USOA will now only be required to keep Class B accounts.

Pursuant to the *Part 32 Order,* price cap carriers may elect to use generally accepted accounting principles (GAAP) for all regulatory accounting purposes if they: (1) Establish an ''Implementation Rate Difference'' (IRD) which is the difference between pole attachment rates calculated under Part 32 and under GAAP as of the last full year preceding the carrier's initial opting out of Part 32 accounting requirements; and (2) adjust their annually-computed GAAP-based pole attachment rates by the IRD for a period of 12 years after the election. Alternatively, price cap carriers may elect to use GAAP accounting for all purposes other than those associated with pole attachment rates and continue to use the Part 32 accounts and procedures applicable to pole attachment rates for up to 12 years.

A price cap carrier may be required to submit pole attachment accounting data to the Commission for three years following the effective date of the rule permitting a price cap carrier to elect GAAP accounting. If a pole attacher informs the Commission of a suspected problem with pole attachment rates, the Commission will require the price cap carrier to file its pole attachment data for the state in question. This requirement may be extended for an additional three years, if necessary.

The Commission reduced the accounting requirements for telephone companies with a continuing obligation to comply with Part 32 in a number of areas. Telephone companies may: (1) Carry an asset at its purchase price when it was acquired, even if its value has increased or declined when it goes into regulated service; (2) reprice an asset at market value after a merger or acquisition consistent with GAAP; (3) use GAAP principles to determine Allowance-for-Funds-Used-During Construction; and (4) employ the GAAP standard of materiality. Rate-of-return carriers receiving cost-based support must determine materiality consistent with the general materiality guidelines promulgated by the Auditing Standards Board.

Price cap carriers with a continuing Part 32 accounting obligation must maintain continuing property records necessary to track substantial assets and investments in an accurate, auditable manner. The carriers must make such property information available to the Commission upon request. Carriers subject to Part 32 must continue to comply with the USOA's depreciation procedures and its rules for cost of removal-and-salvage accounting.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2017–23088 Filed 10–24–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements 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 each 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.: 012034–007.

Title: Hamburg Sud/Maersk Line Vessel Sharing Agreement.

Parties: Hamburg-Sud and Maersk Line A/S.

Filing Party: Wayne Rohde, Esq.; Cozen O'Connor; 1200 Nineteenth Street NW., Washington, DC 20036.

Synopsis: The amendment adds Peru to the geographic scope of the Agreement. The parties request expedited review.

Agreement No.: 012067–022.

Title: U.S. Supplemental Agreement to HLC Agreement.

Parties: BBC Chartering Carriers GmbH & Co. KG and BBC Chartering & Logistic GmbH & Co. KG, as a single

member; Hanssy Shipping Pte. Ltd.; and Industrial Maritime Carriers, L.L.C.

Filing Party: Wade S. Hooker, Esq.; 211 Central Park W, New York, NY 10024.

Synopsis: The amendment deletes Austral Asia Line Pte. Ltd. as a party to the ancillary HLC Agreement.

Agreement No.: 201234.

Title: Agreement by Ocean Common Carriers to Participate on the Exchange Board.

Parties: CMA CGM S.A.; COSCO Shipping Co., Ltd., Hapag-Lloyd AG; and Mitsui O.S.K. Lines, Ltd.

Filing Party: Ashley W. Craig, Esq.; Venable LLP; 600 Massachusetts Ave. NW., Washington, DC 20001.

Synopsis: The Agreement authorizes CMA CGM SA, Hapag-Lloyd AG, Mitsui O.S.K. Lines, Ltd., and COSCO Shipping Co., Ltd. to serve on the board of New York Shipping Exchange Inc. (NYSHEX). The parties request expedited review.

Agreement No.: 201235.

Title: Agreement by Ocean Common Carriers to Use Standard Service Contract Terms.

Parties: CMA CGM S.A.; COSCO Shipping Co., Ltd., Hapag-Lloyd AG; and Mitsui O.S.K. Lines, Ltd.

Filing Party: Ashley W. Craig, Esq.; Venable LLP; 600 Massachusetts Ave. NW., Washington, DC 20001.

Synopsis: The Agreement authorizes the Parties to agree upon the use of standard terms to be included in the NYSHEX Forward Contract template, which will form the basis for service contracts entered into via the NYSHEX platform. The parties request expedited review.

By Order of the Federal Maritime Commission.

Dated: October 19, 2017.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2017–23097 Filed 10–24–17; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 20, 2017.

A. *Federal Reserve Bank of Atlanta* (Kathryn Haney, Director of Applications) 1000 Peachtree Street, NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Commerce Union Bancshares, Inc., Brentwood, Tennessee;* to merge with Community First, Inc., and thereby indirectly acquire Community First Bank & Trust, both of Columbia, Tennessee.

B. *Federal Reserve Bank of Minneapolis* (Brendan S. Murrin, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Eagle Bancorp Montana, Inc., Helena, Montana;* to acquire 100 percent of TwinCo, Inc., Twin Bridges, Montana, and thereby indirectly acquire Ruby Valley Bank, Twin Bridges, Montana.

Board of Governors of the Federal Reserve System, October 20, 2017.

Ann Misback,

Secretary of the Board.

[FR Doc. 2017–23194 Filed 10–24–17; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Application for Employment with the Board of Governors of the Federal Reserve System (FR 28; OMB No. 7100–0181). The revisions are applicable as of October 31, 2017.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, With Revision, of the Following Report

Report title: Application for Employment with the Board of Governors of the Federal Reserve System.

Agency form number: FR 28, FR 28s, FR 28i.

OMB control number: 7100–0181.

Frequency: As needed.

Respondents: Individuals.

Estimated number of respondents: FR 28: 3,500, FR 28s: 2,000, FR 28i: 300.

Estimated average hours per response: FR 28: 1 hour, FR 28s: 1 minute, FR 28i: 15 minutes.

Estimated annual burden hours: FR 28: 3,500 hours, FR 28s: 33 hours, FR 28i: 75 hours, Total: 3,608 hours.

General description of report: The Application for Employment with the Board of Governors of the Federal Reserve System (Application) collects information to determine the qualifications and availability of applicants for employment with the Board of Governors of the Federal Reserve System (Board). The FR 28 collects information on education and training, employment record, military service record, and other information since the time the applicant left high school. Included with the FR 28 are two supplemental questionnaires: (1) The Applicant's Voluntary Self-Identification Form (FR 28s), which collects information on the applicant's gender and ethnic group and (2) The Research Assistant Candidate Survey of Interests (FR 28i), which collects information from candidates applying for Research Assistant (RA) positions on their level of interest in economics and related areas. The Board receives approximately 3,500 applications per year, both solicited and unsolicited, from members of the public who would like to be considered for employment at the Board. Since the applicant is usually either hired by the Board or finds other employment within the two years that the Board retains the Application, the applicant generally files the Application once.

The Application is comprised of eight sections: Background, Education and Training, Employment Record, Military Service Record, References, General, Remarks, and Notes. The first six sections collect information on specific aspects of the applicant's qualifications. The Background section collects name, address, telephone, and citizenship information and the position for which the applicant is applying. The Education and Training section collects detailed information on the applicant's educational history and skills set. The Employment Record section collects a chronological summary of work experience. The Military Service Record section collects information on service branch, rank, duties, and discharge. The References section collects information on three references. The General section collects information on criminal records, discharge from employment, willingness to travel, and relations to or acquaintances with Board staff or officers and directors of financial institutions. The Remarks section provides the applicant an opportunity to provide further information regarding his or her qualifications. The Notes section explains what is required of the applicant prior to an interview and what may be required of the applicant if he or she is offered a position (for example, transcripts, medical examination, or drug test).

The FR 28s is comprised of four sections: (1) Name and gender, in which the applicant is asked to check the box that corresponds to gender or check ''I do not wish to disclose'', (2) position for which the applicant is applying, (3) ethnicity self-identification, in which the applicant is asked to choose between Hispanic or Latino or Not Hispanic or Latino, or ''I do not wish to disclose,'' and (4) race self-identification, in which the applicant is asked to choose one or more among American Indian or Alaskan Native, Asian, Black or African-American, Native Hawaiian or Other Pacific Islander, White, or ''I do not wish to disclose.'' The Board uses this information to comply with federal equal employment opportunity (EEO) recordkeeping and reporting requirements, other legal requirements, and as an input to its self-analysis of hiring practices. Information collected on the FR 28s has no bearing on the determination of an applicant's job-related qualifications and completion of the self-identification form is voluntary.

The FR 28i is comprised of three sections in which research assistant candidates are asked to rate their level of interest in categories of economics and related research areas, experience with various software packages and statistical programming languages, and interest in pursuing educational opportunities after leaving the Board. The FR 28i helps to streamline the recruitment process.

Legal authorization and confidentiality: The Board's Legal Division has determined that the Application (including the two supplemental questionnaires) is required to obtain the benefit of Board employment. It is authorized pursuant to sections 10(4) and 11(1) of the Federal Reserve Act, which provide the Federal Reserve Board broad authority over employment of staff (12 U.S.C. 244 and 248(l)). Information provided on the Application (including the two supplemental questionnaires) will be kept confidential under exemption (b)(6) of the Freedom of Information Act (FOIA) to the extent that the disclosure of information ''would constitute a clearly unwarranted invasion of personal privacy.'' (5 U.S.C. 552(b)(6)). For example, the release of information such as an applicant's date of birth, address, phone number, and personal information regarding any references provided would likely constitute a clearly unwarranted invasion of personal privacy, and would be kept confidential. However, the release of information such as the educational and professional qualifications of applicants would not likely constitute a clearly unwarranted invasion of personal privacy and would not be kept confidential.

Current actions: On July 28, 2017, the Federal Reserve published a notice in the **Federal Register** (82 FR 35202) requesting public comment for 60 days on the extension, with revision, of the Application for Employment with the Board of Governors of the Federal Reserve System. The Board proposed minor revisions to the FR 28 form, including (1) adding fields in the employment history section for job type, shift, employee status, and desired compensation, (2) adding fields in the education and training section for issue and expiration date for certifications and professional licenses, (3) adding fields in the references section for relationship, type, and length of relationship with the reference, and (4) adding fields in the submission section to allow for withdrawal of the application and a request for the applicant to provide a reason for withdrawal. In addition, the Board proposed to revise the FR 28i by adding a section to allow an open-ended response by applicants to describe how they have demonstrated attributes that are displayed by successful research assistants in the Economics Divisions. The comment period for this notice expired on September 26, 2017. The Board did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, October 20, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–23150 Filed 10–24–17; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–5961]

In Vitro Metabolism- and Transporter-Mediated Drug-Drug Interaction Studies, and Clinical Drug Interaction Studies—Study Design, Data Analysis, and Clinical Implications; Draft Guidances for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of two draft guidances for industry entitled ''In Vitro Metabolism- and Transporter-Mediated Drug-Drug Interaction Studies'' (in vitro DDI guidance) and ''Clinical Drug Interaction Studies—Study Design, Data Analysis, and Clinical Implications'' (clinical DDI guidance). These two draft guidances will update and replace the revised draft guidance for industry entitled ''Drug Interaction Studies—Study Design, Data Analysis, Implications for Dosing, and Labeling Recommendations'' issued February 21, 2012 (2012 draft guidance). These draft guidances are intended to assist drug developers in the planning and evaluation of drug-drug interaction (DDI) potential during drug development. In particular, the in vitro DDI guidance focuses on in vitro experimental approaches for evaluating metabolizing enzyme- and transporter-based drug interaction potential and how to extrapolate in vitro data to decide on the need for clinical DDI studies. The clinical DDI guidance focuses on clinical studies that evaluate the potential for DDIs, which alter a drug's pharmacokinetics by modulating the effects of drug metabolizing enzymes and transporters, and advises sponsors on the timing and design of the clinical studies, interpretation of the results, and options for managing DDIs in patients. Together, these two draft guidances describe a systematic, risk-based approach to the assessment of DDIs.

DATES: Submit either electronic or written comments on these draft guidances by January 23, 2018 to ensure that the Agency considers your comment on these two draft guidances before it begins work on the final versions of these guidances.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–5961 for ''In Vitro Metabolism- and Transporter-Mediated Drug-Drug Interaction Studies, and Clinical Drug Interaction Studies—Study Design, Data Analysis, and Clinical Implications; Draft Guidances for Industry; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidances 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 guidance documents.

FOR FURTHER INFORMATION CONTACT: Lauren Brum, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 3188, Silver Spring, MD 20903–0002, 301–796–5008, or *OCP@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of two draft guidances for industry entitled ''In Vitro Metabolism- and Transporter-Mediated Drug-Drug Interaction Studies'' and ''Clinical Drug Interaction Studies—Study Design, Data Analysis, and Clinical Implications.'' The concomitant use of more than one medication in a patient is common. Unanticipated, unrecognized, or mismanaged DDIs are an important cause of morbidity and mortality associated with prescription drug use and has occasionally been the basis for withdrawal of approved drugs from the market. In some instances, understanding how to safely manage a DDI can allow approval of a drug that would otherwise have an unacceptable

level of risk. Clinically relevant DDIs between an investigational drug and other drugs should therefore: (1) Be defined during drug development as part of an adequate assessment of the drug's overall benefit/risk profile; (2) be known at the time of the drug's approval; and (3) be communicated in labeling. These two draft guidances are intended to assist drug developers in the planning and evaluation of DDI potential during drug development. In particular, the in vitro DDI guidance focuses on in vitro experimental approaches for evaluating metabolizing enzyme- and transporter-based drug interaction potential, and how to extrapolate in vitro data to decide on the need for clinical DDI studies. The appendix of the in vitro DDI guidance includes considerations in the choice of in vitro experimental systems, key issues regarding in vitro experimental conditions, and a more detailed explanation of model-based DDI prediction strategies. If in vitro assessments indicate the need to conduct clinical DDI studies, sponsors should consult the related clinical DDI guidance. The clinical DDI guidance focuses on clinical studies that evaluate DDIs that alter a drug's pharmacokinetics by modulating the effects of drug metabolizing enzymes and/or transporters and advises sponsors on the timing and design of the clinical studies, interpretation of the results, and options for DDI management in patients. Together, the two draft guidances describe a systematic, risk-based approach to evaluation and communication of DDIs.

In the **Federal Register** of February 21, 2012 (77 FR 9946), FDA announced the availability of a revised draft guidance entitled ''Drug Interaction Studies—Study Design, Data Analysis, Implications for Dosing, and Labeling Recommendations.'' We received comments on the 2012 draft guidance and have considered these comments while updating the information in the two draft guidances. In addition, new developments in the field have been incorporated to reflect the Agency's current thinking.

The Agency decided to divide the 2012 draft guidance into two guidances with one focusing on in vitro DDI evaluation and the other focusing on clinical DDI evaluation. We are publishing the two draft guidances to collect additional public comments. These new draft guidances focus on metabolism- and transporter-based drug interactions. Other types of interactions, *e.g.,* drug-therapeutic protein interactions and pH-dependent drug interactions, are not included. Separate guidances will be developed to cover other types of DDIs. In addition, a draft guidance specific to Section 7 (Drug Interactions) labeling will be developed to delineate the communication of DDI information in labeling.

These two draft guidances are being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). These draft guidances, when finalized, will represent the Agency's current thinking on ''In Vitro Metabolism- and Transporter-Mediated Drug-Drug Interaction Studies'' and ''Clinical Drug Interaction Studies—Study Design, Data Analysis, and Clinical Implications.'' 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. These guidances are not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

These draft guidances refer to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR 314.50(d) have been approved under OMB control number 0910–0001.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

Dated: October 19, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–23102 Filed 10–24–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–5966]

Breakthrough Devices Program; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Breakthrough Devices Program; Draft Guidance for Industry and Food and Drug Administration Staff.'' This guidance document describes policies that FDA intends to use to implement the new Breakthrough Devices Program, established by the 21st Century Cures Act (Cures Act). The Breakthrough Devices Program supersedes and combines elements from FDA's Expedited Access Pathway (EAP), which was intended to facilitate the development and expedite review of breakthrough technologies, as well as the Priority Review Program, which implemented statutory criteria for granting priority review to premarket approval applications (PMAs) and applied those criteria to other types of premarket submissions for medical devices. This draft guidance clarifies certain principles and features of the new program, the designation criteria for Breakthrough Devices, the designation request review process, the process for withdrawing from the program, as well as the recommended information device manufacturers should provide in their designation request for entrance into the program. This draft guidance is not final nor is it in effect at this time.

DATES: Submit either electronic or written comments on the draft guidance by December 26, 2017 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–5966 for ''Breakthrough Devices Program; Draft Guidance for Industry and Food and Drug Administration Staff.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Breakthrough Devices Program; Draft Guidance for Industry and Food and Drug Administration Staff'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Erin Cutts, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1625, Silver Spring, MD 20993–0002, 301–796–6307; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is issuing this draft guidance to describe policies that FDA intends to use to implement section 515B of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360e–3, as created by section 3051 of the Cures Act (Pub. L. 114–255) and section 901 of the FDA Reauthorization Act of 2017 (Pub. L. 115–52) (the ''Breakthrough Devices Program''). The Breakthrough Devices Program is a voluntary program for certain medical devices that provide for more effective treatment or diagnosis of life-threatening or irreversibly debilitating diseases or conditions. This program is intended to help patients have more timely access to these medical devices by expediting their development, assessment, and review, while preserving the statutory standards for premarket approval, clearance of a premarket notification (510(k)), and marketing authorization via the De Novo classification process, consistent with the Agency's statutory mission to protect and promote public health. No later than 1 year after the date of enactment of the Cures Act, FDA is required to issue this draft guidance, which sets forth the process by which a person may seek a Breakthrough Device designation, provides a template for designation requests, identifies the criteria that FDA will use in evaluating designation requests, and identifies the criteria and processes FDA will use to assign and train a team of staff to review breakthrough devices after designation has been granted. See section 515B(f) of the FD&C Act.

As part of the Breakthrough Devices Program, FDA intends to provide interactive and timely communication with the sponsor during development and throughout the review process for devices designated as Breakthrough Devices under section 515B(d)(1) of the FD&C Act and grant priority to the review of associated Q-submissions, investigational device exemption (IDE) applications, PMAs, De Novo classification requests, and premarket notifications (510(k)s). In addition, for Breakthrough Devices subject to PMA, FDA may consider the amount of data that may be collected in the postmarket setting, rather than premarket, and the level of acceptable uncertainty in the benefit-risk profile at the time of approval. Getting the right balance between premarket and postmarket data collection—specifically, where appropriate, a greater reliance on postmarket collection—can reduce the extent of premarket data submission. Collectively, these and the other principles of the program described in this draft guidance are intended to support a least-burdensome approach for expediting patient access to Breakthrough Devices.

The Breakthrough Devices Program supersedes the EAP, which launched in 2015. The Breakthrough Devices Program contains features of the EAP as well as the Innovation Pathway (first piloted in 2011), both of which were intended to facilitate the development

and expedite the review of breakthrough technologies.

The Breakthrough Devices Program also supersedes the Priority Review Program, which implemented statutory criteria for granting priority review to PMA submissions for medical devices, applied those criteria to other types of premarket submissions for medical devices, and included standard procedures to achieve an efficient priority review process.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Breakthrough Devices Program; Draft Guidance for Industry and Food and Drug Administration Staff.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm* or *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Breakthrough Devices Program'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1833 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120; the collections of information for De Novo classification requests have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 814, subparts A through E, have been approved under OMB control number 0910–0231; the collections of information in 21 CFR part 814, subpart H, have been approved under OMB control number 0910–0332; the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; the collections of information in 21 CFR part 822 have been approved under OMB control number 0910–0449; and the collections of information regarding ''Requests for Feedback on Medical Device Submissions'' have been approved under OMB control number 0910–0756.

Dated: October 20, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–23195 Filed 10–24–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0453]

Deciding When To Submit a 510(k) for a Change to an Existing Device; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the guidance entitled ''Deciding When to Submit a 510(k) for a Change to an Existing Device.'' FDA is issuing this final guidance document to clarify when a change in a legally marketed medical device would require that a manufacturer submit a premarket notification (510(k)) to FDA. This guidance document supersedes ''Deciding When to Submit a 510(k) for a Change to an Existing Device,'' issued January 10, 1997. FDA is correcting an error in the docket number assigned to the ''Deciding When to Submit a 510(k) for a Change to an Existing Device'' notice of availability when it published in the **Federal Register** (81 FR 52443, August 8, 2016). The docket number currently is FDA–2016–D–2021. FDA is changing the docket number to FDA–2011–D–0453. This action is administrative in nature and is being taken to avoid any potential confusion in the docket.

DATES: The announcement of the guidance is published in the **Federal Register** on October 25, 2017.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2011–D–0453 for ''Deciding When to Submit a 510(k) for a Change to an Existing Device.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Deciding When to Submit a 510(k) for a Change to an Existing Device '' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Rebecca Nipper, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1540, Silver Spring, MD 20993–0002, 301–796–6527; and Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

A 510(k) is required when a legally marketed device subject to 510(k) requirements is about to be significantly changed or modified in design, components, method of manufacture, or intended use. Significant changes or modifications are those that could significantly affect the safety or effectiveness of the device, or major changes or modifications in the intended use of the device (§ 807.81(a)(3) (21 CFR 807.81(a)(3)). This guidance will aid manufacturers of medical devices who intend to modify a 510(k)-cleared device or other device subject to 510(k) requirements, such as a preamendments device or a device that was granted marketing authorization via the De Novo classification process under section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c(f)(2)) (also referred to together as ''existing devices''), during the process of deciding whether the modification exceeds the regulatory threshold of § 807.81(a)(3) for submission and clearance of a new 510(k).

This guidance supersedes the original ''Deciding When to Submit a 510(k) for a Change to an Existing Device,'' issued on January 10, 1997. That guidance provided the Agency's interpretation of whether the modification exceeds the regulatory threshold of § 807.81(a)(3), with principles and points for manufacturers to consider in analyzing how changes in devices may affect safety or effectiveness and determining whether a new 510(k) must be submitted for a particular type of change. This final guidance preserves the basic format and content of the original, with updates to add clarity. The added clarity is intended to increase consistent interpretations of the guidance by FDA staff and manufacturers.

This guidance is not intended to implement significant policy changes to FDA's current thinking on when submission of a new 510(k) is required for a change to an existing device. Rather, the intent of this guidance is to enhance the predictability, consistency, and transparency of the ''when to submit'' decision-making process by providing a least burdensome approach, and describing in greater detail the regulatory framework, policies, and practices underlying such a decision. The recommendations discussed in this guidance for evaluating when a change to an existing device would trigger the requirement that a manufacturer submit a new 510(k) to the Agency are consistent with least burdensome principles (Refs. 1 and 2). The least burdensome provision concerning 510(k)s states that FDA ''shall only request information that is necessary . . .'' and ''shall consider the least burdensome means of demonstrating substantial equivalence . . .'' (see section 513(i)(1)(D)(i) of the FD&C Act). While not changing the standard for substantial equivalence, this provision states that FDA shall only request the ''minimum required information'' necessary to support a determination of substantial equivalence (see sections 513(i)(1)(D)(ii)–(iii) of the FD&C Act).

Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of the guidance document entitled ''Deciding When to Submit a 510(k) for a Software Change to an Existing Device'' to aid manufacturers of medical devices who intend to make software changes to an existing device during the process of deciding whether the software modification exceeds the regulatory threshold of § 807.81(a)(3) for submission and clearance of a new 510(k).

FDA considered comments received on the draft guidance that appeared in the **Federal Register** of August 8, 2016. FDA revised the guidance as appropriate in response to the comments.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Deciding When to Submit a 510(k) for a Change to an Existing Device.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable

statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm* or *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Deciding When to Submit a 510(k) for a Change to an Existing Device'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1500054 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 820 are approved under OMB control number 0910–0073; the collections of information in 21 CFR part 807, subpart E are approved under OMB control number 0910–0120; the collections of information in 21 CFR part 803 have been approved under OMB control number 0910–0437; and the collections of information in 21 CFR parts 801 and 809 are approved under OMB control number 0910–0485.

V. References

The following references are on display in the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *https://www.regulations.gov.* FDA has verified the Web site addresses, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

1. ''The Least Burdensome Provisions of the FDA Modernization Act of 1997: Concept and Principles,'' dated October 4, 2002, available at: *https://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm085999.pdf.*

2. ''Suggested Format for Developing and Responding to Deficiencies in Accordance with the Least Burdensome Provisions of FDAMA,'' dated November 2, 2000, available at: *https://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm073680.pdf.*

Dated: October 20, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–23197 Filed 10–24–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0655]

Animal Generic Drug User Fee Act; Recommendations; Request for Comments; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; request for comments; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the availability of the Animal Generic Drug User Fee Act (AGDUFA) reauthorization draft recommendations and extending the comment period to allow interested persons 30 days to submit comments on these draft recommendations.

DATES: FDA is extending the comment period on the AGDUFA reauthorization and draft recommendations. Submit either electronic or written comments on the draft recommendations by November 24, 2017.

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 November 24, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of November 24, 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–2011–N–0655 for ''Animal Generic Drug User Fee Act; Recommendations; Request for Comments; Extension of Comment Period'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The

second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Cassie Ravo, Center for Veterinary Medicine (HFV–10), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–6866, *cassie.ravo@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of the proposed recommendations for the reauthorization of AGDUFA, which authorizes FDA to collect user fees and use them for the process of reviewing generic new animal drug applications and associated submissions. The authority for AGDUFA expires September 30, 2018. Without new legislation, FDA will no longer have the authority to collect user fees to fund the generic new animal drug review process for future fiscal years. Section 742(d)(4) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 379j–22(d)(4)) requires that, after holding negotiations with regulated industry and periodic consultations with stakeholders, and before transmitting the Agency's final recommendation to Congress for the reauthorized program (AGDUFA III), we do the following: (1) Present the recommendations to the relevant Congressional committees, (2) publish such recommendations in the **Federal Register**, (3) provide for a period of 30 days for the public to provide written comments on such recommendations, (4) hold a meeting at which the public may present its views on such recommendations, and (5) consider such public views and comments and revise such recommendations as necessary. In the **Federal Register** of October 5, 2017 (82 FR 46506), we announced a public meeting to be held on November 2, 2017. In that notice we stated that we intended to publish in the **Federal Register** the full text of the proposed AGDUFA III Performance Goals and Procedures Letter and a summary of proposed statutory changes, as well as post them at *https://www.fda.gov/ForIndustry/UserFees/AnimalGenericDrugUserFeeActAGDUFA/ucm270232.htm,* before the public meeting and would provide for a period of 30 days for the public to provide written comments. This notice announces the availability of these draft recommendations and extends the comment period to November 24, 2017 to provide for a period of 30 days for the public to comment on these draft recommendations. After the public meeting and closing of the comment period, we will revise the draft recommendations as necessary. In addition, the Agency will present the draft recommendations to the Congressional committees.

II. Proposed AGDUFA III Recommendations

A. Enhancing the Process for Premarket Review

We are proposing the following changes to the performance commitments previously established to further enhance the process for review of generic new animal drug applications.

Beginning October 1, 2018, all applications and submissions under section 512(b) of the FD&C Act (21 U.S.C. 360b(b)) must be submitted to the Agency electronically using the eSubmitter tool.

The Agency will review and act on 90 percent of original abbreviated new animal drug applications (ANADAs) within 240 days (180-day review plus 60-day administrative review) after the submission date. An application is incomplete if it would require additional data or information to enable the Agency to complete a comprehensive review of the application and reach a decision on the issue(s) presented in the application. If the Agency determines that the deficiencies are not substantial, the Agency will review and act on 90 percent of reactivated applications within 120 days (60-day review plus 60-day administrative review) after the reactivated ANADA submission date. This shorter review time for reactivated ANADAs for which the deficiencies are determined not to be substantial is not intended to prevent the use of minor amendments during Agency review of an application. If the Agency determines that the deficiencies are substantial or new substantial information is provided, the Agency will review and act on 90 percent of reactivated applications within 240 days (180-day review plus 60-day administrative review) after the reactivated ANADA submission date.

The Agency will review and act on 90 percent of administrative ANADAs (ANADAs submitted after all scientific decisions have been made in the generic investigational new animal drug (JINAD) process, *i.e.,* prior to the submission of the ANADA) within 60 days after the submission date. Paragraph IV certification applications (section 512(n)(1)(H)(iv) of the FD&C Act) submitted as administrative ANADAs will be excluded from the administrative ANADA cohort.

The Agency will review and act on 90 percent of Prior Approval manufacturing supplemental ANADAs within 180 days after the submission date. A Prior Approval manufacturing supplemental ANADA includes: One or more major manufacturing changes according to § 514.8(b)(2)(ii) (21 CFR 514.8(b)(2)(ii)) and in accordance with Guidance for Industry #83, ''Chemistry, Manufacturing, and Controls Changes to an Approved NADA or ANADA''; and changes submitted as ''Supplement-Changes Being Effected in 30 Days'' that require prior approval according to § 514.8(b)(3)(v)(A). If a Prior Approval supplement does not clearly identify any major manufacturing changes, the Prior Approval supplement will be designated by the Agency as a ''Supplement—Changes Being Effected'' with a 270-day review goal (see ''Supplement—Changes Being Effected Manufacturing Supplemental ANADAs and Reactivations'' below).

A submission is incomplete if it requires additional data or information to enable the Agency to complete a comprehensive review of the submission and reach a decision on the issue(s) presented in the submission. If the Agency determines that the deficiencies are not substantial for manufacturing supplements requiring prior approval, the Agency will allow the manufacturing supplements to be resubmitted as ''Supplement-Changes Being Effected in 30 Days'' as described

in § 514.8(b)(3) and the drug made with the change can be distributed 30 days after the resubmission according to § 514.8(b)(3)(iv). The Agency will review and act on 90 percent of these reactivated manufacturing supplements within 270 days after the resubmission date of a complete submission. If the Agency determines that the deficiencies remain substantial or new substantial information is provided, prior approval is required according to § 514.8(b)(3)(v)(A). The Agency will review and act on 90 percent of these reactivated manufacturing supplements within 180 days after the resubmission date of a complete submission.

The Agency will review and act on 90 percent of ''Supplement-Changes Being Effected'' manufacturing supplemental ANADAs and reactivations submitted according to § 514.8(b)(3)(vi) and in accordance with Guidance for Industry #83, ''Chemistry, Manufacturing, and Controls Changes to an Approved NADA or ANADA,'' including manufacturing changes not requiring prior approval according to § 514.8(b)(3)(iv), within 270 days after the submission date.

The Agency will review and act on 90 percent of JINAD study submissions within 180 days after the submission date.

A submission is incomplete if it would require additional data or information to enable the Agency to complete a comprehensive review of the study submission and reach a decision on the issue(s) presented in the submission. If the Agency determines that the deficiencies are not substantial, the Agency will review and act on 90 percent of resubmitted JINAD study submissions within 60 days after the receipt date of a complete study submission. This shorter review time for resubmitted JINAD study submissions is not intended to prevent the use of minor amendments during Agency review of a study submission. If the Agency determines that the deficiencies are substantial or new substantial information is provided, the Agency will review and act on 90 percent of resubmitted JINAD study submissions within 180 days after the receipt date of a complete study submission.

The Agency will review and act on 90 percent of JINAD submissions consisting of protocols without substantial data, that the Agency and the sponsor consider to be an essential part of the basis for making the decision to approve or not approve an ANADA or supplemental ANADA, within 75 days after the submission date.

The Agency will allow comparability protocols as described in § 514.8(b)(2)(v) to be submitted as protocols without substantial data in a JINAD file. The Agency will review and act on 90 percent of JINAD submissions consisting of protocols without substantial data within 75 days after the submission date of the protocol. For potentially more complex comparability protocols, for example sterile process validation protocols, the sponsor should discuss and have Agency concurrence regarding the appropriate filing strategy.

The Agency will continue to allow two-phased Chemistry, Manufacturing, and Controls technical section submissions under the JINAD process.

The Agency and regulated industry are committed to improving the review and business processes that will facilitate the timely scheduling and conducting of pre-approval inspections (PAIs). To improve the timeliness and predictability of foreign PAIs, sponsors may voluntarily submit: (1) At the beginning of the calendar year, a list of foreign manufacturing facilities that are specified in an abbreviated application, supplemental abbreviated application, or generic investigational file and may be subject to foreign PAIs for the following fiscal year; and (2) a notification 30 days prior to submitting an abbreviated application, a supplemental abbreviated application, or generic investigational file that informs the Agency that the application includes a foreign manufacturing facility. Should any changes to the annual list occur after its submission to the Agency, the sponsor may provide the updated information to the Agency.

The Agency will keep a record of the number of foreign PAIs conducted for abbreviated applications, along with the average time for completing the PAIs, and include this information in its annual performance report. The time for completing the PAI is understood to mean the time from the inspection scheduling request through notification to the Center for Veterinary Medicine (CVM) of inspectional findings.

The Agency and regulated industry agree that the use of both formal meetings (*e.g.,* pre-submission conferences, workshops) and informal communication by both parties is critical to ensure high submission quality such that the above performance goals can be achieved.

B. Inflation Adjuster and Workload Adjuster

The Agency and regulated industry agree to change the current fixed 4 percent inflation adjuster to a variable inflation adjuster calculated using payroll cost and benefits and the Consumer Price Index less food and energy.

The workload adjustment will continue to be calculated per CVM Program Policy and Procedures Manual 1243.3022, except that, for purposes of calculating the workload adjustment, it is agreed to reset the base years to fiscal year (FY) 2014 through FY 2018. There will be no workload adjustment for FY 2019. Workload adjustments are one-time adjustments and are calculated annually.

C. Offset Provision and Excess Collections

The proposal adds financial flexibility by eliminating the final year offset of the over collections provision and making any excess collections available to enhance the review process in real time. In addition, the proposal provides authority for the Secretary of Health and Human Services when setting fees to reduce a calculated workload adjustment up to the amount of excess collections in the second preceding fiscal year. The first fiscal year this provision could be applied while setting fees is fiscal year 2021.

D. Impact of AGDUFA III Changes on User Fee Revenue

The FY 2019 baseline for AGDUFA III is $18,336,340. For each year from FY 2020 through FY 2023, the annual statutory revenue amounts established in section 741(b) of the FD&C Act (21 U.S.C. 379j–21(b)) will be further adjusted according to the new statutory provision for the inflation adjuster and may be further adjusted by the workload adjuster, if applicable.

The planned total 5-year revenue for AGDUFA I was $27,100,000. The planned total 5-year revenue for AGDUFA II was $38,100,000, which also included one-time information technology funding in the amount of $850,000 for FY 2014. It is estimated that the planned total 5-year revenue for AGDUFA III will be $95,000,000.

The fee revenue distribution in AGDUFA III will remain the same as AGDUFA II: 25 percent in application fees; 37.5 percent in product fees; and 37.5 percent in sponsor fees.

Dated: October 20, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–23173 Filed 10–24–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–P–0840]

Determination That OVRETTE (Norgestrel) Tablet, 0.075 Milligrams, Was 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 OVRETTE (norgestrel) tablet, 0.075 milligrams (mg), was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for norgestrel tablet, 0.075 mg, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Daniel Gottlieb, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6217, Silver Spring, MD 20993–0002, 301–796–6650.

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 FDA's approval of 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.

OVRETTE (norgestrel) tablet, 0.075 mg, is the subject of NDA 017031, held by HRA Pharma and initially approved on October 23, 1973. OVRETTE is indicated for the prevention of pregnancy in women.

OVRETTE (norgestrel) tablet, 0.075 mg, was discontinued from U.S. distribution on June 7, 2005, and is currently listed in the ''Discontinued Drug Product List'' section of the Orange Book.

The Weinberg Group submitted a citizen petition dated February 8, 2017 (Docket No. FDA–2017–P–0840), under 21 CFR 10.30, requesting that the Agency determine whether OVRETTE (norgestrel) tablet, 0.075 mg, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that OVRETTE (norgestrel) tablet, 0.075 mg, was not withdrawn from sale for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that OVRETTE (norgestrel) tablet, 0.075 mg, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of OVRETTE (norgestrel) tablet, 0.075 mg, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list OVRETTE (norgestrel) tablet, 0.075 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 this drug product 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: October 17, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–23125 Filed 10–24–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0656]

Animal Drug User Fee Act; Recommendations; Request for Comments; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; request for comments; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the availability of the Animal Drug User Fee Act (ADUFA) reauthorization draft recommendations and extending the comment period to allow interested persons 30 days to submit comments on these draft recommendations.

DATES: FDA is extending the comment period on the ADUFA reauthorization and draft recommendations. Submit either electronic or written comments on the draft recommendations by November 24, 2017.

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 November 24, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end November 24, 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–2011–N–0656 for ''Animal Drug User Fee Act; Recommendations; Request for Comments; Extension of Comment Period.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Cassie Ravo, Center for Veterinary Medicine (HFV–10), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–6866, *cassie.ravo@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of the proposed recommendations for the reauthorization of ADUFA, which authorizes FDA to collect user fees and use them for the process of reviewing new animal drug applications and associated submissions. The authority for ADUFA expires September 30, 2018. Without new legislation, FDA will no longer have the authority to collect user fees to fund the new animal drug review process for future fiscal years. Section 740A(d)(4) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 379j–13(d)(4)) requires that, after holding negotiations with regulated industry and periodic consultations with stakeholders, and before transmitting the Agency's final recommendation to Congress for the reauthorized program (ADUFA IV), we do the following: (1) Present the recommendation to the relevant Congressional committees, (2) publish such recommendations in the **Federal Register**, (3) provide for a period of 30 days for the public to provide written comments on such recommendations, (4) hold a meeting at which the public may present its views on such recommendations, and (5) consider such public views and comments and revise such recommendations as necessary. In the **Federal Register** of October 5, 2017 (82 FR 46503), we announced a public meeting to be held on November 2, 2017. In that notice we stated that we intended to publish in the **Federal Register** the full text of the proposed ADUFA IV Performance Goals and Procedures Letter and a summary of proposed statutory changes, as well as post them at *https://www.fda.gov/ForIndustry/UserFees/AnimalDrugUserFeeActADUFA/ucm042891.htm,* before the public meeting, and would provide for a period of 30 days for the public to provide written comments. This notice announces the availability of these draft recommendations and extends the comment period to November 24, 2017 to provide for a period of 30 days for the public to comment on these draft recommendations. After the public meeting and closing of the comment period, we will revise the draft recommendations as necessary. In addition, the Agency will present the draft recommendations to the Congressional committees.

II. Proposed ADUFA IV Recommendations

A. Enhancing the Process for Premarket Review

We are proposing the following changes to the performance commitments previously established to further enhance the process for review of new animal drug applications (NADAs).

Beginning October 1, 2018, all applications and submissions under section 512(b) and 571 of the FD&C Act (21 U.S.C. 360b(b) and 21 U.S.C. 360ccc, respectively) must be submitted to the Agency electronically using the eSubmitter tool.

The Agency will review and act on 90 percent of ''Supplement-Changes Being Effected'' manufacturing supplemental NADAs and reactivations submitted according to § 514.8(b)(3)(vi) (21 CFR 514.8(b)(3)(vi)) and in accordance with Guidance for Industry #83, ''Chemistry, Manufacturing, and Controls Changes to an Approved NADA or ANADA'' including manufacturing changes not requiring prior approval according to § 514.8(b)(3)(iv), within 180 days after the submission date. All other application and submission performance goals will remain the same as ADUFA III.

The Agency commits to working on implementation of the United States-European Union Good Manufacturing

Practice Inspection Mutual Recognition Agreement. All other commitments related to pre-approval inspections will remain the same as ADUFA III.

The Agency will review and act on 90 percent of qualifying Animal Drug Availability Act (ADAA) combination medicated feed applications within 60 days after the submission date when all of the following conditions are met:

- Basic regulatory requirements for an ADAA combination medicated feed application has been met as outlined in 21 CFR 514.4(c)(2)(ii).
- A presubmission conference has been conducted and either:
  - No data (no tissue residue non-interference study is required) are needed and this agreement is documented in the memorandum of conference for the presubmission conference; or
  - A justification for not conducting a tissue residue non-interference study has been submitted, reviewed, and found acceptable under an investigational new animal drug (INAD), prior to the submission of the ADAA combination medicated feed application; or
  - A tissue residue non-interference study has been submitted, reviewed, and found acceptable under an INAD, prior to the submission of the ADAA combination medicated feed application.
- No effectiveness or target animal safety data are required.
- No manufacturing data requirements—sponsor can address in meeting assay non-interference, but data submission is not required.
- All other information is referenced to previous drug experience reports.
- Sponsor makes submission and it includes: Representative (Blue Bird) labeling, Veterinary Feed Directive (if applicable).
- Includes a request for categorical exclusion from the need to prepare an environmental assessment (EA); *i.e.,* no EA required.
- Reference to presubmission conference.
- Right of reference (if applicable) to NADA(s) not owned by the filing sponsor of the ADAA combination medicated feed application has been received by the Agency.

The Agency will review and act on 90 percent of ADAA combination medicated feed applications within 100 days for those applications accepted for the 60-day timeframe and there is a need for minor amendments.

If any of the above conditions cannot be met, the ADAA combination medicated feed application performance metric will be placed in the original NADA application cohort with a 180-day review timeframe.

The Agency will review and act on 90 percent of resubmissions of previously completed Environmental Impact technical sections within 60 days after the submission date where:

- A categorical exclusion was issued;
- All other technical sections have been submitted; and
- Information contained in the other technical sections reveals a change in the conditions of use of the previously issued categorical exclusion.

The Agency will conduct 90 percent of qualifying presubmission conferences within a 60-day timeframe when all of the following conditions are met:

- All background materials, including presentations, have been submitted, and
- A complete agenda has been agreed upon by the Agency and the sponsor.

A sponsor and the Agency can mutually agree to exclude a particular presubmission conference from this performance goal. If a sponsor accepts a date beyond the 60-day timeframe for their scheduling purposes or is unable to meet with the Agency on Agency available dates, the submission will be excluded from the presubmission conference cohort.

The Agency will commence 90 percent of tissue residue method demonstrations within 120 days of completion of the 3-hour meeting process or within 200 days from the receipt of a submission that supports a single laboratory validation tissue residue method demonstration.

B. Inflation Adjuster and Workload Adjuster

The inflation adjuster will remain the same as for ADUFA III.

The workload adjustment will continue to be calculated per Center for Veterinary Medicine Program Policy and Procedures Manual 1243.3022, except that, for purposes of calculating the workload adjustment, it has been agreed to reset the base years to fiscal year (FY) 2014 through FY 2018. There will be no workload adjustment for FY 2019. Workload adjustments are one-time adjustments and are calculated annually.

C. Offset Provision and Excess Collections

The proposal adds financial flexibility by eliminating the final year offset of over collections provision and making any excess collections available to enhance the review process in real time. The proposal provides authority for the Secretary of Health and Human Services (the Secretary) when setting fees to reduce a calculated workload adjustment up to the amount of excess collections in the second preceding fiscal year. The first fiscal year this provision could be applied while setting fees is FY 2021. Likewise, the proposal also provides authority to the Secretary to reduce an increase in fees to recover a shortfall in collections in a preceding year (after 2018) by any remaining prior year excess collections not already applied for purposes of reducing fee increases.

D. Impact of ADUFA IV Enhancements on User Fee Revenue

The FY 2019 baseline for ADUFA IV is $30,331,240, which includes a $400,000 one-time cost for information technology enhancement. For each year from FY 2020 through FY 2023, the annual statutory revenue amounts established in section 741(b) of the FD&C Act (21 U.S.C. 379j–21(b)) will be further adjusted by the inflation adjuster, the workload adjuster, if applicable, and will include $900,000 per year for tissue method trials.

The total 5-year revenue planned for ADUFA I was $47,000,000. The total 5-year revenue planned for ADUFA II was $98,000,000. The total 5-year revenue planned for ADUFA III was $114,000,000. It is estimated that the total 5-year revenue for ADUFA IV will be $150,000,000.

The fee revenue distribution in ADUFA IV will remain the same as ADUFA III: 20 percent from application fees; 27 percent from product fees; 26 percent from establishment fees; and 27 percent from sponsor fees.

Dated: October 20, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–23172 Filed 10–24–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–2021]

Deciding When To Submit a 510(k) for a Software Change to an Existing Device; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the guidance entitled ''Deciding When to Submit a 510(k) for a Software Change

to an Existing Device.'' FDA is issuing this final guidance document to clarify when a software change in a legally marketed medical device would require that a manufacturer submit a premarket notification (510(k)) to FDA. FDA is correcting an error in the docket number assigned to the ''Deciding When to Submit a 510(k) for a Software Change to an Existing Device'' notice of availability when it published in the **Federal Register** (81 FR 52441, August 8, 2016). The docket number currently is FDA–2011–D–0453. FDA is changing the docket number to FDA–2016–D–2021. This action is administrative in nature and is being taken to avoid any potential confusion in the docket.

DATES: The announcement of the guidance is published in the **Federal Register** on October 25, 2017.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–D–2021 for ''Deciding When to Submit a 510(k) for a Software Change to an Existing Device.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Deciding When to Submit a 510(k) for a Software Change to an Existing Device'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Linda Ricci, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G634, Silver Spring, MD 20993–0002, 301–796–6325, *linda.ricci@fda.hhs.gov;* and Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

A 510(k) is required when a legally marketed device subject to 510(k) requirements is about to be significantly changed or modified in design, components, method of manufacture, or intended use. Significant changes or modifications are those that could significantly affect the safety or effectiveness of the device, or major changes or modifications in the intended use of the device (§ 807.81(a)(3) (21 CFR 807.81(a)(3)). This guidance will aid manufacturers of medical devices who intend to make a software modification to a 510(k)-cleared device or other device subject to 510(k) requirements, such as a preamendments device or a device that was granted marketing authorization via the De Novo classification process under section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c(f)(2)) (also referred to together as ''existing devices''), during the process of deciding whether the software modification exceeds the regulatory threshold of § 807.81(a)(3) for submission and clearance of a new 510(k).

This guidance specifically addresses software design and technology modifications, including firmware. This guidance does not apply to software for which the Agency has stated in guidance that it does not intend to enforce compliance with applicable regulatory controls (*e.g.,* ''Mobile Medical Applications: Guidance for Industry and FDA Staff,'' issued February 9, 2015, available on the internet at *https://www.fda.gov/downloads/medicaldevices/.../ucm263366.pdf*) and software that does not meet the definition of a medical device at section 201(h) of the FD&C Act (21 U.S.C. 321(h)).

In the **Federal Register** on August 8, 2016, FDA announced the availability of the draft guidance and interested parties were requested to comment by November 7, 2016. FDA considered comments received on the draft guidance and revised the guidance as appropriate.

This guidance is not intended to implement significant policy changes to FDA's current thinking on when submission of a new 510(k) is required for a software change to an existing device. Rather, the intent of this guidance is to enhance the predictability, consistency, and transparency of the ''when to submit'' decision-making process by providing a least burdensome approach, and describing in greater detail the regulatory framework, policies, and practices underlying such a decision, specifically as it relates to software changes. The recommendations discussed in this guidance for evaluating when a software change to an existing device would trigger the requirement that a manufacturer submit a new 510(k) to the Agency are consistent with the least burdensome principles (Refs. 1 and 2). This guidance applies the least burdensome principles, in part, by reliance on risk management and the quality system regulation (21 CFR part 820) to determine whether submission of a new 510(k) is required for a software change to an existing device.

Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of the guidance document entitled ''Deciding When to Submit a 510(k) for a Change to an Existing Device,'' to aid manufacturers of medical devices who intend to make non-software changes to an existing device during the process of deciding whether the modification exceeds the regulatory threshold of § 807.81(a)(3) for submission and clearance of a new 510(k).

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Deciding When to Submit a 510(k) for a Software Change to an Existing Device.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Deciding When to Submit a 510(k) for a Software Change to an Existing Device'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1500055 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 820 are approved under OMB control number 0910–0073; the collections of information in 21 CFR part 807, subpart E are approved under OMB control number 0910–0120; the collections of information in 21 CFR part 803 are approved under OMB control number 0910–0437; and the collections of information in 21 CFR parts 801 are approved under OMB control number 0910–0485.

V. References

The following references are on display in the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *https://www.regulations.gov.* FDA has verified the Web site addresses, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

1. ''The Least Burdensome Provisions of the FDA Modernization Act of 1997: Concept and Principles,'' dated October 4, 2002, available at: *https://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm085999.pdf.*
2. ''Suggested Format for Developing and Responding to Deficiencies in Accordance with the Least Burdensome Provisions of FDAMA,'' dated November 2, 2000, available at: *https://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm073680.pdf.*

Dated: October 20, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–23196 Filed 10–24–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Interest Rate on Overdue Debts

Section 30.18 of the Department of Health and Human Services' claims collection regulations (45 CFR part 30) provides that the Secretary shall charge an annual rate of interest, which is determined and fixed by the Secretary of the Treasury after considering private consumer rates of interest on the date that the Department of Health and Human Services becomes entitled to recovery. The rate cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the ''Schedule of Certified Interest Rates with Range of Maturities'' unless the Secretary waives interest in whole or part, or a different rate is prescribed by statute, contract, or repayment agreement. The Secretary of the Treasury may revise this rate quarterly. The Department of Health and Human Services publishes this rate in the **Federal Register**.

The current rate of 9¾%, as fixed by the Secretary of the Treasury, is certified for the quarter ended September 30, 2017. This rate is based on the Interest Rates for Specific Legislation, ''National Health Services Corps Scholarship Program (42 U.S.C. 254o(b)(1)(A))'' and ''National Research Service Award Program (42 U.S.C. 288(c)(4)(B)).'' This interest rate will be applied to overdue

debt until the Department of Health and Human Services publishes a revision.

Dated: October 17, 2017.

David C. Horn,

Director, Office of Financial Policy and Reporting.

[FR Doc. 2017–23092 Filed 10–24–17; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of the Assistant Secretary for Administration; Statement of Organization, Functions, and Delegations of Authority

Part A, Office of the Secretary, Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (HHS) is being amended at Part A, Chapter AJ, Office of the Assistant Secretary for Administration (ASA), which was last amended at 77 FR 2729, dated January 19, 2012, and most recently at 77 FR 71004, dated November 28, 2012. Part A, Chapter AB, Section AB.20 a paragraph on Office of Security and Strategic Information (ABE), is being inserted. Part P, Program Support Center (PSC), Statement of Organization, Functions, and Delegations of Authority, which was last amended at 75 FR 369–370, dated January 5, 2010, is not being amended. This notice transfers the onboarding/suitability and physical security functions of the Office for Security and Strategic Information (OSSI) to PSC. This transfer of functions complements the existing PSC component's facilities management functions, parking garage entrance, safety-related programs, and other administrative functions. This notice also updates information regarding OSSI's direct report to the Deputy Secretary, organizational structure, as well as the new roles and responsibilities for the Assistant Deputy Secretary for National Security and Secretary's Senior Intelligence Official and for OSSI.

A. Part P, Program Support Center, the statement of organization, functions, and delegations of Authority therein need not be changed as the transferred functions are within the scope of the functions of PSC as described.

B. Under Chapter AJ, Section AJ.20, Functions, delete the last paragraph, which begins with ''Office of Security and Strategic Information (AJS),'' in its entirety.

C. Under Chapter AB, Section AB.20, Functions, insert the following new paragraph at the end of the section with the following:

Office of Security and Strategic Information (ABE)

The Office of Security and Strategic Information is headed by the Assistant Deputy Secretary for National Security, who reports directly to the Deputy Secretary and also serves as the Secretary's Senior Intelligence Official on intelligence and counterintelligence issues. The Assistant Deputy Secretary for National Security has been delegated original classification authority by the Secretary. The Assistant Deputy Secretary for National Security manages the Office of Security and Strategic Information (OSSI). OSSI's vision is for HHS personnel to successfully accomplish missions worldwide in a security-informed manner and with the actionable intelligence needed, at the right time, for operational and policy decisions. OSSI's responsibilities include: Integrating intelligence and security information into HHS policy and operational decisions; assessing, anticipating, and warning of potential security threats to the Department and our national security; and, providing policy guidance on and managing the OS implementation of the Department's security, intelligence and counterintelligence programs. OSSI's programs include national security adjudication, classified national security information management, secure compartmented information facilities management, communications security, safeguarding and sharing of classified information, cyber threat intelligence, and counterintelligence. In coordination with the Director of National Intelligence, OSSI has been designated as a Federal Intelligence Coordinating Office and the Assistant Deputy Secretary for National Security serves as the HHS Federal Senior Intelligence Coordinator. OSSI has responsibilities to establish implementing guidance, provide oversight, and manage the Department's policy for the sharing, safeguarding, and coordinated exchange of information related to national or homeland security with other federal departments and agencies, including law enforcement organizations and the Intelligence Community, in compliance with HHS policies and applicable laws, regulations, and Executive Orders.

E. Delegation of Authority. Pending further redelegation, directives or orders made by the Secretary or Deputy Secretary, all delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegations, provided they are consistent with this reorganization.

Eric D. Hargan,

Acting Secretary, Department of Health and Human Services.

[FR Doc. 2017–23091 Filed 10–24–17; 8:45 am]

BILLING CODE 4151–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Infrastructure Development for Interdisciplinary Aging Studies.

Date: November 21, 2017.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2W200, 7201 Wisconsin Ave., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Isis S. Mikhail, MD, MPH, DRPH, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7704, *MIKHAILI@MAIL.NIH.GOV.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: October 19, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–23127 Filed 10–24–17; 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; Member Conflict: Neurobiology of Neurodegenerative Disorders and Brain Tumors.

Date: November 9, 2017.

Time: 2:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7846, Bethesda, MD 20892–7846, 301–827–7238, *zhaow@csr.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; Program Projects: Support of NIGMS Program Project grants (P01).

Date: November 15, 2017.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Methode Bacanamwo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2200, Bethesda, MD 20892, 301–827–7088, *methode.bacanamwo@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Chromosome Dynamics and Regulation of Transcription.

Date: November 20, 2017.

Time: 3:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael H. Chaitin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, *chaitinm@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: October 20, 2017.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–23176 Filed 10–24–17; 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, Dental, Microbiology and Oral Biology.

Date: November 16, 2017.

Time: 8:00 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: Baljit S Moonga, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7806, Bethesda, MD 20892, 301–435–1777, *moongabs@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Asthma, Host Defense, COPD, and Cystic Fibrosis.

Date: November 16–17, 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: Ghenima Dirami, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7814, Bethesda, MD 20892, 240–498–7546, *diramig@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Dermatology, Rheumatology.

Date: November 17, 2017.

Time: 12:30 p.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: Richard Ingraham, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7814, Bethesda, MD 20892, 301–496–8551, *ingrahamrh@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: October 19, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–23126 Filed 10–24–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: Computer-Aided Diagnosis of Prostate Cancer in Multi-Parametric MRI

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute and Clinical Center, institutes of the National Institutes of Health, Department of Health and Human Services, are contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the U.S. Patents and Patent Applications listed in the **SUPPLEMENTARY INFORMATION** section of this notice to ScanMed, LLC located in Omaha, NE.

DATES: Only written comments and/or applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before November 9, 2017 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated Exclusive Patent License should be

directed to: Tedd Fenn, Senior Technology Transfer Manager, NCI Technology Transfer Center, 9609 Medical Center Drive, RM 1E530 MSC 9702, Bethesda, MD 20892–9702 (for business mail), Rockville, MD 20850–9702, Telephone: (240)–276–5530; Facsimile: (240)–276–5504, Email: *Tedd.Fenn@nih.gov.*

SUPPLEMENTARY INFORMATION:

Intellectual Property

United States Provisional Patent Application No. 62/462,256 filed February 22, 2017 ''Computer-Aided Diagnosis of Prostate Cancer in Multi-parametric MRI''

The prospective exclusive license territory may be worldwide and the field of use may be limited to the use of Licensed Patent Rights for the following: ''Class II or III computer-assisted diagnostics systems for use with Magnetic Resonance Imaging, of the anatomy of the prostate.''

The subject technology is an automated computer assisted diagnostic system for processing and visualizing prostate lesions on MRI. The system uses specialized algorithms (an ensemble of multiple random decision trees, Random Forest) that is trained against: (1) Hand drawn contours, (2) recorded biopsy results, and (3) normal cases from randomly sampled patient images weighted for lesion size. The system produces a probability map of potential cancerous lesions in multiparametric MRI.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license in the prospective field of use that are filed in response to this notice within the 15 days of this notice, will be treated as objections to the grant of the contemplated Exclusive Patent License Agreement. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the *Freedom of Information Act,* 5 U.S.C. 552.

Dated: October 19, 2017.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2017–23175 Filed 10–24–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Environmental Placental Origins of Development (ePOD).

Date: November 6–7, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Place Durham Southpoint, Meeting Place, Rooms II and III, 7840 North Carolina Highway 751, Durham, NC 27713.

Contact Person: Janice B. Allen, Ph.D., Scientific Review Officer Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P.O. Box 12233, MD EC–30/Room 3170 B, Research Triangle Park, NC 27709, 919/541–7556.

Name of Committee: Environmental Health Sciences Review Committee, Training in Environmental Health Sciences.

Date: November 14, 2017.

Time: 8:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Place Durham Southpoint, 7840 North Carolina Highway 751, Meeting Rooms II and III, Durham, NC 27713.

Contact Person: Linda K. Bass, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Training in Environmental Health Sciences.

Date: November 14, 2017.

Time: 3:45 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Place Durham Southpoint, 7840 North Carolina Highway 751, Meeting Rooms II and III, 7840 NC–751, Durham, NC 27713.

Contact Person: Leroy Worth, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, 919/541–0670, *worth@niehs.nih.gov.*

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Time-Sensitive Review in Environmental Health Sciences.

Date: November 16, 2017.

Time: 11:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Keystone Building, 530 Davis Drive, Room 3118, Research Triangle Park, NC 27709.

Contact Person: Laura A. Thomas, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709 919–541–2824, *laura.thomas@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: October 20, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–23179 Filed 10–24–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Career Development in Environmental Research.

Date: November 2, 2017.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health Keystone Building, 530 Davis Drive, Research Triangle Park, NC 27709 (Virtual Meeting).

Contact Person: Laura A. Thomas, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709, 919–541–2824, *laura.thomas@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: October 20, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–23180 Filed 10–24–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the patent applications listed below may be obtained by emailing the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development Office of Technology Transfer, 31 Center Drive Room 4A29, MSC2479, Bethesda, MD 20892–2479; telephone: 301–402–5579. A signed Confidential Disclosure Agreement may be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: This notice is in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing. A description of the technology follows.

Segmented Metallic Guidewires

Description of Technology: The invention pertains to segmented metallic guidewires that are suitable for MRI catheterization. Guidewires contain plurality of short conductive metallic segments that are individually short enough to not resonate during MR imaging. The conductive segments are electrically insulated from each other and mechanically coupled together end-to-end via connectors, such as stiffness matched connectors, to provide a sufficiently long, strong, and flexible guidewire for catheterization that is non-resonant during MRI.

Potential Commercial Applications: Endovascular interventions.

Inventors: Robert Lederman, Ozgur Kocaturk, Burcu Basar (NHLBI).

Intellectual Property: HHS Reference No. E–253–2014/0, U.S. Provisional Patent Application 61/066,167 filed October 20, 2014, International Patent Application PCT/US2015/056266 filed October 19, 2015, European Patent Application 15787824.0 October 19, 2015 and U.S. Patent Application 15/514,744 filed March 27, 2017.

Licensing Contact: Michael Shmilovich, Esq, CLP; 301–435–5019; *shmilovm@nih.gov*.

Dated: October 18, 2017.

Michael Shmilovich,

Senior Licensing and Patenting Manager, National Heart, Lung, and Blood Institute, Office of Technology Transfer and Development.

[FR Doc. 2017–23178 Filed 10–24–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel; R01/F31/K01/K99 Conflicts.

Date: December 1, 2017.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine/Center for Scientific Review, 6701 Rockledge Drive, Room 3042, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Zoe E. Huang, MD, Scientific Review Officer, Division of Extramural Programs, National Library of Medicine, NIH, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892–7968, 301–594–4937, *huangz@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: October 19, 2017.

Michelle Trout,

Program Analyst, Office of the Federal Advisory Committee Policy.

[FR Doc. 2017–23129 Filed 10–24–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Multi-

Site Studies for System-Level Implementation of Substance Use Prevention and Treatment Services (R01; R34).

Date: November 7, 2017.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4238, MSC 9550, Bethesda, MD 20892–9550, 301–827–5819, *gm145a@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Limited Competition—Cohort Studies of HIV/AIDS and Substance Abuse (U01).

Date: November 7, 2017.

Time: 2:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Hiromi Ono, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4238, MSC 9550, Bethesda, MD 20892, 301–827–5820, *hiromi.ono@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Advancing Exceptional Research on HIV/AIDS and Substance Abuse (R01).

Date: November 10, 2017.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Hiromi Ono, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4238, MSC 9550, Bethesda, MD 20892, 301–827–5820, *hiromi.ono@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Wearable to Track Recovery and Relapse Factors for People w/Addiction (R43, R44).

Date: November 21, 2017.

Time: 1:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Julia Berzhanskaya, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, Division of Extramural Research, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Boulevard, Room 4234, MSC 9550, Bethesda, MD 20892, 301–827–5840, *julia.berzhanskaya@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA Research Education Program for Clinical Researchers and Clinicians (R25).

Date: December 4, 2017.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4238, MSC 9550, Bethesda, MD 20892–9550, 301–827–5819, *gm145a@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Nasal Delivery of CNS Therapeutics (R41, R42, R43, R44).

Date: December 5, 2017.

Time: 1:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Julia Berzhanskaya, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, Division of Extramural Research, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Boulevard, Room 4234, MSC 9550, Bethesda, MD 20892, 301–827–5840, *julia.berzhanskaya@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Conference Grant Review (R13).

Date: December 6, 2017.

Time: 1:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Shang-Yi Anne Tsai, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, Division of Extramural Research, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Boulevard, Room 4228, MSC 9550, Bethesda, MD 20892, 301–827–5842, *shangyi.tsai@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: October 19, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–23128 Filed 10–24–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Dr. Amy Petrik, 240–627–3721; *amy.petrik@nih.gov.* Licensing information and copies of the U.S. patent application listed below may be obtained by communicating with the indicated licensing contact at the Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rockville, MD, 20852; tel. 301–496–2644. A signed Confidential Disclosure Agreement will be required to receive copies of unpublished patent applications.

SUPPLEMENTARY INFORMATION: Technology description follows.

Neutralizing Antibodies to Influenza HA and Their Use and Identification

Description of Technology: The effectiveness of current influenza vaccines varies by strain and season, in part because influenza viruses continuously evolve to evade human immune responses. While the majority of seasonal influenza infections cause relatively mild symptoms, each year influenza virus infections result in over 500,000 hospitalizations in the United States and Europe. Current standard of care for individuals hospitalized with uncomplicated influenza infection is administration of neuraminidase inhibitors. However, frequent use of such antiviral drugs increases the risk that the virus will develop drug resistance, especially in high-risk populations. Thus, alternative strategies are required to protect or treat vulnerable populations who have been hospitalized with severe influenza.

Using a combination of recombinant proteins and sophisticated flow cytometry, scientists at NIAID isolated families of antibodies capable of

neutralizing diverse group 1 and group 2 influenza A viruses. Specifically, the families of antibodies identified precisely target parts of the hemagglutinin (HA) protein, present on the surface of the influenza virus, that are least variable from season to season (Joyce, M.G., et al. Cell (2016) 166 (3): 609–623). Therefore, it is hypothesized that passive administration of members of these families of antibodies to individuals would represent an alternative to the current standard of care for severe influenza virus infection. Additionally, these families of antibodies could be useful for development of a product aimed at conferring passive immunity in vulnerable populations during the time of an outbreak or emergence of a pandemic strain of influenza.

This technology is available for licensing for commercial development in accordance with 35 U.S.C. 209 and 37 CFR part 404, as well as for further development and evaluation under a research collaboration.

NIAID is continuing development of these neutralizing antibodies to influenza toward a clinical product for treatment and/or prevention of influenza virus infection. Consequently, for some fields of use, NIAID will evaluate a license applicant's capabilities and experience in advancing similar technologies through the regulatory process.

Potential Commercial Applications:

- Prevention of influenza A virus infection
- Therapeutic intervention to treat influenza infection

Competitive Advantages:

- Ability to potently neutralize both group 1 and group 2 influenza A strains

Development Stage:

- Proof of concept in animal models

Inventors: Adrian McDermott (NIAID), Peter Kwong (NIAID), John Mascola (NIAID), M. Gordon Joyce (NIAID), Robert Bailer (NIAID), Sarah Andrews (NIAID), Paul Thomas (NIAID), Gwo-Yu Chuang (NIAID), Adam Wheatley (NIAID), Yi Zhang (NIAID), James Whittle (NIAID).

Publications: Joyce, M.G., et al. Cell (2016) 166 (3): 609–623

Intellectual Property: HHS Reference No. E–061–2016—US Patent Application No. 62/330,837 filed May 2, 2016; Patent Cooperation Treaty Application No. PCT/US2017/030641 filed May 2, 2017.

Licensing Contact: Dr. Amy Petrik, 240–627–3721; *amy.petrik@nih.gov.*

Collaborative Research Opportunity: The National Institute of Allergy and Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize influenza monoclonal antibody technologies. For collaboration opportunities, please contact Dr. Amy Petrik, 240–627–3721; *amy.petrik@nih.gov.*

Dated: October 19, 2017.

Suzanne Frisbie,

Deputy Director,Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2017–23177 Filed 10–24–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2017–0124]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0057

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval for reinstatement, without change, of the following collection of information: 1625–0057, Small Passenger Vessels—Title 46 Subchapters K and T. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before November 24, 2017.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2017–0124] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email: dhsdeskofficer@omb.eop.gov.*

(2) *Mail:* OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION: Contact Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2017–0124], and must be received by November 24, 2017.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public

comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that 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.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0057.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (82 FR 36812, August 7, 2017) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments. Accordingly, no changes have been made to the Collections.

Information Collection Request

Title: Small Passenger Vessels—Title 46 Subchapters K and T.

OMB Control Number: 1625–0057.

Summary: The information requirements are necessary for the proper administration and enforcement of the program on safety of commercial vessels as it affects small passenger vessels. The requirements affect small passenger vessels (under 100 gross tons) that carry more than six passengers.

Need: Under the authority of 46 U.S.C. 3305 and 3306, the Coast Guard prescribed regulations for the design, construction, alteration, repair and operation of small passenger vessels to secure the safety of individuals and property on board. The Coast Guard uses the information in this collection to ensure compliance with the requirements.

Forms: CG–841, Certificate of Inspection; CG–854, Temporary Certificate of Inspection; CG–948, Permit to Proceed to Another Port for Repairs; CG–949, Permit to Carry Excursion Party; CG–3752, Application for Inspection of U.S. Vessel; CG–5256, U.S. Coast Guard Inspected Small Passenger Vessel decal.

Respondents: Owners and operators of small passenger vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has decreased from 399,420 hours to 397,124 hours a year due to a decrease in the estimated annual number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: October 12, 2017.

James D. Roppel,

Acting Chief, Office of Information Management, U.S. Coast Guard.

[FR Doc. 2017–23142 Filed 10–24–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2017–0854]

Meeting of the National Offshore Safety Advisory Committee

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The National Offshore Safety Advisory Committee and its Subcommittees will hold meetings in Houston, Texas to discuss the safety of operations and other matters affecting the offshore oil and gas industry. These meetings are open to the public.

DATES: The meetings will be held on Tuesday, December 12, 2017 and on Wednesday, December 13, 2017. The Safety Management Systems on Vessels Engaging in Well Intervention Activities Subcommittee of the National Offshore Safety Advisory Committee will meet on Tuesday, December 12, 2017 from 10 a.m. to 11:30 a.m. (All times are Central Time). Following this meeting the Regulatory Review Subcommittee will meet from 11:30 a.m. to 5 p.m.

The full Committee will meet on Wednesday, December 13, 2017, from 8 a.m. to 6 p.m. These meetings may end early if the Committee has completed its business, or the meetings may be extended based on the number of public comments.

ADDRESSES: The meetings will be held at the United States Coast Guard Sector Houston-Galveston, 13411 Hillard Street, Houston, Texas 77034. *https://homeport.uscg.mil/mycg/portal/ep/portDirectory.do?tabId=1&cotpId=28#.*

For information on facilities or services for individuals with disabilities, or to request special assistance at the meetings, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section as soon as possible.

Instructions: You are free to submit comments at any time, including orally at the meetings, but if you want Committee members to review your comment before the meetings, please submit your comments no later than November 24, 2017. We are particularly interested in comments on the issues in the ''Agenda'' section below. You must include ''Department of Homeland Security'' and the docket number USCG–2017–0854. 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 individuals listed in the **FOR FURTHER INFORMATION CONTACT** section below. 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 or to read documents or comments related to this notice, go to *http://www.regulations.gov,* insert USCG–2017–0854 in the Search box, press Enter, and then click on the item you wish to view.

A public oral comment period will be held during the meeting on December 13, 2017, and speakers are requested to limit their comments to 3 minutes. Contact one of the individuals listed below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Commander Jose Perez, Designated Federal Officer of the National Offshore Safety Advisory Committee, Commandant (CG–OES–2), U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509; telephone (202) 372–1410, fax (202) 372–8382 or email *jose.a.perez3@uscg.mil,* or Mr. Patrick Clark, telephone (202) 372–1358, fax (202) 372–8382 or email *Patrick.w.clark@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the *Federal Advisory Committee Act,* Title 5 United States Code Appendix. The National Offshore Safety Advisory Committee provides advice and recommendations to the Department of Homeland Security on matters relating to activities directly involved with or in support of the exploration of offshore mineral and energy resources insofar as they relate to matters within Coast Guard jurisdiction.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/nosac* no later than November 24, 2017. Alternatively, you may contact Mr. Patrick Clark as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Agenda

Day 1

The National Offshore Safety Advisory Committee's Subcommittee on ''Safety Management Systems on Vessels Engaging in Well Intervention Activities'' will meet on December 12, 2017 from 10 a.m. to 11:30 a.m. to review, discuss, and formulate recommendations.

The National Offshore Safety Advisory Committee's Subcommittee on Regulatory Review will meet from 11:30 a.m. to 5:00 p.m. to review, discuss and formulate recommendations.

Day 2

The National Offshore Safety Advisory full Committee will hold a public meeting on December 13, 2017 from 8 a.m. to 6 p.m. (Central Time) to review and discuss the progress of, and any reports and recommendations received from the above listed Subcommittees from their deliberations on December 12, 2017. The Committee will then use this information and consider public comments in formulating recommendations to the United States Coast Guard. Public comments or questions will be taken at the discretion of the Designated Federal Officer during the discussion and recommendation portions of the meeting and during the public comment period, see Agenda item (9).

A complete agenda for December 13, 2017 full Committee meeting is as follows:

(1) Welcoming remarks.

(2) General Administration and accept minutes from July 2017 National Offshore Safety Advisory Committee public teleconference.

(3) Installation of new members.

(4) Installation of new Committee Chair.

(5) Current Business—Presentation and discussion of progress from the Subcommittee on Safety Management Systems on Vessels Engaging in Well Intervention Activities.

(6) Presentation and discussion of progress from the Regulatory Review Subcommittee.

(7) New Business—Outer Continental Shelf Industry Focus Forum.

(a) Eighth Coast Guard District Officer In Charge Marine Inspection Operational Update.

(b) Outer Continental Shelf National Center of Expertise Update.

(c) Bureau of Safety and Environmental Enforcement Gulf Region Update.

(d) Industry Regulatory Discussion

(8) Presentations on the following matters:

(a) U.S. Coast Guard Regulatory Status Update;

(b) U.S. Coast Guard Cyber Security Initiatives update;

(c) Maritime Administration Update.

(d) Update from the Bureau of Safety and Environmental Enforcement—Headquarters;

(9) Public comment period.

Minutes

Meeting minutes from this public meeting will be available for public view and copying within 90 days following the close of the meeting at the *https://homeport.uscg.mil/nosac* Web site.

Dated: October 19, 2017.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standard.

[FR Doc. 2017–23138 Filed 10–24–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2017–0114]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0062

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval for reinstatement, without change, of the following collection of information: 1625–0062, Approval of Alterations to Marine Portable Tanks; Approval of Non-Specification Portable Tanks. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before November 24, 2017.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2017–0114] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email: dhsdeskofficer@omb.eop.gov.*

(2) *Mail:* OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–612), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr Ave. SE., Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2017–0114], and must be received by November 24, 2017.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that 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.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0062.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (82 FR 36810, August 7, 2017) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments. Accordingly, no changes have been made to the Collections.

Information Collection Request

Title: Approval of Alterations to Marine Portable Tanks; Approval of Non-specification Portable Tanks.

OMB Control Number: 1625–0062.

Summary: The information will be used to evaluate the safety of proposed alterations to marine portable tanks and non-specification portable tank designs used to transfer hazardous materials during offshore operations.

Need: Approval by the Coast Guard of alterations to marine portable tanks under 46 CFR part 64 ensures that the altered tank retains the level of safety to which it was originally designed. In addition, rules that allow for the approval of non-specification portable tanks ensure that innovation and new designs are not frustrated by the regulation.

Forms: None.

Respondents: Owners of marine portable tanks and owners/designers of non-specification portable tanks.

Frequency: On occasion.

Hour Burden Estimate: The estimated annual burden remains 18 hours.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: October 12, 2017.

James D. Roppel,

Acting Chief, Office of Information Management, U.S. Coast Guard.

[FR Doc. 2017–23137 Filed 10–24–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2017–0219]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0078

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval for reinstatement, without change, of the following collection of information: 1625–0078, Credentialing and Manning Requirements for Officers on Towing Vessels. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before November 24, 2017.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2017–0219] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email: dhsdeskofficer@omb.eop.gov.*

(2) *Mail:* OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–612), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection. The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2017–0219], and must be received by November 24, 2017.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that 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.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0078.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (82 FR 37461, August 10, 2017) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments. Accordingly, no changes have been made to the Collections.

Information Collection Request

Title: Credentialing and Manning Requirements for Officers on Towing Vessels.

OMB Control Number: 1625–0078.

Summary: Credentialing and manning requirements ensure that towing vessels operating on the navigable waters of the U.S. are under the control of credentialed officers who meet certain qualification and training standards.

Need: Title 46 Code of Federal Regulations parts 10 and 11 prescribe regulations for the credentialing of maritime personnel. This information collection is necessary to ensure that a mariner's training information is available to assist in determining his or her overall qualifications to hold certain credentials.

Forms: None.

Respondents: Owners and operators of towing vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 15,869 hours to 18,635 hours a year due to an estimated increase in the annual number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: October 12, 2017.

James D. Roppel,

Acting Chief, Office of Information Management, U.S. Coast Guard.

[FR Doc. 2017–23139 Filed 10–24–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The date of March 6, 2018 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: October 13, 2017.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

I. Non-watershed-based studies:

Community	Community map repository address
Yavapai County, Arizona and Incorporated Areas Docket No.: FEMA–B–1529	
City of Prescott	Public Works Department, 201 South Cortez Street, Prescott, AZ 86303.
Unincorporated Areas of Yavapai County	Yavapai County Flood Control District Office, 1120 Commerce Drive, Prescott, AZ 86305.
Riverside County, California and Incorporated Areas Docket No.: FEMA–B–1532	
City of Coachella	Community Development Department, 1515 Sixth Street, Coachella, CA 92236.
City of Indio	Engineering Services Division, 100 Civic Center Mall, Indio, CA 92201.
City of La Quinta	City Hall, Community Development Department, 78–495 Calle Tampico, La Quinta, CA 92253.
Unincorporated Areas of Riverside County	Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.

[FR Doc. 2017–23149 Filed 10–24–17; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: October 13, 2017.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Alabama:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Jefferson (FEMA Docket No.: B–1727).	City of Birmingham (17–04–3064X).	The Honorable William A. Bell, Sr., Mayor, City of Birmingham, 710 North 20th Street, 3rd Floor, Birmingham, AL 35203.	City Hall, 710 North 20th Street, 3rd Floor, Birmingham, AL 35203.	Aug. 28, 2017	010116
Jefferson (FEMA Docket No.: B–1727).	Unincorporated areas of Jefferson County (16–04–6806P).	The Honorable James A. Stephens, Chairman, Jefferson County Board of Commissioners, 716 Richard Arrington, Jr. Boulevard North, Birmingham, AL 35203.	Jefferson County Land Development Department, 716 Richard Arrington, Jr. Boulevard North, Birmingham, AL 35203.	Aug. 17, 201	010217
Jefferson (FEMA Docket No.: B–1727).	Unincorporated areas of Jefferson County (17–04–3064X).	The Honorable James A. Stephens, Chairman, Jefferson County Board of Commissioners, 716 Richard Arrington Jr. Boulevard North, Birmingham, AL 35203.	Jefferson County Land Development Department, 716 Richard Arrington, Jr. Boulevard North, Birmingham, AL 35203.	Aug. 28, 201	010217
Madison (FEMA Docket No.: B–1735).	City of Huntsville (16–04–8443P.	The Honorable Thomas M. Battle, Jr., Mayor, City of Huntsville, 308 Fountain Circle, 8th Floor, Huntsville, AL 35801.	City Hall, 308 Fountain Circle, 8th Floor, Huntsville, AL 35801.	Sept. 14, 201	010153
Montgomery (FEMA Docket No.: B–1735).	City of Montgomery (16–04–7922P).	The Honorable Todd Strange, Mayor, City of Montgomery, 103 North Perry Street, Montgomery, AL 36104.	Engineering Department, 25 Washington Avenue, Montgomery, AL 36104.	Aug. 28, 201	010174
Colorado: El Paso (FEMA Docket No.: B–1725).	City of Colorado Springs (17–08–0131P).	The Honorable John Suthers, Mayor, City of Colorado Springs, 30 South Nevada Avenue, Colorado Springs, CO 80901.	City Hall, 30 South Nevada Avenue, Colorado Springs, CO 80901.	Aug. 22, 201	080060
Connecticut:					
Fairfield (FEMA Docket No.: B–1733).	Town of Greenwich (17–01–0822P).	The Honorable Peter Tesei, First Selectman, Town of Greenwich, Board of Selectmen, 101 Field Point Road, Greenwich, CT 06830.	Planning and Zoning Department, 101 Field Point Road, Greenwich, CT 06830.	Sep. 5, 201	090008
Hartford (FEMA Docket No.: B–1725).	Town of East Hartford (17–01–0668P).	The Honorable Marcia A. Leclerc, Mayor, Town of East Hartford, 740 Main Street, East Hartford, CT 06108.	Town Hall, 740 Main Street, East Hartford, CT 06108.	Aug. 16, 201	090026
Florida:					
Lee (FEMA Docket No.: B–1725).	City of Sanibel (17–04–0549P).	The Honorable Kevin Ruane, Mayor, City of Sanibel, 800 Dunlop Road, Sanibel, FL 33957.	Planning and Code Enforcement Department, 800 Dunlop Road, Sanibel, FL 33957.	Aug. 18. 201	120402
Lee (FEMA Docket No.: B–1727).	Town of Fort Myers Beach (16–04–8301P).	The Honorable Dennis C. Boback, Mayor, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	Community Development Department, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	Sep. 6, 201	120673
Lee (FEMA Docket No.: B–1727).	Unincorporated areas of Lee County (16–04–8301P).	The Honorable Frank Mann, President, Lee County Board of Commissioners, 2120 Main Street, Fort Myers, FL 33901.	Lee County Community Development Department, 1500 Monroe Street, Fort Myers, FL 33901.	Sep. 6, 201	120124
Manatee (FEMA Docket No.: B–1727).	Unincorporated areas of Manatee County (16–04–8240P).	The Honorable Betsy Benac, Chair, Manatee County, Board of Commissioners, P.O. Box 1000, Bradenton, FL 34206.	Manatee County Building and Development Services Department, 1112 Manatee Avenue West, Bradenton, FL 34205.	Sep. 8, 201	120153
Martin (FEMA Docket No.: B–1725).	City of Stuart (17–04–3100P).	The Honorable Tom Campenni, Mayor, City of Stuart, 121 Southwest Flagler Avenue, Stuart, FL 34994.	Development Department, 121 Southwest Flagler Avenue, Stuart, FL 34994.	Aug. 23. 201	120165
Miami-Dade (FEMA Docket No.: B–1725).	City of Doral (17–04–1147P).	The Honorable Juan Carlos Bermudez, Mayor, City of Doral, 8401 Northwest 53rd Terrace, Doral, FL 33166.	City Hall, 8401 Northwest 53rd Terrace, Doral, FL 33166.	Aug. 16. 201	120041
Miami-Dade (FEMA Docket No.: B–1725).	City of Doral (17–04–1148P).	The Honorable Juan Carlos Bermudez, Mayor, City of Doral, 8401 Northwest 53rd Terrace, Doral, FL 33166.	City Hall, 8401 Northwest 53rd Terrace, Doral, FL 33166.	Aug. 18. 201	120041
Miami-Dade (FEMA Docket No.: B–1727).	City of Miami (16–04–7715P).	The Honorable Tomas P. Regalado, Mayor, City of Miami, 3500 Pan American Drive, Miami, FL 33133.	Building Department, 444 Southwest 2nd Avenue, 4th Floor, Miami, FL 33130.	Sep. 5, 201	120650
Monroe (FEMA Docket, No.: B–1735).	Village of Islamorada (17–04–0974P).	The Honorable Jim Mooney, Mayor, Village of Islamorada, 86800 Overseas Highway, Islamorada, FL 33036.	Planning and Development Services Department, 86800 Overseas Highway, Islamorada, FL 33036.	Aug. 31, 201	120424
Monroe (FEMA Docket, No.: B–1725).	Unincorporated areas of Monroe County (17–04–2646P).	The Honorable George Neugent, Mayor, Monroe County, Board of Commissioners, 500 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Aug. 17. 201	125129
St. Johns (FEMA Docket No.: B–1727).	Unincorporated areas of St. Johns County (17–04–1263P).	The Honorable James K. Johns, Chairman, St. Johns County Board of Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Building Services Division, 4040 Lewis Speedway, St. Augustine, FL 32084.	Aug. 31, 201	125147
Seminole (FEMA Docket No.: B–1727).	City of Altamonte Springs (17–04–1381P).	The Honorable Patricia Bates, Mayor, City of Altamonte Springs, 225 Newburyport Avenue, Altamonte Springs, FL 32701.	Public Works Department, 225 Newburyport Avenue, Altamonte Springs, FL 32701.	Sep. 1, 201	120290
Georgia:					
Cherokee (FEMA Docket No.: B–1727).	City of Canton (16-04-5695P).	The Honorable Gene Hobgood, Mayor, City of Canton, 151 Elizabeth Street, Canton, GA 30114.	City Hall, 151 Elizabeth Street, Canton, GA 30114.	Sep. 5, 201	130039
Cherokee (FEMA Docket No.: B–1727).	Unincorporated areas of Cherokee County (16–04–5695P).	The Honorable L.B. Ahrens, Jr., Chairman, Cherokee County Board of Commissioners, 1130 Bluffs Parkway, Canton, GA 30114.	Cherokee County Public Works Department, 1130 Bluffs Parkway, Canton, GA 30114.	Sep. 5, 201	130424

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Gordon (FEMA Docket No.: B–1733).	Unincorporated areas of Gordon County (17–04–0799P).	The Honorable Becky Hood, Chair, Gordon County Board of Commissioners, 201 North Wall Street, Calhoun, GA 30701.	Gordon County Building, Planning and Development Department, 200 South Wall Street, Calhoun, GA 30701.	Aug. 31, 201	130094
Louisiana: Ouachita (FEMA Docket No.: B–1735).	City of Monroe (17–06–1426P).	The Honorable James E. Mayo, Mayor, City of Monroe, P.O. Box 123, Monroe, LA 71210.	City Hall, 3901 Jackson Street, Monroe, LA 71202.	Aug. 25, 201	220136
Maine: Oxford (FEMA Docket No.: B–1735).	Town of Hiram (17–01–0730P).	The Honorable Joyce Siracuse, Chair, Town of Hiram Board of Selectmen, 25 Allard Circle, Hiram, ME 04041.	Town Hall, 25 Allard Circle, Hiram, ME 04041.	Aug. 18, 201	230094
Maryland: Anne Arundel (FEMA Docket No.: B–1727).	Unincorporated areas of Anne Arundel County (17–03–0502P).	The Honorable Steve R. Schuh, Anne Arundel County Executive, 44 Calvert Street, Annapolis, MD 21401.	Anne Arundel County Heritage Complex, 2664 Riva Road, Annapolis, MD 21401.	Sep. 5, 201	240008
Massachusetts: Essex (FEMA Docket No.: B–1735).	City of Gloucester (17–01–0964P).	The Honorable Sefatia Romeo Theken, Mayor, City of Gloucester, 9 Dale Avenue, Gloucester, MA 01930.	Community Development Department, 3 Pond Road, Gloucester, MA 01930.	Aug. 28, 201	250082
Mississippi: Rankin (FEMA Docket, No.: B–1727).	City of Pearl (17–04–0485P).	The Honorable Brad Rogers, Mayor, City of Pearl, P.O. Box 5948, Pearl, MS 39288.	Community Development Department, 2420 Old Brandon Road, Pearl, MS 39208.	Aug. 31, 201	280145
North Carolina:					
Carteret (FEMA Docket No.: B–1735).	Town of Indian Beach (17–04–0494P).	The Honorable Stewart Pickett, Mayor, Town of Indian Beach, 1400 Salter Path Road, Salter Path, NC 28575.	Planning and Inspections Department, 1400 Salter Path Road, Salter Path, NC 28575.	Aug. 28, 201	370433
Carteret (FEMA Docket No.: B–1735).	Unincorporated areas of Carteret County (17–04–0494P).	The Honorable Mark Mansfield, Chairman, Carteret County Board of Commissioners, 302 Courthouse Square, Beaufort, NC 28516.	Carteret County Planning and Inspections Department, 402 Broad Street, Beaufort, NC 28516.	Aug. 28, 201	370043
Catawba (FEMA Docket No.: B–1733).	City of Conover (16–04–8093P).	The Honorable Lee E. Moritz, Jr., Mayor, City of Conover, P.O. Box 549, Conover, NC 28613.	City Hall, 101 1st Street East, Conover, NC 28613.	Sep. 15, 201	370053
Macon (FEMA Docket No.: B–1733).	Town of Franklin (16–04–5247P).	The Honorable Bob Scott, Mayor, Town of Franklin, P.O. Box 1479, Franklin, NC 28744.	Town Hall, 95 East Main Street, Franklin, NC 28734.	Sep. 18, 201	375350
Macon (FEMA Docket No.: B–1733).	Unincorporated areas of Macon County (16–04–5247P).	The Honorable James P. Tate, Chairman, Macon County Board of Commissioners, 5 West Main Street, Franklin, NC 28734.	Macon County, Director of Planning, Permitting and Development Office, 5 West Main Street, Franklin, NC 28734.	Sep. 18, 201	370150
Wake (FEMA Docket No.: B–1727).	Town of Apex (17–04–1615P).	The Honorable Lance Olive, Mayor, Town of Apex, P.O. Box 250, Apex, NC 27502.	Engineering Department, 73 Hunter Street, Apex, NC 27502.	Sep. 5, 201	370467
Wake (FEMA Docket No.: B–1727).	Town of Cary (17–04–1615P).	The Honorable Harold Weinbrecht, Jr., Mayor, Town of Cary, P.O. Box 8005, Cary, NC 27512.	Stormwater Services Division, 316 North Academy Street, Cary, NC 27511.	Sep. 5, 201	370238
Watauga (FEMA Docket No.: B–1733).	Town of Boone (16–04–8003P).	The Honorable Rennie Brantz, Mayor 567 West King Street, Boone, NC 28607.	Planning and Inspections Department, 680 West King Street, Suite C, Boone, NC 28607.	Sep. 14, 201	370253
Watauga (FEMA Docket No.: B–1733).	Unincorporated areas of Watauga County (16–04–8003P).	The Honorable John Welch Chairman, Board of Commissioners, 814 West King Street, Suite 205, Boone, NC 28607.	Watauga County Planning and Inspections Department 331 Queen Street, Suite A, Boone, NC 28607.	Sept. 14, 201	370251
Oklahoma: Tulsa (FEMA Docket No.: B–1725).	City of Tulsa (17–06–0736P).	The Honorable G.T. Bynum, Mayor, City of Tulsa, 175 East 2nd Street, 15th Floor, Tulsa, OK 74103.	Planning and Engineering Department, 175 East 2nd Street, 4th Floor, Tulsa, OK 74103.	Aug. 25. 201	405381
Pennsylvania: Berks (FEMA Docket No.: B–1725).	Township of Robeson (17–03–0500P).	The Honorable Christopher Smith, Chairman, Township of Robeson Board of Supervisors, 8 Boonetown Road, Birdsboro, PA 19508.	Township Municipal Building, 8 Boonetown Road, Birdsboro, PA 19508.	Aug. 21. 201	420146
Texas:					
Collin (FEMA Docket No.: B–1725).	City of Allen (16–06–4233P).	The Honorable Stephen Terrell, Mayor, City of Allen, 305 Century Parkway, Allen, TX 75013.	Engineering Department, 305 Century Parkway, Allen, TX 75013.	Aug. 18. 201	480131
Collin (FEMA Docket No.: B–1725).	City of Allen (17–06–0212P).	The Honorable Stephen Terrell, Mayor, City of Allen, 305 Century Parkway, Allen, TX 75013.	Engineering Department, 305 Century Parkway, Allen, TX 75013.	Aug. 18. 201	480131
Denton (FEMA Docket No.: B–1727).	City of Frisco (17–06–0579P).	The Honorable Maher Maso, Mayor, City of Frisco, 6101 Frisco Square Boulevard, Frisco, TX 75034.	Engineering Services Department, 6101 Frisco Square Boulevard, Frisco, TX 75034.	Sep. 5, 201	480134
Denton (FEMA Docket No.: B–1727).	City of Justin (16–06–3379P).	The Honorable Greg Scott, Mayor, City of Justin, P.O. Box 129, Justin, TX 76247.	City Hall, 415 North College Avenue, Justin, TX 76248.	Aug. 24, 201	480778
Fort Bend (FEMA Docket No.: B–1725).	City of Houston (17–06–1036P).	The Honorable Sylvester Turner, Mayor, City of Houston, P.O. Box 1562, Houston, TX 77251.	Floodplain Management Department, 1002 Washington Avenue, Houston, TX 77002.	Aug. 21. 201	480296
Fort Bend (FEMA Docket No.: B–1725).	City of Sugar Land (17–06–1036P).	The Honorable Joe R. Zimmerman, Mayor, City of Sugar Land, P.O. Box 110, Sugar Land, TX 77479.	Engineering Department, 2700 Town Center Boulevard, Sugar Land, TX 77479.	Aug. 21. 201	480234

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Fort Bend (FEMA Docket No.: B–1725).	Fort Bend County M.U.D. #2 (17–06–1036P).	Mr. Robert Yack, President, Fort Bend County M.U.D. #2, Board of Directors, Allen Boone Humphreys Robinson, LLP, 3200 Southwest Freeway, Suite 2600, Houston, TX 77027.	Pate Engineers, Inc., 13333 Northwest Freeway, Suite 300, Houston, TX 77040.	Aug. 21. 201	481272
Fort Bend (FEMA Docket No.: B–1725).	Unincorporated areas of Fort Bend County (17–06–1036P).	The Honorable Robert Hebert, Fort Bend County Judge, 401 Jackson Street, Richmond, TX 77469.	Fort Bend County Engineering Department, 401 Jackson Street, Richmond, TX 77469.	Aug. 21. 201	480228
Fort Bend (FEMA Docket No.: B–1725).	West Keegans Bayou Improvement District (17–06–1036P).	Ms. Sandra Weider, President, West Keegans Bayou Improvement District, 15014 Traymore Drive, Houston, TX 77083.	AECOM, 5444 Westheimer, Suite 400, Houston, TX 77056.	Aug. 21. 201	481602
Tarrant (FEMA Docket No.: B–1725).	City of Fort Worth (17–06–0630P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, 200 Texas Street, Fort Worth, TX 76102.	Aug. 17. 201	480596
Webb (FEMA Docket No.: B–1725).	Unincorporated areas of Webb County (16–06–2463P).	The Honorable Tano E. Tijerina, Webb County Judge, 1000 Houston Street, 3rd Floor, Laredo, TX 78040.	Webb County Planning and Physical Development Department, 1110 Washington Street, Suite 302, Laredo, TX 78040.	Aug. 24. 201	481059
Williamson (FEMA Docket No.: B–1727).	City of Leander (17–06–1136P).	The Honorable Christopher Fielder, Mayor, City of Leander, P.O. Box 319, Leander, TX 78646.	City Hall, 200 West Wills Street, Leander, TX 78641.	Aug. 18, 201	481536
Utah:					
Davis (FEMA Docket No.: B–1725).	City of Farmington City (16–08–1270P).	The Honorable Jim Talbot, Mayor, City of Farmington City, 130 North Main Street, Farmington, UT 84025.	City Hall, 130 North Main Street, Farmington, UT 84025.	Aug. 18. 201	490044
Davis (FEMA Docket No.: B–1725).	Unincorporated areas of Davis County (16–08–1270P).	The Honorable P. Bret Millburn, Chairman, Davis County, Board of Commissioners, 61 South Main Street, Suite 301, Farmington, UT 84025.	Davis County Administration Building, 61 South Main Street, Suite 304, Farmington, UT 84025.	Aug. 18. 201	490038
Salt Lake (FEMA Docket No.: B–1727).	City of West Jordan (17–08–0033P).	The Honorable Kim Rolfe, Mayor, City of West Jordan, 8000 South Redwood Road, West Jordan, UT 84088.	City Hall, 8000 South Redwood Road, West Jordan, UT 84088.	Aug. 28, 201	490108
Summit (FEMA Docket No.: B–1727).	City of Park City (16–08–1092P).	The Honorable Jack Thomas, Mayor, City of Park City, 445 Marsac Avenue, Park City, UT 84060.	City Hall, 445 Marsac Avenue, Park City, UT 84060.	Aug. 31, 201	490139
Virginia: Prince William (FEMA Docket No.: B–1725).	Unincorporated areas of Prince William County (16–03–1619P).	Mr. Christopher E. Martino, Prince William County Executive, 1 County Complex Court, Prince William, VA 22192.	Prince William County Development Services Department, Environmental Services Division, 5 County Complex Court, Prince William, VA 22192.	Aug. 24. 201	510119

[FR Doc. 2017–23164 Filed 10–24–17; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3395–EM; Docket ID FEMA–2017–0001]

Florida; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Florida (FEMA–3395–EM), dated October 8, 2017, and related determinations.

DATES: The declaration was issued October 8, 2017.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 8, 2017, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of Florida resulting from Hurricane Nate beginning on October 7, 2017, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (''the Stafford Act''). Therefore, I declare that such an emergency exists in the State of Florida.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Willie G. Nunn, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the State of Florida have been designated as adversely affected by this declared emergency:

Escambia and Santa Rosa Counties for emergency protective measures (Category B), including direct federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2017–23167 Filed 10–24–17; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The date of December 21, 2017 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: October 13, 2017.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

I. Watershed-based studies:

Community	Community map repository address
Lower Kentucky Watershed	
Anderson County, Kentucky and Incorporated Areas Docket No.: FEMA–B–1638	
City of Lawrenceburg	City Hall, 100 North Main Street, Lawrenceburg, KY 40342.
Unincorporated Areas of Anderson County	Anderson County Planning and Zoning Office, 139 South Main Street, Lawrenceburg, KY 40342.
Carroll County, Kentucky and Incorporated Areas Docket No.: FEMA–B–1638	
City of Carrollton	Carroll County Emergency Operations Center, 829 Polk Street, Carrollton, KY 41008.
City of Prestonville	Carroll County Emergency Operations Center, 829 Polk Street, Carrollton, KY 41008.
City of Worthville	Carroll County Emergency Operations Center, 829 Polk Street, Carrollton, KY 41008.
Unincorporated Areas of Carroll County	Carroll County Emergency Operations Center, 829 Polk Street, Carrollton, KY 41008.

Community	Community map repository address
Clark County, Kentucky and Incorporated Areas Docket No.: FEMA–B–1638	
Unincorporated Areas of Clark County	Clark County Courthouse, 34 South Main Street, Winchester, KY 40391.
Franklin County, Kentucky and Incorporated Areas Docket No.: FEMA–B–1638	
City of Frankfort	Planning and Building Codes Department, 315 West 2nd Street, Frankfort, KY 40601.
Unincorporated Areas of Franklin County	Franklin County Fiscal Court, 321 West Main Street, Frankfort, KY 40601.
Garrard County, Kentucky and Incorporated Areas Docket No.: FEMA–B–1638	
Unincorporated Areas of Garrard County	Garrard County Courthouse, 15 Public Square, Lancaster, KY 40444.
Henry County, Kentucky and Incorporated Areas Docket No.: FEMA–B–1638	
Unincorporated Areas of Henry County	Henry County Courthouse Annex, 19 South Property Road, New Castle, KY 40050.
Jessamine County, Kentucky and Incorporated Areas Docket No.: FEMA–B–1638	
City of Nicholasville	City Hall, 517 North Main Street, Nicholasville, KY 40356.
City of Wilmore	City Hall, 335 East Main Street, Wilmore, KY 40390.
Unincorporated Areas of Jessamine County	Jessamine County Courthouse, 101 North Main Street, Nicholasville, KY 40356.
Lexington-Fayette Urban County Government, Kentucky (All Jurisdictions) Docket No.: FEMA–B–1638	
Lexington-Fayette Urban County Government	Lexington-Fayette Urban County Government Center, 200 East Main Street, 12th Floor, Lexington, KY 40507.
Madison County, Kentucky and Incorporated Areas Docket No.: FEMA–B–1638	
City of Berea	City Hall, 212 Chestnut Street, Berea, KY 40403.
City of Richmond	City Hall, 239 West Main Street, Richmond, KY 40475.
Unincorporated Areas of Madison County	Madison County Courthouse, 101 West Main Street, Richmond, KY 40475.
Mercer County, Kentucky and Incorporated Areas Docket No.: FEMA–B–1638	
Unincorporated Areas of Mercer County	The Greater Harrodsburg/Mercer County Planning and Zoning Commission, 109 Short Street, Harrodsburg, KY 40330.
Owen County, Kentucky and Incorporated Areas Docket No.: FEMA–B–1638	
City of Gratz	City Hall, 583 Crittenden Street, Gratz, KY 40359.
City of Monterey	City Hall, 35 Worth Street, Monterey, KY 40359.
Unincorporated Areas of Owen County	Owen County Courthouse, 100 North Thomas Street, Owenton, KY 40359.
Scott County, Kentucky and Incorporated Areas Docket No.: FEMA–B–1638	
City of Georgetown	Georgetown-Scott County Planning Commission, 230 East Main Street, Georgetown, KY 40324.
Unincorporated Areas of Scott County	Georgetown-Scott County Planning Commission, 230 East Main Street, Georgetown, KY 40324.
Woodford County, Kentucky and Incorporated Areas Docket No.: FEMA–B–1638	
City of Midway	City Hall, 101 East Main Street, Midway, KY 40347.
City of Versailles	City Hall, 196 South Main Street, Versailles, KY 40383.

Community	Community map repository address
Unincorporated Areas of Woodford County	Woodford County Courthouse, 103 South Main Street, Versailles, KY 40383.
Mississippi Coastal Watershed	
Harrison County, Mississippi and Incorporated Areas Docket No.: FEMA–B–1623	
City of Biloxi	Community Development Building, 676 Dr. Martin Luther King, Jr. Boulevard, Biloxi, MS 39530.
City of Gulfport	William K. Hardy Building, 1410 24th Avenue, Gulfport, MS 39501.
Unincorporated Areas of Harrison County	Harrison County Code Administration, 15309 Community Road, Gulfport, MS 39503.
Jackson County, Mississippi and Incorporated Areas Docket No.: FEMA–B–1623	
City of Gautier	City Hall, 3330 Highway 90, Gautier, MS 39553.
Unincorporated Areas of Jackson County	Jackson County Planning Department, 2915 Canty Street, Suite Q, Pascagoula, MS 39567.
Seneca Watershed	
Anderson County, South Carolina and Incorporated Areas Docket No.: FEMA–B–1631	
City of Anderson	Public Works Building, 1100 Southwood Street, Anderson, SC 29624.
Town of Pendleton	Town Municipal Complex, 310 Greenville Street, Pendleton, SC 29670.
Unincorporated Areas of Anderson County	Anderson County Department of Development Standards, 401 East River Street, Anderson, SC 29624.
Oconee County, South Carolina and Incorporated Areas Docket No.: FEMA–B–1631	
City of Seneca	City Hall, 221 East North 1st Street, Lower Floor, Seneca, SC 29678.
Unincorporated Areas of Oconee County	Oconee County Council Chambers, Administration Office Building, 415 South Pine Street, Walhalla, SC 29691.
Pickens County, South Carolina and Incorporated Areas Docket No.: FEMA–B–1631	
City of Clemson	City Hall, 1250 Tiger Boulevard, Clemson, SC 29631.
Unincorporated Areas of Pickens County	Pickens County Building Codes Administration, 222 McDaniel Avenue, B–10, Pickens, SC 29671.
San Bernard Watershed	
Fort Bend County, Texas and Incorporated Areas Docket No.: FEMA–B–1601	
City of Kendleton	City Hall, 430 Farm Market 2919, Kendleton, TX 77451.
Unincorporated Areas of Fort Bend County	Fort Bend County Drainage District, 1124 Blume Road, Rosenberg, TX 77471.
Wharton County, Texas and Incorporated Areas Docket No.: FEMA–B–1601	
City of East Bernard	City Hall, 704 Church Street, East Bernard, TX 77435.
City of Wharton	City Hall, 120 East Caney Street, Wharton, TX 77488.
Unincorporated Areas of Wharton County	Wharton County Courthouse Annex, 315 East Milam Street, Suite 102, Wharton, TX 77488.

II. Non-watershed-based studies:

Community	Community map repository address
Camden County, Georgia and Incorporated Areas Docket No.: FEMA–B–1642	
City of Kingsland	City Hall, 107 South Lee Street, Kingsland, GA 31548.
City of St. Marys	Community Development Department, 418 Osborne Street, St. Marys, GA 31558.
City of Woodbine	City Hall, 310 Bedell Avenue, Woodbine, GA 31569.

Community	Community map repository address
Unincorporated Areas of Camden County	Camden County Planning and Development Department, 107 Gross Road, Suite 3, Kingsland, GA 31548.
Effingham County, Georgia and Incorporated Areas Docket No.: FEMA–B–1642	
City of Rincon	City Hall, Building and Zoning Department, 302 South Columbia Avenue, Rincon, GA 31326.
Unincorporated Areas of Effingham County	Effingham County Courthouse, GIS Department, 901 North Pine Street, Suite 206, Springfield, GA 31329.
St. Bernard Parish, Louisiana (All Jurisdictions) Docket Nos.: FEMA–B–1301 and FEMA–B–1615	
Unincorporated Areas of St. Bernard Parish	St. Bernard Parish Community Development Office, 8201 West Judge Perez Drive, Chalmette, LA 70043.
Colleton County, South Carolina and Incorporated Areas Docket No.: FEMA–B–1617	
City of Walterboro	City Hall, 242 Hampton Street, Walterboro, SC 29488.
Town of Cottageville	Municipal Complex, 72 Salley Ackerman Drive, Cottageville, SC 29435.
Town of Edisto Beach	Town Hall, 2414 Murray Street, Edisto Beach, SC 29438.
Town of Smoaks	Town Hall, 176 New Street, Smoaks, SC 29481.
Town of Williams	Office of the Clerk, 143 Supply Road, Williams, SC 29493.
Unincorporated Areas of Colleton County	Colleton County Building Code Administration, 31 Klein Street, 3rd Floor Harrelson Building, Walterboro, SC 29488.
Richland County, South Carolina and Incorporated Areas Docket No.: FEMA–B–1523	
City of Cayce	City Hall, 1800 12th Street, Cayce, SC 29033.
City of Columbia	Department of Utilities and Engineering, 1136 Washington Street, Columbia, SC 29201.
City of Forest Acres	City Hall, 5209 North Trenholm Road, Forest Acres, SC 29206.
Town of Arcadia Lakes	Arcadia Lakes Town Hall, 6911 North Trenholm Road, Suite 2, Columbia, SC 29206.
Town of Blythewood	Town Hall, 171 Langford Road, Blythewood, SC 29016.
Town of Eastover	Town Hall, 624 Main Street, Eastover, SC 29044.
Town of Irmo	Town Hall, 7300 Woodrow Street, Irmo, SC 29063.
Unincorporated Areas of Richland County	Richland County Department of Public Works, 400 Powell Road, Columbia, SC 29203.
Bowie County, Texas and Incorporated Areas Docket No.: FEMA–B–1623	
City of Nash	City Hall, 119 Elm Street, Nash, TX 75569.
City of Texarkana	Public Works Department, 919 Elm Street, Texarkana, TX 75501.
City of Wake Village	City Hall, 624 Burma Road, Wake Village, TX 75501.
Unincorporated Areas of Bowie County	Bowie County Courthouse, 710 James Bowie Drive, New Boston, TX 75570.

[FR Doc. 2017–23163 Filed 10–24–17; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The date of January 19, 2018 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online

through the FEMA Map Service Center at *www.msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: October 13, 2017.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

I. Watershed-based studies:

Community	Community map repository address
Lower Suwannee Watershed	
Gilchrist County, Florida and Incorporated Areas Docket No.: FEMA–B–1523	
City of Trenton	City Hall, 114 North Main Street, Trenton, FL 32693.
City of Fanning Springs	City Hall, 17651 Northwest 90th Court, Fanning Springs, FL 32693.
Unincorporated Areas of Gilchrist County	Gilchrist County Building and Zoning Department, 209 Southeast 1st Street, Trenton, FL 32690.
Lower Trinity Watershed	
Chambers County, Texas and Incorporated Areas Docket No.: FEMA–B–1617	
City of Mont Belvieu	City Hall, 11607 Eagle Drive, Mont Belvieu, TX 77523.
City of Old River-Winfree	City Hall, 4818 North Farm to Market 565 Road, Old River-Winfree, TX 77523.
Unincorporated Areas of Chambers County	Chambers County Road and Bridge Department, 201 Airport Road, Anahuac, TX 77514.
Liberty County, Texas and Incorporated Areas	
Docket No.: FEMA–B–1617	
City of Daisetta	Municipal Building, 410 B Main Street, Daisetta, TX 77533.
City of Dayton	City Hall, 117 Cook Street, Dayton, TX 77535.
City of Dayton Lakes	Liberty County Engineering Department, 2103 Cos Street, Liberty, TX 77575.
City of Devers	Liberty County Engineering Department, 2103 Cos Street, Liberty, TX 77575.
City of Hardin	Hardin City Hall, 142 County Road 2010, Liberty, TX 77575.
City of Liberty	City Hall, Inspection Department, 1829 Sam Houston Street, Liberty, TX 77575.
City of Mont Belvieu	City Hall, 11607 Eagle Drive, Mont Belvieu, TX 77523.
Town of Kenefick	Kenefick Town Hall, 3564 Farm to Market Road 1008, Dayton, TX 77535.
Unincorporated Areas of Liberty County	County Engineering Department, 2103 Cos Street, Liberty, TX 77575.
San Jacinto County, Texas and Incorporated Areas Docket No.: FEMA–B–1617	
Unincorporated Areas of San Jacinto County	San Jacinto County Courthouse, Permit Department, 1 State Highway 150, Room 3, Coldspring, TX 77331.

[FR Doc. 2017–23148 Filed 10–24–17; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2017–0029]

Privacy Act of 1974; System of Records

AGENCY: Department of Homeland Security, Privacy Office.

ACTION: Notice of New Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) proposes to establish a new DHS system of records titled ''DHS/FEMA–014 Hazard Mitigation Planning and Flood Mapping Products and Services Records System of Records.'' This system of records notice replaces the current DHS system of records titled, ''Letter of Map Amendment (LOMA), DHS/FEMA/NFIP/LOMA–1'' system of records, 71 FR 7990 (Feb. 15, 2006). This new system of records notice describes FEMA's collection and maintenance of records on individuals who are involved in the creation and updating of flood maps, individuals requesting information on or purchasing flood map products or services, and individuals involved with hazard mitigation planning. This newly established system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before November 24, 2017. This new system will be effective upon publication. New or modified routine uses are effective November 24, 2017.

ADDRESSES: You may submit comments, identified by docket number DHS–2017–0029 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Philip S. Kaplan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: William Holzerland, (202) 212–7719, Senior Director for Information Management, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472. For privacy questions, please contact: Philip S. Kaplan, (202) 343–1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) proposes to establish a new DHS system of records titled ''DHS/FEMA–014 Hazard Mitigation Planning and Flood Mapping Products and Services Records System of Records.'' This replaces an existing DHS/FEMA system of records, titled ''Letter of Map Amendment (LOMA), DHS/FEMA/NFIP/LOMA–1'' system of records, 71 FR 7990 (Feb. 15, 2006). FEMA administers the National Flood Insurance Program (NFIP) and Hazard Mitigation Planning Programs. The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended by the Disaster Mitigation Act of 2000, provides the legal basis for FEMA and other government agencies to undertake a risk-based approach to reducing losses from natural hazards through mitigation planning. The Federal Insurance and Mitigation Administration's (FIMA) Mitigation Planning Program oversees and provides guidance to state, tribal, and local governments that are required to develop a FEMA-approved, risk-based hazard mitigation plan. This plan is a precondition for receiving non-emergency disaster assistance from the Federal Government, including funding for flood hazard mitigation projects. FEMA tracks the implementation of state, tribal, and local government hazard mitigation plans to help communities across the Nation identify new mitigation strategies, improve planned mitigation actions, and advance planned actions.

The National Flood Insurance Act of 1968, as amended (NFIA) (42 U.S.C. 4001 *et seq.*) establishes that FEMA will provide flood insurance in communities that adopt and enforce floodplain management ordinances that meet the minimum NFIP requirements. The law requires FEMA to provide and maintain flood maps to support floodplain management and insurance activities. FEMA's regulations implementing the NFIA, including the flood mapping program, may be found in 44 CFR parts 59–72.

The NFIA requires insurance companies that write flood insurance policies on behalf of the NFIP to use FEMA flood maps to determine insurance rates. These flood maps consist of zones or areas. Flood hazard areas identified on FEMA flood maps are identified as a Special Flood Hazard Area (SFHA). SFHA are defined as the area that will be inundated by a flood event having a 1-percent chance of being equaled or exceeded in any given year. The 1-percent-annual-chance flood is also referred to as the base flood or 100-year flood. SFHAs are labeled as Zone A, Zone AO, Zone AH, Zones A1–A30, Zone AE, Zone A99, Zone AR, Zone AR/AE, Zone AR/AO, Zone AR/A1–A30, Zone AR/A, Zone V, Zone VE, and Zones V1–V30. Moderate flood hazard areas, labeled Zone B or Zone X (shaded) are also shown on the maps, and are the areas between the limits of the base flood and the 0.2-percent-annual-chance (or 500-year) flood. The areas of minimal flood hazard, which are the areas outside the SFHA and higher than the elevation of the 0.2-percent-annual-chance flood, are labeled Zone C or Zone X (unshaded). Members of the public view and review these FEMA maps and related products online free of charge to understand a property's flood risk. In addition, community officials must use these maps to manage development in flood-prone areas. FEMA performs the following tasks in support of flood map productions: (1) Tracks requests for FIRM updates from community officials; (2) schedules and tracks progress and quality of floodplain studies; (3) conducts community outreach and coordinates with communities and the public on the floodplain study process; (4) collects information from communities and other organizations such as levee owners; (5) provides public review of the proposed flood hazard data resulting from the studies; (6) adjudicates administrative appeals to the studies; and (7) coordinates and tracks the request and processing of flood map revisions and updates.

The administrative appeals process referenced above satisfies due process obligations owed to affected communities and property holders. This requirement includes making available to the public the relevant data documenting the scientific and technical basis of the maps and documenting the community and public coordination processes associated with the development and publication of the maps. The NFIA also requires communities to adopt these maps as the basis for their land use regulations.

FEMA flood maps are subject to revision through the Letters of Map Change (LOMC) administrative process. Letters of Map Changes are documents issued by FEMA to revise or amend the flood hazard information shown on the Flood Insurance Rate Map (FIRM). Letters of Map Changes include two types of map changes: Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR). A LOMA is a flood map change based only on the

placement of the floodplain boundary relative to existing ground elevations, usually for small areas. A LOMR is a change that often covers a larger area, based on better scientific or technical data or changes to the floodplain and may require a flood map revision.

Adequate Progress (Zone A99) determinations, regulated through 44 CFR part 61.12, provide for lower flood insurance premium rates in areas where FEMA determines that a community has made adequate progress on its construction or reconstruction of a project designed for flood risk reduction. These areas, landward of the flood protection system, are designated as Zone A99 on the FIRM and flood insurance premium rates and floodplain management requirements are generally less than those required in other SFHAs (*e.g.,* Zone AE, Zone AO, and Zone AH). Flood Protection Restoration (Zone AR) determinations, regulated through 44 CFR part 65.14, may provide reduced flood insurance premium rates and floodplain management regulations in areas where FEMA has issued a determination that a project is sufficiently underway to restore a flood protection system to meet 44 CFR part 65.10 accreditation requirements. Areas landward of the flood protection system that is being rehabilitated are designated as Zone AR on the FIRM, and may have base flood elevations (BFE) representing the current risk as if the flood protection system was not in place.

FEMA accepts, reviews, and tracks applications from levee owners and communities seeking Zone AR designations, Zone A99 designations, and recognition of accredited levee systems on FIRMs. To support a mapping project, levee owners and communities have the responsibility to provide documentation that either a levee system meets the requirements of 44 CFR part 65.10 to have the levee system shown as accredited (*i.e.,* provide protection from the 1-percent-annual-chance flood) or the levee system meets the mapping procedure(s) for non-accredited levee systems.

FEMA collects information about individuals using various forms (paper and electronic), information technology (IT), and call centers to assist states with mitigation planning, as well as to ensure FIRMs are accurate and up to date. Specifically, FEMA collects and uses personally identifiable information (PII) within this system of records to: (1) Help the public locate maps for a geographic area of interest; (2) provide responses to the flood mapping products and services customers; (3) track mitigation plan applications and that plan's status with respect to the plan review cycle; (4) process online payments for LOMCs; (5) deliver products to community officials as new final mapping products become available; (6) create IT access accounts and profiles; (7) identify the property relevant to a LOMC request; (8) determine whether a structure is in the floodplain; (9) facilitate customer service surveys/focus groups; and (10) facilitate contact or correspondence between FEMA and other mitigation planning and flood mapping products and services stakeholders.

Consistent with DHS's information sharing mission, information stored in the DHS/FEMA–014 Hazard Mitigation Planning and Flood Mapping Products and Services System of Records may be shared with other DHS Components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, DHS/FEMA may share information with appropriate Federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this system of records notice.

This newly established system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Additionally, and similarly, the Judicial Redress Act (JRA) provides a covered person with a statutory right to make requests for access and amendment to covered records, as defined by the JRA, along with judicial review for denials of such requests. In addition, the JRA prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act.

Below is the description of the DHS/FEMA–014 Hazard Mitigation Planning and Flood Mapping Products and Services Records System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME AND NUMBER:

DHS/FEMA–014 Hazard Mitigation Planning and Flood Mapping Products and Services Records System of Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at the FEMA Headquarters in Washington, DC and field offices. Additionally, records may be located in the Mapping Information Platform (MIP) system, Map Service Center, LOMA-Logic, and collaboration sites.

Third Party addresses:

Primary Production Server/Data Storage Locations:

DHS Data Center 2 (Operated by HP): Clarksville, VA

Alleghany Ballistics Laboratory Data Center (Operated by IBM): Rocket Center, WV

CDS Operations Sites:

Primary Local Operations Site (Operated by IBM) Fairfax, VA

Secondary Local Operations Site (Operated by Michael Baker International) Alexandria, VA

Backup Data Storage Sites (in addition to sites already listed above):

DHS Data Center 1: Stennis, MS

Alleghany Ballistics Laboratory (Operated by IBM): Rocket Center, WV

Iron Mountain Secure Offsite Storage: Various—Specific U.S. location(s) in use not disclosed

SYSTEM MANAGER(S):

Program Management, Risk Management Program, Federal Insurance and Mitigation Administration, 400 C Street SW., Washington, DC 20472.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Flood Insurance Act of 1968, as amended (42 U.S.C. sec, 4001 *et seq.*), 44 CFR parts 59–72, the Disaster Mitigation Act of 2000 (DMA 2000), and Fiscal Year 2009 Department of Homeland Security Appropriations Act (Pub. L. 110–329).

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to help the public locate flood insurance risk maps for a geographic area of interest; provide responses to the customers contacting FEMA's call centers or helpdesk via telephone or online chat; track mitigation plan applications and the plan's status with respect to the plan review cycle; process online payments for LOMCs; deliver products to

community officials as new final mapping products become available; create IT access accounts and profiles; identify the property relevant to a LOMC request; determine whether a structure is in a floodplain; and facilitate contact or correspondence between FEMA and other stakeholders providing mitigation planning and flood mapping products and services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the general public, including: Property owners, developers, investors, and their representatives; realtors; certifiers, including but not limited to Registered Professional Engineers and Licensed Land Surveyors; state or local government officials with authority over a community's floodplain management activities, which includes Mapping Review Partners (MRP); potential or confirmed respondents to customer service surveys/focus groups; and FEMA staff and stakeholders registered to use FEMA's information technology systems and collaboration sites.

CATEGORIES OF RECORDS IN THE SYSTEM:

- Full name;
- Position or title;
- Addresses (mailing and property);
- Email addresses;
- Company or community name;
- Organization or agency name;
- Six-digit NFIP community number;
- Telephone number;
- Fax number;
- Professional license number;
- Professional license expiration date;
- Signature;
- Signature date;
- Fill placement and date;
- Type of construction;
- Elevation data;
- Base Flood Elevation (BFE) data;
- Legal property description;
- FEMA region number (1–10);
- Transcripts of conversations with FEMA call centers or helpdesk including name, address, phone number, email address, caller type (*e.g.,* property owner, realtor); chat subject; and chat subject category;
- Bank name and account information including electronic funds transfer, and credit/debit card account information;
- Payment confirmation number;
- User account creation and access information:
  - Username;
  - Activation code;
  - Password;
  - Roles and responsibilities;
  - Challenge questions and answers; and
  - System permissions or permission levels.
- Voluntary responses to customer satisfaction and experience surveys and focus groups, including demographic information about the individual.

RECORD SOURCE CATEGORIES:

Records are obtained from individuals (*e.g.,* homeowners, investors, and property developers); LOMC Certifiers (*e.g.,* Registered Professional Engineers and Licensed Land Surveyors); state or local government officials with authority over a community's floodplain management activities, which includes MRPs; FEMA staff and stakeholders registered to use SharePoint information and collaboration portals; the FEMA Community Information System (CIS) system; and the cloud-based LOMA–LOGIC tool.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including the U.S. Attorneys Offices, or other Federal agency conducting litigation or proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee or former employee of DHS in his/her official capacity;
3. Any employee or former employee of DHS in his/her individual capacity, only when DOJ or DHS has agreed to represent the employee; or
4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS determines that information from this system of records is reasonably necessary and otherwise compatible with the purpose of collection to assist another federal recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach; or
2. DHS suspects or has confirmed that there has been a breach of this system of records; and (a) DHS has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, DHS (including its information systems, programs, and operations), the Federal Government, or national security; and (b) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist with DHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate Federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To state and local governments pursuant to signed agreements allowing such governments to assist FEMA in making LOMC determinations.

I. To the United States Department of the Treasury for the processing of payments for product and services.

J. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel,

when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of DHS, or when disclosure is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

DHS/FEMA stores records in this system electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, and digital media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

DHS/FEMA retrieves records by name, address information, legal description of property, order number, and account number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

In accordance with NARA authority N1–311–86–1, item 2.A.2.c. and FEMA Records Disposition Schedule FIA–2–1, 2 and 3, FEMA stores LOMC data in an active mode for 2 years after which the information is retired to the Federal Records Center (FRC). FEMA destroys the information 20 years after its final determination or map revision date. Pursuant to NARA authority N1–311–86–1, items 2.A.3., FEMA destroys digital preliminary flood maps five years after FEMA issues a flood elevation determination or insurance rate map and flood elevation determination (or insurance rate) map are cut off when superseded, transfer directly to the National Archives 5 years after cutoff for permanent storage pursuant to NARA authority N1–311–86–1, Item 2A4, FEMA Document Disposition Schedule at FIA–3.

Additionally, FEMA retains both paper and digital copies of effective FIRMs permanently, stores FEMA Information Exchange (FMIX) chat session records indefinitely, and deletes the last 4 digits of the credit card or bank account number and Treasury's payment confirmation information after 2 years. See FEMA Records Disposition Schedule at FIA–4.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

DHS/FEMA safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. FEMA has imposed strict controls to minimize the risk of compromising the stored information. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information in furtherance of the performance of their official duties, and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

Individuals seeking access to and notification of any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Chief Privacy Officer and Headquarters or FEMA's FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''Contacts Information.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, Washington, DC 20528–0655. Even if neither the Privacy Act nor the Judicial Redress Act provide a right of access, certain records about you may be available under the Freedom of Information Act.

When an individual is seeking records about himself or herself from this system of records or any other Departmental system of records, the individual's request must conform to the Privacy Act regulations set forth in 6 CFR part 5. The individual must first verify his or her identity, meaning that the individual must provide his or her full name, current address, and date and place of birth. The individual must sign the request, and the individual's signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, an individual may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition, the individual should:

- Explain why the individual believes the Department would have information on him or her;
- Identify which component(s) of the Department the individual believes may have the information about him or her;
- Specify when the individual believes the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records;

If an individual's request is seeking records pertaining to another living individual, the first individual must include a statement from the second individual certifying his/her agreement for the first individual to access his or her records.

Without the above information, the component(s) may not be able to conduct an effective search, and the individual's request may be denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES:

For records covered by the Privacy Act or covered JRA records, see ''Record Access Procedures'' above.

NOTIFICATION PROCEDURES:

See ''Record Access Procedures.''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

''Letter of Map Amendment (LOMA), DHS/FEMA/NFIP/LOMA–1'' system of records, 71 FR 7990 (Feb. 15, 2006).

Philip S. Kaplan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2017–23205 Filed 10–24–17; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2017–0046]

Privacy Act of 1974; System of Records

AGENCY: Department of Homeland Security, Privacy Office.

ACTION: Notice of New Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to establish a new Department of Homeland Security system of records titled, ''DHS/ALL–040 DHS Personnel Recovery Information System of Records.'' This newly established system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before November 24, 2017. This new system will be effective upon publication. Routine uses will be effective November 24, 2017.

ADDRESSES: You may submit comments, identified by docket number DHS–

2017–0046 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Philip S. Kaplan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Philip S. Kaplan, (202) 343–1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) proposes to establish a new DHS system of records titled, ''DHS/ALL–040 Personnel Recovery Information System of Records.''

The DHS Personnel Recovery Programs are responsible for: Ensuring that DHS personnel and contractors assigned overseas or on official travel outside the continental United States (OCONUS) have proper training and equipment to fulfill their respective mission; maintaining a twenty-four (24) hour monitoring center for all overseas personnel who are traveling outside their country of assignment; executing a coordinated response to personnel recovery incidents; maintaining a notification system within DHS to provide emergency-related notifications as needed without jeopardizing the safety of DHS personnel (including federal employees and contractors); and providing and developing tracking and locating technology.

DHS will use the information collected in this system of records in furtherance of its responsibilities to prevent, prepare for, and respond to circumstances in which DHS and contractor personnel have been abducted, detained, held hostage, declared missing, or impacted by a terrorist attack, natural disaster, government takeover, transportation accident, or are otherwise isolated from friendly support, pursuant to Presidential Policy Directive (PPD)–30,[1] Hostage Recovery Activities, issued in 2015.

Presidential Policy Directive-30 directs each department and agency with overseas responsibilities to, among other things, provide personnel recovery preparation, education, and training programs to enable personnel recovery from a threat environment.

This system of records is being established to document the types of personal information collected on individuals, and to ensure that such information is appropriately shared to enable the recovery of DHS personnel (including federal employees and contractors) assigned overseas or on official travel abroad in the event they are isolated from friendly support. The Personnel Recovery Information System will be used to facilitate collaboration with the Department of State (DOS) and other federal agencies. The information will be maintained in DHS systems that serve as data repositories of personnel data.

Information covered by the Personnel Recovery Information System of Records is only used for personnel recovery purposes, and is only shared outside DHS to further its personnel recovery objectives with permission from DHS personnel.

Consistent with DHS's information sharing mission, information stored in the DHS/ALL–040 Personnel Recovery Information System may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, DHS may share information with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this system of records notice.

This newly established system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles (FIPP) in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Additionally, and similarly, the Judicial Redress Act (JRA) provides a statutory right to covered persons to make requests for access and amendment to covered records, as defined by the JRA, along with judicial review for denials of such requests. In addition, the JRA prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act.

Below is the description of the DHS/ALL–040 Personnel Recovery Information System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME AND NUMBER:

Department of Homeland Security (DHS)/ALL–040 Personnel Recovery Information.

SECURITY CLASSIFICATION:

Unclassified, Sensitive, For Official Use Only, Law enforcement-Sensitive.

SYSTEM LOCATION:

Records are maintained at the DHS Headquarters in Washington, DC, component headquarters and field offices, and as component-specific systems. Electronic/Information Technology (IT) records are maintained within DHS systems that serve as data repositories of personnel data.

SYSTEM MANAGER(S):

For DHS Headquarters components, the System Manager is the Deputy Chief Freedom of Information Act (FOIA) Officer, Department of Homeland Security, Washington, DC 20528. For components of DHS, the System Manager can be found at *http://www.dhs.gov/foia* under ''Contacts.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintaining this system is in 6 U.S.C. 236; 8 U.S.C. 1103; 22 U.S.C. secs. 4801, 4802, and 4805; and Presidential Policy Directive (PPD)-30, Hostage Recovery Activities.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to permit DHS's collection, use, maintenance, dissemination, and storage of information to: Facilitate identification of DHS personnel (including employees and contractors) assigned overseas or on official travel abroad for whom DHS has the responsibility to recover or account; maintain situational awareness of the location of DHS personnel; and coordinate support services for personnel who have been abducted,

[1] Presidential Policy Directive-30 directs a renewed, more agile United States Government response to hostage-takings of U.S. nationals and other specified individuals abroad. Presidential Policy Directive-30 supersedes and revokes NSPD–12, United States Citizens Taken Hostage Abroad, dated February 18, 2002, along with Annex 1 and Appendix A to NSPD–12, dated December 4, 2008, and is available at *https://www.whitehouse.gov/the-press-office/2015/06/24/presidential-policy-directive-hostage-recovery-activities.*

detained, held hostage, declared missing, impacted by a terrorist attack, natural disaster, government takeover, aircraft/motor vehicle accident, or are otherwise isolated from friendly support.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DHS personnel (including federal employees and contractors) and non-DHS Federal employees who are members of DHS-led task forces assigned overseas or on official travel outside the United States. Information will also be collected from family members, domestic partners, and emergency contacts of personnel assigned overseas or on official travel outside the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Mandatory fields include the following:

- Full Name;
- Alias(es);
- Business title/position title;
- Gender;
- Biometric (*i.e.,* fingerprint data and facial photographic data) and other information (*i.e.,* race, ethnicity, weight, height, eye color, hair color) collected to conduct background checks;
- Foreign Travel Itinerary;
- Foreign Language and Fluency Level;
- Personnel Recovery Training and Year Received;
- Other Pertinent Training;
- Prior Military/Branch;
- Assignment Reason Narrative;
- Assignment Location;
- Work Email Address;
- Security clearance information;
- Business Cellular International Mobile Station Equipment Identity (IMEI);
- Business Phone Number;
- Passport numbers and other travel documents (official or diplomatic, and personal), including expiration date;
- Citizenship;
- Emergency contact information (at post and at home);
- Identity verification or security questions and responses;
- Supervisor contact information; and
- Emergency contact information.

Optional fields include the following:

- Blood Type;
- Scars;
- Tattoos;
- Disfigurement;
- Medical Conditions;
- Allergies;
- Medication;
- Personal Cellular Phone Number;
- Personal Cellular IMEI;
- Other Electronic Device Type;
- Other Electronic Device IMEI;
- Personal Email Address #1;
- Personal Email Address #2;
- Regional Security Officer (RSO) Name;
- RSO Direct Phone;
- RSO Cell Phone;
- Marine Post One Phone;
- Regional Embassy/Consulate;
- Tracking Device IMEI;
- Personnel Recovery Equipment;
- Cellular—World;
- Cellular—World IMEI;
- Cellular—Local;
- Cellular—Local IMEI;
- Religious preference;
- Sizing information (*e.g.,* shirt size, pant size, hat size, shoe size);
- Vehicle information;
- Real-time location information;
- Kit issuance; and
- Information about family members and domestic partners of personnel assigned OCONUS (name, passport numbers and issuing country, contact information, date of birth, work location, school name and location, medical conditions, and photographs).

RECORD SOURCE CATEGORIES:

Records are obtained from DHS personnel (including federal employees and contractors).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee or former employee of DHS in his/her official capacity;

3. Any employee or former employee of DHS in his/her individual capacity when DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS determines that information from this system of records is reasonably necessary and otherwise compatible with the purpose of collection to assist another federal recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach; or

2. DHS suspects or has confirmed that there has been a breach of this system of records; and (a) DHS has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, harm to DHS (including its information systems, programs, and operations), the Federal Government, or national security; and (b) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To the Department of State (DOS) when necessary to coordinate U.S. Embassy or Consulate support services for the employee.

H. To federal, state, and local governmental agencies or executive offices, and foreign governments, when disclosure is appropriate for proper planning or coordination of personnel recovery efforts or assistance, as described in PPD–30.

I. To family members when the subject of the record is unable or unavailable to sign a waiver and is

involved in an emergency situation, and the release is for the benefit of the subject.

J. To members of Congress when the information is requested on behalf of a family member of the individual to whom access is authorized under routine use I.

K. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of DHS, or when disclosure is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

DHS stores records in this system electronically or on paper in secure facilities at the DHS Headquarters in Washington, DC, as well as component headquarters and field offices, in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, and digital media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by an individual's name, biometric information, employee ID number, and telephone number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

For information used to account for personnel and maintain communication during emergencies, office dismissal, and closure situations, the Personnel Recovery Information system of records will retain records until superseded or obsolete, or upon separation or transfer of the employee, in accordance with NARA General Records Schedule 5.3, Item 20.

For all other information in this system of records, the information will be maintained in accordance with NARA General Records Schedule 5.2, Item 10. This information is also retained until superseded or obsolete, or upon separation or transfer of the employee.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

DHS safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. DHS has imposed strict controls to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

Individuals seeking access to and notification of any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Chief Privacy Officer and Headquarters or component's Freedom of Information Act (FOIA) Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''Contacts Information.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, Washington, DC 20528–0655. Even if neither the Privacy Act nor the Judicial Redress Act provide a right of access, certain records about you may be available under the Freedom of Information Act.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition, you should:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records;

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without the above information, the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES:

For records covered by the Privacy Act or covered JRA records, see ''Record Access Procedures'' above.

NOTIFICATION PROCEDURES:

See ''Record Access Procedures.''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

DHS/ALL–040 is a new system of records and DHS has not published any prior notices that apply to the records.

Philip S. Kaplan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2017–23203 Filed 10–24–17; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2017–0030]

Privacy Act of 1974; System of Records

AGENCY: Department of Homeland Security, Privacy Office.

ACTION: Rescindment of a System of Records Notice.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security is giving notice that it proposes to rescind the Department of Homeland Security/Federal Emergency Management Agency's Privacy Act system of records notice, ''Letter of Map Amendment System (LOMA), DHS/FEMA/NFIP/LOMA–1'', 71 FR 7990 (Feb. 15, 2006), which covered applicants who were seeking a Letter of Map Amendment as part of FEMA's National Flood Insurance Program (NFIP) Letter of Map Amendment (LOMA) system.

DATES: These changes will take effect upon publication.

ADDRESSES: You may submit comments, identified by docket number DHS–2017–0030 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

- *Fax:* 202–343–4010.
- *Mail:* Philip S. Kaplan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: William Holzerland, (202) 212–7719, Senior Director for Information Management, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472. For privacy questions, please contact: Philip S. Kaplan, (202) 343–1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, and as part of its ongoing integration and management efforts, the Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) is rescinding the system of records notice, ''Letter of Map Amendment System (LOMA), DHS/FEMA/NFIP/LOMA–1'', which covered applicants who were seeking a letter of map amendment as part of FEMA's National Flood Insurance Program (NFIP) Letter of Map Amendment (LOMA) system.

FEMA will continue to collect and maintain records regarding FEMA's Letters of Map Amendments and will rely upon the newly-created FEMA system of records notice titled ''DHS/FEMA–014 Hazard Mitigation Planning and Flood Mapping Products and Services System of Records'' that is also published in this issue of the **Federal Register**.

Eliminating this system of records notice will have no adverse impacts on individuals, but will promote the overall streamlining and management of DHS Privacy Act record systems.

System Name and Number:

''Letter of Map Amendment System (LOMA), DHS/FEMA/NFIP/LOMA–1.''

HISTORY:

71 FR 7990 (Feb. 15, 2006).

Philip S. Kaplan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2017–23204 Filed 10–24–17; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–66]

30 Day Notice of Proposed Information Collection for Public Comment on the: Resident Opportunity and Self-Sufficiency Service Coordinator (ROSS–SC) Program Evaluation

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* November 24, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna Guido at *Anna.Guido@hud.gov* or telephone 202–402–5535. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a Period of 60 days was published on January 9, 2017 at 82 FR 2390.

A. Overview of Information Collection

Title of Information Collection: Resident Opportunity and Self-Sufficiency Service Coordinator (ROSS–SC) Program Evaluation.

OMB Approval Number: 2528–New.

Type of Request: New.

Form Number: No forms.

Description of the need for the information and proposed use: HUD is conducting this study under contract with the Urban Institute and its subcontractors (EJP Consulting). The project is an evaluation of the Resident Opportunity and Self-Sufficiency Service Coordinator (ROSS–SC) program operated by grantees across the country. It will include a national web-based survey and in-person site visits to select grantees. Since 2008, the ROSS–SC program has provided information and referral for families, elderly, and disabled residents in public housing by funding local Service Coordinators to link residents to resources that they need to become independent and self-sufficient. The purpose of the program is to leverage existing local public and private services to increase income, reduce or eliminate welfare assistance, work towards economic independence and housing self-sufficiency, and improve living conditions and ability to age in-place for elderly and disabled residents. To date, there has been no HUD-funded evaluation of this program. A GAO study across several HUD self-sufficiency programs published in 2013 found that the ROSS–SC program lacked enough quality data on participation and outcomes ''to determine whether it was meeting goals of the effective and efficient use of resources'' in improving resident self-sufficiency and independence. They recommended improving the data reporting process and developing a strategy for regularly analyzing ROSS–SC participation and outcome data. This project helps implement GAO's recommendations by: (1) Assessing improvements in program processes and reporting since changes were made to the program's logic model in FY 2014; (2) examining the breadth and depth of ROSS–SC program implementation by current service coordinators across all grantee types; and (3) analyzing current reporting requirements and performance metrics to improve future program outcome evaluation. To do so, this study will use a full population survey of current service coordinators funded through ROSS–SC grants made in FY 2013, FY 2014, and FY 2015, and site visits to select grantees.

A web-based survey will allow the study team to investigate important Service Coordinator (SC) program characteristics not included in grant applications or current reporting tools, in order to provide generalizable evidence on the ''effective and efficient use of resources'' across all ROSS–SC service coordinators. These include SC qualifications and experience, program

management structure, resident intake and assessment processes, services offered, partnerships utilized and leveraged, and case management data systems and outcome evaluation tools used to track participant activities and outcomes. Since there is no centralized database of service coordinator contact information, this must first be obtained through a brief online survey sent to each grantee contact person.

Site visits to seven high-performing grantees will include onsite observations and interviews with grantees, service coordinators, and program partners, as well as focus groups with program participants to gather context-specific data on both program processes and outcomes to aid in identifying best practices and common challenges across grantees.

Respondents: For the survey, 330 grantee contact persons and 840 service coordinators (assumes 70% response rate from total estimated population of 1200) at 7 grantee site visit locations, 56 staff and partners, and 107 public housing residents.

Estimated total number of hours needed to prepare the information collection including number of respondents, frequency of response, hours of response, and cost of response time: Based on the below assumptions and tables, we calculate the total burden hours for this study to be 1,244.50 hours and the total cost to be $32,856.28.

Whereas many ROSS–SC grantee contact persons in HUD's database are a PHA Executive Director, PHA Division Director, or the Chief Executive Officer of the grantee, we estimated their cost per response by using the most recent (May 2016) Bureau of Labor Statistics, Occupational Employment Statistics median hourly wage for the labor category, Chief Executives (11–1011): $87.12.

Whereas ROSS–SC service coordinators and other grantee staff and service partners have a range of experience and skills, we averaged the median hourly wage for two labor categories: The Social and Community Service Manager (11–9151) median hourly wage of $31.10, and the Community and Social Service Specialists, All Other (21–1099) category with a rate of $20.73.

This produces an average of both median hourly wage rates equal to $25.92.

Respondent	Occupation	SOC code	Median hourly wage rate	Average (median) hourly wage rate
Grantee Contact Person	Chief Executive	11–1011	$87.12	$87.12
ROSS Service Coordinator & Partners	Social and Community Services Manager	11–9151	$31.10	$25.92
	Community and Social Service Specialist, All Other.	21–1099	$20.73	.....

Source: Bureau of Labor Statistics, Occupational Employment Statistics (May 2016), *https://www.bls.gov/oes/current/oes_stru.htm*

Hourly costs for public housing resident focus group participants were estimated using FY 2016 HUD 30% Income Limit for All Areas calculations from the Office of Policy Development and Research through HUD's Web site located at *https://www.huduser.gov/portal/datasets/il/il16/index.html.* This identifies income limits by county for extremely low income households earning at or below 30% of their county median income. These limits are adjusted by household sizes of up to eight household members. We averaged the county median values to produce a national average median income by household size for extremely low income households. Based on the ROSS–SC program emphasis on increasing family self-sufficiency, and independent living and aging in place for the elderly and disabled, we estimate that:

- 20% of potential respondents will live alone (21 respondents) with an average median income of $13,537.
- 10% will reside in a 2-person household (11 respondents) with an average median income of $15,464.
- 30% will reside in a 3-person household (31 respondents) with an average median income of $17,396.
- 30% will reside in a 4-person household (31 respondents) with an average median income of $19,305.
- 10% will reside in a 5-person household (11 respondents) with an average median income of $20,872.

To produce a basic hourly rate, we divide the average median annual income amount by 2,080 work hours per year, equaling 40 hours per week for each of the 52 weeks out of the year.

All assumptions are reflected in the table below.

Information collection	Number of respondents	Frequency of response	Burden hour per response	Annual burden hours	Hourly cost per response	Total cost
Grantee Contact Person Survey	330.00	1.00	0.25	82.50	$87.12	$7,187.40
Service Coordinators Survey	[1] 840.00	1.00	1.00	840.00	25.92	21,772.80
ROSS Site Visit—Staff and Partners	56.00	1.00	2.00	112.00	25.92	2,903.04
HUD Residents living alone	21.00	1.00	2.00	42.00	6.51	273.42
HUD Residents in 2-person household	11.00	1.00	2.00	22.00	7.43	163.46
HUD Residents in 3-person household	31.00	1.00	2.00	62.00	8.36	518.32
HUD Residents in 4-person household	31.00	1.00	2.00	62.00	9.28	575.36
HUD Residents in 5-person household	11.00	1.00	2.00	22.00	10.03	220.66
Total	1,331.00	.....	.....	1,244.50	.....	33,614.46

[1] The full population is estimated at 1,200 service coordinators. The number of respondents is based on anticipated response rate of 70%.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of

the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(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 collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: October 17, 2017.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–23188 Filed 10–24–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–69]

30-Day Notice of Proposed Information Collection: Congressional Earmarks

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* November 24, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax:202–395–5806, Email: *OIRA Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 16, 2017 at 81 FR 27719.

A. Overview of Information Collection

Title of Information Collection: Congressional Earmark.

OMB Approval Number: 2506–0179.

Type of Request: Reinstatement with change of a previously approved collection.

Form Number: SF–424.

Description of the need for the information and proposed use: The Department's Office of Policy Development and Coordination administers congressionally mandated grants, known as earmarks. These projects have been identified in the annual appropriation of funds to the Department and in the accompanying conference reports or congressional record accompanying each appropriation. Earmarks generally fall into two categories: Economic Development Initiative-Special Project (EDI–SP) and Neighborhood Initiative (NI) grants.

HUD's Office of Policy Development and Coordination and its Environmental Officers in the field use this information to make funds available to entities directed to receive funds appropriated by Congress. This information is used to collect, receive, review and monitor program activities through applications, semi-annual reports, and close out reports. The information that is collected is used to assess performance. Grantees are units of state and local government, nonprofits and Indian tribes. Respondents are initially identified by congress and generally fall into two categories: Economic Development Initiative-Special Project (EDI–SP) grantees and Neighborhood Initiative (NI) grantees. The agency has used the application, semi-annual reports and close out reports to track grantee performance in the implementation of approved projects.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
SF–425	450.00	2.00	900.00	.50	450.00	$33.06	$14,877.00

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(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 collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: *October 17, 2017.*

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–23185 Filed 10–24–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–67]

30-Day Notice of Proposed Information Collection: HUD Supportive Services Demonstration/Integrated Wellness in Supportive Housing—IWISH

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* November 24, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on January 9, 2017 at 82 FR 2390.

A. Overview of Information Collection

Title of Information Collection: HUD Supportive Services Demonstration/Integrated Wellness in Supportive Housing (IWISH).

OMB Approval Number: Pending.

Type of Request: 2528–New.

Form Number: No forms.

Description of the need for the information and proposed use: HUD assists a large vulnerable senior population in its Section 202 and other elderly-designated properties. By virtue of their advanced ages, low-incomes and other demographic characteristics, residents in these communities have complex social, health and functional situations. The quality affordable housing provided by HUD provides a fundamental base for these individuals to age safely in their community. With housing as a key social determinant of health, HUD wishes to leverage its properties as a platform for the coordination and delivery of services to better address the interdependent health and supportive service needs of its older residents. The Fiscal Year (FY) 2014 Consolidated Appropriations Act gave HUD the authority to develop a demonstration to test a model of housing and supportive services for low-income elderly residents in HUD-assisted housing. In FY 2015, HUD announced the availability of a funding opportunity under the Supportive Services Demonstration that will provide grants to properties owner to participate in the demonstration. The purpose of this demonstration is to test model of housing and supportive services with the potential to delay nursing home care for low-income elderly residents in HUD-assisted housing. HUD aims to better manage residents' health, decrease emergency room and hospital utilization, and maintain residents' independence in their homes for a longer period of time, thus delaying or preventing transfers to a higher level of care.

Conducting this research will require the Implementation Team (The Lewin Group and our partners from Leading Age and the National Center for Healthy Aging, under HUD contract HHSP23337002T) to collect self-reported information from demonstration participants. The Implementation Team will leverage existing validated tools combined together in one comprehensive Resident Needs Assessment. The Resident Needs Assessment requests information on demographics, health status and ability to complete activities of Daily Living (ADLs), and Instrumental Activities of Daily Living (IADLs), as well as other social and medical service information.

The Resident Needs Assessment will occur face-to-face in a private setting administered by trained enhanced service coordinators or wellness nurses. The assessment interview is expected to last an average of 90 minutes.

Respondents: This information collection will affect approximately 4,000 individuals residing in units of 40 funded demonstration sites (approximately 100 residents per property; 40 properties in total). Respondents are expected to be low-income seniors who currently reside in HUD-assisted multi-family properties. All respondents will be presented with an IRB approved informed consent form prior to participation in the demonstration. In their consent, individuals agree to the collection of data about their health and wellness. Upon consent, respondents will be requested to complete a Resident Needs Assessment within 45 days of enrollment in the demonstration.

Information will be collected in a secure web-based platform that meets all required federal regulations to track general health and service use information. Information will be attributed to individuals by name. Names and information collected in a project-specific web-based platform will link to HUD administrative data, which HUD can be linked to Medicare and possibly Medicaid data for program evaluation purposes. All collected information will be self-reported and will inform the development of individualized healthy aging plans and property-wide health education/promotion activities and programs, including selection of specific evidence-based interventions to be implemented within demonstration sites. Additionally, results will support the evaluation of the demonstration in meeting HUD's goals and desired outcomes for the national demonstration.

The table below estimates the total burden to the public for the proposed information collection, assuming an hourly cost per response based on the income levels of respondents. Hourly costs were estimated using FY2016 income limits from the Office of Policy Development and Research through HUD's Web site located at *https://www.huduser.gov/portal/datasets/il/il16/index.html.*

HUD tiers income levels for funded recipients at three levels: Extremely low, very low, and low. For purposes of burden estimate, we selected the ''low income'' tier to identify a median income level.

Further delineation of the burden estimates requires income adjustments based on the number of individuals residing with the respondent. Using HUD data to conduct data analysis, we estimate that:

- 67% of potential respondents will live alone (2,847.00 respondents)
- 17% will reside with a spouse (722.00 respondents)
- 8% will reside with three people (340.00 respondents)

- 8% will reside with four people (340.00 respondents)

For HUD, the baseline for median income is based on a four-person household. For FY 2016 this was adjusted at $65,800. Adjustments for number of residents are legislated by Congress.

- A single household is adjusted at 70% of income of baseline ($46,060)
- Living with spouse is adjusted at 80% of income of baseline ($52,640)
- Living in a three person household is adjusted at 90% of income of baseline ($59,020)

These income adjustments, based on both probability of residence status as well as adjustments based on the income baseline, are used to estimate burden of information collection in the table below.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
HUD Residents living alone (single household)	2,847.00	1.00	2,847.00	1.50	4,270.50	$22.14	$94,548.87
HUD Residents living with spouse (2-person household)	722.00	1.00	722.00	1.50	1,083.00	25.31	27,410.73
HUD Residents in 3-person household	340.00	1.00	340.00	1.50	510.00	28.47	14,519.70
HUD Residents in 4-person household	340.00	1.00	340.00	1.50	510.00	31.63	16,131.30
Total	4,249.00				6,373.50		152,610.60

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(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 using appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: October 17, 2017.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–23187 Filed 10–24–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–70]

30-Day Notice of Proposed Information Collection: Record of Employee Interview

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* November 24, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax:202–395–5806, Email: *OIRA Submission@omb.eop.gov*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 19, 2017 at 81 FR 23060.

A. Overview of Information Collection

Title of Information Collection: Record of Employee Interview.

OMB Approval Number: 2501–0009.

Type of Request: Reinstatement without change of a previously approved collection.

Form Number: HUD–11.

Description of the need for the information and proposed use: The information is used by HUD and agencies administering HUD programs to collect information from laborers and mechanics employed on projects subjected to the Federal Labor Standards provisions. The information collected is compared to information submitted by the respective employer on certified payroll reports. The comparison tests the accuracy of the employer's payroll data and may disclose violations.

Generally, these activities are geared to the respondent's benefit that is to determine whether the respondent was underpaid and to ensure the payment of wage restitution to the respondent.

Information collection	Number of respondents	Frequency of response	Responses per annum	Total burden hours per response	Annual burden hours	Hourly cost per response	Total cost
HUD–11	20,000	1	20,000	.25	5,000	$15.00	$75,000.00
HUD–11SP	20,000	1	20,000	.16	3,200	41.12	131,584.00
Total					8,000		206,584.00

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(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 collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: October 17, 2017.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–23184 Filed 10–24–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–68]

30-Day Notice of Proposed Information Collection: Form 50900: Elements for the Annual Moving to Work Plan and Annual Moving to Work Report

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date: November 24, 2017.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Colette.Pollard@hud.gov,* or telephone 202–402–3400. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on March 1, 2016 at 81 FR 10647.

A. Overview of Information Collection

Title of Information Collection: Form 50900: Elements for the Annual Moving to work Plan and Annual Moving to work Report.

OMB Approval Number: 2577–0216.

Type of Request: Reinstatement, with change, of a previously approved collection.

Form Number: HUD–50900.

Description of the need for the information and proposed use: All Public Housing Authorities (PHAs) are required to submit a five (5) Year Plan and Annual Plans as stated in Section 5A of the 1937 Act, as amended; however, for PHAs with specific types of Moving to Work (MTW) demonstration agreements (39 at the time of submission of this request) the Annual MTW Plan and Annual MTW Reports are submitted in lieu of the standard annual and 5-year PHA plans. Additional PHAs (approximately 50) will apply to the MTW demonstration per the 2016 appropriations act.

The MTW Demonstration was authorized under Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104–134, 110 Stat 1321), dated April 26, 1996. The original MTW Demonstration statute permitted up to 30 PHAs to participate in the demonstration program. Nineteen PHAs were selected for participation in the MTW demonstration in response to a HUD Notice published in the **Federal Register** on December 18, 1996 and five of the 30 slots were filled through the Jobs-Plus Community Response Initiative.

Additional MTW 'slots' have been added by Congress over time through appropriations statutes. Two PHAs were specifically named and authorized to join the demonstration in 1999 under the VA, HUD, and Independent Agencies Appropriations Act of 1999 (Pub. L. 105–276, 112 Stat. 2461), dated October 21, 1998. A Public and Indian Housing Notice (PIH Notice 2000–52) was issued on December 13, 2000, allowed up to an additional 6 PHAs to participate in the MTW demonstration. The Consolidated Appropriations Act, 2008 (Pub. L. 110–161, 121 Stat. 1844) added four named PHAs to the Moving to Work demonstration program.

Subsequent Appropriations Acts for 2009, 2010, and 2011 authorized a total of 12 additional MTW slots. As part of HUD's 2009 budget appropriation (Section 236, title II, division I of the Omnibus Appropriations Act, 2009, enacted March 11, 2009), Congress directed HUD to add three agencies to the MTW program. As part of HUD's 2010 budget appropriation (Section 232, title II, division A of the Consolidated Appropriations Act, 2010, enacted December 16, 2009), Congress authorized HUD to add three agencies to the MTW demonstration. In 2011, Congress again authorized HUD to add three MTW PHAs pursuant to the 2010 Congressional requirements. The Appropriations Act for 2016 authorized a total of 100 additional MTW slots over seven years.

A Standard MTW Agreement (Standard Agreement) was developed in 2007, and was transmitted to the existing MTW agencies in January 2008. As additional MTW PHAs were selected they too were provided with the Standard Agreement. All 39 existing MTW agencies operate under this agreement, which authorizes participation in the demonstration through each agency's 2018 fiscal year. HUD is currently working on an extension of the Standard Agreement to 2028, as required by the Consolidated Appropriations Act, 2016.

Under the Standard Agreement, all MTW sites are authorized to combine their operating, modernization and housing choice voucher funding into a single ''block'' grant. Because they cannot conform with the requirement for the regular PHA annual and 5 year plans, and because HUD requires different information from these PHAs for program oversight purposes, these sites are required to submit an annual MTW Plan and an annual MTW Report in accordance with their MTW Agreement, in lieu of the regular PHA annual and 5 year plans.

Through the MTW Annual Plan and Report, each MTW site will inform HUD, its residents and the public of the PHA's mission for serving the needs of low-income and very low-income families, and the PHA's strategy for addressing those needs. The MTW Annual Plan, like the Annual PHA Plan, provides an easily identifiable source by which residents, participants in tenant-based programs, and other members of the public may locate policies, rules, and requirements concerning the PHA's operations, programs, and services. Revisions are being made to these 50900 forms to improve its usability and to address minor issues identified by HUD and the MTW PHAs over time. The form is also being updated also to implement provisions of the Department's affirmatively furthering fair housing (AFFH) rule (24 CFR 5.150–5.180).

Respondents (*i.e.* affected public): The respondents to this PRA are the 39 Public Housing Authorities (PHAs) that currently have the MTW designation and approximately 50 PHAs anticipated to apply for MTW designation.

Estimated Number of Respondents: 89.

Estimated Number of Responses: 518.

There are 7 sections associated with this Form requiring response. All 7 sections are completed with the first annual submission (Plan), and 5 of the 7 are completed with the second annual submission (Report). This results in a total of 12 total responses per PHA, or 468 total responses per year across all 39 affected PHAs. The application results in 1 total response per PHA for approximately 50 anticipated PHAs, or a total of 50 responses per year. The total is then 518 responses per year.

Frequency of Response: MTW PHAs complete requirements associated with this Form twice per year (Plan and Report). In the Plan, the PHA completes all 7 sections of the Form. In the Report, the PHA completes only 5 of the 7 sections of the Form. The application would be completed once.

Average Hours per Response: The estimated average burden is 40.5 hours per response (or 81 total hours per year) for the Plan and Report (for 39 PHAs) and 20 hours per year for the application (for 50 PHAs).

Total Estimated Burdens: 5680.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(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 collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: October 18, 2017.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–23186 Filed 10–24–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[17X.LLAK910000.L13100000.DB0000. LXSINSSI0000]

Call for Nominations and Applications, North Slope Science Initiative, Science Technical Advisory Panel, Alaska

AGENCY: Interior, North Slope Science Initiative.

ACTION: Notice.

SUMMARY: The purpose of this notice is to request public nominations on the North Slope Science Initiative (NSSI) 15-member Science Technical Advisory Panel (Panel). The Panel advises the NSSI Oversight Group on technical issues such as identifying and prioritizing inventory, monitoring, and research needs across the North Slope of Alaska and the adjacent marine environment.

DATES: The deadline for the NSSI to receive all public nominations/applications for membership on the panel is November 24, 2017.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Miller, Deputy Director, North Slope Science Initiative, Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513, 907–271–3212, email *memiller@blm.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Section 348 of the Energy Policy Act of 2005, Public Law 109–58, created the NSSI, its Oversight Group, and 15-member Science Technical Advisory Panel to coordinate inventories, monitoring, and research for a better understanding of terrestrial, aquatic, and marine ecosystems of the North Slope of Alaska. The NSSI works to minimize duplication of monitoring and research efforts, shares financial resources and expertise, identifies and prioritizes information needs, and ensures that science conducted by participating agencies and organizations is of the highest technical quality.

As an advisory body, the Panel represents diverse professions and interests, including the Alaska North Slope community, oil and gas industry, subsistence users, Alaska Native

entities, conservation organizations, and academia. Panel membership brings together diverse disciplines, such as North Slope traditional and local knowledge, landscape ecology, engineering, geology, sociology, anthropology, economics, ornithology, oceanography, fisheries, and marine biology.

Duties of the Panel are solely advisory to the Oversight Group. Panel members serve for 3-year terms, appointed by the Secretary of the Interior.

To Nominate or Apply

Nominees must have a minimum of five (5) years of experience in the Arctic in their field of expertise. Nomination forms and instructions are available from the BLM Web site (*http://www.blm.gov/alaska*) and from the Deputy Director, North Slope Science Initiative (see **FOR FURTHER INFORMATION CONTACT**, above). Completed nomination forms and a minimum of one letter of reference should describe the nominee's experience and qualifications to serve on the Panel. Panel members receive no monetary compensation, but will be reimbursed for necessary travel, lodging, and per diem expenses for participating in announced meetings under Federal Travel Regulations and Federal Advisory Committee Act guidelines.

The Oversight Group includes the Alaska Regional or State Directors of the U.S. Fish and Wildlife Service, the National Park Service, the Bureau of Ocean Energy Management, the Bureau of Safety and Environmental Enforcement, the National Marine Fisheries Service, and the Bureau of Land Management, the Commissioners of the Alaska Departments of Natural Resources and Fish and Game, the Mayor of the North Slope Borough, and the President of the Arctic Slope Regional Corporation. Advisory members of the Oversight Group include the Regional Executive of the U.S. Geological Survey; the Deputy Director of the U.S. Arctic Research Commission; the Alaska Regional Director of the National Weather Service; and the Regional Coordinator of the National Oceanographic and Atmospheric Administration.

Public Disclosure of Comments

Before including your address, phone number, email address, or other personal identifying information in your application, you should be aware that your entire application—including your personal identifying information—may be made publicly available at any time. While you can ask us in your application to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 42 U.S.C. 15906; Energy Policy Act of 2005, Sec. 348.

Karen E. Mouritsen,

Acting State Director, Alaska.

[FR Doc. 2017–23192 Filed 10–24–17; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NERO–PAGR–24368: PX.PR166532I.00.1]

Cancellation of the October 12, 2017, Meeting of the Paterson Great Falls National Historical Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Cancellation of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given that the October 12, 2017, meeting of the Paterson Great Falls National Historical Park Advisory Commission previously announced in the **Federal Register**, Vol. 81, December 9, 2016, pp. 89145–89146, is cancelled.

FOR FURTHER INFORMATION CONTACT: Further information concerning meetings may be obtained from Darren Boch, Superintendent and Designated Federal Officer, Paterson Great Falls National Historical Park, 72 McBride Avenue, Paterson, New Jersey 07501, (973) 523–2630 or email *darren_boch@nps.gov.*

SUPPLEMENTARY INFORMATION: The 9-member Commission was established by 16 U.S.C. 410*lll*(e). The purpose of the Commission is to advise the Secretary of the Interior in the development and implementation of the management plan.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2017–23169 Filed 10–24–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket ID: BOEM–2018–0016; MMAA1040000; OMB Control Number 1010–0057]

Agency Information Collection Activities; 30 CFR 550, Subpart C, Pollution Prevention and Control

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Ocean Energy (BOEM) are proposing to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before December 26, 2017.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to the BOEM Information Collection Clearance Officer, Anna Atkinson, Bureau of Ocean Energy Management, 45600 Woodland Road, VAM–DIR, Sterling, Virginia 20166; or by email to *anna.atkinson@boem.gov*. Please reference OMB Control Number 1010–0057 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Anna Atkinson by email or by telephone at 703–787–1025.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment that addresses the following questions: (1) Is the collection necessary to the proper functions of BOEM? (2) Will this information be processed and used in a timely manner? (3) Is the estimate of burden accurate? (4) How might BOEM enhance the quality, utility, and clarity of the information to be collected? and (5) How might BOEM minimize the burden of this collection on the respondents, including through the use of information technology?

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to the Office of Management and Budget (OMB) to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time.

While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.*, and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to manage the mineral resources of the OCS. Such rules and regulations apply to all operations conducted under a lease, right-of-use and easement, and pipeline right-of-way. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

Section 1334(a)(8) requires that regulations prescribed by the Secretary include provisions ''for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*), to the extent that activities authorized under this subchapter significantly affect the air quality of any State.'' This information collection renewal concerns information that is submitted in response to regulatory requirements, such as the regulations at 30 CFR part 550, subpart C, Pollution Prevention and Control that implement section 1334(a)(8). It also covers the related Notices to Lessees and Operators (NTLs) that BOEM issues to clarify and provide additional guidance on some aspects of these regulations. BOEM uses the information to inform its decisions on plan approval and to ensure operations are conducted according to all applicable regulations and plan conditions of approval.

We protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and the Department of the Interior's implementing regulations (43 CFR part 2), and under regulations at 30 CFR 550.197, ''Data and information to be made available to the public or for limited inspection.''

Title of Collection: 30 CFR part 550, subpart C, Pollution Prevention and Control.

OMB Control Number: 1010–0057.

Form Number: None.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Potential respondents comprise Federal OCS oil and gas or sulphur lessees and states.

Total Estimated Number of Annual Responses: 2,395 responses.

Total Estimated Number of Annual Burden Hours: 105,036 hours.

Respondent's Obligation: Mandatory.

Frequency of Collection: On occasion, monthly, or annually.

Total Estimated Annual Nonhour Burden Cost: None.

Estimated Reporting and Recordkeeping Hour Burden: We expect the burden estimate for the renewal will be 105,036 hours, which reflects a decrease of 6,988 hours, as explained below.

The following table details the individual BOEM components and respective hour burden estimates of this ICR. We assumed that respondents perform certain activities in the normal course of their business that they also satisfy certain requirements under subpart C. We consider these to be usual and customary and took that into account in estimating the burden.

In calculating the burdens, the burden hours decreased from the previous OMB request, because the number of facilities decreased as reported by the Gulfwide Offshore Activity Data System.

BURDEN BREAKDOWN

Citation 30 CFR 550 subpart C and related NTL(s)	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
Facilities Described in New or Revised EP or DPP				
303; 304(a), (f)	Submit, modify, or revise Exploration Plans and Development and Production Plans; submit information required under 30 CFR part 550, subpart B.	Burden covered under 1010–0151 (30 CFR part 550, subpart B).		0
303(k); 304(a), (g); and related NTL.	Collect and report (in manner specified) air quality emissions related data (such as facility, equipment, fuel usage, and other activity information) during each specified calendar year for input into State and regional planning organizations modeling.	* 44	** 2,381	104,764
303(l); 304(b); 304(h)	Collect and submit (in manner specified) meteorological data (not routinely collected—minimal burden); emission data for existing facilities to a State.	8	1	8
Subtotal			2,382	104,772
Existing Facilities				
304; related NTL	Submit copy of State-required Emergency Action Plan (EAP) containing test abatement plans (Pacific OCS Region).	8	1	8
304(a), (f)	Affected State may submit request with required information to BOEM for basic emission data from existing facilities to update State's emission inventory.	16	5	80
304(e)(2)	Submit compliance schedule for application of best available control technology (BACT).	40	1	40

BURDEN BREAKDOWN—Continued

Citation 30 CFR 550 subpart C and related NTL(s)	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
304(e)(2)	Apply for suspension of operations	Burden covered under BSEE 1014–0022 (30 CFR 250.174).		0
304(f)	Submit information to demonstrate that exempt facility is not significantly affecting air quality of onshore area of a State. Submit additional information, as required.	16	1	16
Subtotal			8	144
General				
303–304	General departure and alternative compliance requests not specifically covered elsewhere in subpart C regulations.	24	5	120
Subtotal			5	120
Total Burden			2,395	105,036

* Hours per facility.
** Facilities.

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.

We will protect information considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and DOI's implementing regulations (43 CFR part 2), 30 CFR 550.197, ''Data and information to be made available to the public or for limited inspection,'' and 30 CFR part 552, ''Outer Continental Shelf (OCS) Oil and Gas Information Program.''

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: October 20, 2017.

Deanna Meyer-Pietruszka,

Chief, Office of Policy, Regulation and Analysis.

[FR Doc. 2017–23210 Filed 10–24–17; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1075]

Certain Electrochemical Glucose Monitoring Systems and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 18, 2017, under section 337 of the Tariff Act of 1930, as amended, on behalf of Dexcom, Inc. of San Diego, California. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electrochemical glucose monitoring systems and components thereof by reason of infringement of certain claims of U.S. Patent No. 9,724,045 (''the '045 patent'') and U.S. Patent No. 9,750,460 (''the '460 patent''). The complaint further alleges that an industry in the United States exists or is in the process of being established as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2017).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on October 18, 2017, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain electrochemical glucose monitoring systems and components thereof by reason of infringement of one or more of claims 1–6, 8, 9, 11, 13–20, 23–30, 32, 34–38, and 41–44 of the '045 patent and claims 1–6, 8–18, 20–24, 26–30, 32–36, 38–42, 44–48, 50–54, 56–60, and 62–69 of the '460 patent; and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which

this notice of investigation shall be served:

(a) *The complainant is:* Dexcom, Inc., 6340 Sequence Drive, San Diego, CA 92121.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served: AgaMatrix, Inc., 7C Raymond Avenue, Salem, NH 03079.

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge. The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of institution of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of institution of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order, or both directed against the respondent.

By order of the Commission.

Issued: October 19, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–23104 Filed 10–24–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1076]

Certain Magnetic Data Storage Tapes and Cartridges Containing the Same (II); Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 19, 2017, under section 337 of the Tariff Act of 1930, as amended, on behalf of FUJIFILM Corporation of Japan and FUJIFILM Recording Media U.S.A., Inc. of Bedford, Massachusetts. A supplement to the complaint was filed on October 6, 2017. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain magnetic data storage tapes and cartridges containing the same by reason of infringement of certain claims of U.S. Patent No. 6,630,256 (''the '256 patent''); U.S. Patent No. 6,835,451 (''the '451 patent''); U.S. Patent No. 7,011,899 (''the '899 patent''); U.S. Patent No. 6,462,905 (''the '905 patent''); and U.S. Patent No. 6,783,094 (''the '094 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2017).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on October 19, 2017, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain magnetic data storage tapes and cartridges containing the same by reason of infringement of one or more of claims 1–5 and 7–9 of the '256 patent; 1–14 of the '451 patent; claims 1, 2, and 6–12 of the '899 patent; claims 1–4 of the '905 patent; and claims 1–12 and 18–22 of the '094 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties and other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. 1337(d)(1), (f)(1), (g)(1);

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

FUJIFILM Corporation, 7–3 Akasaka 9-chome, Minato-ku, Tokyo 107–0052, Japan

FUJIFILM Recording Media U.S.A., Inc., 45 Crosby Drive, Bedford, MA 01730–1401

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Sony Corporation, 1–7–1 Kōnan, Minato-ku, Tokyo 108–0075, Japan

Sony Storage Media Solutions Corporation, 1–7–1 Kōnan, Minato-ku, Tokyo 108–0075, Japan

Sony Storage Media Manufacturing Corporation, 3–4–1 Sakuragi, Tagajo, Miyagi 985–0842, Japan

Sony DADC US Inc., 1800 North Fruitridge Avenue, Terre Haute, IN 47804

Sony Latin America Inc., 5201 Blue Lagoon Drive, Suite 400, Miami, FL 33126

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: October 19, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–23105 Filed 10–24–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1077]

Certain Reusable Diapers, Components Thereof, and Products Containing the Same; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 19, 2017, under section 337 of the Tariff Act of 1930, as amended, on behalf of Cotton Babies, Inc. of Fenton, Missouri. A supplement to the Complaint was filed on October 2, 2017. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain reusable diapers, components thereof, and products containing the same by reason of infringement of U.S. Trademark Registration No. 4,120,270 (''the '270 trademark'') and certain claims of U.S. Patent No. 8,518,007 (''the '007 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2017).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on October 19, 2017, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) Whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain reusable diapers, components thereof, and products containing the same by reason of infringement of one or more of claims 1, 13, 20, and 21 of the '007 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(b) Whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain reusable diapers, components thereof, and products containing the same by reason of infringement of the '270 trademark, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) *The complainant is:* Cotton Babies, Inc., 1299 N. Highway Drive, Fenton, MO 63026.

(b) The respondents are the following entities alleged to be in violation of section 337, and is the parties upon which the complaint is to be served:

Alvababy.com, 4th Floor, Building 5, Zone 2, Qingxiechang, Yaqiuhu Industrial Park, Mumianwan, Buji Street, Longgang District, ShenZhen, Guangdong, China

Shenzhen Adsel Trading Co., Ltd., d/b/a Alva, Room 802, 8/F Haoyunlai Building, Yanhe Road; Luohu District, Shenzhen, Guangdong, China 518000

Huizhou Huapin Garment Co., Ltd., Plant 23, Gexin Street, Sandong Town, Huizhou, Guangdong, China

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: October 19, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–23106 Filed 10–24–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–253 and 731–TA–132, 252, 271, 273, 532–534, and 536 (Fourth Review)]

Certain Circular Welded Wipe and Wube (CWP) From Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey; Scheduling of Expedited Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the countervailing duty order on welded carbon steel pipe and tube from Turkey and the antidumping duty orders on certain circular welded pipe and tube from Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: This determination was made on September 5, 2017.

FOR FURTHER INFORMATION CONTACT: Amelia Shister (202–205–2047), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*https://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On September 5, 2017, the Commission determined that the domestic interested party group response to its notice of institution (82 FR 25328, June 1, 2017) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate in each review. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).[2]

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the reviews will be placed in the nonpublic record on December 12, 2017, and made available to persons on the Administrative Protective Order service list for these reviews. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[3] and any party other than an interested party to the reviews may file written comments with the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before December 15, 2017 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by December 15, 2017. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules with respect to filing were revised effective July 25, 2014. *See* 79 FR 35920 (June 25, 2014), and the revised Commission Handbook on E-filing, available from the Commission's Web site at *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf*.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

[2] Commissioner Broadbent voted to conduct full reviews.

[3] The Commission has found the responses submitted by Bull Moose Tube Company, EXLTUBE, TMK IPSCO Tubulars, Zekelman Industries, and the Government of Turkey to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: October 2, 2017.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2017–23099 Filed 10–24–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0030]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection; Records and Supporting Data: Importation, Receipt, Storage, and Disposition by Explosives Importers, Manufacturers, Dealers, and Users Licensed Under Title 18 U.S.C. Chapter 40 Explosives

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until December 26, 2017.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any additional information, please contact Anita Scheddel, Program Analyst, Explosives Industry Programs Branch, either by mail 99 New York Ave. NE., Washington, DC 20226, or by email at *Anita.Scheddel@atf.gov*.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection (check justification or form 83):* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* Records and Supporting Data: Importation, Receipt, Storage, and Disposition by Explosives Importers, Manufacturers, Dealers, and Users Licensed Under Title 18 U.S.C. Chapter 40 Explosives.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other (if applicable): None.

Abstract: The records show daily activities in the importation, manufacture, receipt, storage, and disposition of all explosive materials covered under 18 U.S.C. Chapter 40 Explosives. The records are used to show where and to whom explosive materials are sent, thereby ensuring that any diversions will be readily apparent, and if lost or stolen, ATF will be immediately notified.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 9,927 respondents will utilize this collection, and it will take each respondent approximately 12.6 hours to complete this information collection.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 625,401 hours which is equal to (49,635 (total # of annual responses) * 12.6 (# of hours per response.).

7. *An Explanation of the Change in Estimate:* The adjustments associated with this collection are a decrease in the number of respondents by 40,592, and reduction in the total responses and burden hours by 587,935 and 12,169 respectively, when compared to the previous information collection renewal.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: October 19, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–23086 Filed 10–24–17; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ASTM International Standards

Notice is hereby given that, on September 13, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ASTM International (''ASTM'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ASTM has provided an updated list of current, ongoing ASTM standards activities originating between May 2017 and September 2017 designated as Work Items. A complete listing of ASTM Work Items along with a brief description of each, is available at *http://www.astm.org*.

On September 15, 2004, ASTM filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the

Federal Register pursuant to Section 6(b) of the Act on November 10, 2004 (69 FR 65226).

The last notification was filed with the Department on May 15, 2017. A notice was filed in the **Federal Register** on June 28, 2017 (82 FR 29328).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–23151 Filed 10–24–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—American Society of Mechanical Engineers

Notice is hereby given that, on September 29, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the American Society of Mechanical Engineers (''ASME'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, since April 6, 2017, ASME has published two new standards, initiated four new standards activities, withdrawn one standard activity, and discontinued one standard activity within the general nature and scope of ASME's standards development activities, as specified in its original notification. More detail regarding these changes can be found at *www.asme.org.*

On September 15, 2004, ASME filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 13, 2004 (69 FR 60895).

The last notification was filed with the Department on April 10, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 22, 2017 (82 FR 23297).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–23152 Filed 10–24–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Technical Advisory Committee; Notice of Meeting and Agenda

The Bureau of Labor Statistics Technical Advisory Committee will meet on Friday, November 17, 2017. The meeting will be held from 8:30 a.m. to 4:15 p.m. in the Postal Square Building, 2 Massachusetts Avenue NE., Washington, DC.

The Committee provides advice and makes recommendations to the Bureau of Labor Statistics (BLS) on technical aspects of data collection and the formulation of economic measures and makes recommendations on areas of research. The BLS presents issues and then draws on the expertise of Committee members representing specialized fields within the academic disciplines of economics, statistics, and survey design.

The meeting will be held in Rooms 1, 2, and 3 of the Postal Square Building Janet Norwood Conference Center. The schedule and agenda for the meeting are as follows:

8:30 a.m. Acting Commissioner's Welcome and Review of Agency Developments
9:00 a.m. Survey of Employer Provided Training
11:00 a.m. Commission on Evidence Based Policy-Making
1:00 p.m. Experimental New Vehicle Price Indexes
2:45 p.m. Using Modeled Quarterly Census of Employment and Wages as a Sampling Frame for the Occupational Requirements Survey
4:15 p.m. Approximate conclusion

The meeting is open to the public. Any questions concerning the meeting should be directed to Sarah Dale, Bureau of Labor Statistics Technical Advisory Committee, at 202–691–5643 or *dale.sarah@bls.gov.* Individuals who require special accommodations should contact Ms. Dale at least two days prior to the meeting date.

Signed at Washington, DC, this 19th day of October 2017.

Kimberley D. Hill,

Chief, Division of Management Systems.

[FR Doc. 2017–23103 Filed 10–24–17; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:00 a.m., Wednesday, November 15, 2017.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The one item is open to the public.

MATTERS TO BE CONSIDERED: National Transportation Safety Board 2017–2018 Most Wanted List mid-point progress report meeting.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

The press and public may enter the NTSB Conference Center 30 minutes prior to the meeting for set up and seating.

FOR MEDIA INFORMATION CONTACT: Christopher O'Neil at (202) 314–6100 or by email at *christopher.oneil@ntsb.gov.*

Individuals requesting specific accommodations should contact Rochelle McCallister at (202) 314–6305 or by email at *Rochelle.McCallister@ntsb.gov* by Wednesday, November 8, 2017.

FOR MORE INFORMATION CONTACT: Nicholas Worrell at (202) 314–6608 or *safetyadvocacy@ntsb.gov.*

Issued: October 23, 2017.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2017–23274 Filed 10–23–17; 11:15 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0269]

Information Collection: Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste and Reactor-Related Greater Than Class C Waste; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a notice that was published in the **Federal Register** (FR) on October 13, 2017 regarding submission of the renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste and Reactor-Related Greater than Class C Waste.'' This action is necessary to correct the burden hours.

DATES: The correction is effective October 25, 2017.

ADDRESSES: Submit comments directly to the OMB reviewer at: Aaron Szabo Desk Officer, Office of Information and Regulatory Affairs (3150–0132), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–3621, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION: In the FR on October 13, 2017 in FR Doc. 2017–22144, on page 47779, in the first column, item #9, correct ''79,040 hours (33,909 hours reporting + 42,319 hours recordkeeping + 2,812 hours third-party disclosure)'' to read ''78,800 hours (33,669 hours reporting + 42,319 hours recordkeeping + 2,812 hours third-party disclosure).'' On page 47778, in the third column, correct the ADAMS Accession No. for the supporting statement ''ML17208A007'' to read ''ML17292A963.''

Dated at Rockville, Maryland, this 20th day of October 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–23174 Filed 10–24–17; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81901; File No. SR–NYSEArca–2017–121]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges

October 19, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 6, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges (the ''Fee Schedule'') to adopt a Decommission Extension Fee that would be applicable for the use of certain ports connecting to NYSE Arca during the months of March through May 2018. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to adopt a Decommission Extension Fee that would be applicable to ETP Holders for the use of certain ports used to connect to NYSE Arca for a three-month period from March 2018 through May 2018 (the ''extension period'').

The Exchange currently makes ports available that provide connectivity to the Exchange's trading systems (*i.e.,* ports for the entry of orders and/or quotes (''order/quote entry ports'')) and charges $550 per port per month.[4] The Exchange also currently makes ports available for drop copies and charges $550 per port per month.[5] Pursuant to a recent proposed rule change, effective October 1, 2017, the monthly fees for ports activated after August 18, 2017, the last trading day prior to the introduction of ports that communicate to the Exchange using Pillar phase II protocols (''phase II ports''), are prorated to the number of trading days in a billing month, including any scheduled early closing days, that a port is connected to the Exchange.[6]

The Exchange makes available ports that communicate with the Exchange using Pillar phase I protocols (''phase I ports'') and phase II ports. The proposed Decommission Extension Fee would apply only to ETP Holders that use phase I ports during the extension period.

The Exchange previously provided notice to ETP Holders to migrate to phase II ports over approximately a six-month period, which began on August 21, 2017.[7] Because fees associated with ports are billed on a monthly basis, the period by which ETP Holders should migrate to phase II ports will end at the close of trading on February 28, 2018. Notwithstanding prior notice to ETP Holders to migrate fully to phase II ports before the end of February 2018, the Exchange has determined to continue to make phase I ports available through the end of May 2018. Because continued support for phase 1 ports requires the Exchange to dedicate resources, the Exchange proposes a Decommission Extension Fee that would be applicable to use of such ports during the extension period. Specifically, during the extension period, the Exchange will incur ongoing costs in maintaining phase I ports, including costs to maintain servers and their physical location, monitoring order activity, and

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Port fees are not applicable to ports used for the Exchange's Risk Management Gateway service. Further, no fee applies to ports in the backup datacenter that are not utilized during the relevant month. No fee applies to ports in the backup datacenter that are utilized when the primary datacenter is unavailable. However, if a port in the backup datacenter is utilized when the primary datacenter is available, then the fee shall apply.

[5] No fee applies to ports in the backup datacenter if configured such that it is duplicative of another drop copy port of the same user. Only one fee per drop copy port applies, even if the port receives drop copies from multiple order/quote entry ports and/or drop copies for activity on both NYSE Arca Equities and NYSE Arca Options.

[6] *See* Securities Exchange Act Release No. 81573 (September 11, 2017), 82 FR 43430 (September 15, 2017) (SR–NYSEArca–2017–97) (the ''Port Fee Filing''). Fees for ports activated before August 21, 2017, however, are not pro-rated and are charged flat fees. Billing for ports activated before August 21, 2017 is based on the number of ports on the third business day prior to the end of the month. *See* Securities Exchange Act Release No. 66110 (January 5, 2012), 77 FR 1766 (January 11, 2012) (SR–NYSEArca–2012–01).

[7] *See* Trader Update at *https://www.nyse.com/publicdocs/nyse/markets/nyse/Pillar_Update_NYSE_American_ARCA_NYSE_Tapes_B_and_C.pdf.* On June 22 [sic], 2017, the Exchange provided ETP Holders with notice that the phase II ports would be available on August 21, 2017. *See* Trader Update at *https://www.nyse.com/publicdocs/nyse/notifications/trader-update/Pillar_Phase_II_Update_Native_gateways_June_16_2017.pdf.*

other support, that are separate from the costs in maintaining phase II ports.

The phase II ports are part of the Exchange's efforts to upgrade its connectivity. The purpose of the proposed Decommission Extension Fee is to provide an incentive for ETP Holders to fully transition to the phase II ports within the initial six-month transition period so the Exchange does not have to maintain and support both phase I ports and phase II ports at the end of the six-month transition period. In addition, to the extent that ETP Holders do not fully transition to phase II ports within the initial six-month transition period, the Exchange believes that the costs associated with continued support of phase I ports should be paid for by ETP Holders using phase I ports. Therefore, during the extension period, ETP Holders that continue to connect to the Exchange through phase I ports would be subject to the proposed Decommission Extension Fee of $2,450 per port per month for March 2018, April 2018 and May 2018.[8] The proposed Decommission Extension Fee would be charged in addition to the existing port fees currently set forth in the Fee Schedule. The extension period would expire at the end of trading on May 31, 2018, on which date the phase I ports will be fully decommissioned.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Sections [sic] 6(b)(4) of the Act,[10] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed Decommission Extension Fee for ETP Holders that choose to continue to connect to the Exchange through the use of phase I ports after the transition period, which is scheduled to end at the close of trading on February 28, 2018, is equitable and not unfairly discriminatory because the proposed fee would apply equally to all ETP Holders that choose to connect to the Exchange through the use of such ports during the extension period. As noted above, the Exchange will incur ongoing costs in maintaining phase I ports during the extension period, including costs to maintain servers and their physical location, monitoring order activity, and other support, with no real benefit. The Exchange believes that it is reasonable to require ETP Holders to pay the proposed Decommission Extension Fee as an additional fee during the extension period for connecting to the Exchange through phase I ports because ETP Holders were provided with two months' notice that the phase II ports would be available beginning August 21, 2017, and will be provided with a six-month period during which to transition to phase II ports.[11] The Exchange believes that these notices have provided ETP Holders with ample time to transition to phase II protocols by February 28, 2017 and the Decommission Extension Fee is designed to provide an additional incentive to transition to the phase II protocols by February 28, 2017. Due to the fixed costs incurred by the Exchange to support phase I ports during the extension period, the Exchange believes that it is fair and reasonable to charge increased fees to cover the costs of such support during the extension period because it is expected that the number of ETP Holders that do not transition to phase II ports by February 28, 2018 will be small.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[12] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act in that it is simply designed to set forth the Exchange's adoption of a fee during the extension period to provide an incentive to ETP Holders to transition to phase II ports. The Exchange believes that fees for connectivity are constrained by the robust competition for order flow among exchanges and non-exchange markets. Further, excessive fees for connectivity, including port fees, would serve to impair an exchange's ability to compete for order flow rather than burdening competition. The Exchange also does not believe the proposed rule change would impact intramarket competition as it would apply to all ETP Holders equally that connect to the Exchange through the use of such ports.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[13] of the Act and subparagraph (f)(2) of Rule 19b–4[14] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2017–121 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSEArca–2017–121. This file number should be included on the subject line if email is used. To help the Commission process and review your

[8] The concept of a Decommission Extension Fee is not novel. The Exchange previously adopted a Decommission Extension Fee for receipt of market data products to encourage subscribers to migrate to a new distribution channel. *See* Securities Exchange Act Release Nos. 79287 (November 10, 2016), 81 FR 81216 (SR–NYSEMKT–2016–100); and 77389 (March 17, 2016), 81 FR 15363 (March 22, 2016) (SR–NYSEMKT–2016–37).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] *See supra* note 7.

[12] 15 U.S.C. 78f(b)(8).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(2).

[15] 15 U.S.C. 78s(b)(2)(B).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2017–121 and should be submitted on or before November 15, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–23116 Filed 10–24–17; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81900; File No. SR–OPRA–2017–02]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Proposed Amendment To Modify the OPRA Fee Schedule To Eliminate the Enterprise Rate Non-Professional Subscriber Fee and Amend the Non-Professional Subscriber Fee

October 19, 2017.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 608 thereunder,[2] notice is hereby given that on September 27, 2017, the Options Price Reporting Authority (''OPRA'') submitted to the Securities and Exchange Commission (''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan'').[3] The OPRA Plan amendment would implement changes to the Non-Professional Subscriber Fee and Eliminate the Enterprise Rate Non-Professional Subscriber Fee effective January 1, 2018. The Commission is publishing this notice to provide interested persons an opportunity to submit written comments on the OPRA Plan amendment.

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

I. Description and Purpose of the Plan Amendment

(a) Fee Schedule Amendments

The purpose of the amendment is to eliminate OPRA's Enterprise Rate Nonprofessional Subscriber Fee (''Enterprise Rate Nonpro Fee'') and to revise its Nonprofessional Subscriber Fee so that, instead of being a flat fee of $1.25 per month per Nonprofessional Subscriber, the Nonprofessional Subscriber Fee will have five tiers, with the tier for a Vendor's first 75,000 Nonprofessional Subscribers subject to the current rate of $1.25 per month and each of the successive higher tiers subject to a lower rate.

OPRA's Fee Schedule provides that a Vendor[4] may determine the fee that it pays with respect to its distribution of current OPRA data to a Nonprofessional Subscriber[5] in one of two ways: Either the Vendor may pay OPRA's monthly Nonprofessional Subscriber Fee (currently $1.25/month), or the Vendor may count the Nonprofessional Subscriber's queries for OPRA data and pay Usage-based Vendor Fees based on the actual usage of OPRA data by the Nonprofessional Subscriber, subject to a cap that OPRA has always set at the amount of the Nonprofessional Subscriber Fee.[6]

OPRA introduced the Enterprise Rate Nonpro Fee in 2012.[7] The purpose of the Fee was to limit the maximum aggregate amount of Nonprofessional Subscriber Fees and Usage-based Vendor Fees with respect to Nonprofessional Subscribers that any Vendor would be required to pay with respect to its Nonprofessional Subscribers. OPRA's Enterprise Rate Nonpro Fee was established at $375,000 per month. When the Enterprise Rate Nonpro Fee was introduced, the fee provided a benefit to one OPRA Vendor, but OPRA's expectation was that the fee would provide an incentive for other Vendors to increase the number of Nonprofessional Subscribers to whom they distribute OPRA data.

OPRA's expectation for the Enterprise Rate Nonpro Fee has not been fulfilled. The fee continues to provide a benefit to only one OPRA Vendor, and it now appears to OPRA that this is likely to remain the case indefinitely.

Accordingly, OPRA is proposing to eliminate the Enterprise Rate Nonpro Fee and, at the same time, revise OPRA's Nonprofessional Subscriber Fee so that the fee has five tiers: $1.25/month for a Vendor's first 75,000 Nonprofessional Subscribers, $1.15/month for the Vendor's next 75,000 Nonprofessional Subscribers, $1.00/month for the Vendor's next 100,000 Nonprofessional Subscribers, $0.75/month for the Vendor's next 250,000 Nonprofessional Subscribers, and $0.60/month for the Vendor's Nonprofessional Subscribers in excess of 500,000 Nonprofessional Subscribers.[8]

If all Vendors were to continue to distribute OPRA data to Nonprofessional Subscribers at their current rates, these changes would result in an increase in OPRA's annual revenues of approximately $135,000. However, OPRA anticipates that, in fact,

[3] The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder. *See* Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The full text of the OPRA Plan and a list of its fifteen participants are available at *http://www.opradata.com.* The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges.

[4] OPRA defines a ''Vendor,'' in general, as an entity that receives OPRA data and redistributes it externally, that is, to persons other than its own employees and employees of its wholly-owned subsidiaries.

[5] OPRA defines a ''Subscriber,'' in general, as an entity or person that receives OPRA data but does not redistribute it to third parties, and defines a ''Nonprofessional Subscriber'' as a Subscriber who is a ''Nonprofessional.'' OPRA's definition of the term ''Nonprofessional'' is stated in its forms of ''Electronic Subscriber Agreement'' and ''Hardcopy Subscriber Agreement.'' These forms are available on OPRA's Web site, *www.opradata.com.* With a limited exception for certain personal trusts that is described in the Electronic Subscriber Agreement and Hardcopy Subscriber Agreement, a Nonprofessional Subscriber must be a natural person.

[6] Many Vendors prefer to pay the flat Nonprofessional Subscriber Fee, even though their aggregate fees on the basis of Usage-based Vendor Fees might be lower and could not be greater, due to the administrative simplicity of doing so and the fact that the cost on a per Subscriber basis of doing so is very small.

[7] *See* Securities Exchange Act Release No. 66564 (March 9, 2012) (File No. SR–OPRA–2012–02).

[8] For example, a hypothetical Vendor that reports 310,000 Nonprofessional Subscribers in a month would pay total Nonprofessional Subscriber Fees of $337,500 for the month: The sum of (75,000 × $1.25) + (75,000 × $1.15) + (150,000 × $1.00) + (10,000 × $0.75).

in the short term the Vendor that has had the benefit of the Enterprise Rate Nonpro Fee may reduce its distribution of OPRA data to Nonprofessional Subscribers and that these changes may therefore result in a decrease in OPRA's annual revenues. In the longer term, OPRA anticipates that it is possible that the tiered Nonprofessional Subscriber fees may accomplish OPRA's original expectation for the Enterprise Rate Nonpro Fee by providing an incentive for Vendors to increase the number of Nonprofessional Subscribers to whom they distribute OPRA data in view of the reduced fees in the higher tiers.

The text of the amendment to the OPRA Plan is available at OPRA, the Commission's Public Reference Room, the OPRA Web site at *http://opradata.com,* and on the Commission's Web site at *www.sec.gov.*

(b) Implementation of the OPRA Plan Amendment

Pursuant to paragraph (b)(3)(i) of Rule 608 of Regulation NMS under the Act, OPRA designated this amendment as establishing or changing fees or other charges collected on behalf of all of the OPRA participant exchanges in connection with access to or use of OPRA facilities. In order to give persons subject to these fees advance notice of the changes, OPRA proposes that they go into effect on January 1, 2018.

(c) Phases of Development and Implementation

Not applicable.

(d) Impact on Competition

OPRA believes that the proposed amendment will impose no burdens on competition that are not justified in light of the purposes of the Act.

(e) Written Understandings or Agreements Among the Plan Participants

Not applicable.

(f) Approval of the Proposed Amendment

OPRA represents that the proposed amendments to the OPRA Fee Schedule were approved in accordance with the provisions of the OPRA Plan.

The Commission may summarily abrogate the amendment within sixty days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 608(b)(2) under the Act [9] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.[10]

II. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the OPRA Plan amendment 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 No. SR–OPRA–2017–02 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–OPRA–2017–02. 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 OPRA Plan amendment that are filed with the Commission, and all written communications relating to the OPRA Plan amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OPRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OPRA–2017–02 and should be submitted on or before November 15, 2017.

By the Commission.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–23115 Filed 10–24–17; 8:45 am]

BILLING CODE 8011–01–P

[9] *See* 17 CFR 242.608(b)(2).

[10] *See* 17 CFR 242.608(b)(3)(iii).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81899; File No. SR–OPRA–2017–01]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Proposed Amendment To Modify the OPRA Fee Schedule To Amend the Professional Subscriber Device-Based Fee

October 19, 2017.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 608 thereunder,[2] notice is hereby given that on September 27, 2017, the Options Price Reporting Authority (''OPRA'') submitted to the Securities and Exchange Commission (''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan'').[3] The OPRA Plan amendment would implement changes to the Professional Subscriber Device-Based Fee effective January 1, 2018. The Commission is publishing this notice to provide interested persons an opportunity to submit written comments on the OPRA Plan amendment.

I. Description and Purpose of the Plan Amendment

(a) Fee Schedule Amendments

The purpose of the proposed Fee Schedule amendments is to specify OPRA's Professional Subscriber Device-Based Fee effective January 1, 2018 and make conforming changes in OPRA's Enterprise Rate Professional Subscriber Fee. OPRA's Enterprise Rate Professional Subscriber Fee is available to those Professional Subscribers that

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder. *See* Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The full text of the OPRA Plan and a list of its fifteen participants are available at *http://www.opradata.com.* The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges.

elect that rate in place of the regular OPRA device-based fees.[4]

Specifically, it is proposed, effective January 1, 2018: To increase the current $30.50 monthly per device fee by $1.00; to increase the Enterprise Rate, currently a monthly fee of $30.50 times the number of a Professional Subscriber's U.S.-based registered representatives, to be a monthly fee of $31.50 times the number of the Subscriber's U.S.-based registered representatives; and to make conforming changes to the minimum monthly fee under the Enterprise Rate. ''Professional Subscribers'' are persons who subscribe to OPRA data, do not qualify for the reduced fees charged to ''Nonprofessional Subscribers,'' and do not redistribute the OPRA data to third parties. OPRA permits the counting of ''User IDs'' as a surrogate for counting ''devices'' for purposes of its Professional Subscriber Device-based Fees.[5]

The number of devices reported to OPRA as subject to Professional Subscriber Device-Based Fees has been steadily trending downwards over many years. In 2008, OPRA received device-based fees, including enterprise fees, with respect to approximately 210,500 devices. In 2015, OPRA received device-based fees, including enterprise fees, with respect to approximately 141,300 devices, and in 2016 OPRA received device-based fees, including enterprise fees, with respect to approximately 137,100 devices. OPRA is receiving device-based fees in the third calendar quarter of 2017 with respect to approximately 128,500 devices—already a reduction of approximately 6.3% from 2016. OPRA believes that this long-term downward trend is the result of the increasing use of trading algorithms and automated trading platforms and other fundamental changes in the securities industry, and OPRA anticipates that this trend is likely to continue.

The proposed increase in the Professional Subscriber Device-Based Fees is consistent with OPRA's past practice of making incremental $1.00 increases in its monthly Professional Subscriber Device-Based Fees,[6] and OPRA believes that OPRA's Professional Subscribers should not be surprised by the increase. The proposed increase in the Professional Subscriber Device-Based Fee—which is an increase of approximately 3.3%—will partially offset the impact on revenue of the reduction in the number of devices in 2017 as compared to 2016.

The text of the amendment to the OPRA Plan is available at OPRA, the Commission's Public Reference Room, the OPRA Web site at *http://opradata.com,* and on the Commission's Web site at *www.sec.gov.*

(b) Implementation of the OPRA Plan Amendment

Pursuant to paragraph (b)(3)(i) of Rule 608 of Regulation NMS under the Act, OPRA designated this amendment as establishing or changing fees or other charges collected on behalf of all of the OPRA participant exchanges in connection with access to or use of OPRA facilities. OPRA proposes to put the changes in the Professional Subscriber Device-Based Fee into effect as of January 1, 2018. Implementation of the changes in the Professional Subscriber Device-Based Fee on January 1 is consistent with OPRA's prior practice with respect to changes in this fee, and OPRA represents that this will provide ample opportunity to give persons subject to this fee advance notice of the change.

(c) Phases of Development and Implementation

Not applicable.

(d) Impact on Competition

OPRA believes that the proposed amendment will impose no burdens on competition that are not justified in light of the purposes of the Act.

(e) Written Understanding or Agreements Among the Plan Participants

Not applicable.

(f) Approval of the Proposed Amendment

OPRA represents that the proposed amendments to the OPRA Fee Schedule were approved in accordance with the provisions of the OPRA Plan.

The Commission may summarily abrogate the amendment within sixty days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 608(b)(2) under the Act[7] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.[8]

II. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the OPRA Plan amendment 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 No. SR–OPRA–2017–01 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–OPRA–2017–01. 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 OPRA Plan amendment that are filed with the Commission, and all written communications relating to the OPRA Plan amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal

[4] OPRA's Enterprise Rate is based on the number of a Professional Subscriber's U.S. registered representatives and independent investment advisers who contract with the Subscriber to provide advisory services to the Subscriber's customers.

[5] *See* footnote 2 in the OPRA Fee Schedule and OPRA's Policies with respect to Device-based Fees.

[6] The year 2015 was an exception: For 2015, OPRA implemented an increase of $1.50 in its Professional Subscriber Device-Based Fee, because during 2015 one of OPRA's member exchanges initiated after-hours trading, causing OPRA to incur additional expenses associated with data dissemination during expanded trading hours. OPRA implemented $1.00/month increases in its Professional Subscriber Device-Based Fee for each of the years 2008–2014 and for the years 2016 and 2017. *See* Securities Exchange Act Release Nos. 72826, 79 FR 48777 (August 18, 2014) (File No. SR–OPRA–2014–06), 77585, 81 FR 22668 (April 18, 2016) (File No. SR–OPRA–2015–02), and 79152, 81 FR 75462 (October 31, 2016) (File No. SR–OPRA–2016–01).

[7] *See* 17 CFR 242.608(b)(2).

[8] *See* 17 CFR 242.608(b)(3)(iii).

office of OPRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OPRA–2017–01 and should be submitted on or before November 15, 2017.

By the Commission.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–23114 Filed 10–24–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81906; File No. SR–BatsBZX–2017–67]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Transaction Fees for the Exchange's Equity Platform

October 19, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 10, 2017, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') 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 Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-Members of the Exchange pursuant to BZX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule applicable to its equities trading platform (''BZX Equities'') to amend the criteria for Cross-Asset Add Volume Tier 3 under footnote 1. The Exchange currently offers four Cross-Asset Add Volume tiers under footnote 1 that provide an enhanced rebate ranging from $0.0028 to $0.0030 per share for orders that yield fee codes B,[6] V,[7] and Y[8] upon a Member achieving each tier's required criteria. Currently, under Cross-Asset Add Volume Tier 3, Members receives an enhanced rebate of $0.0028 per share where they have on the Exchange's equity options platform (''BZX Options'') an ADAV greater than or equal to 2.00% of average OCV.[9] The Exchange now proposes to amend the criteria necessary to receive the enhanced rebate provided by Cross-Asset Tier 3. As amended, Cross-Asset Add Volume Tier 3 would require that the Member have on BZX Options an Options Market Maker Add OCV[10] equal to or greater than 1.85% of average OCV and that Member must also add an ADV[11] equal to or greater than 0.10% of TCV.[12] The Exchange proposes to implement these amendments to its fee schedule immediately.[13]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[14] in general, and furthers the objectives of Section 6(b)(4),[15] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes the rates remain competitive with those charged by other venues and, therefore, reasonable and equitably allocated to Members.

Volume-based rebates and fees such as the proposed Cross-Asset Add Volume Tier have been widely adopted by equities and options exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[6] Fee code B is appended to displayed orders that add liquidity to BZX (Tape B) and is provided a standard rebate of $0.0025 per share. *See* the Exchange's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/bzx/.*

[7] Fee code V is appended to displayed orders that add liquidity to BZX (Tape A) and is provided a standard rebate of $0.0020 per share. *Id.*

[8] Fee code Y is appended to displayed orders that add liquidity to BZX (Tape C) and is provided a standard rebate of $0.0020 per share. *Id.*

[9] ''OCV'', for purposes of equities pricing means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation (''OCC'') for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close, using the definition of Customer as provided under the Exchange's fee schedule for BZX Options. *See* the Exchange's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/bzx/.*

[10] ''Options Market Maker Add OCV'' for purposes of equities pricing means ADAV resulting from Market Maker orders as a percentage of OCV, using the definitions of ADAV, Market Maker and OCV as provided under the Exchange's fee schedule for BZX Options. *Id.*

[11] ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day. *Id.*

[12] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. *Id.*

[13] The Exchange initially filed the proposed rule change on September 29, 2017 (SR–BatsBZX–2017–64). On October 10, 2017, the Exchange withdrew SR–BatsBZX–2017–64 and submitted this filing.

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(4).

patterns, and introduction of higher volumes of orders into the price and volume discovery processes.

The Exchange believes that the proposal to modify the criteria for Cross-Asset Add Volume Tier 3 is a reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and rebates because it will provide Members with an additional incentive to reach certain thresholds on both BZX Equities and BZX Options. The revised criteria continues to be reasonably related to the rebate provided by the tier. The Exchange believes decreasing the first prong of the tier's criteria to 1.85% but limiting it to Options Market Maker Add OCV, and adding the second prong requiring that the Member add an ADV equal to or greater than 0.10% of TCV ensures the difficulty of achieving the tier remains relatively the same, while adjusting it to reflect current market dynamics. The potential increased liquidity from this proposal also benefits all investors by deepening the BZX Equities and BZX Options liquidity pools, supporting the quality of price discovery, promoting market transparency and improving investor protection. Such pricing programs thereby reward a Member's growth pattern on the Exchange and such increased volume increases potential revenue to the Exchange, and will allow the Exchange to continue to provide and potentially expand the incentive programs operated by the Exchange. To the extent a Member participates on the Exchange but not on BZX Options, the Exchange does believe that the proposal is still reasonable, equitably allocated and non-discriminatory with respect to such Member based on the overall benefit to the Exchange resulting from the success of BZX Options. As noted above, such success allows the Exchange to continue to provide and potentially expand its existing incentive programs to the benefit of all participants on the Exchange, whether they participate on BZX Options or not.

Lastly, the Exchange believes that limiting one prong of the tier's required criteria to Options Market Makers is not unfairly discriminatory because it is intended to increase Market Maker participation on BZX Options. Market Makers have affirmative obligations to maintain fair and orderly markets and to maintain a two-sided market in those options series in which it is registered.[16] Encouraging Market Maker's [sic] to achieve certain volume criteria on BZX Options in order to receive the tier's enhanced rebate, therefore, benefits all market participants by increasing the depth of the BZX Options liquidity pool and improving the market quality of the Exchange. The Exchange notes that the proposed criteria is not only limited to the Member's Options Market Making on BZX Options. The proposed criteria also requires that the Member meet certain volume requirements on BZX Equities and does require [sic] the Member be registered as a Market Maker to satisfy the tier.

(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. The Exchange does not believe that any of the proposed change [sic] to the Exchange's tiered pricing structure burden competition, but instead, that they enhance competition as they are intended to increase the competitiveness of the Exchange by modifying pricing incentives in order to attract order flow and incentivize participants to increase their participation on the Exchange. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive. The proposed changes are generally intended to enhance the rebates for liquidity added to the Exchange, which is intended to draw additional liquidity to the Exchange, and to eliminate a rebate that has not achieved its desired result. The Exchange does not believe the proposed amendments would burden intramarket competition as they would be available to all Members uniformly.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[17] and paragraph (f) of Rule 19b–4 thereunder.[18] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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–BatsBZX–2017–67 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–BatsBZX–2017–67. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also 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 No. SR–BatsBZX–2017–67 and should be submitted on or before November 15, 2017.

[16] *See* Exchange Rule 22.5(a).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–23119 Filed 10–24–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81913; File No. SR–CHX–2017–04]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Amendments No. 1 and No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendments No. 1 and No. 2, To Adopt the CHX Liquidity Enhancing Access Delay on a Pilot Basis

October 19, 2017.

I. Introduction

On February 10, 2017, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt the CHX Liquidity Enhancing Access Delay (''LEAD''), which would require all new incoming orders, cancel, and cancel/replace messages to be subject to a 350-microsecond intentional access delay except for: (1) Orders that would provide liquidity submitted by a LEAD Market Maker (''LEAD MM'' or ''LMM''), a new class of CHX market maker with heightened quoting and trading obligations (referred to collectively as the ''minimum performance standards''); and (2) cancel messages originating from a LEAD MM's trading account. The proposed rule change was published for comment in the **Federal Register** on February 21, 2017.[3] On April 3, 2017, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved.[4] The Commission received eleven comment letters on the proposed rule change, including a response from the Exchange.[5] On May 22, 2017, the Commission instituted proceedings under Section 19(b)(2)(B) of the Exchange Act[6] to determine whether to approve or disapprove the proposed rule change.[7] Thereafter, the Commission received seven more comment letters, including a response from the Exchange.[8] On August 17, 2017, pursuant to Section 19(b)(2) of the Exchange Act,[9] the Commission designated a longer period for Commission action on proceedings to determine whether to disapprove the proposed rule change.[10]

On September 19, 2017, the Exchange filed Amendment No. 1 to the proposed rule change. In Amendment No. 1, the Exchange proposed to implement the proposed rule change as a 24-month pilot program, during which time the Exchange would collect and publicly disclose (following the sixth month of the pilot program) the following data: (1) Quote quality statistics, designed to provide comparative data regarding the effect of LEAD on market quality, for each security per trading day and for each period of exceptional volatility (''PEV'') range (''PEV Range''), for the six months immediately preceding the implementation of the pilot program and for the duration of the pilot program; (2) matched trade difference statistics, designed to compare the reliability of CHX quotes with and without the LEAD, for each security assigned to a LEAD MM (''LEAD MM Security'') per trading day and per PEV Range, for the duration of the pilot program; (3) volume statistics, designed to measure the impact of LEAD on execution volume in LEAD MM Securities for the duration of the pilot program; (4) variable processing delay statistics, designed to provide comparative data regarding the variable delay[11] between the initial receipt of an order and the time that the order is eligible to be matched by CHX's matching system for the duration of the pilot program; and (5) effective spread statistics, designed to measure the impact of the LEAD on CHX and national market system (''NMS'') effective spreads for the duration of the pilot program.[12] On October 18, 2017, the Exchange filed Amendment No. 2 to the proposed rule change.[13] This order approves the proposed rule change, as

[19] 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. 80041 (February 14, 2017), 82 FR 11252 (''Notice'').

[4] *See* Securities Exchange Act Release No. 80364, 82 FR 17065 (April 7, 2017).

[5] *See* letters from: Ryan Hitch, Head of Equities Trading, XR Securities LLC, dated February 24, 2017 (''XR Securities Letter''); Douglas A. Cifu, Chief Executive Officer, Virtu Financial LLC, dated February 27, 2017 (''Virtu Letter''); Joanna Mallers, Secretary, FIA Principal Traders Group, dated March 13, 2017 (''FIA PTG Letter''); Adam Nunes, Head of Business Development, Hudson River Trading LLC, dated March 13, 2017 (''Hudson River Trading Letter''); R.T. Leuchtkafer, dated March 14, 2017 (''Leuchtkafer Letter''); Stephen John Berger, Managing Director, Government & Regulatory Policy, Citadel Securities, dated March 14, 2017 (''Citadel Letter''); Tyler Gellasch, Executive Director, Healthy Markets Association, March 17, 2017 (''Healthy Markets Letter''); Elizabeth K. King, General Counsel and Corporate Secretary, New York Stock Exchange, dated March 20, 2017 (''NYSE Letter''); James G. Ongena, Executive Vice President and General Counsel, CHX, dated March 24, 2017 (''CHX Letter''); Steve Crutchfield, Head of Market Structure, CTC Trading Group, LLC, dated April 4, 2017 (''CTC Trading Letter''); and Theodore R. Lazo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated May 17, 2017 (''SIFMA Letter''). All comments on the proposed rule change are available at *https://www.sec.gov/comments/sr-chx-2017-04/chx201704.htm.*

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 80740, 82 FR 24412 (May 26, 2017) (''OIP''). In the OIP, the Commission specifically requested comment on thirteen questions. *See id.* at 24416.

[8] *See* letters from: R.T. Leuchtkafer, dated June 15, 2017 (''Leuchtkafer Letter 2''); Stephen Berger, Managing Director, Government and Regulatory Policy, Citadel Securities, dated June 16, 2017 (''Citadel Letter 2''); Joanna Mallers, Secretary, FIA Principal Traders Group, dated June 16, 2017 (''FIA PTG Letter 2''); James G. Ongena, Executive Vice President, General Counsel, CHX, dated June 30, 2017 (''CHX Letter 2''); R.T. Leuchtkafer, dated July 7, 2017 (''Leuchtkafer Letter 3''); R.T. Leuchtkafer, dated July 10, 2017 (''Leuchtkafer Letter 4''); and R.T. Leuchtkafer, dated October 7, 2017 (''Leuchtkafer Letter 5'').

[9] 15 U.S.C. 78s(b)(2).

[10] *See* Securities Exchange Act Release No. 81415, 82 FR 40051 (August 23, 2017).

[11] The variable delay does not include the 350-microsecond intentional access delay. The variable delay will depend on factors including, but not limited to, messaging volume and system processing. *See* Amendment No. 1, *infra* note 12, at 28.

[12] In Amendment No. 1, the Exchange also supplemented its rationale for the proposed rule change, provided additional discussion related to the market quality enhancements that it believes would be realized from the proposal, corrected certain errors in the examples set forth in the proposal, and corrected a misstatement by the Exchange in one of its comment letters. Amendment No. 1 is available at *https://www.sec.gov/comments/sr-chx-2017-04/chx201704-2583844-161106.pdf.*

[13] In Amendment No. 2, the Exchange: (1) Amended the proposal so that the LEAD would apply only during the regular trading session; (2) revised the definition of ''Qualified Executions'' to measure executions during the regular trading session only; (3) modified its description of its review for compliance with the minimum performance standards to provide that the Exchange would review LEAD MM quoting and trading activity on a monthly basis, and that trading days on which a LEAD MM was prohibited by CHX rules from submitting orders from its trading account would be excluded from such review; (4) modified its description of the data that will be published on its Web site; (5) modified its description of the PEV data that will be collected; and (6) clarified its description of one of the order origin categories into which the variable processing delay statistics will be divided and amended and added delay ranges for which data will be collected. Amendment No. 2 is available at *https://www.sec.gov/comments/sr-chx-2017-04/chx201704-2643435-161294.pdf.*

modified by Amendments No. 1 and No. 2, on an accelerated basis.

II. Summary of the Proposal

The Exchange proposes to adopt, on a pilot basis, the LEAD,[14] which would subject all new incoming orders,[15] cancel, and cancel/replace messages to a 350-microsecond intentional access delay, except for: (1) Orders that would provide liquidity submitted by a LEAD MM; and (2) cancel messages originating from a LEAD MM's trading account. New incoming orders, cancel, and cancel/replace messages would be subject to a 350 microsecond delay after initial receipt by the Exchange (''Fixed LEAD Period''), and would only be processed after the Exchange's matching system [16] has evaluated and processed, if applicable, all messages received by the Exchange during the Fixed LEAD Period. A delayed message would retain its original sequence number and would be delayed only once. The LEAD would be applied to all securities traded on the Exchange during the regular trading session.[17]

The Exchange states that the LEAD is designed to address a lack of resting liquidity in NMS securities on CHX by providing LEAD MMs with a risk management tool that would incentivize LEAD MMs to display larger orders at aggressive prices.[18] To the extent the LEAD would incentivize LEAD MMs to improve the price and size of the prevailing National Best Bid and Offer (''NBBO''), the Exchange asserts that LEAD could reduce transaction costs for retail investors, as wholesale broker-dealers price the majority of the retail orders they handle using the prevailing NBBO, and for institutional investors, as the execution costs for their orders would be reduced if the average NBBO spreads are narrowed.[19]

A LEAD MM would be required to meet the proposed minimum performance standards in return for undelayed access to submit liquidity providing orders and to cancel its resting orders. The proposed minimum performance standards require, in addition to the obligations for market makers required by the Exchange's current rules,[20] that: (1) A LEAD MM disseminate throughout the Exchange's regular trading session (except during auctions) a continuous two-sided quote, with bids and offers being closer to the National Best Bid (''NBB'') and National Best Offer (''NBO''), respectively, than the quotes that market makers are required to post under CHX's existing rules; (2) a LEAD MM maintain an average monthly NBBO quoting percentage [21] in each of its LEAD MM Securities of at least 10% over the course of a calendar month; (3) a LEAD MM must execute at least 2% of the transactions during the regular trading session, resulting from single-sided orders (excluding auction executions), in each of its LEAD MM Securities on an equally-weighted daily average over the course of a calendar month; and (4) at least 80% of the LEAD MM's executions during the regular trading session, resulting from single-sided orders (excluding auction executions), in each of its LEAD MM Securities result from its resting orders that originated from its corresponding LEAD MM trading account over the course of a calendar month.[22]

CHX also proposes to establish a procedure to designate LEAD MMs in a security. Only a market maker could apply to be a LEAD MM in one or more securities, and market makers must receive written approval from the Exchange to be assigned securities as a LEAD MM.[23] LEAD MMs would be selected by the Exchange based on factors including, but not limited to, experience with making markets in securities, adequacy of capital, willingness to promote the Exchange as a marketplace, issuer preference, operational capacity, support personnel, and history of adherence to Exchange rules and securities laws.[24] Current Article 16, Rules 2(c)–(e) govern market maker withdrawal from assigned securities, and would apply to LEAD MMs and LEAD MM Securities. The Exchange could approve, at its discretion, more than one LEAD MM to be assigned to any LEAD MM Security and limit the number of LEAD MMs assigned to any security.[25]

Pursuant to proposed CHX Article 16, Rule 4(f)(3)(D), the Exchange would review each LEAD MM's quoting and trading activity on a monthly basis to determine whether the LEAD MM has met the minimum performance standards for each of its LEAD MM Securities.[26] A LEAD MM's failure to meet the minimum performance standards during any given month would result in the Exchange: (1) Suspending or terminating a LEAD MM's registration as a market maker; or (2) suspending or terminating assignment to a LEAD MM Security.[27] These proposed provisions would not limit any other power of the Exchange to discipline a LEAD MM pursuant to other CHX rules.

CHX Article 20, Rule 8(h) and proposed CHX Article 16, Rule 4(f) (collectively, the ''LEAD Rules'') would be introduced as a pilot program that would end 24 months following the implementation of the LEAD.[28] In connection with the pilot program, the Exchange would collect the following data (collectively, the ''Pilot Data''): (1) Quote quality statistics for each security

[14] For more details regarding the proposal, please refer to the Notice, Amendment No. 1, and Amendment No. 2, *supra* notes 3, 12, and 13 respectively.

[15] New incoming orders are orders received by the matching system for the first time. The LEAD would *not* apply to other situations where existing orders or portions thereof are treated as incoming orders, such as: (1) Resting orders that are price slid into a new price point pursuant to the CHX only price sliding or limit up-limit down price sliding processes; and (2) unexecuted remainders of routed orders released into the matching system. *See* Notice, *supra* note 3, 82 FR at 11252, n.3.

[16] The matching system is an automated order execution system.

[17] *See* Amendment No. 2, *supra* note 13, at 11.

[18] *See* Amendment No. 1, *supra* note 12, at 8.

[19] *See* CHX Letter 2, *supra* note 8, at 10. Originally, CHX framed the LEAD as a countermeasure to ''latency arbitrage,'' defined by the Exchange as the practice of exploiting disparities in the price of a security or related securities that are being traded in different markets by taking advantage of the time it takes to access and respond to public information. *See* Notice, *supra* note 3, 82 FR at 11252–53. CHX attributes latency arbitrage to a degradation of the quality of its market it observed between January and July 2016. *See id.* at 11253.

[20] *See* CHX Article 16, Rule 4(d).

[21] Proposed CHX Article 16, Rule 4(f)(2) provides that the Exchange will determine: (1) The ''Daily NBB Quoting Percentage'' by determining the percentage of time the LEAD MM has at least one round lot of displayed interest in an Exchange bid at the NBB during the open trading state of each trading day for a calendar month; (2) the ''Daily NBO Quoting Percentage'' by determining the percentage of time the LEAD MM has at least one round lot of displayed interest in an Exchange offer at the NBO during the open trading state of each trading day for a calendar month; (3) the ''Average Daily NBBO Quoting Percentage'' for each trading day by summing the ''Daily NBB Quoting Percentage'' and the ''Daily NBO Quoting Percentage'' then dividing such sum by two; and (4) the ''Monthly Average NBBO Quoting Percentage'' for each security by summing the security's ''Average Daily NBBO Quoting Percentages'' for each trading day in a calendar month then dividing the resulting sum by the total number of trading days in such calendar month.

[22] Prior to commencing LEAD market making activities in a security, a LEAD MM must, among other things, establish at least one separately designated LEAD MM trading account through which all and only LEAD market making activities in LEAD MM Securities must originate. *See* proposed CHX Article 16, Rule 4(f)(3)(B)(i).

[23] *See* proposed CHX Article 16, Rule 4(f)(3)(A).

[24] *See id.*

[25] *See* proposed CHX Article 16, Rule 4(f)(3)(C).

[26] *See* proposed CHX Article 16, Rule 4(f)(3)(D). The trading days that a LEAD MM is prohibited by CHX rules from submitting orders will be excluded from such review. *See* Amendment No. 2, *supra* note 13, at 12.

[27] *See* proposed CHX Article 16, Rule 4(f)(3)(D).

[28] To adopt the LEAD on a permanent basis, the Exchange would have to file another proposed rule change, and the Commission would have to approve it.

per trading day and per PEV Range,[29] for the six months immediately preceding the pilot program date of implementation, and for the duration of the pilot program; (2) matched trade difference statistics, which are designed to provide comparative data regarding how Qualified Orders [30] received by CHX would have been handled if LEAD had not been in effect, for each LEAD MM Security per trading day and per PEV Range, for the duration of the pilot program; (3) volume statistics for each LEAD MM Security per trading day for the duration of the pilot program; (4) comparative data regarding the variable delay between the initial receipt of an order and the time at which the order is eligible to be matched by CHX's matching system for each LEAD MM Security per trading day for the duration of the pilot program; and (5) statistics designed to measure the impact of LEAD on CHX and NMS effective spreads, for each LEAD MM Security per trading day and per PEV Range, for the duration of the pilot program. The Pilot Data is described in more detail below:

1. Daily Quote Quality Statistics

The daily quote quality statistics are designed to show several aspects of CHX and overall market quote quality both pre- and post-implementation of the pilot program. First, the statistics will show the width and the displayed size for both the NBBO and CHX's BBO during different periods of market volatility. Second, the statistics will display the contribution to the NBBO and CHX's BBO by the LEAD MM for those different periods of volatility. Finally, the statistics will show the contribution of CHX's BBO to the overall NBBO. Quote quality statistics are designed to provide comparative data regarding the effect of LEAD on market quality, and would include at a minimum the following data fields (as applicable):

Field No.	Field name	Description
1	Symbol.	
1A	Primary Matching Location	C = Chicago (CH2). N = New Jersey (NY4).
2	TradeDate.	
2A	PEVRange	Blank = All regular session data, 2 = PEV data greater than or equal to 2σ and less than 3σ, 3 = PEV data greater than or equal to 3σ and less than 4σ, 4 = PEV data greater than or equal to 4σ and less than 5σ, 5 = PEV data greater than or equal to 5σ.
3	NLMMs	The number of LMMs assigned to this Symbol on this Trade Date.
4A	TimeRegSessScheduled	The total scheduled time of the regular trading session for this Symbol for this TradeDate.
4B	TimeRegSessActual	The total actual time of the regular trading session for this Symbol for this TradeDate. Time during regulatory trading halts is not included in this total.
5	TimeCHXBidPresent	The total time during the regular trading session that CHX has a protected bid.
5L	TimeCHXBidPresentLMM	The total time during the regular trading session that CHX has a protected bid and one or more LMMs are included in the CHX protected bid price.
6	TimeCHXBidMissing	The total time during the regular trading session that CHX does not have a protected bid.
7	TimeCHXBidOnNBB	The total time during the regular trading session that CHX has a protected bid equal to the NBB price.
7L	TimeCHXBidOnNBBLMM	The total time during the regular trading session that CHX has a protected bid equal to the NBB price and one or more LMMs are included in the NBB price.
8	TimeCHXBidNamed	The total time during the regular trading session that CHX has a protected bid equal to the NBB price and CHX is shown as the NBB.
8L	TimeCHXBidNamed	The total time during the regular trading session that CHX has a protected bid equal to the NBB price and CHX is shown as the NBB and one or more LMMs are included in the NBB price.
9	TimeCHXBidAlone	The total time during the regular trading session that CHX has a protected bid that is the only bid at the NBB price.
9L	TimeCHXBidAloneLMM	The total time during the regular trading session that CHX has a protected bid that is the only protected bid at the NBB price and one or more LMMs are included in the NBB price.
10	TimeCHXAskPresent	The total time during the regular trading session that CHX has a protected offer.
10L	TimeCHXAskPresentLMM	The total time during the regular trading session that CHX has a protected offer and one or more LMMs are included in the CHX protected offer.
11	TimeCHXAskMissing	The total time during the regular trading session that CHX does not have a protected offer.
12	TimeCHXAskOnNBO	The total time during the regular trading session that CHX has a protected offer equal to the NBO price.
12L	TimeCHXAskOnNBOLMM	The total time during the regular trading session that CHX has a protected offer equal to the NBO price and one or more LMMs are included in the NBO price.

[29] A PEV means a one second interval during which a percentage change in the NBBO midpoint for the security equaled or exceeded two standard deviations (''σ'') from the mean. Each trading day, the Exchange would calculate a reference mean and standard deviation from consecutive one second time intervals during the regular trading session. Each daily reference mean and standard deviation would be applied to measure PEV on the following trading day. Each PEV would be categorized into one of five PEV Ranges, which are as follows: 2 = PEV greater than or equal to 2σ and less than 3σ; 3 = PEV greater than or equal to 3σ and less than 4σ; 4 = PEV greater than or equal to 4σ and less than 5σ; and 5 = PEV greater than or equal to 5σ. *See* Amendment No. 2, *supra* note 13, at 8.

[30] Generally, ''Qualified Orders'' are new single-sided orders received by the Exchange during the regular trading session that were delayed.

Field No.	Field name	Description
13	TimeCHXAskNamed	The total time during the regular trading session that CHX has a protected offer equal to the NBO price and CHX is shown as the NBO.
13L	TimeCHXAskNamedLMM	The total time during the regular trading session that CHX has a protected offer equal to the NBO price and CHX is shown as the NBO and one or more LMMs are included in the NBO price.
14	TimeCHXAskAlone	The total time during the regular trading session that CHX has a protected offer that is the only protected offer at the NBO price.
14L	TimeCHXAskAloneLMM	The total time during the regular trading session that CHX has a protected offer that is the only protected offer at the NBO price and one or more LMMs are included in the NBO price.
15	TimeCHXNoQuote	The total time during the regular trading session that CHX has neither a protected bid nor a protected offer.
16	TimeCHXTwoSided	The total time during the regular trading session that CHX has both a protected bid and a protected offer.
17	TimeNBBOUncrossed	The total time during the regular trading session that the NBBO is not crossed.
18	Time-weightedCHXBid Differential	The time-weighted average difference between the CHX protected bid price and the NBB price when a CHX protected bid is present during the regular trading session.
19	Time-weightedCHXBid SizeOnNBB	The time-weighted average CHX protected bid size when the CHX protected bid price equals the NBB price during the regular trading session.
19L	Time-weightedCHXBid SizeOnNBBLMM	The time-weighted average LMM percentage of the CHX protected bid size when the CHX protected bid price equals the NBB price during the regular trading session.
20	Time-weightedCHXBid SizeWhenNamed	The time-weighted average CHX protected bid size when the CHX protected bid price equals the NBB price during the regular trading session.
20L	Time-weightedCHXBid SizeWhenNamed	The time-weighted average LMM percentage of CHX protected bid size when the CHX protected bid price equals the NBB price during the regular trading session.
21	Time-weightedCHXBid SizeWhenAlone	The time-weighted average LMM percentage of CHX protected bid size when the CHX protected bid is the only protected bid at the NBB price during the regular trading session.
21L	Time-weightedCHXBid SizeWhenAloneLMM	The time-weighted average CHX protected bid size when the CHX protected bid is the only protected bid at the NBB price during the regular trading session.
22	Time-weightedCHXPctOfBid SizeWhenOnNBB.	The time-weighted average percentage of all protected quotations at the NBB price when the CHX protected bid price equals the NBB price.
23	Time-weightedCHXAsk Differential	The time-weighted average difference between the CHX protected offer price and the NBO price when a CHX protected offer is present during the regular trading session.
24	Time-weightedCHXAsk SizeOnNBO	The time-weighted average CHX protected offer size when the CHX protected offer price equals the NBO price during the regular trading session.
24L	Time-weightedCHXAsk SizeOnNBOLMM	The time-weighted average LMM percentage of CHX protected offer size when the CHX protected offer price equals the NBO price during the regular trading session.
25	Time-weightedCHXAsk SizeWhenNamed	The time-weighted average CHX protected offer size when the CHX protected offer price equals the NBO price during the regular trading session.
25L	Time-weightedCHXAsk SizeWhenNamedLMM	The time-weighted average LMM percentage of CHX protected offer size when the CHX protected offer price equals the NBO price during the regular trading session.
26	Time-weightedCHXAsk SizeWhenAlone	The time-weighted average CHX protected offer size when the CHX protected offer is the only protected offer at the NBO price during the regular trading session.
26L	Time-weightedCHXAsk SizeWhenAloneLMM	The time-weighted average LMM percentage of CHX protected offer size when the CHX protected offer is the only protected offer at the NBO price during the regular trading session.
27	Time-weightedCHXPctOfAsk SizeWhenOnNBO.	The time-weighted average percentage of all protected quotation size at the NBO price when CHX protected offer price equals the NBO price.
28	Time-weightedCHX BBOSpread	The time-weighted average difference between the CHX protected bid price and the CHX protected offer price when CHX is displaying a two-sided protected quotation.
29	Time-WeightedNBBOSpread	The time-weighted average difference between the NBB price and the NBO price when a two-sided NBBO exists.

2. Matched Trade Difference Statistics

The matched trade difference statistics are designed to show how many shares were executed with the LEAD MM proposal implemented and also, hypothetically, how many shares would have been executed had the LEAD MM proposal not been implemented, which would be accomplished by assuming non-LEAD MM orders were executed immediately. In addition, these metrics are aggregated by specific PEV Range so that one can analyze how these executions vary during different periods of volatility. Each Qualified Order would be categorized into one of the following four groups: (1) *Group 1:* Orders with at least a partial execution upon initial processing by CHX's matching system

that would have had the same number of shares executed with or without LEAD; (2) *Group 2:* Orders with at least a partial execution upon initial processing by the matching system that had fewer executed shares with LEAD than it would have had without LEAD; (3) *Group 3:* Orders with at least a partial execution upon initial processing by the matching system that had more executed shares with LEAD than it would have had without LEAD; and (4) *Group 4:* Orders with no executed shares upon initial processing by the matching system with LEAD.[31]

Match trade difference statistics would include, at a minimum, the following data fields, as applicable:

Field No.	Field name	Description
1	Symbol.	
1A	Primary Matching Location	C = Chicago (CH2). N = New Jersey (NY4).
2	TradeDate.	
2A	PEVRange	Blank = All regular session data. 2 = PEV data greater than or equal to 2σ and less than 3σ. 3 = PEV data greater than or equal to 3σ and less than 4σ. 4= PEV data greater than or equal to 4σ and less than 5σ. 5 = PEV data greater than or equal to 5σ.
3	InboundTradingAccount	The Trading Account of the inbound order.
3A	NLMMs	The number of LMMs assigned to this Symbol on this Trade Date.
4	CapacityCode	This field would include the following codes: Code Meaning A Agency. L LEAD Market Maker. M Market Maker (not LEAD). P Principal. R Riskless Principal.
4A	ExchangeCode	Code Meaning N Not from an exchange. Y From an exchange.
5	ISOCode	Code Meaning N Not an ISO order. Y An ISO order.
6	TimeInForceCode	Code Meaning 0 DAY or equivalent. 3 IOC. 4 FOK. 9 Other (includes auction).
7	GROUP1_NO	The number of orders (“NO”) in Group 1.
8	GROUP1_NTS	The total number of shares on all orders (“NTS”) in Group 1.
9[32]	GROUP1_NSE = GROUP1_NSEW	The total number of shares immediately executed upon initial processing by the Matching System on all orders (“NSE”) in Group 1, which would always be equal to the total number of shares that would have been immediately executed upon initial processing by the Matching System had LEAD not been in effect (“NSEW”).
10	GROUP2_NO	NO in Group 2.
11	GROUP2_NTS	NTS in Group 2.
12	GROUP2_NSE	NSE in Group 2.
13	GROUP2_NSEW	NSEW on all orders in Group 2.
14	GROUP3_NO	NO in Group 3.
15	GROUP3_NTS	NTS in Group 3.
16	GROUP3_NSE	NSE in Group 3.
17	GROUP3_NSEW	NSEW on all orders in Group 3.
18	GROUP4_NO	NO in Group 4.
19	GROUP4_NTS	NTS in Group 4.
	GROUP4_NSE	This value would always be zero and not included.
20	GROUP4_NSEW	NSEW on all orders in Group 4.
21	LMMProvideOrderExecutedAheadOfDelayed NonLMMProvideOrder.	Frequency at which an LMM provider order ranked on the CHX book executes ahead of a precedent non-LMM order (with the same side and price as the LMM order) that would have been immediately ranked on the CHX book if it had originated from a LEAD MM Trading Account, but was delayed.

3. Volume Statistics

The volume statistics are designed to show how the adoption of the LEAD by market makers changes over time as well as how much volume these new market makers execute over time. Generally, this data will concisely indicate CHX’s ability to attract new market makers to the LEAD MM program. For each LEAD MM Security, the Exchange would collect the following: (1) Daily number of LEAD MMs assigned; (2) total single-sided volume on CHX; (3) total market wide

[31] *See* proposed CHX Article 20, Rule 8(h)(5)(A).

[32] NSE and NSEW exclude executions that resulted or would have resulted after initial processing by the matching system, such as when the orders are executed after being ranked on the CHX book. *See* Amendment No. 1, *supra* note 12, at 27.

single-sided volume;[33] (4) total single-sided volume on CHX attributed to LEAD MMs as providers; and (5) the primary matching location for the security.

4. Variable Processing Delay Statistics

The variable processing delay statistics are designed to indicate how variable delays are distributed between orders from LEAD MMs and other market participants. All exchanges experience delays to some degree during periods of high order volume. These statistics will highlight discrepancies in delays experienced by orders from LEAD MMs and other market participants. These statistics would be divided into three order origin categories: (1) Orders from CHX participants that are not LEAD MMs; (2) liquidity taking orders from LEAD MMs; and (3) undelayed liquidity providing orders from LEAD MMs. For each order origin category, the Exchange would collect the following: (1) The number of orders with a variable delay less than 50 microseconds, and the average delay time; (2) the number of orders with a variable delay equal to or greater than 50 microseconds but less than 150 microseconds, and the average delay time; (3) the number of orders with a variable delay equal to or greater than 150 microseconds but less than 250 microseconds, and the average delay time; (4) the number of orders with a variable delay equal to or greater than 250 microseconds but less than 350 microseconds, and the average delay time; and (5) the number of orders with a variable delay equal to or greater than 350 microseconds, and the average delay time.[34]

5. Effective Spread Statistics

The effective spread statistics are designed to track both the CHX and overall market effective spreads per security for different PEV Ranges prior to and after the implementation of the pilot program. This data should highlight changes in market quality that occur during the pilot program. The effective spread statistics would include, at least, the following data fields, as applicable:

Field No.	Field name	Description
1	Symbol.	
1A	Primary Matching Location	C = Chicago (CH2). N = New Jersey (NY4).
2	Date.	
2A	PEVRange	Blank = All regular session data. 2 = PEV data greater than or equal to 2σ and less than 3σ. 3 = PEV data greater than or equal to 3σ and less than 4σ. 4 = PEV data greater than or equal to 4σ and less than 5σ. 5 = PEV data greater than or equal to 5σ.
3	NLMMs	Number of LMMs assigned to symbol.
4	TradeSizeBracket	1 = 1–499. 2 = 500–1999. 3 = 2000–4999. 4 = 5000–9999. 5 = 10,000 or more.
5	CHXNTrades	For Eligible Trades[35] reported by CHX in TradeSizeBracket, the number of Eligible Trades reported.
6	CHXNShares	For Eligible Trades reported by CHX in TradeSizeBracket, number of shares attributed to Eligible Trades reported.
7	SW_CHX_EffectiveSpread	For Eligible Trades reported by CHX in TradeSizeBracket: Share-Weighted (2 * |Trade Price—SIP NBBO Midpoint|).
8	SW_CHX_EffectiveSpreadIndex	For qualified trades reported by CHX in TradeSizeBracket: CHX Effective Spread divided by the SIP NBBO at Participant Trade Report Time.
9	NMSNTrades	For Eligible Trades reported by SIP, the number of trades reported.
10	NMSNShares	For Eligible Trades reported by SIP in TradeSizeBracket, the number of shares reported.
11	SW_NMS_EffectiveSpread	For Eligible Trades reported by SIP in TradeSizeBracket: Share-Weighted (2 * |Trade Price—SIP NBBO Midpoint|).
12	SW_NMS_EffectiveSpreadIndex	For Eligible Trades reported by SIP in TradeSizeBracket: NMS Effective Spread divided by the SIP NBBO at Participant Trade Report Time.

6. Timeline To Produce Pilot Data

By no later than the end of the second month of the pilot program, the Exchange would provide the Commission with the Pilot Data for the first month of the pilot program.[36] By the end of each month thereafter, the Exchange would provide the Commission with the Pilot Data from the previous month.[37] By no later than the end of the sixth month of the pilot program, the Exchange would publish on its Web site an anonymized version of the Pilot Data and, by the end of each month thereafter, the Exchange would publish on its Web site an anonymized version of the Pilot Data, for each prior month of the pilot program.[38] On the first day of the pilot program, the Exchange would publish on the CHX Web site each LEAD MM Security and the number of LEAD MMs assigned to each security, which would be updated daily during the duration of the pilot program.[39] By no later than the end of the eighteenth month of the pilot program, the Exchange would provide the Commission with an analysis of the Pilot Data, which would be made publicly available.[40]

[33] In calculating total market wide volume, the Exchange will exclude volume attributed to certain non-standard trades. *See* Amendment No. 1, *supra* note 12, at 27.

[34] *See* Amendment No. 2, *supra* note 13, at 10.

[35] Generally, ''Eligible Trades'' are executions attributed to single-sided orders received during the regular trading session when a two-sided and uncrossed NBBO disseminated by the relevant Securities Information Processor (''SIP NBBO'') was present. *See* proposed CHX Article 20, Rule 8(h)(8).

[36] *See* proposed CHX Article 20, Rule 8(h)(3)(B).

[37] *See id.*

[38] *See* proposed CHX Article 20, Rule 8(h)(3)(C).

[39] *See id.*

[40] *See* proposed CHX Article 20, Rule 8(h)(3)(A).

III. Discussion and Commission Findings

The Commission has carefully reviewed the proposal and finds that approval of the proposed rule change, as modified by Amendments No. 1 and No. 2, is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[41] In particular, as discussed below, the Commission finds that the proposal is consistent with: (1) Section 6(b)(5) of the Exchange Act,[42] which requires that the rules of a national securities exchange, among other things, be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers; (2) Section 6(b)(8) of the Exchange Act,[43] which requires that the rules of a national securities exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act; and (3) Section 11A of the Exchange Act, which articulates Congress' finding that, among other things, it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure: Economically efficient execution of securities transactions; fair competition among brokers and dealers, among exchange markets, and between exchange markets; the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities; the practicability of brokers executing investors' orders in the best market; and an opportunity, consistent with the economically efficient execution of securities transactions and the practicability of brokers executing investors' orders in the best market, for investors' orders to be executed without the participation of a dealer.[44]

The Commission received sixteen comment letters from ten commenters on the proposal and two response letters from the Exchange.[45] Two commenters express support for the proposal,[46] and eight commenters express opposition to, or concern regarding, the proposal.[47]

A. Section 6 of the Exchange Act

Section 6(b)(5) of the Exchange Act requires that the rules of a national securities exchange must be, among other things, not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[48] Certain commenters argue that the proposed rule change would provide an unfair advantage to LEAD MMs over other CHX participants.[49] In particular, commenters argue that by not subjecting LEAD MMs' liquidity providing orders and related cancels to the LEAD, the proposal would unfairly discriminate in favor of the LEAD MMs.[50] Two commenters state that the LEAD would unfairly discriminate against market participants that are primarily liquidity takers, such as retail investors or institutions.[51] A commenter argues that the discriminatory nature of the LEAD would harm market participants when they seek to access liquidity provided by a LEAD MM as the LEAD MM may alter its price while incoming orders are being delayed.[52] Another commenter expresses concern that the LEAD would frustrate strategies that involve taking prices across multiple venues by giving extra time to LEAD MMs to pull their quotes in the middle of a multi-venue order.[53]

In addition, certain commenters express concern regarding the discriminatory effects of the LEAD on non-LEAD MM liquidity providers.[54] For example, one commenter asserts that the LEAD would benefit LEAD MMs by making it easier to quote better prices in larger size but would in turn make it more difficult for non-LEAD MM liquidity providers to quote better prices at larger size.[55] Similarly, another commenter argues that the LEAD will prevent non-LEAD MM liquidity providers, who the commenter characterize as being not being informationally advantaged by the speed bump, from providing the best possible market they otherwise could.[56]

Two commenters believe that the proposal will incentivize LEAD MMs to enhance displayed liquidity by entering larger orders at better prices.[57] Another commenter states that it believes that this will benefit institutional investors.[58] One commenter states that it believes that the proposal would benefit the public interest and protect investors by encouraging superior displayed liquidity from qualified market makers.[59] In addition, these commenters believe that the proposed minimum performance standards are appropriate given the benefits that LEAD MMs would be afforded.[60] One of those commenters states its belief that market maker incentives should be consistent with the risk inherent with truly affirmative quoting and trading obligations, and asserts that the minimum performance standards meet such standard.[61] That commenter believes that the proposal would appropriately link heightened quoting and trading requirements with the ability to adequately manage the heightened risks of such requirements.[62] Another commenter agrees with CHX that the minimum performance standards are substantial and proportionate to the advantages that LEAD MMs will receive.[63] The commenter states that historically, other national securities exchanges have balanced market maker benefits with

[41] In approving the proposed rule change, as modified by Amendments No. 1 and No. 2, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f). *See infra* Section III.A.

[42] 15 U.S.C. 78f(b)(5).

[43] 15 U.S.C. 78f(b)(8).

[44] 15 U.S.C. 78k–1(a)(1)(C).

[45] *See supra* notes 5 and 8.

[46] *See* Virtu Letter, *supra* note 5; and CTC Trading Group Letter, *supra* note 5.

[47] *See* XR Securities Letter, *supra* note 5; FIA PTG Letter, *supra* note 5; Hudson River Trading Letter, *supra* note 5; Leuchtkafer Letter, *supra* note 5; Citadel Letter, *supra* note 5; Healthy Markets Letter, *supra* note 5; NYSE Letter, *supra* note 5; and SIFMA Letter, *supra* note 5.

[48] 15 U.S.C. 78f(b)(5).

[49] *See* FIA PTG Letter, *supra* note 5, at 3; XR Securities Letter, *supra* note 5, at 1; SIFMA Letter, *supra* note 5, at 2; Leuchtkafer Letter, *supra* note 5, at 4 (asserting that the LEAD would only benefit market participants who become LEAD MMs and subscribe to the Chicago Mercantile Exchange's (''CME'') data feeds); Hudson River Trading Letter, *supra* note 5, at 2; and Citadel Letter, *supra* note 5, at 3.

[50] *See* FIA PTG Letter, *supra* note 5, at 2–3; Leuchtkafer Letter, *supra* note 5, at 4–5; Citadel Letter, *supra* note 5, at 3–4; Hudson River Trading Letter, *supra* note 5, at 5–6. *See also* XR Securities Letter, *supra* note 5, at 2 (stating that the LEAD would give LEAD MMs an ''unfair advantage''); Healthy Markets Letter, *supra* note 5, at 4 (stating that the proposal would ''venture into unchartered discriminatory waters, and offers little explanation or justification''); and SIFMA Letter, *supra* note 5, at 5 (asserting that any intentional delay should be universally applied to all market participants in a non-discriminatory manner).

[51] *See* Citadel Letter, *supra* note 5, at 5–6; Leuchtkafer Letter, *supra* note 5, at 4.

[52] *See* Hudson River Trading Letter, *supra* note 5, at 2.

[53] *See* FIA PTG Letter, *supra* note 5, at 3.

[54] *See* Hudson River Trading Letter, *supra* note 5, at 1–2; XR Securities Letter, *supra* note 5, at 3; Citadel Letter, *supra* note 5, at 3; Leuchtkafer Letter 2, *supra* note 5, at 8.

[55] *See* Hudson River Trading Letter, *supra* note 5, at 1–2.

[56] *See* XR Securities Letter, *supra* note 5, at 3.

[57] *See* Virtu Letter, *supra* note 5, at 2; and CTC Trading Letter, *supra* note 5, at 3.

[58] *See* Virtu Letter, *supra* note 5, at 2.

[59] *See* CTC Trading Letter, *supra* note 5, at 5.

[60] *See* Virtu Letter, *supra* note 5, at 2; and CTC Trading Letter, *supra* note 5, at 4.

[61] *See* Virtu Letter, *supra* note 5, at 2.

[62] *See id.*

[63] *See* CTC Trading Letter, *supra* note 5, at 4.

responsibilities, and asserts that requiring market makers to comply with substantial quoting requirements and benefits that are proportionate to their obligations, which it believes the LEAD would provide for, is consistent with the Exchange Act.[64] In addition, that commenter states its views that the LEAD would reduce unfair discrimination by providing an appropriate trade-off between the benefits and responsibilities of LEAD MMs.[65] Other commenters express concern that the minimum performance standards may not be adequate to justify the benefits that LEAD MMs would receive under the proposal.[66] In addition, one commenter suggests that LEAD MMs should have specific responsibilities around the open, close, and in volatile markets.[67]

The Exchange argues that the proposed rule change is not designed to permit unfair discrimination. While the Exchange acknowledges that the LEAD is discriminatory by design,[68] the Exchange asserts that the proposed discrimination is fair because the advantage afforded to LEAD MMs is conditioned upon LEAD MMs satisfying the proposed minimum performance standards,[69] which, according to the Exchange, are substantial and proportionate to the benefits that the LEAD would confer on LEAD MMs.[70] The Exchange notes that it has little to no resting liquidity in the vast majority of NMS securities traded at CHX, which has resulted in immaterial trading volume in all but a handful of securities.[71] The Exchange states that the LEAD Rules would address this lack of resting liquidity in NMS securities on CHX by providing LEAD MMs with a risk management tool that would incentivize them to display larger orders at aggressive prices.[72] To the extent the LEAD would incentivize LEAD MMs to improve the price and size of the prevailing NBBO, the Exchange argues that LEAD could reduce transaction costs for retail investors, as wholesale broker-dealers price the majority of the retail orders they handle off the prevailing NBBO, and for institutional investors, as the execution costs for their orders would be reduced if the average NBBO spreads are narrowed.[73] The Exchange, therefore, contends that the LEAD would result in meaningful enhancements to market quality in securities that are actively traded at CHX and new aggressive markets in securities that are currently not actively traded at CHX.[74]

Further, the Exchange states that the minimum performance standards are appropriate given the requirements imposed upon and benefits incurred by market makers on other exchanges.[75] Specifically, the Exchange compares the proposed obligations of its LEAD MMs to those of the New York Stock Exchange, LLC (''NYSE'') Designated Market Makers (''DMMs''), which receive execution parity rights in return for minimum performance standards that CHX states are similar to CHX's proposed minimum performance standards.[76] The Exchange asserts that, while DMM parity merely encourages DMMs to join the NBBO, the LEAD would incentivize LEAD MMs to improve the price and size of the NBBO by: Minimizing the risk that LEAD MMs' quotes would be ''picked off'' by latency arbitrageurs; and providing, through CHX's existing market data revenue rebates program, rebates for quotes that remain on the CHX book for at least one second.[77]

In response to the comments requesting data showing that the minimum performance standards are appropriate,[78] the Exchange presents data[79] that it believes demonstrates that the minimum performance standards would be substantial relative to historical CHX data. The Exchange states that the data shows that the majority of CHX participants would not have passed the proposed minimum performance standards in January 2016 or February 2017 for the securities that trade on CHX,[80] and that the most active SPDR S&P 500 trust exchange-traded fund (''SPY'') liquidity providers in January 2016 would not have met the standards as of February 2017.[81] In addition, CHX believes that the LEAD MM selection criteria, which would allow CHX to consider various factors in assessing the ability of an applicant to meaningfully contribute to market quality as a LEAD MM,[82] are designed to forecast how well an applicant would perform as a LEAD MM.[83] CHX notes that the criteria are virtually identical to the criteria under Bats BZX's rules for its lead market maker program.[84]

With regard to a commenter's concern that the LEAD would frustrate strategies that involve taking prices across multiple venues, the Exchange asserts that a market participant who currently utilizes sophisticated order routing logic to successfully execute multi-venue orders could modify its logic to account for the 350-microsecond intentional delay at CHX and thereby eliminate any incremental information leakage.[85] In addition, the Exchange believes that 350 microseconds is long enough to minimize the effectiveness of latency arbitrage strategies, yet short enough as to not provide liquidity providers with an unfair advantage, and asserts that the 350 microsecond delay is appropriate both for New York and Chicago data centers.[86]

For the reasons discussed below, the Commission believes that the proposal to implement the LEAD and the minimum performance standards is not designed to permit unfair discrimination under Section 6(b)(5) of the Exchange Act. Liquidity providers that display limit orders are the primary source of public price discovery.[87] The Commission emphasizes the importance of displayed limit orders as they typically set quoted spreads, supply liquidity, and in general establish the public ''market'' for a stock.[88] To establish the public market for a stock,

[64] *See id.*

[65] *See id.* at 3.

[66] *See* Leuchtkafer Letter, *supra* note 5, at 4–5; NYSE Letter, *supra* note 5, at 4–5 (stating that the benefit is ''disproportionate'' to the proposed standards); Citadel Letter, *supra* note 5, at 2 (asserting that the minimum performance standards appear to be ''largely immaterial in substance'' and the benefits of the LEAD would be ''entirely disproportionate'' to these obligations). Two commenters suggest that CHX should provide data regarding the materiality of the minimum performance standards, how they will improve market quality, and whether CHX market makers already satisfy these criteria. *See* Citadel Letter, *supra* note 5, at 3; and Healthy Markets Letter, *supra* note 5, at 4. Two other commenters express concern that the proposal would be unfairly discriminatory because only firms selected by CHX as LEAD MMs would be given the speed advantage. *See* XR Securities Letter, *supra* note 5, at 1; and FIA PTG Letter, *supra* note 5, at 2. In addition, one commenter raises concern that LEAD MMs would be named based on subjective criteria. *See* Citadel Letter, *supra* note 5, at 4.

[67] *See* Leuchtkafer Letter, *supra* note 5, at 5.

[68] *See, e.g.,* CHX Letter, *supra* note 5, at 10–11.

[69] *See* Notice, *supra* note 3, 82 FR at 11269.

[70] *See* CHX Letter, *supra* note 5, at 6.

[71] *See* Amendment No. 1, *supra* note 12, at 8.

[72] *See id.*

[73] *See* CHX Letter 2, *supra* note 8, at 9–10.

[74] *See* Amendment No. 1, *supra* note 12, at 8.

[75] *See* CHX Letter, *supra* note 5, at 6.

[76] *See* CHX Letter 2, *supra* note 8, at 6–7.

[77] *See id.*

[78] *See supra* note 66.

[79] *See* CHX Letter 2, *supra* note 8, at 7–9.

[80] *See id.*

[81] *See id.* at 9.

[82] The factors the Exchange may consider in selecting a LEAD MM include, but are not limited to, experience with making markets in securities, adequacy of capital, willingness to promote the Exchange as a marketplace, issuer preference, operational capacity, support personnel, and history of adherence to Exchange rules and securities laws. *See* proposed CHX Article 16, Rule 4(f)(3)(A).

[83] *See* CHX Letter, *supra* note 5, at 11–12.

[84] *See id.*

[85] *See id.* at 11.

[86] *See* CHX Letter 2, *supra* note 8, at 13–14.

[87] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37526 (June 29, 2005) (''Regulation NMS Adopting Release'').

[88] *See id.*

displayed limit orders make the first move by being displayed rather than executed and therefore provide a ''free option'' for other market participants to trade a stock by submitting marketable orders and taking the liquidity supplied by the displayd limit orders.[89] The Commission notes that the quality of execution for marketable orders, which, in turn, trade with displayed liquidity, depends to a great extent on the quality of markets established by displayed limit orders (*i.e.,* the narrowness of quoted spreads and the available liquidity at various price levels).[90] Accordingly, the quality of execution for marketable orders is directly affected by the willingness of liquidity providers to take the execution risk associated with providing displayed liquidity. To the extent liquidity providers can be incentivized to display better prices or larger size, the market quality for liquidity taking orders should improve.

National securities exchanges have historically discriminated among their members by, among other things, providing various advantages to members that register as market makers and thereby commit to certain undertakings designed to enhance market quality.[91] CHX's proposal discriminates in favor of LEAD MMs, by not subjecting LEAD MM liquidity providing orders and related cancels to the LEAD, to provide LEAD MMs with a risk management tool that should incentivize LEAD MMs to post larger size and more aggressively-priced quotes on CHX. The proposal also imposes heightened quoting and new transaction obligations on the LEAD MMs to obtain this benefit.[92] LEAD MMs therefore have committed to provide a specific level of liquidity on the Exchange on an ongoing basis, unlike other liquidity providers or other CHX participants. These obligations will require LEAD MMs to take on greater risk, and they in turn will be provided a tool—the LEAD—to help them more effectively manage that risk. In this way, the difference in benefits is designed to reflect the different obligations of the parties. The Commission therefore believes that these minimum performance standards, particularly the quoting and transaction thresholds, are meaningful obligations that are proportionate to and balanced with the advantages conferred upon LEAD MMs.

The Commission also notes that: (1) The minimum performance standards are quantitive standards that the Exchange can objectively measure to determine whether LEAD MMs are in compliance, which will allow the Exchange to apply them consistently to ensure that similarly situated parties are treated equally; and (2) the LEAD MM selection process is substantially similar to the market maker selection processes previously approved by the Commission and implemented on other national securities exchanges.[93]

With respect to one commenter's concern that the LEAD would frustrate strategies that involve taking prices across multiple venues,[94] the Commission believes that a market participant could modify its routing strategies to address the 350-microsecond LEAD and eliminate any added risk of information leakage. The Commission notes that, in its second comment letter,[95] the commenter did not refute CHX's rebuttal.[96]

For these reasons, the Commission finds that the proposed rule change, as modified by Amendments No. 1 and No. 2, is consistent with the requirement of Section 6(b)(5) of the Exchange Act that the rules of a national securities exchange be not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Section 6(b)(8) of the Exchange Act requires that the rules of a national securities exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. One commenter asserts that the LEAD would unduly burden competition between liquidty providers and firms that access displayed prices on CHX.[97] This commenter states its view that benefits provided to market makers create a disparity that harms competition among market participants and leads to greater intermediation as the benefits are available only to certain intermediaries.[98] This commenter believes that the LEAD may make it easier for LEAD MMs to quote better prices in larger size, but would make it more difficult for non-LEAD MMs to do so.[99] Another commenter expresses concern that the LEAD would alter the competitive balance in the market by benefitting only LEAD MMs, as LEAD MMs would effectively be given extra time to determine whether to remain firm or cancel/modify a displayed quotation in order to avoid unfavorable executions.[100]

The Exchange believes that the LEAD would result in increased competition with liquidity providers of other markets, which furthers a primary goal of Regulation NMS, as such liquidity providers would have to provide enhanced liquidity or risk losing market share to LEAD MMs.[101] The Exchange also responds that the LEAD would not create a new competitive balance as much as it would correct a competitive imbalance that serves to discourage displayed liquidity and is in itself an undue burden on competition.[102]

The Commission finds that the LEAD Rules are consistent with Section 6(b)(8) of the Exchange Act because they do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Commission believes that, while the proposal will provide a benefit to LEAD MMs by not subjecting their liquidity providing orders and related cancels to the LEAD, such benefit is appropriate in exchange for their commitment to provide meaningful liquidity on the Exchange as required by the minimum performance standards. By providing a mechanism for LEAD MMs to update their displayed quotations without delay, the LEAD is designed to incentivize LEAD MMs to improve the price and size of their quotes on CHX thereby improving market quality to the ultimate benefit of liquidity takers. The Commission notes that improvements to CHX's quotations would benefit non-CHX market participants to the extent such quotations result in tightening the NBBO spread, as a number of execution venues price transactions off the NBBO. For these reasons, the Commission believes that the balance between the benefit to LEAD MMs afforded by the LEAD and their obligations under the minimum performance standards appropriately furthers the purposes of the Exchange Act.

One commenter believes that, to assess the proposed rule change's impact on competition, the Exchange

[89] *See id.* at 37526–37527.

[90] *See id.* at 37526.

[91] *See, e.g.,* NYSE Rule 104 (Dealings and Responsibilities of DMMs).

[92] Presently, liquidity providers on CHX are not obligated to quote or transact at levels consistent with the minimum performance standards as each LEAD MM would be under the proposal.

[93] *Compare* proposed CHX Article 16, Rule 4(f)(2) *with* Bats BZX Rule 11.8(e)(2); NYSE Arca Rule 7.22–E; CBOE Rule 8.83.

[94] *See supra* note 53 and accompanying text.

[95] *See* FIA PTG Letter 2, *supra* note 8.

[96] *See supra* note 85 and accompanying text.

[97] *See* Hudson River Trading Letter, *supra* note 5, at 8.

[98] *See id.* at 1. As discussed above, the Commission believes that the discriminatory aspect of the LEAD is fair for the reasons discussed above. *See supra* Section III.A.

[99] *See* Hudson River Trading Letter, *supra* note 5, at 1.

[100] *See* Citadel Letter, *supra* note 5, at 4.

[101] *See* CHX Letter 2, *supra* note 8, at 15.

[102] *See id.* at 17.

should also collect and disclose order book queue metrics.[103] That commenter also asserts that to assess the ''anti-competitive effect'' of shifting latency arbitrage costs to non-LEAD MM participants, CHX should collect and disclose: (1) The number of times a non-LEAD MM's resting order was executed within 350 microseconds of any LEAD MM's order cancellation at the same price or better, and (2) the number of times any LEAD MM's order was cancelled while any marketable contra sat in the LEAD queue.[104] While the Exchange will not be collecting the statistics that the commenter suggests, the Exchange will be collecting other data that are designed to allow the Exchange and the Commission to assess the impact of the proposal on competition. Specifically, the Exchange will collect and publish matched trade difference statistics. These metrics will measure the volume executed hypothetically without LEAD and the volume executed in reality with LEAD, and will be grouped by different PEV Range values such that analysis can be conducted to determine how much, if at all, this cost increases during periods of excessive volatility. This data will allow the Exchange and the Commission to examine the effect on competition that the commenter suggests by determining the difference between the hypothetical and actual executed volume, and focusing specifically on periods of higher volatility. This difference, combined with type of market participant who provided liquidity, should shed light on how competition has been affected. Also, analysis of this data will allow the Commission to assess and weigh the degree to which latency arbitrage costs are being borne by non-LEAD liquidity providers and if those costs outweigh any of the displayed benefits. With respect to the commenter's suggestion that the Exchange also provide order book queue statistics,[105] it is not sufficiently clear what benefit such statistics would provide.[106]

The Commission's views of the proposal's consistency with Sections 6(b)(5) and 6(b)(8) of the Exchange Act are informed by its views that the proposal is appropriately designed to enhance market quality by striking a balance between the new obligations for LEAD MMs and the accompanying benefits. Several commenters discuss the potential impact of the proposal on displayed liquidity and price discovery as well as market quality in general.[107] Two commenters assert that the LEAD would enable liquidity providers to improve displayed liquidity.[108] One commenter states that LEAD MMs will be more inclined to post larger orders at better prices in assigned securities on CHX with confidence that their orders will not be ''picked off'' by speed arbitrageurs. The commenter believes this will improve displayed liquidity available to institutional investors, and all investors, without limiting the ability of retail and institutional investors to access liquidity.[109] Another commenter states its views that the LEAD will reduce adverse selection risk and incentivize market makers to provide more liquidity, leading to deeper quotes and tighter bid-ask spreads,[110] which would reduce the costs of investors.[111]

Six other commenters express concern that the LEAD could deteriorate the accessibility of quotes and overall market quality.[112] Two commenters predict that, while overall spreads and liquidity may improve, the increased liquidity would be more conditional and less accessible.[113] In addition, one commenter predicts that spreads made by ''real'' liquidity providers—as distinguished from ''fleeting'' quotes submitted by LEAD MMs—would widen.[114] Several commenters express concern about the potential transaction costs that the LEAD could impose on investors.[115]

In addition, one commenter believes that the LEAD could result in institutional migration to dark venues, which could reduce market quality over time.[116] The commenter also asserts that the LEAD could result in volatility during stressed trading conditions.[117] In the OIP, the Commission asked about how the proposal would affect price volatility on the Exchange.[118] In response, the Exchange states that, although LEAD MM quotes would likely widen during stressed trading conditions, LEAD MMs would be subject to the minimum performance standards, which may have a mitigating effect on price volatility.[119]

The Exchange asserts that the proposal would provide LEAD MMs with a risk management tool that would encourage LEAD MMs to display larger orders at aggressive prices, which should provide meaningful

[103] *See* Leuchtkafer Letter 5, *supra* note 8, at 1.

[104] *See id.* at 2.

[105] *See supra* note 103 and accompanying text.

[106] Under CHX's execution rules, a non-LEAD MM order that was received by the Exchange before a LEAD MM order would have time priority over the LEAD MM order once it is ranked in the Exchange's order book notwithstanding the delay imposed by the LEAD to reach the Exchange's order book. *See* CHX Article 20, Rule 8(b). *See also* Amendment No. 1, *supra* note 12, at 7–8.

[107] *See* Virtu Letter, *supra* note 5, at 2; CTC Trading Letter, *supra* note 5, at 3; Healthy Markets Letter, *supra* note 5, at 4–5; XR Securities Letter, *supra* note 5, at 2; FIA PTG Letter, *supra* note 5, at 4; SIFMA Letter, *supra* note 5, at 6; Citadel Letter, *supra* note 5, at 3; and Hudson River Trading Letter *supra* note 5, at 6.

[108] *See* Virtu Letter, *supra* note 5, at 2; and CTC Trading Letter, *supra* note 5, at 3.

[109] *See* Virtu Letter, *supra* note 5, at 2.

[110] *See* CTC Trading Letter, *supra* note 5, at 3.

[111] *See id.* at 6.

[112] *See* Healthy Markets Letter, *supra* note 5, at 4–5; XR Securities Letter, *supra* note 5, at 2; FIA PTG Letter, *supra* note 5, at 4; SIFMA Letter, *supra* note 5, at 6; Citadel Letter, *supra* note 5, at 3; and Hudson River Trading Letter *supra* note 5, at 6. In addition, as CHX is the only exchange to share quote revenue with its members, three commenters assert that the LEAD would result in unfair allocation of consolidated market data revenue by generating an increase in quoting, but not necessarily trading, on the Exchange. *See* Hudson River Trading Letter, *supra* note 5, at 7; Citadel Letter, *supra* note 5, at 6; and SIFMA Letter, *supra* note 5, at 7. The Securities Information Processors (''SIPs'') collect fees from subscribers for trade and quote tape data received from trading centers and reporting facilities (collectively ''SIP Participants'') and, after deducting the cost of operating each tape, the SIPs allocate profits among the SIP Participants (including CHX) on a quarterly basis. CHX shares with its members a portion of the revenue it receives that is attributed to members' quote activity. *See* Securities Exchange Act Release No. 70546 (September 27, 2013), 78 FR 61413 (October 3, 2013) (SR–CHX–2013–18). The Exchange responds that the LEAD would not encourage non-bona fide quote activity for the purpose of earning rebates because quotes cancelled within the 350-microsecond LEAD would not be eligible for market data revenue rebates, and cancellation of such quotes could result in the CHX participant being assessed an order cancellation fee. *See* CHX Letter, *supra* note 5, at 10.

[113] *See* Hudson River Trading Letter, *supra* note 5, at 6; and Citadel Letter, *supra* note 5, at 3. Another commenter similarly predicted that the LEAD would result in complex trickle-down impacts on the NBBO including CHX quotes that would not be accessible. *See* FIA PTG Letter, *supra* note 5 at 3.

[114] *See* XR Securities Letter, *supra* note 5, at 2. *See also* FIA PTG Letter, *supra* note 5, at 4 (expressing concern that non-LEAD MMs would be forced to widen their bid/ask spreads across the marketplace).

[115] *See* FIA PTG Letter, *supra* note 5, at 4 (stating that LEAD MMs may be forced to widen their bid/ask spreads, which would be costly to investors); Leuchtkafer Letter 2, *supra* note 8, at 8 (asserting that the LEAD would result to increased transaction costs for retail and institutional investors, who would be exposed to adverse selection); XR Securities Letter, *supra* note 5, at 1 (asserting that the LEAD is likely to result in higher trading costs for the investing public); Hudson River Trading Letter, *supra* note 5, at 6 (asserting that providing LEAD MMs the ability to back away from quoted prices and sizes would increase the cost of finding liquidity); SIFMA Letter, *supra* note 5, at 8 (stating that the proposal could result in increased market complexity and costs); and Citadel Letter 2, *supra* note 5, at 3 (asserting that the LEAD would expose liquidity providers (other than LEAD MMs) to adverse selection, which would raise costs for providing liquidity).

[116] *See* Leuchtkafer Letter 2, *supra* note 8, at 9.

[117] *See id.* at 7–8.

[118] *See* OIP, *supra* note 7, 82 FR at 24416.

[119] *See* CHX Letter 2, *supra* note 8, at 9. The Exchange also asserts that current circuit breakers, include Limit Up-Limit Down, provide an adequate market-wide remedy for extraordinary market volatility. *See id.*

enhancements to market quality.[120] The Exchange explains that, currently, it has less than one-percent market share in NMS securities and little to no resting liquidity in the vast majority of NMS securities.[121] The Exchange believes that the proposal would enhance market quality across all securities traded on CHX.[122] In particular, CHX believes that the LEAD Rules would significantly enhance market quality for securities that are actively traded on CHX and attract robust markets in securities that are currently not actively traded at CHX.[123] In addition, the Exchange asserts that the LEAD would reduce the cost of LEAD MMs providing liquidity, which the Exchange believes would result in more efficient price discovery for retail and institutional investors.[124]

The Exchange also asserts that there is no evidence that the proposal would result in CHX quotes being less accessible to retail or institutional buyers and sellers,[125] and, in fact, the heightened quoting and trading obligations for LEAD MMs would ensure that CHX quotes remain reliable and accessible.[126] The Exchange also states its view that: (1) A market participant that places an order to take liquidity posted on any national securities exchange today may find that the liquidity is not be present by the time the order reaches the exchange's limit order book; (2) this has nothing to do with the presence of intentional delays; and therefore (3) the LEAD would not render CHX quotes any more ''fleeting'' than they are today.[127]

As discussed above, the Commission believes that the LEAD Rules are reasonably designed to incentivize LEAD MMs to post larger size and more aggressively-priced quotes on CHX, which in turn could lead to broader enhancements to market quality by improving the NBBO and increasing quote competition. The extremely short access delay will allow LEAD MMs to adjust their quotations in response to changing market conditions and thereby reduce their exposure to losses from professional traders with micro-second speed advantages. As a result, LEAD MMs should be more inclined to post larger displayed orders at better prices on CHX with greater confidence that they will have an opportunity to update their quotes and therefore avoid an execution at a stale price or size. The reduction in risk in these limited conditions should allow LEAD MMs to provide more liquidity and narrower spreads throughout much of the trading day.

The Commission recognizes that commenters also were concerned that a 350 microsecond delay could reduce access to CHX quotations and thereby detract from market quality in a variety of contexts. The Commission believes, however, that the LEAD is reasonably designed to impact access only to CHX quotations by market participants racing to respond to symmetric information about market conditions, while the potential benefits generated by LEAD MMs posting larger sized and more aggressive quotations should inure throughout most of the trading day. Accordingly, the Commission believes that the LEAD Rules are reasonably designed to improvet market quality, particularly for investors who are unlikely to have speed advantages over professional traders.

However, because the Exchange proposes to implement the LEAD Rules on a pilot basis, the Exchange and the Commission will be able to assess the actual impact of the proposal.[128] During the pilot period, CHX will collect and analyze the Pilot Data, which will measure the impact, if any, of the LEAD Rules on market quality, including quote accessibility and quoted and effective spreads, and should allow CHX to quantify any effects on the market. Among other things, the Exchange will collect and publicly disseminate data designed to measure the impact of the LEAD, including whether it: (1) Increases the amount and competitiveness of liquidity displayed on CHX; and (2) impacts the accessibility of liquidity posted on CHX.[129] Specifically, the Exchange will collect, distribute, and analyze data measuring quote and execution quality both on CHX and more broadly, separated by levels of volatility. This data should allow the Exchange and Commissoin to assess not only changes in overall market quality but also changes during the most volatile periods on both the Exchange and the overall market. The Exchange also will collect matched trade difference statistics, which will indicate the number of shares that would have been executed, hypothetically, without the LEAD and the number of shares executed with the LEAD. This data will be aggregated by different levels of volatility. The Commission believes that analyzing the matched trade difference statistics will be insightful in determining if, and to what degree, the LEAD changed the accessibility of CHX quotes during different periods of volatility. Accordingly, the Pilot Data is intended to help CHX and the Commission assess whether the proposal is having the intended impact on improving market quality.

The Exchange will also collect and provide to the Commission and the public data regarding variable delays experienced by both LEAD MMs and non-LEAD MMs.[130] One commenter asserts that a fixed delay implemented with software could result in variable delays that could be excessive and/or unevenly distributed between market participants, with non-LEAD MMs bearing the bulk of the variable delays.[131] The commenter suggests a variety of different approaches to

[120] *See* Amendment No. 1, *supra* note 12, at 8.

[121] *See id.*

[122] *See id.*

[123] *See id.*

[124] *See* CHX Letter, *supra* note 5, at 4. With respect to retail customers, the Exchange states that wholesalers base execution price on the NBBO and that a slight narrowing of the average NBBO, which the Exchange predicts will occur because of the LEAD, will favorably affect the pricing that wholesalers provide for retail orders, at the expense of the wholesalers' bottom line. *See* CHX Letter 2, *supra* note 8, at 10. The Exchange predicts that, because wholesalers prefer to trade at or inside the NBBO, when the NBBO is narrowed, wholesalers would either have to choose among matching the better price, improving the better price, or routing the customer order to the better price, and the Exchange asserts that any of these outcomes will benefit retail customers. *See id.* at 15. The Exchange states that institutional order flow is not directed to wholesalers, and some institutional orders are executed during opening and closing auctions. *See id.* at 10. The LEAD would not impact the cost of those transactions, according to the Exchange. But the Exchange also states that: (1) Most institutional orders are broken down into much smaller ''child orders,'' which are executed in the marketplace using a variety of algorithms; (2) in general, execution costs for such child orders would be reduced when average NBBO spreads are narrowed; and therefore (3) to the extent that the LEAD increases competition among orders and narrows the average NBBO spread, institutional order flow would also experience lower execution costs. *See id.* With respect to an institutional investor's experience taking liquidity, CHX states that institutional investors would have the same experience as any other liquidity taker and that the LEAD would not have a materially negative effect on liquidity takers not engaged in latency arbitrage strategies. *See id.* at 11.

[125] *See* CHX Letter, *supra* note 5, at 4–5.

[126] *See* Amendment No. 1, *supra* note 12, at 12.

[127] *See* CHX Letter 2, *supra* note 8, at 12. In the OIP, the Commission raised several questions about the impact that the LEAD would have on market quality. In particular, the Commission raised questions about volatility during stressed trading conditions, whether the proposed rule change would increase displayed liquidity on the Exchange, and whether liquidity provided by LEAD MMs would be ''fleeting'' and how significant such ''fleeting'' liquidity would be. *See* OIP, *supra* note 7, 82 FR at 24416.

[128] *See* proposed CHX Article 20, Rule 8(h)(2).

[129] *See* proposed CHX Article 20, Rules 8(h)(4), 8(h)(5), and 8(h)(6).

[130] *See* proposed CHX Article 20, Rule 8(h)(7) (requiring CHX to collect variable processing delay statistics).

[131] *See* Leuchtkafer Letter, *supra* note 5, at 2–4; Leuchtkafer Letter 2, *supra* note 8, at 6; and Leuchtkafer Letter 4, *supra* note 8, at 1.

measure these variable delays.[132] Although CHX asserts that variable delays occur on other markets without intentional access delays,[133] the Exchange will be collecting variable delay statistics to measure this type of delay. The Commission believes that these statistics will provide the necessary information on whether different types of market participants experience differing variable processing delays. Analysis of this data will allow the Exchange to implement any necessary changes to correct for a discrepancy. The Commission emphasizes that CHX would have to file another proposed rule change to continue LEAD after the pilot period. The Commission would consider, among other things, the Pilot Data and analyses of that data if, in the future, the Exchange proposed to make permanent the LEAD Rules.

Some commenters assert that the LEAD would impinge upon price discovery across the national market system.[134] Some commenters cite studies showing that an asymmetric delay on TSX Alpha, a Canadian exchange, degraded overall market quality, harmed institutional order routers, and increased effective spreads.[135] In response, the Exchange asserts that the TSX Alpha delay is materially different from LEAD because it is randomized and, unlike CHX, TSX Alpha utilizes a taker-maker model.[136] The Exchange also observes that TSX Alpha does not require its liquidity providers to meet heightened requirements designed to enhance market quality.[137]

The Commission notes that the LEAD proposal differs from TSX Alpha. The delay on TSX Alpha is a longer, randomized delay of 1–3 milliseconds that occurs in a different market with a different pricing structure and regulatory environment. A randomized delay on an exchange will not allow a smart order router to send child orders to different exchanges such that the orders arrive simultaneously, preventing the sweeping of volume displayed on the NBBO without information leakage. To adjust for the potential of information leakage, a smart order router could be adjusted to avoid the TSX Alpha exchange when sweeping NBBO volume. The possible increase of informed volume on exchanges other than TSX Alpha, could have been a factor in the degradation of market quality on those exchanges. Also, given TSX Alpha's taker-maker pricing structure, market makers on this exchange could attract order flow by only matching the now degraded NBBO. Therefore, given this combination of factors, the effects of TSX Alpha may not be relevant in assessing the potential results of the LEAD on market quality. The Exchange will collect, analyze, and publicly disclose data that should show how the LEAD affects market quality, including the statistics disclosing width, displayed size, and effective spreads during different periods of market volatility.

Section 6(b)(5) of the Exchange Act requires that the rules of a national securities exchange be designed to prevent fraudulent and manipulative activity. A number of commenters question whether the length and means of implementing the delay is consistent with the requirement in Section 6(b)(5) of the Exchange Act that the rules of the exchange be designed to prevent fraudulent and manipulative acts and practices.[138] One commenter states that CHX does not support its conclusion[139] that the Fixed LEAD Period would be too short to introduce any incremental risk of manipulative activity.[140] Another commenter asks CHX to state how long a delay would have to be to permit manipulative practices and what it will do to ensure that its software does not result in delays that would permit such practices.[141]

The Exchange asserts that the LEAD would not introduce incremental risk of manipulative activity.[142] The Exchange believes that the Fixed LEAD Period is too short to provide any actionable advantage to a LEAD MM reacting to information already in its possession or to introduce incremental risk of manipulative activity.[143]

The Commission finds that the proposed rule change, as modified by Amendments No. 1 and No. 2, is consistent with the requirement of Section 6(b)(5) of the Exchange Act that the rules of a national securities exchange be designed to prevent fraudulent and manipulative activity. The Commission previously stated that it does not expect that any *de minimis* delay will alter the potential for manipulative activity or make it harder to detect and prosecute.[144] The Fixed LEAD Period will be a *de minimis* delay (as discussed below),[145] and the Commission continues to believe that such a delay will neither increase the potential for manipulative activity nor make it more difficult to detect and prosecute.[146] In addition, the Pilot Data will allow the Exchange and the Commission to assess in a timely fashion whether the LEAD presents any increased risks of manipulation.[147]

[132] *See* Leuchtkafer Letter 5, *supra* note 8, at 1(asserting that, for every message and for the length of the pilot program, CHX should timestamp every transaction on receipt, on LEAD queue entry and exit (if applicable), and on matching engine processing start to finish). That commenter believes that every message should also be clearly labeled if it was received immediately before, during, or immediately after a PEV and the PEV Range value itself. *See* Leuchtkafer Letter 5, *supra* note 8, at 1.

[133] *See* CHX Letter, *supra* note 5, at 9.

[134] *See* XR Securities Letter, *supra* note 5, at 3; FIA PTG Letter, *supra* note 5 at 3–4; and Hudson River Trading Letter *supra* note 5, at 5.

[135] *See* Hudson River Trading Letter, *supra* note 5, at 2. *See also* Healthy Markets Letter, *supra* note 5, at 5; and SIFMA Letter, *supra* note 5, at 6. These commenters cite a recent study regarding TSX Alpha: *See* Chen, Haoming, Foley, Sean, Goldstein, Michael, and Ruf, Thomas, ''The Value of a Millisecond: Harnessing Information in Fast, Fragmented Markets,'' available at *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2860359*. One commenter notes that, while quoted depth increased on TSX Alpha, the exchange did not demonstrate tighter spreads, and the accessibility of quotes significantly degraded. *See* Hudson River Trading Letter, *supra* note 5, at 2. In addition, a commenter asserts that the only counterbalance to the negative impact on market quality caused by an asymmetric delay (such as that exhibited due to TSX Alpha) would be coupling it with ''robust and rigorous'' affirmative obligations for those benefitting from the delay. *See* Healthy Markets Letter, *supra* note 5, at 5. The commenter urges the Commission to proceed cautiously, using data-driven analyses, and not within the context of the instant proposal. *See id.* As discussed, the Commission will review the Pilot Data and analyses of that data.

[136] *See* CHX Letter, *supra* note 5, at 8.

[137] *See id.* at 8–9.

[138] *See* Healthy Markets Letter, *supra* note 5, at 5; Leuchtkafer Letter 2, *supra* note 5, at 6; and FIA PTG Letter, *supra* note 5, at 2–3.

[139] *See infra* note 143 and accompanying text.

[140] *See* FIA PTG Letter, *supra* note 5, at 2–3.

[141] *See* Leuchtkafer Letter, *supra* note 5, at 4.

[142] *See* Notice, *supra* note 3, 82 FR at 11269.

[143] *See* CHX Letter, *supra* note 5, at 11.

[144] *See* Regulation NMS Interpretation, *infra* note 162, at 40792.

[145] *See infra* Section III.B.

[146] One commenter asserts that LEAD MMs would make trading decisions with more information than any of their potential counterparties. *See* XR Securities Letter, *supra* note 5, at 1. Another commenter asserts that CHX should require LEAD MMs to establish information barriers to prevent such firms from using their advantage on CHX in their other proprietary trading. *See* Leuchtkafer Letter, *supra* note 5, at 5. The Commission believes that the operation of the LEAD Rules would not provide LEAD MMs with any unique information and therefore, the Commission believes that it is unnecessary to require LEAD MMs to adopt information barriers.

[147] CHX will start providing the Pilot Data to the Commission by no later than the end of the second month of the pilot program. The Commission believes this timeline is appropriate because it will allow the Exchange sufficient time to properly collect and organize the Pilot Data while still making such data available to the Commission close in time to the start of the pilot program. A commenter asserts that the LEAD could result in delays that are longer than 350 microseconds, and that with the variable delay, the total delay could be long enough to increase risk of manipulative practices. *See* Leuchtkafer Letter, *supra* note 5, at 3–4; and Leuchtkafer Letter 2, *supra* note 5, at 5–6. The Commission believes that the variable processing delay statistics should allow the Exchange to monitor for persistent delays and

Collection of the Pilot Data will also assist the Exchange in discharging its ongoing responsibility to surveil for manipulative activity.

B. Section 11A of the Exchange Act

Section 11A(a)(1) of the Exchange Act articulates Congress' finding that, among other things, it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure: Economically efficient execution of securities transactions; fair competition among brokers and dealers, among exchange markets, and between exchange markets; the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities; the practicability of brokers executing investors' orders in the best market; and an opportunity, consistent with the economically efficient execution of securities transactions and the practicability of brokers executing investors' orders in the best market, for investors' orders to be executed without the participation of a dealer.[148]

As discussed below, certain commenters questioned whether the proposed rule change is consistent with Rule 611 of Regulation NMS (''Order Protection Rule'') [149] and Rule 602 of Regulation NMS (''Quote Rule''),[150] both of which were adopted pursuant to Section 11A of the Exchange Act.

The Order Protection Rule, among other things, requires trading centers to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the execution of trades at prices inferior to protected quotations displayed by other trading centers.[151] To be protected, a quotation must, among other things, be immediately and automatically accessible and be the best bid or best offer of a national securities exchange.[152] Certain commenters argue that the proposal, which would allow LEAD MMs to post and reprice displayed orders without delay, could hinder the ability of investors to access such displayed quotations on CHX.[153] Several commenters assert that the LEAD would be inconsistent with CHX's protected quotation status under Regulation NMS.[154] These commenters argue that, if CHX implemented the LEAD, CHX's displayed quotations would not be immediately accessible and would be inconsistent with the definition of ''automated quotation'' under Rule 600(b)(3) and, therefore, the LEAD would prevent CHX's displayed quotations from being considered ''protected'' under Regulation NMS.[155] More specifically, some commenters assert that by providing LEAD MMs with a structural advantage, the LEAD would frustrate the purposes the Order Protection Rule by impairing fair and efficient access to an exchange's quotations.[156] One commenter distinguishes the LEAD from the delay on the Investors Exchange, LLC (''IEX''), noting that IEX's delay only affected access to non-displayed orders.[157] Another commenter expresses concern that, unlike other examples of permitted discrimination, the LEAD would affect the regulatory mechanics of trading because, in some cases, traders would be required to route orders to the Exchange pursuant to the Order Protection Rule.[158] Similarly, one commenter expresses concern that the regulatory requirement to interact with a LEAD MM's protected quote could prevent investors from achieving optimal executions because the LEAD MMs would have the benefit of making their trading decisions with more information than any of their potential counterparties.[159]

In response, the Exchange asserts that the LEAD is consistent with the Order Protection Rule.[160] CHX notes that Rule 600(b)(3) of Regulation NMS requires that a trading center displaying an automated quotation permit, among other things, an incoming immediate-or-cancel order to immediately and automatically execute against the automated quotation up to its full size; and immediately and automatically cancel any unexecuted portion of the immediate-or-cancel order without routing the order elsewhere.[161] CHX highlights that the Commission recently issued a final interpretation with respect to the definition of automated quotation under Rule 600(b)(3) of Regulation NMS, which, CHX notes, did not interpret the term ''immediate'' used in Rule 600(b)(3) by itself to prohibit a trading center from implementing an intentional access delay that is *de minimis* (*i.e.,* a delay so short as to not frustrate the purposes of the Order Protection Rule by impairing fair and efficient access to an exchange's quotations).[162] CHX concludes that the Commission's revised interpretation provides that the term ''immediate'' precludes any coding of automated systems or other type of intentional device that would delay the action taken with respect to a quotation unless such delay is *de minimis.*[163] CHX believes that the LEAD would be a *de minimis* delay so short as not to frustrate the purposes of the Order Protection Rule by impairing fair and efficient access to the Exchange's quotations.[164]

The Order Protection Rule provides intermarket protection against trade-throughs for ''automated'' (as opposed to ''manual'') quotations of NMS stocks. Under Regulation NMS, an ''automated'' quotation is one that, among other things, can be executed ''immediately and automatically'' against an incoming immediate-or-cancel order. This formulation was intended to distinguish and exclude from protection quotations manual markets that produced delays measured in seconds in responding to an incoming order, because delays of that magnitude would impair fair and efficient access to an exchange's quotations.[165]

As CHX notes, the Commission, in connection with its approval of IEX's exchange application, interpreted ''immediate'' in the context of Regulation NMS as not precluding a *de minimis* intentional delay—*i.e.,* a delay so short as to not frustrate the purposes of the Order Protection Rule by impairing fair and efficient access to an

implement any necessary changes to remove such delays.

[148] 15 U.S.C. 78k–1(a)(1)(C).

[149] 17 CFR 242.611.

[150] 17 CFR 242.602.

[151] *See* Regulation NMS Adopting Release, *supra* note 87, 70 FR at 37501.

[152] *See id.* at 37496.

[153] *See* Citadel Letter, *supra* note 5, at 5–6; Hudson River Trading Letter, *supra* note 5, at 6.

[154] *See* Hudson River Trading Letter, *supra* note 5, at 3; Citadel Letter, *supra* note 5, at 6–7; NYSE Letter, *supra* note 5, at 3–4; and XR Securities Letter, *supra* note 5, at 1. *See also* SIFMA Letter, *supra* note 5, at 3 (suggesting that the Commission should ''carefully consider the implications'' of market participants routing orders to CHX to access a protected quote when the accessibility of such quote is ''questionable'').

[155] *See* Hudson River Trading Letter, *supra* note 5, at 3; Citadel Letter, *supra* note 5, at 6–7; NYSE Letter, *supra* note 5, at 3–4; and XR Securities Letter, *supra* note 5, at 1.

[156] *See* FIA PTG Letter, *supra* note 5, at 2; Hudson River Trading Letter, *supra* note 5, at 7; Citadel Letter, *supra* note 5, at 6; NYSE Letter, *supra* note 5, at 4; XR Securities Letter, *supra* note 5, at 1; and SIFMA Letter, *supra* note 5, at 6 (questioning the effect of an access delay coupled with existing geographic or technological latencies on the fair and efficient access to an exchange's protected quotations).

[157] *See* XR Securities Letter, *supra* note 5, at 3.

[158] *See* FIA PTG Letter, *supra* note 5, at 4.

[159] *See* XR Securities Letter, *supra* note 5, at 3.

[160] *See* CHX Letter, *supra* note 5, at 13.

[161] *See id. See also* 17 CFR 242.600(b)(3).

[162] *See* CHX Letter, *supra* note 5, at 13. *See also* Commission Interpretation Regarding Automated Quotations Under Regulation NMS, Securities Exchange Act Release No. 78102 (June 17, 2016), 81 FR 40785 (June 23, 2016) (''Regulation NMS Interpretation'').

[163] *See* CHX Letter, *supra* note 5, at 14.

[164] *See id.*

[165] *See* Regulation NMS Interpretation, *supra* note 162, 81 FR at 40785–86.

exchange's quotations.[166] Specifically, while acknowledging that even a *de minimis* access delay may increase the overall latency in accessing a particular protected quotation, the Commission reasoned that, just as the geographic and technological delays do not impair fair and efficient access to an exchange's quotations or otherwise frustrate the objectives of Rule 611, the addition of a *de minimis* intentional access delay is consistent with the immediacy requirement of Rule 600(b)(3).[167] In its related interpretative guidance, the Commission's staff found that ''delays of less than a millisecond are at a *de minimis* level that would not impair fair and efficient access to a quotation, consistent with the goals of Rule 611.'' [168]

The Commission believes that the LEAD is consistent with the Order Protection Rule. The Commission notes that its recent interpretation with respect to the definition of automated quotation under Rule 600(b)(3) of Regulation NMS, and the corresponding staff guidance, does not distinguish between intentional delays designed to benefit non-displayed liquidity, as was the case with the IEX delay, or displayed liquidity, as is the case with the LEAD. The Commission's staff found that ''delays of less than a millisecond are at a *de minimis* level that would not impair fair and efficient access to a quotation, consistent with the goals of Rule 611.'' [169] Accordingly, because the 350 microsecond delay imposed by the LEAD is less than a millisecond, it is *de minimis.* The Commission's interpretation recognized ''that a *de minimis* access delay, even if it involves an 'intentional device' that delays access to an exchange's quotation, is compatible with the exchange having an 'automated quotation' under Rule 600(b)(3) and thus a 'protected quotation' under Rule 611.'' [170] Accordingly, the LEAD will not change CHX's protected quotation status.

Under the firm quote provisions of the Quote Rule, a responsible broker-dealer must execute any order to buy or sell a subject security (other than an odd-lot order) presented to it by another broker-dealer at a price at least as favorable to such buyer or seller as the responsible broker-dealer's published bid or published offer in any amount up to its published quotation size unless an exception applies.[171] One commenter states its view that the LEAD would be consistent with the Quote Rule because the Exchange is not proposing to notify a LEAD MM that an inbound order that has been delayed may imminently execute, and therefore, should a LEAD MM revise its quote prior to the end of the delay, the inbound order would not have been presented to the LEAD MM.[172] Some commenters assert that the LEAD may be inconsistent with the firm quote provisions of the Quote Rule or the intent behind the Quote Rule because, in their view, it would allow liquidity providers to ''back away'' from their quotes.[173] These commenters are concerned that the LEAD would allow LEAD MMs to update their quotes to potentially inferior prices while orders to execute against their quotes are being held in the LEAD queue.[174] The Exchange responds that the LEAD would not result in violations of the Quote Rule because orders delayed pursuant to the LEAD would not have been ''presented'' to LEAD MMs and therefore the duty of a broker or dealer to stand behind its quote would not have yet vested when the LEAD applies.[175]

The Commission notes that the firm quote provisions of the Quote Rule require each responsible broker or dealer to execute an order presented to it at a price at least as favorable as its published bid or published offer in any amount up to its published quotation size.[176] There may be circumstances in which a LEAD MM posts a quote on CHX, a contra-side order is submitted and delayed by the LEAD, and the LEAD MM without any knowledge of the contra-side order modifies or cancels its quote prior to release of the contra-side order from the LEAD queue. In this case, the Commission believes that Quote Rule compliance issues would not be raised because the contra-side order was not yet presented to the LEAD MM. Accordingly, the Commission believes that the LEAD is not inconsistent with the Quote Rule.

IV. Solicitation of Comments on Amendments No. 1 and No. 2

Interested persons are invited to submit written data, views, and arguments concerning Amendments No. 1 and No. 2. 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–CHX–2017–04 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–CHX–2017–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of this filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit

[166] *See id.* at 40792.

[167] *See id.* at 40789, text accompanying n.50.

[168] *See* Staff Guidance on Automated Quotations under Regulation NMS, Securities and Exchange Commission, June 17, 2016, *available at https://www.sec.gov/divisions/marketreg/automated-quotations-under-regulation-nms.htm* (''Regulation NMS Staff Guidance''). One commenter questions whether 350 microseconds is an appropriate duration for the delay. *See* Healthy Markets Letter, *supra* note 5, at 5 (stating that CHX, unlike IEX, failed to explain why it is proposing a delay of 350 microseconds). *See also* Leuchtkafer Letter, *supra* note 5, at 2 (stating that the length of the LEAD is based on IEX and the speed arms race, which it describes as ''a relative and constantly changing issue,'' and questioning whether CHX will change the length of the LEAD if IEX changes its delay or if LEAD MMs speed up or other firms slow down or exit the market). As discussed below, the Fixed LEAD period will be a *de minimis* delay.

[169] *See* Regulation NMS Staff Guidance, *supra* note 168.

[170] *See* Regulation NMS Interpretation, *supra* note 162, at 40792.

[171] 17 CFR 242.602(b)(2).

[172] *See* CTC Trading Letter, *supra* note 5, at 6.

[173] *See* FIA PTG Letter, *supra* note 5, at 5; Citadel Letter, *supra* note 5, at 5; NYSE Letter, *supra* note 5, at 2–3; and Hudson River Trading Letter, *supra* note 5, at 6 (asserting that ''at best, [the LEAD] is designed to circumvent'' the Quote Rule).

[174] *See* FIA PTG Letter, *supra* note 5, at 5; Hudson River Trading Letter, *supra* note 5, at 6; Citadel Letter, *supra* note 5, at 5; NYSE Letter, *supra* note 5, at 2–3.

[175] *See* CHX Letter, *supra* note 5, at 13. One commenter agrees with CHX's interpretation of the Quote Rule. *See* CTC Trading Letter, *supra* note 5, at 6.

[176] 17 CFR 242.602(b)(2).

personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–2017–04 and should be submitted on or before November 15, 2017.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendments No. 1 and No. 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendments No. 1 and No. 2, prior to the 30th day after the date of publication of notice of Amendments No. 1 and No. 2 in the **Federal Register**. Neither Amendment No. 1 nor Amendment No. 2 expands the structure of the proposed rule change as it was previously published for notice and comment.[177] Rather, the Exchange circumscribed its proposal to implement the LEAD during the regular trading session on a pilot basis to provide an opportunity to study the impact of the LEAD Rules on the markets and to address comments by further explaining the purpose and the intended impact of the proposal. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,[178] to approve the proposed rule change, as modified by Amendments No. 1 and No. 2, on an accelerated basis.

VI. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendments No. 1 and No. 2, is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act[179] that the proposed rule change (SR–CHX–2017–04), as modified by Amendments No. 1 and No. 2, be, and hereby is, approved on an accelerated basis, subject to a pilot period set to expire twenty- four months after implementation of the pilot program.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[180]

Eduardo A. Aleman,

Assistant Secretary.

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[177] *See supra* notes 12 and 13.

[178] 15 U.S.C. 78s(b)(2).

[179] 15 U.S.C. 78s(b)(2).

[180] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81907; File No. SR–MRX–2017–21]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Schedule of Fees

October 19, 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 October 5, 2017, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees to add new fees for co-location services, direct circuit connections to the Exchange, connections to third party services, point of presence (''POP'') connectivity, and connectivity to the Exchange's Test Facility (the ''Test Facility'').

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to eliminate certain fees associated with legacy options for connecting to ISE and to replace them with fees associated with new options for connecting to the Exchange that are similar to those that MRX's sister exchanges presently offer.

The Exchange is engaged in an initiative to migrate the Exchange's trading system to the Nasdaq INET architecture. As part of that initiative, the Exchange proposes to offer customers various new options to connect to the Exchange and to assess fees for such connectivity. The connectivity options that the Exchange proposes to offer—colocation, direct circuit connectivity, connectivity to third party services, POP connectivity, and connectivity to the Exchange's Test Facility—and the fees that the Exchange proposes to assess for such connectivity are similar to those that the Exchange's affiliated Nasdaq, Inc. markets—including The NASDAQ Stock Market, LLC (''Nasdaq''), Nasdaq BX, Inc. (''BX''), and Nasdaq Phlx LLC (''Phlx'')—presently offer and assess to their customers under their respective rules. They are also the same as the connectivity options and fees that Nasdaq GEMX, LLC (''GEMX'') and Nasdaq ISE, LLC (''ISE'') propose to offer and assess under their respective rules in tandem with this filing. This proposal, in other words, seeks to harmonize the Exchange's connectivity offerings and fees with those of its sister exchanges.

The first new connectivity option that the Exchange proposes to offer its customers is co-location. Co-location is a suite of hardware, power, telecommunication, and other ancillary products and services that allow market participants and vendors to place their trading and communications equipment in close physical proximity to the quoting and execution facilities of the Exchange and other Nasdaq, Inc. markets. The Exchange provides co-location services and imposes fees through Nasdaq Technology Services LLC and pursuant to agreements with the owner/operator of its data center where both the Exchange's quoting and trading facilities and co-located customer equipment are housed. Users of colocation services include private extranet providers, data vendors, as well as Exchange members and non-

members. The use of co-location services is entirely voluntary.

Like its sister exchanges, and as detailed in the proposed co-location fee schedule, the Exchange proposes to impose a uniform, non-discriminatory set of fees for various co-location services, including: Fees for co-located connections to the Exchange and to third party services (described below) in various bandwidths; fees for cabinet space usage, or options for future space usage; installation and related power provision for hosted equipment; connectivity among multiple cabinets being used by the same customer as well as customer connectivity to the Exchange and telecommunications providers; and related maintenance and consulting services. Fees related to cabinet and power usage are incremental, with additional charges being imposed based on higher levels of cabinet and/or power usage, the use of non-standard cabinet sizes or special cabinet cooling equipment, or the re-selling of cabinet space.

In addition to co-location services, the Exchange proposes to offer several other connectivity options for customers that are located outside of the Exchange's primary data center in Carteret, New Jersey.

First, the Exchange proposes to offer a ''Direct Circuit Connectivity'' service, whereby subscribers may connect their facilities directly to the Exchange's primary data center using a circuit they obtain from an external telecommunications provider. For this form of connectivity, the Exchange's proposal offers customers the choice of 1 GB, 1 GB Ultra, and 10 GB connections. The installation fee for all such connections will be $1,500 and the monthly fee will be $7,500 for 10 GB connections and $2,500 for both 1 GB and 1 GB connections. The Exchange also proposes to charge a fee to customers that choose to install a cable router in its data center and a monthly fee for customers that choose to install equipment in the Exchange's data center to support the connectivity. Specifically, the Exchange proposes an installation fee of $925 per router, switch or modem, and a monthly fee of $150 to rent cabinet space based on a unit height of approximately 1.75 inches (commonly called a ''U'' space) and a maximum power of 125 Watts per U space.

Next, the Exchange proposes to offer a ''POP Connectivity'' service, whereby subscribers may use external telecommunication circuits to connect directly to one or more of the Exchange's satellite data centers (each, a ''POP'') that are located in places other than Carteret. Each POP, in turn, has a fully redundant connection to the Exchange's primary data center, such that subscribers may connect to the primary data center through its connection to a POP. For POP Connectivity to the Exchange, the Exchange proposes to offer 1 GB Ultra and 10 GB Ultra connections. The installation fee for all such connections will be $1,500 and the monthly fee will be $7,500 for 10 GB connections and $2,500 for 1 GB Ultra connections.[3]

Additionally, the Exchange proposes to offer connectivity to third party services. The Exchange is proposing to offer this service to both non-co-location customers (via a direct circuit connection) and co-location customers alike. This connectivity will enable customers to receive third party market data feeds, including Securities Information Processors (''SIPs'')[4] data, and other non-exchange services.[5] The Exchange will offer this service to customers in both 10 GB Ultra and 1 GB Ultra connections. The installation fee for both 10 GB Ultra and 1 GB Ultra direct connections will be $1,500. Meanwhile, the monthly fee will be $5,000 for 10 GB Ultra connections and $2,000 for 1 GB Ultra connections. For 1 GB Ultra or 10 GB Ultra connections for UTP only, the installation fee and monthly fee will be waived for the first two connections and thereafter the installation fee will be $100 and the monthly fee also will be $100. As with Direct Circuit Connectivity, the Exchange proposes to charge a $925 fee to customers that choose to install a cable router in its data center for purposes of receiving the third party services as well as a monthly fee of $150 for customers that choose to install equipment in the Exchange's data center to support that connectivity.

Furthermore, the Exchange proposes to offer connectivity to its Test Facility. The Test Facility provides subscribers with a virtual system test environment that closely approximates the production environment and on which they may test their automated systems that integrate with the Exchange. For example, subscribers may test upcoming Exchange releases and product enhancements, as well as test software prior to implementation. The Exchange proposes to assess certain fees for use of the Test Facility. Specifically, the Exchange proposes that subscribers to the Test Facility located in Carteret, New Jersey shall pay a fee of $1,000 per hand-off, per month for connection to the Test Facility. The hand-off fee will includes [sic] either a 1 GB or 10 GB switch port and a cross connect to the Test Facility. Subscribers will also pay a one-time installation fee of $1,000 per handoff.

Finally, for each of the connectivity options discussed above, the Exchange proposes to include language in the fee schedule which states that connectivity to the Exchange also applies to connectivity to all of the other Nasdaq, Inc. markets, including Nasdaq, BX, Phlx, ISE, and GEMX. This purpose of this proposal is to specify that a client can use the connections it establishes and maintains to connect, not only to the Exchange, but also to any or all of its sister exchanges, and in doing so, it will be billed only once.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that proposed new connectivity fees are reasonable as a means of covering its costs associated with providing new connectivity options. Moreover, these new fees are reasonable because they are similar to or the same as the connectivity fees that the Exchange's sister exchanges, including Nasdaq, BX, and Phlx, charge under their respective rules.[8] They are

[3] Clients will not be permitted to install routers in or rent cabinet space directly from the Exchange at the POPs. Accordingly, the fee schedule for POP connectivity will not include fees for these services.

[4] The SIPs link the U.S. markets by processing and consolidating all protected bid/ask quotes and trades from every registered exchange trading venue and FINRA into a single data feed, and they disseminate and calculate critical regulatory information, including the National Best Bid and Offer, Limit Up Limit Down price bands, short sale restrictions and regulatory halts.

[5] Third Party Services includes not only SIP data feeds, but also data feeds from other exchanges and markets. For example, Third Party Connectivity will support connectivity to the FINRA/Nasdaq Trade Reporting Facility, BATS Depth Feeds, and NYSE Feeds. A customer must separately subscribe to the third party services to which it connects with a Third Party Connectivity subscription. The Exchange notes that customers that do not wish to subscribe to Direct Circuit Connectivity to Third Party Services may alternatively connect through an extranet provider or a market data redistributor.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *See* Nasdaq Rule 7030, BX Rule 7030, and Nasdaq Phlx LLC Pricing Schedule Section VII.E (Test Facility); Nasdaq Rule 7034(b), BX Rule 7034(b), and Nasdaq Phlx LLC Pricing Schedule Section X (co-location); Nasdaq Rule 7051, BX Rule

also the same as those connectivity fees that GEMX and ISE are proposing to assess in filings being submitted to the Commission concurrently with this one. The Exchange also believes that it is reasonable and in the interest of the public and investors to harmonize all of the Exchange's connectivity options and connectivity fees now that all of the Nasdaq, Inc. exchanges are on a common platform.

The Exchange believes that the proposed new fees are an equitable allocation and are not unfairly discriminatory because the Exchange will apply the same fees to all subscribers to the same connectivity options.

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. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may connect to third parties instead of directly connecting to the Exchange, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed changes to the charges assessed for connectivity to the Exchange are consistent with the fees assessed by other exchanges for the same or similar connectivity. Moreover, the Exchange must assess fees to cover the costs incurred in providing connectivity and members had been assessed fees for Exchange connectivity prior to the sunset of the old Exchange architecture. As a consequence, competition will not be burdened by the proposed fees. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) [11] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the proposed rule change does not significantly affect the protection of investors or the public interest because it will eliminate obsolete connectivity services and replace them with services that customers will need to connect to the Exchange via its new trading platform. The Exchange further states that such connectivity services will be similar, or the same, as those that are currently offered by other Nasdaq, Inc. exchanges. Moreover, the Exchange states that the fees for such connectivity that are similar to, or the same, as fees charged by the other Nasdaq, Inc. exchanges.

The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the proposal harmonizes the Exchange's co-location offerings and fees with those of the other Nasdaq, Inc. exchanges. Furthermore, waiver of the 30-day operative delay will eliminate the confusion that could occur if different co-location offerings were available on each of Nasdaq, Inc.'s affiliated exchanges. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[13]

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–MRX–2017–21 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–MRX–2017–21. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements

7051, and Nasdaq Phlx LLC Pricing Schedule Section XI (direct connectivity).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MRX–2017–21 and should be submitted on or before November 15, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–23120 Filed 10–24–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81903; File No. SR–ISE–2017–91]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Schedule of Fees

October 19, 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 October 5, 2017, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to: (i) Delete fees and descriptions thereof for connectivity no longer used by the Exchange; and (ii) add new fees for co-location services, direct circuit connections to the Exchange, direct circuit connections to third party services, point of presence (''POP'') connectivity, and connectivity to the Exchange's Test Facility (the ''Test Facility'').

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to eliminate certain fees associated with legacy options for connecting to ISE and to replace them with fees associated with new options for connecting to the Exchange that are similar to those that ISE's sister exchanges presently offer.

ISE is engaged in an initiative to migrate the Exchange's trading system to the Nasdaq INET architecture. As part of that initiative, ISE proposes to retire certain obsolete connectivity associated with the Exchange's legacy trading system and the fees associated with such connectivity.

Specifically, the Exchange proposes to discontinue offering Ethernet connectivity to the Exchange and also eliminate the fees it charges for such connectivity in Section VI.B of its Fee Schedule, entitled ''Network Fees.'' The Exchange currently offers four Ethernet connection options: A 1 Gb connection at a cost of $1,000 per month, a 10 Gb connection at a cost of $4,500 per month, a 10 Gb low latency connection at a cost of $8,000 per month, and a 40 Gb low latency connection at a cost of $15,000 per month.

Additionally, the Exchange proposes to stop offering customers the ability to connect to the Exchange via an Application Programming Interface (''API'') session or a Financial Information eXchange (''FIX'') session, as these connection options are becoming obsolete with respect to the new trading system. The Exchange correspondingly proposes to eliminate entirely Section V.C of its Fee Schedule, entitled ''FIX Session/Session Fees.'' The Exchange presently charges Market Makers monthly per API fees that depend upon the functionality of API and, if used for quoting, the amount of usage per day per user. The Exchange also charges Electronic Access Members monthly API and FIX fees based upon the number of sessions.

In lieu of the above, the Exchange proposes to offer customers various new options to connect to the Exchange and to assess fees for such connectivity. The connectivity options that the Exchange proposes to offer—colocation, direct circuit connectivity, connectivity to third party services, POP connectivity, and connectivity to the Exchange's Test Facility—and the fees that the Exchange proposes to assess for such connectivity are similar to those that ISE's affiliated Nasdaq, Inc. markets—including The NASDAQ Stock Market, LLC (''Nasdaq''), Nasdaq BX, Inc. (''BX''), and Nasdaq Phlx LLC (''Phlx'')—presently offer and assess to their customers under their respective rules. They are also the same as the connectivity options and fees that Nasdaq GEMX, LLC (''GEMX'') and Nasdaq MRX, LLC (''MRX'') propose to offer and assess under their respective rules in tandem with this filing. This proposal, in other words, seeks to harmonize the Exchange's connectivity offerings and fees with those of its sister exchanges.

The first new connectivity option that the Exchange proposes to offer its customers is co-location. Co-location is a suite of hardware, power, telecommunication, and other ancillary products and services that allow market participants and vendors to place their trading and communications equipment in close physical proximity to the quoting and execution facilities of the Exchange and other Nasdaq, Inc. markets. The Exchange provides co-location services and imposes fees through Nasdaq Technology Services LLC and pursuant to agreements with the owner/operator of its data center where both the Exchange's quoting and

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[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

trading facilities and co-located customer equipment are housed. Users of colocation services include private extranet providers, data vendors, as well as Exchange members and non-members. The use of co-location services is entirely voluntary.

Like its sister exchanges, and as detailed in the proposed co-location fee schedule, the Exchange proposes to impose a uniform, non-discriminatory set of fees for various co-location services, including: Fees for co-located connections to the Exchange and to third party services (described below) in various bandwidths; Fees for cabinet space usage, or options for future space usage; installation and related power provision for hosted equipment; connectivity among multiple cabinets being used by the same customer as well as customer connectivity to the Exchange and telecommunications providers; and related maintenance and consulting services. Fees related to cabinet and power usage are incremental, with additional charges being imposed based on higher levels of cabinet and/or power usage, the use of non-standard cabinet sizes or special cabinet cooling equipment, or the re-selling of cabinet space.

In addition to co-location services, the Exchange proposes to offer several other connectivity options for customers that are located outside of the Exchange's primary data center in Carteret, New Jersey.

First, the Exchange proposes to offer a ''Direct Circuit Connectivity'' service, whereby subscribers may connect their facilities directly to the Exchange's primary data center using a circuit they obtain from an external telecommunications provider. For this form of connectivity, the Exchange's proposal offers customers the choice of 1 GB, 1 GB Ultra, and 10 GB connections. The installation fee for all such connections will be $1,500 and the monthly fee will be $7,500 for 10 GB connections and $2,500 for both 1 GB and 1 GB Ultra connections. The Exchange also proposes to charge a fee to customers that choose to install a cable router in its data center and a monthly fee for customers that choose to install equipment in the Exchange's data center to support the connectivity. Specifically, the Exchange proposes an installation fee of $925 per router, switch or modem, and a monthly fee of $150 to rent cabinet space based on a unit height of approximately 1.75 inches (commonly called a ''U'' space) and a maximum power of 125 Watts per U space.

Next, the Exchange proposes to offer a ''POP Connectivity'' service, whereby subscribers may use external telecommunication circuits to connect directly to one or more of the Exchange's satellite data centers (each, a ''POP'') that are located in places other than Carteret. Each POP, in turn, has a fully redundant connection to the Exchange's primary data center, such that subscribers may connect to the primary data center through its connection to a POP. For POP Connectivity to the Exchange, the Exchange proposes to offer 1 GB Ultra and 10 GB connections. The installation fee for all such connections will be $1,500 and the monthly fee will be $7,500 for 10 GB connections and $2,500 for 1 GB Ultra connections.[3]

Additionally, the Exchange proposes to offer connectivity to third party services. The Exchange is proposing to offer this service to both non-co-location customers (via a direct circuit connection) and co-location customers alike. This connectivity will enable customers to receive third party market data feeds, including Securities Information Processors (''SIPs'')[4] data, and other non-exchange services.[5] The Exchange will offer this service to customers in both 10 GB Ultra and 1 GB Ultra connections. The installation fee for both 10 GB Ultra and 1 GB Ultra connections will be $1,500. Meanwhile, the monthly fee will be $5,000 for 10 GB Ultra connections and $2,000 for 1 GB Ultra connections. For 1 GB Ultra or 10 GB Ultra connections for UTP only, the installation fee and monthly fee will be waived for the first two connections and thereafter the installation fee will be $100 and the monthly fee also will be $100. As with Direct Circuit Connectivity, the Exchange proposes to charge a $925 fee to customers that choose to install a cable router in its data center for purposes of receiving the third party services as well as a monthly fee of $150 for customers that choose to install equipment in the Exchange's data center to support that connectivity.

Furthermore, the Exchange proposes to offer connectivity to its Test Facility. The Test Facility provides subscribers with a virtual system test environment that closely approximates the production environment and on which they may test their automated systems that integrate with the Exchange. For example, subscribers may test upcoming Exchange releases and product enhancements, as well as test software prior to implementation. The Exchange proposes to assess certain fees for use of the Test Facility. Specifically, the Exchange proposes that subscribers to the Test Facility located in Carteret, New Jersey shall pay a fee of $1,000 per hand-off, per month for connection to the Test Facility. The hand-off fee will includes [sic] either a 1 GB or 10 GB switch port and a cross connect to the Test Facility. Subscribers will also pay a one-time installation fee of $1,000 per handoff.

Finally, for each of the connectivity options discussed above, the Exchange proposes to include language in the fee schedule which states that connectivity to the Exchange also applies to connectivity to all of the other Nasdaq, Inc. markets, including Nasdaq, BX, Phlx, MRX, and GEMX. This purpose of this proposal is to specify that a client can use the connections it establishes and maintains to connect, not only to the Exchange, but also to any or all of its sister exchanges, and in doing so, it will be billed only once.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that it is reasonable to eliminate its existing Ethernet, FIX, and API connectivity offerings and their associated fees as the Exchange is migrating to a new platform that will offer new connectivity options. The Exchange notes that its customers have had ample prior notice of this transition.

The Exchange believes that proposed new connectivity fees are reasonable as a means of covering its costs associated

[3] Clients will not be permitted to install routers in or rent cabinet space directly from the Exchange at the POPs. Accordingly, the fee schedule for POP connectivity will not include fees for these services.

[4] The SIPs link the U.S. markets by processing and consolidating all protected bid/ask quotes and trades from every registered exchange trading venue and FINRA into a single data feed, and they disseminate and calculate critical regulatory information, including the National Best Bid and Offer, Limit Up Limit Down price bands, short sale restrictions and regulatory halts.

[5] Third Party Services includes not only SIP data feeds, but also data feeds from other exchanges and markets. For example, Third Party Connectivity will support connectivity to the FINRA/Nasdaq Trade Reporting Facility, BATS Depth Feeds, and NYSE Feeds. A customer must separately subscribe to the third party services to which it connects with a Third Party Connectivity subscription. The Exchange notes that customers that do not wish to subscribe to Direct Circuit Connectivity to Third Party Services may alternatively connect through an extranet provider or a market data redistributor.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

with providing new connectivity options. Moreover, these new fees are reasonable because they are similar to or the same as the connectivity fees that the Exchange's sister exchanges, including Nasdaq, BX, and Phlx, charge under their respective rules.[8] They are also the same as those connectivity fees that GEMX and MRX are proposing to assess in filings being submitted to the Commission concurrently with this one. The Exchange also believes that it is reasonable and in the interest of the public and investors to harmonize all of the Exchange's connectivity options and connectivity fees now that all of the Nasdaq, Inc. exchanges are on a common platform.

The Exchange believes that the proposed new fees are an equitable allocation and are not unfairly discriminatory because the Exchange will apply the same fees to all subscribers to the same connectivity options.

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. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may connect to third parties instead of directly connecting to the Exchange, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed changes to the charges assessed for connectivity to the Exchange are consistent with the fees assessed by other exchanges for the same or similar connectivity. Moreover, the Exchange must assess fees to cover the costs incurred in providing connectivity and members had been assessed fees for Exchange connectivity prior to the sunset of the old Exchange architecture. As a consequence, competition will not be burdened by the proposed fees. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the proposed rule change does not significantly affect the protection of investors or the public interest because it will eliminate obsolete connectivity services and replace them with services that customers will need to connect to the Exchange via its new trading platform. The Exchange further states that such connectivity services will be similar, or the same, as those that are currently offered by other Nasdaq, Inc. exchanges. Moreover, the Exchange states that the fees for such connectivity that are similar to, or the same, as fees charged by the other Nasdaq, Inc. exchanges.

The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the proposal harmonizes the Exchange's co-location offerings and fees with those of the other Nasdaq, Inc. exchanges. Furthermore, waiver of the 30-day operative delay will eliminate the confusion that could occur if different co-location offerings were available on each of Nasdaq, Inc.'s affiliated exchanges. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2017–91 on the subject line.

Paper Comments

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

[8] *See* Nasdaq Rule 7030, BX Rule 7030, and Nasdaq Phlx LLC Pricing Schedule Section VII.E (Test Facility); Nasdaq Rule 7034(b), BX Rule 7034(b), and Nasdaq Phlx LLC Pricing Schedule Section X (co-location); Nasdaq Rule 7051, BX Rule 7051, and Nasdaq Phlx LLC Pricing Schedule Section XI (direct connectivity).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

All submissions should refer to File Number SR–ISE–2017–91. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2017–91 and should be submitted on or before November 15, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–23118 Filed 10–24–17; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81902; File No. SR–GEMX–2017–48]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Schedule of Fees

October 19, 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 October 16, 2017, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to: (i) Delete fees and descriptions thereof for connectivity no longer used by the Exchange; and (ii) add new fees for co-location services, direct circuit connections to the Exchange, connections to third party services, point of presence (''POP'') connectivity, and connectivity to the Exchange's Test Facility (the ''Test Facility'').

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to eliminate certain fees associated with legacy options for connecting to GEMX and to replace them with fees associated with new options for connecting to the Exchange that are similar to those that GEMX's sister exchanges presently offer.

GEMX is engaged in an initiative to migrate the Exchange's trading system to the Nasdaq INET architecture. As part of that initiative, GEMX proposes to retire certain obsolete connectivity associated with the Exchange's legacy trading system and the fees associated with such connectivity.

Specifically, the Exchange proposes to discontinue offering Ethernet connectivity to the Exchange and also eliminate the fees it charges for such connectivity in Section IV.C of its Fee Schedule, entitled ''Network Fees.''[3] The Exchange currently offers four Ethernet connection options: A 1 Gb connection at a cost of $1,000 per month, a 10 Gb connection at a cost of $4,500 per month, a 10 Gb low latency connection at a cost of $8,000 per month, and a 40 Gb low latency connection at a cost of $15,000 per month.

Additionally, the Exchange proposes to stop offering customers the ability to connect to the Exchange via an Application Programming Interface (''API'') session or a Financial Information eXchange (''FIX'') session, as these connection options are becoming obsolete with respect to the new trading system. The Exchange correspondingly proposes to eliminate paragraphs 1 and 2 of Section IV.E of its Fee Schedule, entitled ''Port Fees.'' The Exchange presently charges Electronic Access Members (''EAMs'') monthly per session API fees and FIX session fees.

In lieu of the above, the Exchange proposes to offer customers various new options to connect to the Exchange and to assess fees for such connectivity. The connectivity options that the Exchange proposes to offer—colocation, direct circuit connectivity, connectivity to third party services, POP connectivity, and connectivity to the Exchange's Test Facility—and the fees that the Exchange proposes to assess for such connectivity are similar to those that ISE's affiliated Nasdaq, Inc. markets—including The NASDAQ Stock Market, LLC (''Nasdaq''), Nasdaq BX, Inc. (''BX''), and Nasdaq Phlx LLC (''Phlx'')—presently offer and assess to their customers under their respective rules. They are also the same as the connectivity options and fees that Nasdaq ISE, LLC (''ISE'') and Nasdaq MRX, LLC (''MRX'') propose to offer and assess under their respective rules in tandem with this filing. This proposal, in other words, seeks to harmonize the Exchange's connectivity offerings and fees with those of its sister exchanges.

The first new connectivity option that the Exchange proposes to offer its customers is co-location. Co-location is a suite of hardware, power, telecommunication, and other ancillary products and services that allow market participants and vendors to place their trading and communications equipment

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange proposes to change the title of Section IV from ''Access Services'' to ''Connectivity Fees.''

in close physical proximity to the quoting and execution facilities of the Exchange and other Nasdaq, Inc. markets. The Exchange provides co-location services and imposes fees through Nasdaq Technology Services LLC and pursuant to agreements with the owner/operator of its data center where both the Exchange's quoting and trading facilities and co-located customer equipment are housed. Users of colocation services include private extranet providers, data vendors, as well as Exchange members and non-members. The use of co-location services is entirely voluntary.

Like its sister exchanges, and as detailed in the proposed co-location fee schedule, the Exchange proposes to impose a uniform, non-discriminatory set of fees for various co-location services, including: fees for co-located connections to the Exchange and to third party services (described below) in various bandwidths; fees for cabinet space usage, or options for future space usage; installation and related power provision for hosted equipment; connectivity among multiple cabinets being used by the same customer as well as customer connectivity to the Exchange and telecommunications providers; and related maintenance and consulting services. Fees related to cabinet and power usage are incremental, with additional charges being imposed based on higher levels of cabinet and/or power usage, the use of non-standard cabinet sizes or special cabinet cooling equipment, or the re-selling of cabinet space.

In addition to co-location services, the Exchange proposes to offer several other connectivity options for customers that are located outside of the Exchange's primary data center in Carteret, New Jersey.

First, the Exchange proposes to offer a ''Direct Circuit Connectivity'' service, whereby subscribers may connect their facilities directly to the Exchange's primary data center using a circuit they obtain from an external telecommunications provider. For this form of connectivity, the Exchange's proposal offers customers the choice of 1 GB, 1 GB Ultra, and 10 GB connections. The installation fee for all such connections will be $1,500 and the monthly fee will be $7,500 for 10 GB connections and $2,500 for both 1 GB and 1 GB Ultra connections. The Exchange also proposes to charge a fee to customers that choose to install a cable router in its data center and a monthly fee for customers that choose to install equipment in the Exchange's data center to support the connectivity. Specifically, the Exchange proposes an installation fee of $925 per router, switch or modem, and a monthly fee of $150 to rent cabinet space based on a unit height of approximately 1.75 inches (commonly called a ''U'' space) and a maximum power of 125 Watts per U space.

Next, the Exchange proposes to offer a ''POP Connectivity'' service, whereby subscribers may use external telecommunication circuits to connect directly to one or more of the Exchange's satellite data centers (each, a ''POP'') that are located in places other than Carteret. Each POP, in turn, has a fully redundant connection to the Exchange's primary data center, such that subscribers may connect to the primary data center through its connection to a POP. For POP Connectivity to the Exchange, the Exchange proposes to offer 1 GB Ultra and 10 GB connections. The installation fee for all such connections will be $1,500 and the monthly fee will be $7,500 for 10 GB connections and $2,500 for 1 GB Ultra connections.[4]

Additionally, the Exchange proposes to offer connectivity to third party services. The Exchange is proposing to offer this service to both non-co-location customers (via a direct circuit connection) and co-location customers alike. This connectivity will enable customers to receive third party market data feeds, including Securities Information Processors (''SIPs'')[5] data, and other non-exchange services.[6] The Exchange will offer this service to customers in both 10 GB Ultra and 1 GB Ultra bandwidths. The installation fee for both 10 GB Ultra and 1 GB Ultra direct connections will be $1,500. Meanwhile, the monthly fee will be $5,000 for 10 GB Ultra connections and $2,000 for 1 GB Ultra hand-offs. For 1 GB Ultra or 10 GB Ultra connections for UTP only, the installation fee and monthly fee will be waived for the first two connections and thereafter the installation fee will be $100 and the monthly fee also will be $100. As with Direct Circuit Connectivity, the Exchange proposes to charge a $925 fee to customers that choose to install a cable router in its data center for purposes of receiving the third party services as well as a monthly fee of $150 for customers that choose to install equipment in the Exchange's data center to support that connectivity.

Furthermore, the Exchange proposes to offer connectivity to its Test Facility. The Test Facility provides subscribers with a virtual system test environment that closely approximates the production environment and on which they may test their automated systems that integrate with the Exchange. For example, subscribers may test upcoming Exchange releases and product enhancements, as well as test software prior to implementation. The Exchange proposes to assess certain fees for use of the Test Facility. Specifically, the Exchange proposes that subscribers to the Test Facility located in Carteret, New Jersey shall pay a fee of $1,000 per hand-off, per month for connection to the Test Facility. The hand-off fee will includes [sic] either a 1 GB or 10 GB switch port and a cross connect to the Test Facility. Subscribers will also pay a one-time installation fee of $1,000 per handoff.

Finally, for each of the connectivity options discussed above, the Exchange proposes to include language in the fee schedule which states that connectivity to the Exchange also applies to connectivity to all of the other Nasdaq, Inc. markets, including Nasdaq, BX, Phlx, MRX, and ISE. This purpose of this proposal is to specify that a client can use the connections it establishes and maintains to connect, not only to the Exchange, but also to any or all of its sister exchanges, and in doing so, it will be billed only once.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that it is reasonable to eliminate its existing

[4] Clients will not be permitted to install routers in or rent cabinet space directly from the Exchange at the POPs. Accordingly, the fee schedule for POP connectivity will not include fees for these services.

[5] The SIPs link the U.S. markets by processing and consolidating all protected bid/ask quotes and trades from every registered exchange trading venue and FINRA into a single data feed, and they disseminate and calculate critical regulatory information, including the National Best Bid and Offer, Limit Up Limit Down price bands, short sale restrictions and regulatory halts.

[6] Third Party Services includes not only SIP data feeds, but also data feeds from other exchanges and markets. For example, Third Party Connectivity will support connectivity to the FINRA/Nasdaq Trade Reporting Facility, BATS Depth Feeds, and NYSE Feeds. A customer must separately subscribe to the third party services to which it connects with a Third Party Connectivity subscription. The Exchange notes that customers that do not wish to subscribe to Direct Circuit Connectivity to Third Party Services may alternatively connect through an extranet provider or a market data redistributor.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

Ethernet, FIX, and API connectivity offerings and their associated fees as the Exchange is migrating to a new platform that will offer new connectivity options. The Exchange notes that its customers have had ample prior notice of this transition.

The Exchange believes that proposed new connectivity fees are reasonable as a means of covering its costs associated with providing new connectivity options. Moreover, these new fees are reasonable because they are similar to or the same as the connectivity fees that the Exchange's sister exchanges, including Nasdaq, BX, and Phlx, charge under their respective rules.[9] They are also the same as those connectivity fees that ISE and MRX are proposing to assess in filings being submitted to the Commission concurrently with this one. The Exchange also believes that it is reasonable and in the interest of the public and investors to harmonize all of the Exchange's connectivity options and connectivity fees now that all of the Nasdaq, Inc. exchanges are on a common platform.

The Exchange believes that the proposed new fees are an equitable allocation and are not unfairly discriminatory because the Exchange will apply the same fees to all subscribers to the same connectivity options.

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. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may connect to third parties instead of directly connecting to the Exchange, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed changes to the charges assessed for connectivity to the Exchange are consistent with the fees assessed by other exchanges for the same or similar connectivity. Moreover, the Exchange must assess fees to cover the costs incurred in providing connectivity and members had been assessed fees for Exchange connectivity prior to the sunset of the old Exchange architecture. As a consequence, competition will not be burdened by the proposed fees. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[13] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the proposed rule change does not significantly affect the protection of investors or the public interest because it will eliminate obsolete connectivity services and replace them with services that customers will need to connect to the Exchange via its new trading platform. The Exchange further states that such connectivity services will be similar, or the same, as those that are currently offered by other Nasdaq, Inc. exchanges. Moreover, the Exchange states that the fees for such connectivity that are similar to, or the same, as fees charged by the other Nasdaq, Inc. exchanges.

The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the proposal harmonizes the Exchange's co-location offerings and fees with those of the other Nasdaq, Inc. exchanges. Furthermore, waiver of the 30-day operative delay will eliminate the confusion that could occur if different co-location offerings were available on each of Nasdaq. Inc.'s affiliated exchanges. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

[9] *See* Nasdaq Rule 7030, BX Rule 7030, and Nasdaq Phlx LLC Pricing Schedule Section VII.E (Test Facility); Nasdaq Rule 7034(b), BX Rule 7034(b), and Nasdaq Phlx LLC Pricing Schedule Section X (co-location); Nasdaq Rule 7051, BX Rule 7051, and Nasdaq Phlx LLC Pricing Schedule Section XI (direct connectivity).

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–GEMX–2017–48 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–GEMX–2017–48. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–GEMX–2017–48 and should be submitted on or before November 15, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–23117 Filed 10–24–17; 8:45 am]

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[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81909; File No. SR–OCC–2017–005]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Related to a Comprehensive Risk Management Framework

October 19, 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 October 10, 2017, The Options Clearing Corporation (''OCC'') 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 OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This purpose of the proposed rule change is to adopt a comprehensive Risk Management Framework Policy, which would describe OCC's framework for comprehensive risk management, including OCC's framework to identify, measure, monitor, and manage all risks faced by OCC in the provision of clearing, settlement and risk management services. The Risk Management Framework Policy is included in confidential Exhibit 5 of the filing. The proposed rule change does not require any changes to the text of OCC's By-Laws or Rules. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[3]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] OCC's By-Laws and Rules can be found on OCC's public Web site: *http://optionsclearing.com/about/publications/bylaws.jsp.*

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Background

On September 28, 2016, the Commission adopted amendments to Rule 17Ad–22[4] and added new Rule 17Ab2–2[5] pursuant to Section 17A of the Securities Exchange Act of 1934 (''Exchange Act'')[6] and the Payment, Clearing and Settlement Supervision Act of 2010 (''Clearing Supervision Act'')[7] to establish enhanced standards for the operation and governance of those clearing agencies registered with the Commission that meet the definition of a ''covered clearing agency,'' as defined by Rule 17Ad–22(a)(5)[8] (collectively, the new and amended rules are herein referred to as ''CCA'' rules). The CCA rules require that covered clearing agencies, among other things:

> ''[E]stablish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [m]aintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which . . . [i]ncludes risk management policies, procedures, and systems designed to identify, measure, monitor, and manage the range of risks that arise in or are borne by the covered clearing agency, that are subject to review on a specified periodic basis and approved by the board of directors annually . . .''[9]

OCC is defined as a covered clearing agency under the CCA rules, and therefore is subject to the requirements of the CCA rules, including Rule 17Ad–22(e)(3).[10] Accordingly, OCC proposes to adopt a Risk Management Framework Policy (''RMF''), as described below, to formalize and update its overall framework for comprehensively managing the Key Risks[11] that arise in or are borne by OCC to promote compliance with Rule 17Ad–22(e)(3).[12]

Proposed Policy

OCC proposes to adopt a new RMF document. The purpose of the RMF is to describe OCC's framework for

[4] 17 CFR 240.17Ad–22.

[5] 17 CFR 240.17Ab2–2.

[6] 15 U.S.C. 78q–1.

[7] 12 U.S.C. 5461 *et seq.*

[8] 17 CFR 240.17Ad–22(a)(5).

[9] 17 CFR 240.17Ad–22(e)(3).

[10] *Id.*

[11] Under the proposed RMF, ''Key Risks'' would be defined as risks that are related to the foundational aspects of CCP clearing, settlement and risk management services.

[12] 17 CFR 240.17Ad–22(e)(3).

comprehensive risk management, including OCC's framework to identify, measure, monitor, and manage all risks faced by OCC in the provision of clearing, settlement and risk management services. Specifically, the RMF would establish the context for OCC's risk management framework, outline OCC's risk management philosophy, describe OCC's Risk Appetite Framework and use of Risk Tolerances,[13] describe the governance arrangements that implement risk management, outline OCC's identification of Key Risks, and describe OCC's program for enterprise-wide risk management, including the three lines of defense structure (discussed below), and describe OCC's approach to risk monitoring, assessment and reporting. As a single risk management framework addressing risks across all facets of OCC's business, the RMF would foster OCC's compliance with the requirements of the CCA rules, and in particular the requirement of Rule 17Ad–22(e)(3) [14] that it maintain a sound framework for comprehensively managing risks.

Context of OCC's Risk Management Framework

The RMF would begin by establishing the context for OCC's risk management framework. Specifically, OCC is a Systemically Important Financial Market Utility (''SIFMU'') [15] that serves a critical role in financial markets as the sole central counterparty (''CCP'') that provides clearance and settlement services for U.S. listed options and guarantees the obligations associated with the contracts that it clears. As a SIFMU, OCC recognizes its role in promoting financial stability for market participants, investors and the economy and that it must therefore maintain a sound risk management framework for comprehensively managing the risks that it presents.

OCC's Risk Management Philosophy

The proposed RMF would describe OCC's risk management philosophy. As a SIFMU, OCC must be mindful of the public interest and its obligation to promote financial stability, reduce the potential for systemic contagion and support the smooth functioning of the U.S. financial markets. Furthermore, as a CCP, OCC concentrates financial risks for the markets it serves by acting as the CCP for all of the transactions that it clears. As a result of this concentration, OCC's primary objective is to ensure that it properly manages the financial risks associated with functioning as a CCP, which primarily relate to potential clearing member default scenarios.

As a CCP, OCC's daily operations, among other things, involve managing financial, operational and business risks. In managing these risks, OCC's daily operations—which are guided by policies, procedures and controls—are designed to ensure that financial exposures and service disruptions are within acceptable limits set by OCC as part of its Risk Appetite Framework (''RAF'') as described below.

Risk Appetite Framework

The proposed RMF would describe OCC's RAF and use of Risk Tolerances. The purpose of the RAF is to establish OCC's overall approach to managing risks at the enterprise level in an effective and integrated fashion. The RAF establishes the level and types of Key Risks, described in further detail below, that OCC is willing and able to assume in accordance with OCC's mission as a SIFMU. Under the RAF, Risk Appetite Statements [16] would be used to express OCC's judgment, for each of OCC's Key Risks, regarding the level of risk that OCC is willing to accept related to the provision of CCP services. These statements would be qualitative indications of appetite that set the tone for OCC's approach to risk taking, and are indicative of the level of resources or effort OCC puts forth to prevent or mitigate the impact of a Key Risk.

Under the RMF, Risk Appetite Statements would be set annually by each department associated with a Key Risk in cooperation with OCC's Enterprise Risk Management department (''ERM'') according to applicable procedures. OCC's risk appetite levels would be classified into four categories:

1. *No appetite:* OCC is unwilling to deliberately accept any level of risk.

2. *Low appetite:* OCC devotes significant resources to managing risk but may choose to accept certain risks that do not materially affect core clearing and settlement because the level of resources that OCC would be required to put forth to mitigate the risks would be impractical.

3. *Moderate appetite:* OCC is willing to engage in certain activities that pose risks because those activities may bring longer-term efficiencies or result in business opportunities even though the activities or new businesses may pose new risks to OCC.

4. *High appetite:* OCC is willing to implement a new high-risk process or business opportunity; however, it is unlikely OCC would apply this level of appetite to a Key Risk absent a compelling, urgent business need.

Under the RMF, OCC's Board would have ultimate responsibility for reviewing and approving the Risk Appetite Statements in connection with each Key Risk on an annual basis upon recommendation of OCC's Management Committee.

The Risk Appetite Statements allow OCC to carefully calibrate the levels of risk it accepts for each of its Key Risks to be consistent with OCC's core mission of promoting financial stability in the markets it serves. Accordingly, the RAF helps to ensure that OCC has an effective and comprehensive framework for managing its Key Risks (*e.g.,* legal, credit, liquidity, operational, general business, investment, custody and other risks that arise in or are borne by OCC).[17]

In addition to Risk Appetite Statements, the RMF would require that OCC assign Risk Tolerances to the Key Risks contained within the RMF as approved by OCC's Board. While the Risk Appetite Statements would be more high-level and principles-based, Risk Tolerances would comparatively be more granular and represent the application of OCC's risk appetite to specific sub-categories or aspects of Key Risks. The purpose of the proposed Risk Tolerances is to ensure that OCC sets acceptable levels of risk within those specified sub-categories of Key Risks. Risk Tolerances would be stated in either quantitative or qualitative terms, depending on the nature of the risk and OCC's ability to measure it.

Under the RMF, each department would be required to establish Risk Tolerances at least annually for sub-categories of Key Risks that are within their relevant domains of responsibility and would be responsible for managing applicable risks within established tolerance levels. ERM staff would monitor Risk Tolerances through quantitative metrics, where applicable, and compile such monitoring in a report that the Chief Risk Officer shall present to OCC's Management Committee and

[13] Under the proposed RMF, ''Risk Tolerances'' would be defined as the application of risk appetite to a specific sub-category or aspect of a Key Risk, typically in quantitative form, used to set an acceptable levels of risk.

[14] 17 CFR 240.17Ad–22(e)(3).

[15] The Financial Stability Oversight Council designated OCC a SIFMU on July 18, 2012 pursuant to the Clearing Supervision Act. *See* 12 U.S.C. 5463.

[16] Under the proposed RMF, ''Risk Appetite Statement'' would be defined as a statement that expresses OCC's judgment, for each of OCC's Key Risks, regarding the level of risk OCC is willing to accept related to the provision of CCP services.

[17] OCC's Key Risks are described below in the discussion covering OCC's identification of its material risks.

Board (or a committee thereof) at least quarterly. In addition, the RMF would require that OCC's Board evaluate its Risk Tolerances at least annually, and more frequently if necessary as a result of changes to products, processes, market conventions or other changes to OCC's material risks.

Identification of Key Risks

The proposed RMF would identify risks that could affect OCC's ability to perform services as expected, and the process for identifying such risks would take a broad view to include: (i) Direct financial and operational risks that may prevent the smooth functioning of CCP services, (ii) reputational risks that could undermine the perception of OCC as a sound pillar in the financial market and (iii) the risks OCC faces from third parties, such as custodians and settlement banks, that are critical to the design and operation of OCC's infrastructure and risk management. Identifying Key Risks in this manner would facilitate OCC's ability to comprehensively manage the legal, credit, liquidity, operational, general business, investment, custody and other risks that arise in or are borne by it. Based on this identification process, the RMF would define OCC's Key Risks as described below.

Financial Risk

The RMF would indicate that financial risk encompasses many aspects of risk at OCC, including the risks that a Clearing Member will be unable to meet its obligations when due or that OCC will not maintain sufficient financial resources to cover exposures (*i.e.,* credit risk), the risk that OCC will not maintain sufficient liquid resources to meet its same day and, where appropriate, intraday and multiday settlement of payment obligations (*i.e.,* liquidity risk), the risk that OCC will incur losses on overnight investments (*i.e.,* investment risk), and the risk that financial models are inaccurate (*i.e.,* model risk).

The proposed RMF would require OCC's credit risk management framework to encompass policies and procedures for maintaining sufficient prefunded resources in the form of margin and Clearing Fund deposits, accepting collateral from participants that is low risk and high quality, monitoring the creditworthiness and operational reliability of all counterparties, including participants, custodians, settlement banks, liquidity providers, and linked financial market utilities (''FMUs''), and maintaining a waterfall of resources to be used in the event of participant default and a process for replenishing resources.

In addition, the RMF would require OCC's liquidity risk framework to encompass sizing liquidity resources to cover liquidity needs in the event of the default of the largest Clearing Member Group, forecasting daily settlements needs under normal market conditions, maintaining liquid resources in the form of cash and committed facilities, maintaining a contingency funding plan and periodically reviewing the size of liquidity resources, maintaining liquidity resources at creditworthy custodians and monitoring the financial and operational performance of financial institutions and committed liquidity facilities, and investing liquidity resources in safe overnight investments or at a Federal Reserve Bank.

Moreover, the RMF would require OCC to address investment risks by maintaining an account at a Federal Reserve Bank, which bears no investment risk, and investing funds not held at the Federal Reserve Bank in high quality liquid assets. The RMF would also require OCC to manage model risk through a model development program, independent model validation and strong governance arrangements for the approval of new models or models with material changes in accordance with relevant policies.

Operational Risk

The RMF would define operational risk as the risk of disruptions in OCC's CCP services due to: (i) Deficiencies in internal controls, processes or information systems, (ii) human error or misconduct, or (iii) external events or intrusions. The definition of operational risk would also cover deficiencies related to information technology (''IT''), such as data security and IT systems reliability. To reflect the importance OCC assigns to managing IT risks, the RMF would also categorize IT risk as a separate Key Risk, discussed below.

The RMF would also assert that OCC manages operational risks in number of ways, including that OCC: (i) Maintains an Enterprise Project Management Program that performs initial assessments of proposed projects and manages project execution, to ensure that proper oversight exists during the initiation, planning, execution and delivery of OCC corporate projects, (ii) maintains a Business Continuity Program to support continuance of critical services in the event of a catastrophic loss of infrastructure and/or staff (including a Crisis Management Plan, which outlines OCC's processes for decision-making in crisis or emergency circumstances), (iii) maintains a comprehensive third-party risk management program which includes requirements for onboarding and ongoing monitoring of third parties on which OCC relies (such as vendors, settlement banks and FMUs with linkages to OCC) performed by various areas of the organization, including National Operations, Collateral Services, Credit Risk, and ERM, (iv) provides training and development through its Human Resources Department to ensure staff maintains and develops the necessary knowledge and skills to perform their jobs, and (v) conducts training on business ethics and OCC's Code of Conduct.

Operational Risk—Information Technology

The RMF also would address operational risks specifically related to IT as a distinct Key Risk. Operational risk related to IT would be defined as the risk that inadequate levels of system functionality, confidentiality, integrity, availability, capacity or resiliency for systems that support core clearing, settlement or risk management services or critical business functions results in disruptions in OCC services. In addition to the ways described above that OCC manages operational risks generally, the RMF would also provide that OCC manages IT operational risks by maintaining a: (i) Quality Standards Program, which includes targets that set performance standards for systems operations, (ii) cybersecurity program, and (iii) program to maintain system functionality and capacity.

Legal Risk

The RMF would define legal risk as the risk that OCC's by-laws, rules, policies and procedures do not provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions. The RMF would also provide that OCC manages legal risk by: (i) Maintaining rules, policies, and contracts that are consistent with applicable laws and regulations and (ii) maintaining legal agreements that establish counterparty obligations regarding the material aspects of its clearing, settlement and risk management services, including, but not limited to, settlement finality, vendor performance, exchange performance, options exercise and cross-margining obligations.

General Business Risk

The RMF would define general business risk as the risk of any potential

impairment of OCC's financial condition due to declines in its revenue or growth in its expenses arising from OCC's administration and operation as a business enterprise (as opposed to a participant's default), resulting in expenses that exceed revenues and losses that must be charged against OCC's capital.

The RMF would provide that OCC manages general business risk by: (i) Maintaining a target capital level of liquid net assets funded by equity equal to the greater of six-months' operating expenses or the amount sufficient to ensure a recovery or orderly wind-down of OCC's operations as set forth in OCC's recovery and wind-down plan, and a plan that provides for capital replenishment in the event of non-default losses in excess of target capital, (ii) maintaining a corporate planning program to manage new business activity, and (iii) actively managing the public perception of OCC.

Risk Management Governance

The RMF would describe the governance arrangements through which OCC implements its risk management philosophy. These governance arrangements would include the responsibilities of the Board, the Board's committees and management in establishing and executing OCC's risk management framework. These responsibilities are described in further detail below.

The RMF would provide that OCC's risk governance framework follows a hierarchical structure that begins with the Board, which has ultimate oversight responsibility for OCC's risk management activities. The Board performs an oversight role to ensure that OCC is managed and operated in a manner consistent with OCC's regulatory responsibilities as a SIFMU providing clearance and settlement services. The Board also is responsible for ensuring that OCC has governance arrangements that, among other things, prioritize the safety and efficiency of OCC through the proposed risk management framework. Moreover, under the RMF, the Board is responsible for overseeing OCC's risk management policies, procedures and systems designed to identify, measure, monitor and manage risks consistent within the Risk Appetite Statements and Risk Tolerances approved by the Board. The RMF also provides that the Board is responsible for overseeing and approving OCC's recovery and orderly wind-down plan (consistent with OCC's Board of Directors Charter).

To carry out these responsibilities, the RMF would indicate that the Board has established Committees to assist in overseeing OCC's Key Risks. These Committees are: (i) The Audit Committee, (ii) the Compensation and Performance Committee, (iii) the Governance and Nominating Committee, (iv) the Risk Committee, and (v) the Technology Committee. The responsibilities of these committees to manage OCC's Key Risks are outlined in their respective committee charters.[18]

The RMF would also provide that OCC's Management Committee is responsible for annually reviewing and approving the RMF—and the Risk Appetite Statements and Risk Tolerances established thereunder—and recommending further approval thereof to the Board. The Management Committee would also review reports related to metrics for assessing Risk Tolerances to determine whether OCC's Key Risks are behaving within established tolerances and take or recommend action as needed to return Key Risks to their appropriate levels and escalate exceptions to Risk Tolerances and Risk Appetite Statements to relevant Board committees. The Management Committee would also be permitted to establish working groups to assist it in the management of Key Risks.

Risk Management Practice

The RMF would describe OCC's program for enterprise-wide risk management. The internal structures for risk management described in the proposed RMF are intended to follow programs generally accepted in the financial services industry, including the ''three lines of defense'' model (*i.e.,* front line employees, enterprise risk/compliance functions and internal audit) and a program for internal controls that includes risk assessment and reporting.

''Three Lines of Defense''

To maintain a resilient risk management and internal control infrastructure, the RMF would formalize OCC's ''three lines of defense'' model, which allows OCC to manage its control infrastructure with clarity of ownership and accountability. The first line of defense consists of OCC's operational business units, including Financial Risk Management, National Operations, technology, legal, regulatory affairs and corporate functions such as human resources, finance, accounting and project management. The first line is responsible and accountable for designing, owning and managing risks by maintaining policies, procedures, processes and controls to manage relevant risks. The first line would also be responsible and accountable for internal controls and implementing corrective action to address control deficiencies.

The first line is supported and monitored by the second line of defense, which consists of the ERM, Compliance, Security Services and Model Validation Group functions. The second line is an oversight function and is responsible for designing, implementing and maintaining an enterprise-wide risk management and compliance program and tools to assess and manage risk at the enterprise level. The second line would also work with the first line to assess risks and establish policies and guidelines, and advise, monitor and report on the first line's effectiveness in managing risk and maintaining and operating a resilient control infrastructure. The second line reports to OCC's Management Committee and Board (or committee thereof) on the first line of defense's effectiveness in managing risk and compliance and an assessment of whether OCC's services are being delivered within Risk Appetite Statements and Risk Tolerances.

The third line of defense consists of OCC's internal audit function. The third line reports to the Audit Committee of the Board and is accountable for designing, implementing and maintaining a comprehensive audit program that allows senior management and the Board to receive independent and objective assurance that the quality of OCC's risk management and internal control infrastructure is consistent with OCC's risk appetite and Risk Tolerances. The RMF also would require that OCC's Internal Audit department maintains a diverse and skilled team of professionals with a variety of business, technology and audit skills, and perform all of its activities in compliance with the Institute of Internal Auditors' standards found in the International Professional Practices Framework.

The three lines of defense model is designed to provide for a robust governance structure that distinguishes among the three lines involved in the effective and comprehensive management of risk at OCC: The functions that own and manage risks, the functions that oversee and provide guidance on the management of risks, and the functions that provide independent and objective assurance of the robustness and appropriateness of risk management and internal controls.

[18] OCC's Board and Board committee charters are available on OCC's public Web site: *https://www.theocc.com/about/corporate-information/what-is-occ.jsp.*

Risk Assessments

In furtherance of the three lines of defense model, the RMF would provide for risk identification and assessment programs described below to identify, measure, and monitor current and emerging risks at OCC. Findings or recommendations that result from the assessments would be documented, monitored and escalated through the appropriate governance according to applicable OCC policies and procedures.

One such assessment—the Enterprise Risk Assessment—would be conducted by OCC's first line of defense in conjunction with ERM. The Enterprise Risk Assessment would analyze risks based on: (i) Inherent Risk,[19] (ii) quality of risk management, and (iii) Residual Risk [20] to provide OCC information on the quantity of risk in a certain functional area or business area, and provide a mechanism to prioritize risk mitigation activities. ERM would use analysis of Residual Risk in conjunction with metrics related to Risk Tolerances to develop a risk profile and determine whether a Key Risk is within in appetite and provide OCC's Management Committee and Board (or committee thereof) information on the quantity of risk in a certain functional area or business area, which would provide a mechanism to prioritize risk mitigation activities.

Another such assessment—the Scenario Analysis Program—would be a method for identifying risks that may not be otherwise captured in OCC's risk statements. ERM, in cooperation with the first line of defense, would design simulations of potential disruptions, and business unit staff would be able to identify risks that may not have been previously uncovered or identify weaknesses in current controls. ERM would include potential risks identified through the Scenario Analysis Program in its analysis of, and reporting on, the quantity of risk within a certain Key Risk and whether the Key Risk is within appetite.

A third assessment—the IT Risk Assessment Program—would be conducted by OCC's Security Services department prior to the procurement, development, installation, and operation of IT services and systems. This assessment would be triggered by certain events that may affect the nature or level of IT risks OCC faces, such as evaluation or procurement of a new system or technology, changes in OCC business processes that affect current services and systems, and the emergence of new threats that subvert existing controls and that require a new technology mitigation. OCC would also conduct periodic assessments.

A fourth assessment would be conducted by OCC's compliance function to identify and measure regulatory compliance risks. The assessment would also provide OCC's compliance function with a basis for prioritizing testing and training activities.

Risk Reporting

Under the RMF, ERM would be responsible for completing a review and reporting process that provides OCC's Management Committee and Board (or committee thereof) with the information necessary to fulfill their obligations for risk management and oversight of risk management activities, respectively. This reporting would be designed to assist OCC's Management Committee and Board (or committee thereof) in understanding the most significant risks faced by OCC from a process perspective and determining whether Risk Tolerances are being managed in accordance with Risk Appetite Statements. On a quarterly basis, ERM would provide a risk report with a summary analysis of risk appetite and risk profile that includes analysis of Residual Risks from the Enterprise Risk Assessment program, reporting on Risk Tolerances and recommendations for prioritization of risk mitigation activities. The reporting process would indicate procedures for escalation in the event of a breach of Risk Tolerance.

Control Activities

Under the RMF, the Compliance Department would be responsible for maintaining an inventory of all business processes and associated controls. OCC would also provide guides to assist staff in documenting their control activities in a consistent way and periodically conduct training on the importance of a strong risk and control environment. In addition, on at least an annual basis, the Compliance Department would be required to conduct training to assist OCC staff in understanding their respective responsibilities in implementing OCC's risk and control environment.

(2) Statutory Basis

Section 17A(b)(3)(F) of the Act [21] requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and in general, to protect investors and the public interest. As described above, the RMF is designed to formalize, clarify, and streamline OCC's overall framework for comprehensively managing risks. Specifically, the RMF would describe OCCs overall framework for comprehensive risk management, including OCC's framework to identify, measure, monitor and manage all risks faced by OCC in the provision of clearing, settlement and risk management services. In particular, the RMF would establish the context for OCC's risk management framework, outline OCC's risk management philosophy, describe OCC's Risk Appetite Framework and use of Risk Tolerances, describe the governance arrangements that implement risk management, outline OCC's identification of Key Risks and describe OCC's program for enterprise-wide risk management, including the three lines of defense structure and OCC's approach to risk monitoring, assessment and reporting.

The proposed rule change would formalize the risk management framework OCC currently employs in a single document and would therefore serve as a guide for readers to understand OCC's comprehensive framework for managing risk and its universe of risk management policies. Moreover, by describing some of the ways that OCC manages its risks, the RMF would serve as a basis for the processes, policies, procedures and other documents that OCC may develop and maintain to facilitate those risk management activities. As a result, OCC believes the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and in general, to protect investors and the public interest in accordance with Section 17A(b)(3)(F) of the Act.[22]

Rule 17Ad–22(e)(3) [23] requires, in part, that a covered clearing agency ''establish, implement, maintain and enforce written policies and procedures

[19] Under the Policy, ''Inherent Risk'' would be defined as the absolute level of risk exposure posed by a process or activity prior to the application of controls or other risk-mitigating factors.

[20] Under the Policy, ''Residual Risk'' would be defined as t level of risk exposure posed by a process or activity after the application of controls or other risk-mitigating factors.

[21] 15 U.S.C. 78q–1(b)(3)(F).

[22] *Id.*

[23] 17 CFR 240.17Ad–22(e)(3).

reasonably designed to . . . [m]aintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which . . . [i]ncludes risk management policies, procedures, and systems designed to identify, measure, monitor, and manage the range of risks that arise in or are borne by the covered clearing agency, that are subject to review on a specified periodic basis and approved by the board of directors annually . . .'' OCC believes that the proposed rule change is also consistent with Rule 17Ad–22(e)(3) [24] because the RMF describes OCC's comprehensive framework for identifying, measuring, monitoring and managing the risks that arise within OCC or are borne by it, including legal, credit, liquidity, operational, general business, investment and custody risk. For example, the RMF describes OCC's framework for identifying its Key Risks and the relevant policies that OCC maintains to address those risks. Moreover, the RMF would establish a foundation of OCC's risk management practice by describing OCC's enterprise-wide risk management framework. This framework incorporates established principles employed across the financial services industry, such as the ''three lines of defense'' model for enterprise-wide risk management, to ensure that OCC maintains and operates a resilient, effective and reliable risk management and internal control infrastructure that assures risk management and processing outcomes expected by OCC stakeholders. This framework also describes how OCC's second line of defense monitors the risks that arise in or are borne by OCC through a variety of risk assessment, risk reporting and internal control management activities, consistent with the requirements of Rule 17Ad–22(e)(3).[25]

The RMF also describes OCC's RAF and use of Risk Appetite Statements and Risk Tolerances to ensure that OCC sets appropriate levels and types of Key Risks that OCC is willing and able to assume in accordance with OCC's mission as a SIFMU. For example, the use of Risk Appetite Statements ensures that OCC can carefully calibrate the levels of risk it accepts for each Key Risk in a manner consistent with OCC's core mission of promoting financial stability in the markets it serves. In addition, the use of Risk Tolerances helps to ensure that OCC sets acceptable levels of risk within specified sub-categories of Key Risks, and which may also be used to set thresholds for acceptable variability in risk levels and to provide clear and transparent escalation triggers when the thresholds are breached. As a result, OCC believes the RMF is reasonably designed to provide for a sound, comprehensive framework for identifying, measuring, monitoring and managing the range of risks that arise in or are borne by OCC in a manner consistent with Rule 17Ad–22(e)(3).[26]

The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act [27] requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe that the proposed rule change would impact or impose any burden on competition. The proposed rule change would formalize the framework OCC uses internally to identify, monitor and manage its risks in a more transparent and understandable way. While the proposed rule change would update OCC's internal risk management framework document, this update does not affect Clearing Members' access to OCC's services or impose any direct burdens on Clearing Members. Accordingly, the proposed rule change would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self- regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change 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–OCC–2017–005 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–OCC–2017–005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_17_005.pdf.* 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

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] 15 U.S.C. 78q–1(b)(3)(I).

Number SR–OCC–2017–005 and should be submitted on or before November 15, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated Authority.[28]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–23121 Filed 10–24–17; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15338 and #15339; Georgia Disaster Number GA–00101]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Georgia

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Georgia (FEMA–4338–DR), dated 09/28/2017.

Incident: Hurricane Irma.

Incident Period: 09/07/2017 through 09/20/2017.

DATES: Issued on 10/18/2017.

Physical Loan Application Deadline Date: 11/27/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 06/28/2018.

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: Alan Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Georgia, dated 09/28/2017, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Bibb, Chattahoochee, Clarke, Clinch, Decatur, Dodge, Dooly, Glascock, Grady, Gwinnett, Heard, Henry, Jefferson, Lanier, Lee, McDuffie, Mitchell, Pulaski, Stewart, Sumter, Terrell, Thomas, Towns, Twiggs, Union, Upson, Webster, White, Wilkinson

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–23181 Filed 10–24–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15274 and #15275; Texas Disaster Number TX–00487]

Presidential Declaration Amendment of a Major Disaster for the State of Texas

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 7.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Texas (FEMA–4332–DR), dated 08/25/2017.

Incident: Hurricane Harvey.

Incident Period: 08/23/2017 through 09/15/2017.

DATES: Issued on 10/19/2017.

Physical Loan Application Deadline Date: 11/24/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 05/25/2018.

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: The notice of the President's major disaster declaration for the State of Texas, dated 08/25/2017, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 11/24/2017.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–23183 Filed 10–24–17; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2015–0055]

Social Security Ruling 16–3p Titles II And XVI: Evaluation Of Symptoms In Disability Claims

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling (SSR).

SUMMARY: We are republishing SSR 16–3p, a ruling that rescinded and superseded SSR 96–7p, with a revision detailing how we apply the SSR as it relates to the applicable date. We changed our terminology from ''effective date'' to ''applicable date'' based on guidance from the Office of the Federal Register. We also updated citations to reflect the revised regulations that became effective on March 27, 2017. This Ruling is otherwise unchanged, and provides guidance about how we evaluate statements regarding the intensity, persistence, and limiting effects of symptoms in disability claims under Titles II and XVI of the Social Security Act (Act) and blindness claims under Title XVI of the Act.

FOR FURTHER INFORMATION CONTACT: Elaine Tocco, Office of Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–6356. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish this SSR, we are doing so in accordance with 20 CFR 402.35(b)(1).

Through SSRs, we convey to the public SSA precedential decisions relating to the Federal old age, survivors, disability, supplemental security income, and special veterans benefits programs. We may base SSRs on determinations or decisions made at all levels of administrative adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, or other interpretations of the law and regulations.

Although SSRs do not have the same force and effect as statutes or regulations, they are binding on all components of the Social Security Administration. 20 CFR 402.35(b)(1).

This SSR will remain in effect until we publish a notice in the **Federal Register** that rescinds it, or we publish a new SSR that replaces or modifies it.

This SSR, republished in its entirety, includes a revision to clarify that our adjudicators will apply SSR 16–3p when we make determinations and decisions on or after March 28, 2016. When a Federal court reviews our final decision in a claim, we also explain that we expect the court to review the final

[28] 17 CFR 200.30–3(a)(12).

decision using the rules that were in effect at the time we issued the decision under review. If a court remands a claim for further proceedings after the applicable date of the ruling (March 28, 2016), we will apply SSR 16–3p to the entire period in the decision we make after the court's remand.

(Catalog of Federal Domestic Assistance, Programs Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006—Supplemental Security Income.)

Nancy A. Berryhill,

Acting Commissioner of Social Security.

POLICY INTERPRETATION RULING

TITLES II AND XVI: EVALUATION OF SYMPTOMS IN DISABILITY CLAIMS

This SSR supersedes SSR 96–7p: Policy Interpretation Ruling Titles II and XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements.

PURPOSE:

We are rescinding SSR 96–7p: Policy Interpretation Ruling Titles II and XVI Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements and replacing it with this Ruling. We solicited a study and recommendations from the Administrative Conference of the United States (ACUS) on the topic of symptom evaluation. Based on ACUS's recommendations [1] and our adjudicative experience, we are eliminating the use of the term ''credibility'' from our sub-regulatory policy, as our regulations do not use this term. In doing so, we clarify that subjective symptom evaluation is not an examination of an individual's character. Instead, we will more closely follow our regulatory language regarding symptom evaluation.

Consistent with our regulations, we instruct our adjudicators to consider all of the evidence in an individual's record when they evaluate the intensity and persistence of symptoms after they find that the individual has a medically determinable impairment(s) that could reasonably be expected to produce those symptoms. We evaluate the intensity and persistence of an individual's symptoms so we can determine how symptoms limit ability to perform work-related activities for an adult and how symptoms limit ability to function independently, appropriately, and effectively in an age-appropriate manner for a child with a title XVI disability claim.

CITATIONS (AUTHORITY):

Sections 216(i), 223(d), and 1614(a)(3) of the Social Security Act as amended; Regulations no. 4, sections 404.1502, 404.1512(d), 404.1513, 404.1520, 404.1520c, 404.1521, 404.1526, 404.1527, 404.1529, 404.1545 and 404.1594; and Regulations No. 16 sections 416.902, 416.912(d), 416.913, 416.920, 416.920c, 416.921, 416.924(c), 416.924a(b)(9)(ii–iii), 416.926a, 416.927, 416.929, 416.930(c), 416.945, 416.994, and 416.994a.

BACKGROUND:

In determining whether an individual is disabled, we consider all of the individual's symptoms, including pain, and the extent to which the symptoms can reasonably be accepted as consistent with the objective medical and other evidence in the individual's record. We define a symptom as the individual's own description or statement of his or her physical or mental impairment(s).[2] Under our regulations, an individual's statements of symptoms alone are not enough to establish the existence of a physical or mental impairment or disability. However, if an individual alleges impairment-related symptoms, we must evaluate those symptoms using a two-step process set forth in our regulations.[3]

First, we must consider whether there is an underlying medically determinable physical or mental impairment(s) that could reasonably be expected to produce an individual's symptoms, such as pain. Second, once an underlying physical or mental impairment(s) that could reasonably be expected to produce an individual's symptoms is established, we evaluate the intensity and persistence of those symptoms to determine the extent to which the symptoms limit an individual's ability to perform work-related activities for an adult or to function independently, appropriately, and effectively in an age-appropriate manner for a child with a title XVI disability claim.

This ruling clarifies how we consider:

- The intensity, persistence, and functionally limiting effects of symptoms,
- Objective medical evidence when evaluating symptoms,
- Other evidence when evaluating symptoms,
- The factors set forth in 20 CFR 404.1529(c)(3) and 416.929(c)(3),
- The extent to which an individual's symptoms affect his or her ability to perform work-related activities or function independently, appropriately, and effectively in an age-appropriate manner for a child with a title XVI disability claim, and
- Adjudication standards for evaluating symptoms in the sequential evaluation process.

POLICY INTERPRETATION:

We use a two-step process for evaluating an individual's symptoms.

The two-step process:

Step 1: We determine whether the individual has a medically determinable impairment (MDI) that could reasonably be expected to produce the individual's alleged symptoms

An individual's symptoms, such as pain, fatigue, shortness of breath, weakness, nervousness, or periods of poor concentration will not be found to affect the ability to perform work-related activities for an adult or to function independently, appropriately, and effectively in an age-appropriate manner for a child with a title XVI disability claim unless medical signs or laboratory findings show a medically determinable impairment is present. *Signs* are anatomical, physiological, or psychological abnormalities established by medically acceptable clinical diagnostic techniques that can be observed apart from an individual's symptoms.[4] *Laboratory findings* are anatomical, physiological, or psychological phenomena, which can be shown by the use of medically acceptable laboratory diagnostic techniques.[5] We call the medical

[1] ACUS made several recommendations in its March 12, 2015 final report, ''Evaluating Subjective Symptoms in Disability Claims.'' Among other things, ACUS recommended we consider amending SSR 96–7p to clarify that subjective symptom evaluation is not an examination of an individual's character, but rather is an evidence-based analysis of the administrative record to determine whether the nature, intensity, frequency, or severity of an individual's symptoms impact his or her ability to work. In any revised SSR, ACUS also recommended we more closely follow our regulatory language about symptom evaluation, which does not use the term ''credibility'' and instead directs adjudicators to consider medical and other evidence to evaluate the intensity and persistence of symptoms to determine how the individual's symptoms limit capacity for work if he or she is an adult, or for a child with a title XVI disability claim, how symptoms limit ability to function. ACUS further recommended when revising SSR 96–7p, we offer additional guidance to adjudicators on regulatory implementation problems that have been identified since we published SSR 96–7p.

[2] See 20 CFR 404.1502(i) and 416.902(n) for how our regulations define symptoms.

[3] See 20 CFR 404.1529 and 416.929 for how we evaluate statements of symptoms.

[4] See 20 CFR 404.1502(g) and 416.902(l) for how our regulations define signs.

[5] See 20 CFR 404.1502(c) and 416.902(g) for how our regulations define laboratory findings.

evidence that provides signs or laboratory findings *objective medical evidence.* We must have objective medical evidence from an acceptable medical source [6] to establish the existence of a medically determinable impairment that could reasonably be expected to produce an individual's alleged symptoms.[7]

In determining whether there is an underlying medically determinable impairment that could reasonably be expected to produce an individual's symptoms, we do not consider whether the severity of an individual's alleged symptoms is supported by the objective medical evidence. For example, if an individual has a medically determinable impairment established by a knee x-ray showing mild degenerative changes and he or she alleges extreme pain that limits his or her ability to stand and walk, we will find that individual has a medically determinable impairment that could reasonably be expected to produce the symptom of pain. We will proceed to step two of the two-step process, even though the level of pain an individual alleges may seem out of proportion with the objective medical evidence.

In some instances, the objective medical evidence clearly establishes that an individual's symptoms are due to a medically determinable impairment. At other times, we may have insufficient evidence to determine whether an individual has a medically determinable impairment that could potentially account for his or her alleged symptoms. In those instances, we develop evidence regarding a potential medically determinable impairment using a variety of means set forth in our regulations. For example, we may obtain additional information from the individual about the nature of his or her symptoms and their effect on functioning. We may request additional information from the individual about other testing or treatment he or she may have undergone for the symptoms. We may request clarifying information from an individual's medical sources, or we may send an individual to a consultative examination that may include diagnostic testing. We may use our agency experts to help us determine whether an individual's medically determinable impairment could reasonably be expected to produce his or her symptoms. At the administrative law judge hearing level or the Appeals Council level of the administrative review process, we may ask for and consider evidence from a medical or psychological expert to help us determine whether an individual's medically determinable impairment could reasonably be expected to produce his or her symptoms. If an individual alleges symptoms, but the medical signs and laboratory findings do not substantiate any medically determinable impairment capable of producing the individual's alleged symptoms, we will not evaluate the individual's symptoms at step two of our two-step evaluation process.

We will not find an individual disabled based on alleged symptoms alone. If there is no medically determinable impairment, or if there is a medically determinable impairment, but the impairment(s) could not reasonably be expected to produce the individual's symptoms, we will not find those symptoms affect the ability to perform work-related activities for an adult or ability to function independently, appropriately, and effectively in an age-appropriate manner for a child with a title XVI disability claim.

Step 2: We evaluate the intensity and persistence of an individual's symptoms such as pain and determine the extent to which an individual's symptoms limit his or her ability to perform work-related activities for an adult or to function independently, appropriately, and effectively in an age-appropriate manner for a child with a title XVI disability claim.

Once the existence of a medically determinable impairment that could reasonably be expected to produce pain or other symptoms is established, we recognize that some individuals may experience symptoms differently and may be limited by symptoms to a greater or lesser extent than other individuals with the same medical impairments, the same objective medical evidence, and the same non-medical evidence. In considering the intensity, persistence, and limiting effects of an individual's symptoms, we examine the entire case record, including the objective medical evidence; an individual's statements about the intensity, persistence, and limiting effects of symptoms; statements and other information provided by medical sources and other persons; and any other relevant evidence in the individual's case record.

We will not evaluate an individual's symptoms without making every reasonable effort to obtain a complete medical history [8] unless the evidence supports a finding that the individual is disabled. We will not evaluate an individual's symptoms based solely on objective medical evidence unless that objective medical evidence supports a finding that the individual is disabled. We will evaluate an individual's symptoms based on the evidence in an individual's record as described below; however, not all of the types of evidence described below will be available or relevant in every case.

1. Consideration of Objective Medical Evidence

Symptoms cannot always be measured objectively through clinical or laboratory diagnostic techniques. However, objective medical evidence is a useful indicator to help make reasonable conclusions about the intensity and persistence of symptoms, including the effects those symptoms may have on the ability to perform work-related activities for an adult or to function independently, appropriately, and effectively in an age-appropriate manner for a child with a title XVI claim.[9] We must consider whether an individual's statements about the intensity, persistence, and limiting effects of his or her symptoms are consistent with the medical signs and laboratory findings of record.

The intensity, persistence, and limiting effects of many symptoms can be clinically observed and recorded in the medical evidence. Examples such as reduced joint motion, muscle spasm, sensory deficit, and motor disruption illustrate findings that may result from, or be associated with, the symptom of pain.[10] These findings may be consistent with an individual's statements about symptoms and their functional effects. However, when the results of tests are not consistent with other evidence in the record, they may be less supportive of an individual's statements about pain or other symptoms than test results and statements that are consistent with other evidence in the record.

For example, an individual with reduced muscle strength testing who indicates that for the last year pain has limited his or her standing and walking to no more than a few minutes a day

[6] See 20 CFR 404.1502(a) and 416.902(a) for a list of acceptable medical sources.

[7] See 20 CFR 404.1521 and 416.921 for what is needed to show a medically determinable impairment.

[8] By ''complete medical history,'' we mean the individual's complete medical history for at least the 12 months preceding the month in which he or she filed an application, unless there is a reason to believe that development of an earlier period is necessary or the individual says that his or her alleged disability began less than 12 months before he or she filed an application. 20 CFR 404.1512(b)(ii) and 416.912(b)(ii).

[9] See 20 CFR 404.1529(c)(2) and 416.929(c)(2).

[10] See 20 CFR 404.1529(c)(2) and 416.929(c)(2).

would be expected to have some signs of muscle wasting as a result. If no muscle wasting were present, we might not, depending on the other evidence in the record, find the individual's reduced muscle strength on clinical testing to be consistent with the individual's alleged impairment-related symptoms.

However, we will not disregard an individual's statements about the intensity, persistence, and limiting effects of symptoms solely because the objective medical evidence does not substantiate the degree of impairment-related symptoms alleged by the individual.[11] A report of minimal or negative findings or inconsistencies in the objective medical evidence is one of the many factors we must consider in evaluating the intensity, persistence, and limiting effects of an individual's symptoms.

2. Consideration of Other Evidence

If we cannot make a disability determination or decision that is fully favorable based solely on objective medical evidence, then we carefully consider other evidence in the record in reaching a conclusion about the intensity, persistence, and limiting effects of an individual's symptoms. Other evidence that we will consider includes statements from the individual, medical sources, and any other sources that might have information about the individual's symptoms, including agency personnel, as well as the factors set forth in our regulations.[12] For example, for a child with a title XVI disability claim, we will consider evidence submitted from educational agencies and personnel, statements from parents and other relatives, and evidence submitted by social welfare agencies, therapists, and other practitioners.[13]

a. The Individual

An individual may make statements about the intensity, persistence, and limiting effects of his or her symptoms. If a child with a title XVI disability claim is unable to describe his or her symptoms adequately, we will accept a description of his or her symptoms from the person most familiar with the child, such as a parent, another relative, or a guardian.[14] For an adult whose impairment prevents him or her from describing symptoms adequately, we may also consider a description of his or her symptoms from a person who is familiar with the individual.

An individual may make statements about symptoms directly to medical sources, other sources, or he or she may make them directly to us. An individual may have made statements about symptoms in connection with claims for other types of disability benefits such as workers' compensation, benefits under programs of the Department of Veterans Affairs, or private insurance benefits.

An individual's statements may address the frequency and duration of the symptoms, the location of the symptoms, and the impact of the symptoms on the ability to perform daily living activities. An individual's statements may also include activities that precipitate or aggravate the symptoms, medications and treatments used, and other methods used to alleviate the symptoms. We will consider an individual's statements about the intensity, persistence, and limiting effects of symptoms, and we will evaluate whether the statements are consistent with objective medical evidence and the other evidence.

b. Medical Sources

Medical sources may offer diagnoses, prognoses, and opinions as well as statements and medical reports about an individual's history, treatment, responses to treatment, prior work record, efforts to work, daily activities, and other information concerning the intensity, persistence, and limiting effects of an individual's symptoms.

Important information about symptoms recorded by medical sources and reported in the medical evidence may include, but is not limited to, the following:

- Onset, description of the character and location of the symptoms, precipitating and aggravating factors, frequency and duration, change over a period of time (e.g., whether worsening, improving, or static), and daily activities. Very often, the individual has provided this information to the medical source, and the information may be compared with the individual's other statements in the case record. In addition, the evidence provided by a medical source may contain medical opinions about the individual's symptoms and their effects. Our adjudicators will consider such opinions by applying the factors in 20 CFR 404.1520c and 416.920c.[15]
- A longitudinal record of any treatment and its success or failure, including any side effects of medication.
- Indications of other impairments, such as potential mental impairments, that could account for an individual's allegations.

Medical evidence from medical sources that have not treated or examined the individual is also important in the adjudicator's evaluation of an individual's statements about pain or other symptoms. For example, State agency medical and psychological consultants and other program physicians and psychologists may offer findings about the existence and severity of an individual's symptoms. We will consider these findings in evaluating the intensity, persistence, and limiting effects of the individual's symptoms. Adjudicators at the hearing level or at the Appeals Council level must consider the findings from these medical sources even though they are not bound by them.[16]

c. Non-Medical Sources

Other sources may provide information from which we may draw inferences and conclusions about an individual's statements that would be helpful to us in assessing the intensity, persistence, and limiting effects of symptoms. Examples of such sources include public and private agencies, other practitioners, educational personnel, non-medical sources such as family and friends, and agency personnel. We will consider any statements in the record noted by agency personnel who previously interviewed the individual, whether in person or by telephone. The adjudicator will consider any personal observations of the individual in terms of how consistent those observations are with the individual's statements about his or her symptoms as well as with all of the evidence in the file.

d. Factors To Consider in Evaluating the Intensity, Persistence, and Limiting Effects of an Individual's Symptoms

In addition to using all of the evidence to evaluate the intensity, persistence, and limiting effects of an individual's symptoms, we will also use the factors set forth in 20 CFR 404.1529(c)(3) and 416.929(c)(3). These factors include:

1. Daily activities;
2. The location, duration, frequency, and intensity of pain or other symptoms;

[11] See 20 CFR 404.1529 and 416.929.

[12] See 20 CFR 404.1513 and 416.913.

[13] See 20 CFR 404.1529(c)(3) and 416.929(c)(3)

[14] See 20 CFR 416.924a(a)(2).

[15] For claims filed before March 27, 2017, our adjudicators will apply the rules in 20 CFR 404.1527 and 416.927.

[16] See 20 C.F.R. 404.1520c and 416.902c for claims filed on or after March 27, 2017. See 20 CFR 404.1527 and 416.927 for claims filed before March 27, 2017.

3. Factors that precipitate and aggravate the symptoms;

4. The type, dosage, effectiveness, and side effects of any medication an individual takes or has taken to alleviate pain or other symptoms;

5. Treatment, other than medication, an individual receives or has received for relief of pain or other symptoms;

6. Any measures other than treatment an individual uses or has used to relieve pain or other symptoms (*e.g.,* lying flat on his or her back, standing for 15 to 20 minutes every hour, or sleeping on a board); and

7. Any other factors concerning an individual's functional limitations and restrictions due to pain or other symptoms.

We will consider other evidence to evaluate only the factors that are relevant to assessing the intensity, persistence, and limiting effects of the individual's symptoms. If there is no information in the evidence of record regarding one of the factors, we will not discuss that specific factor in the determination or decision because it is not relevant to the case. We will discuss the factors pertinent to the evidence of record.

How We Will Determine if an Individual's Symptoms Affect the Ability To Perform Work-Related Activities for an Adult, or Age-Appropriate Activities for a Child With a Title XVI Disability Claim

If an individual's statements about the intensity, persistence, and limiting effects of symptoms are consistent with the objective medical evidence and the other evidence of record, we will determine that the individual's symptoms are more likely to reduce his or her capacities to perform work-related activities for an adult or reduce a child's ability to function independently, appropriately, and effectively in an age-appropriate manner for a child with a title XVI disability claim.[17] In contrast, if an individual's statements about the intensity, persistence, and limiting effects of symptoms are inconsistent with the objective medical evidence and the other evidence, we will determine that the individual's symptoms are less likely to reduce his or her capacities to perform work-related activities or abilities to function independently, appropriately, and effectively in an age-appropriate manner.

We may or may not find an individual's symptoms and related limitations consistent with the evidence in his or her record. We will explain which of an individual's symptoms we found consistent or inconsistent with the evidence in his or her record and how our evaluation of the individual's symptoms led to our conclusions. We will evaluate an individual's symptoms considering all the evidence in his or her record.

In determining whether an individual's symptoms will reduce his or her corresponding capacities to perform work-related activities or abilities to function independently, appropriately, and effectively in an age-appropriate manner, we will consider the consistency of the individual's own statements. To do so, we will compare statements an individual makes in connection with the individual's claim for disability benefits with any existing statements the individual made under other circumstances.

We will consider statements an individual made to us at each prior step of the administrative review process, as well as statements the individual made in any subsequent or prior disability claims under titles II and XVI. If an individual's various statements about the intensity, persistence, and limiting effects of symptoms are consistent with one another and consistent with the objective medical evidence and other evidence in the record, we will determine that an individual's symptoms are more likely to reduce his or her capacities for work-related activities or reduce the abilities to function independently, appropriately, and effectively in an age-appropriate manner. However, inconsistencies in an individual's statements made at varying times does not necessarily mean they are inaccurate. Symptoms may vary in their intensity, persistence, and functional effects, or may worsen or improve with time. This may explain why an individual's statements vary when describing the intensity, persistence, or functional effects of symptoms.

We will consider an individual's attempts to seek medical treatment for symptoms and to follow treatment once it is prescribed when evaluating whether symptom intensity and persistence affect the ability to perform work-related activities for an adult or the ability to function independently, appropriately, and effectively in an age-appropriate manner for a child with a title XVI disability claim. Persistent attempts to obtain relief of symptoms, such as increasing dosages and changing medications, trying a variety of treatments, referrals to specialists, or changing treatment sources may be an indication that an individual's symptoms are a source of distress and may show that they are intense and persistent.[18]

In contrast, if the frequency or extent of the treatment sought by an individual is not comparable with the degree of the individual's subjective complaints, or if the individual fails to follow prescribed treatment that might improve symptoms, we may find the alleged intensity and persistence of an individual's symptoms are inconsistent with the overall evidence of record. We will not find an individual's symptoms inconsistent with the evidence in the record on this basis without considering possible reasons he or she may not comply with treatment or seek treatment consistent with the degree of his or her complaints. We may need to contact the individual regarding the lack of treatment or, at an administrative proceeding, ask why he or she has not complied with or sought treatment in a manner consistent with his or her complaints. When we consider the individual's treatment history, we may consider (but are not limited to) one or more of the following:

- An individual may have structured his or her activities to minimize symptoms to a tolerable level by avoiding physical activities or mental stressors that aggravate his or her symptoms.
- An individual may receive periodic treatment or evaluation for refills of medications because his or her symptoms have reached a plateau.
- An individual may not agree to take prescription medications because the side effects are less tolerable than the symptoms.
- An individual may not be able to afford treatment and may not have access to free or low-cost medical services.
- A medical source may have advised the individual that there is no further effective treatment to prescribe or recommend that would benefit the individual.
- An individual's symptoms may not be severe enough to prompt him or her to seek treatment, or the symptoms may be relieved with over the counter medications.
- An individual's religious beliefs may prohibit prescribed treatment.
- Due to various limitations (such as language or mental limitations), an individual may not understand the appropriate treatment for or the need for consistent treatment of his or her impairment.
- Due to a mental impairment (for example, individuals with mental impairments that affect judgment,

[17] See 20 CFR 404.1529(c)(4) and 416.929(c)(4).

[18] See 20 CFR 404.1529(c) and 416.929(c).

reality testing, or orientation), an individual may not be aware that he or she has a disorder that requires treatment.

• A child may disregard the level and frequency of treatment needed to maintain or improve functioning because it interferes with his or her participation in activities typical of other children his or her age without impairments.

The above examples illustrate possible reasons an individual may not have pursued treatment. However, we will consider and address reasons for not pursuing treatment that are pertinent to an individual's case. We will review the case record to determine whether there are explanations for inconsistencies in the individual's statements about symptoms and their effects, and whether the evidence of record supports any of the individual's statements at the time he or she made them. We will explain how we considered the individual's reasons in our evaluation of the individual's symptoms.

Adjudication—How we will use our evaluation of symptoms in our five-step sequential evaluation process to determine whether an individual is disabled

In evaluating an individual's symptoms, it is not sufficient for our adjudicators to make a single, conclusory statement that ''the individual's statements about his or her symptoms have been considered'' or that ''the statements about the individual's symptoms are (or are not) supported or consistent.'' It is also not enough for our adjudicators simply to recite the factors described in the regulations for evaluating symptoms. The determination or decision must contain specific reasons for the weight given to the individual's symptoms, be consistent with and supported by the evidence, and be clearly articulated so the individual and any subsequent reviewer can assess how the adjudicator evaluated the individual's symptoms.

Our adjudicators must base their findings solely on the evidence in the case record, including any testimony from the individual or other witnesses at a hearing before an administrative law judge or hearing officer. The subjective statements of the individual and witnesses obtained at a hearing should directly relate to symptoms the individual alleged. Our adjudicators are prohibited from soliciting additional non-medical evidence outside of the record on their own, except as set forth in our regulations and policies.

Adjudicators must limit their evaluation to the individual's statements about his or her symptoms and the evidence in the record that is relevant to the individual's impairments. In evaluating an individual's symptoms, our adjudicators will not assess an individual's overall character or truthfulness in the manner typically used during an adversarial court litigation. The focus of the evaluation of an individual's symptoms should not be to determine whether he or she is a truthful person. Rather, our adjudicators will focus on whether the evidence establishes a medically determinable impairment that could reasonably be expected to produce the individual's symptoms and given the adjudicator's evaluation of the individual's symptoms, whether the intensity and persistence of the symptoms limit the individual's ability to perform work-related activities or, for a child with a title XVI disability claim, limit the child's ability to function independently, appropriately, and effectively in an age-appropriate manner.

In determining whether an individual is disabled or continues to be disabled, our adjudicators follow a sequential evaluation process.[19] The first step of our five-step sequential evaluation process considers whether an individual is performing substantial gainful activity. If the individual is performing substantial gainful activity, we find him or her not disabled. If the individual is not performing substantial gainful activity, we proceed to step 2. We do not consider symptoms at the first step of the sequential evaluation process.

At step 2 of the sequential evaluation process, we determine whether an individual has a severe medically determinable physical or mental impairment or combination of impairments that has lasted or can be expected to last for a continuous period of at least 12 months or end in death.[20] A severe impairment is one that affects an individual's ability to perform basic work-related activities for an adult or that causes more than minimal functional limitations for a child with a title XVI disability claim.[21] At this step, we will consider an individual's symptoms and functional limitations to determine whether his or her impairment(s) is severe unless the objective medical evidence alone establishes a severe medically determinable impairment or combination of impairments that meets our duration requirement.[22] If an individual does not have a severe medically determinable impairment that meets our duration requirement, we will find the individual not disabled at step 2. If the individual has a severe medically determinable impairment that has met or is expected to meet our duration requirement, we proceed to the next step.

At step 3 of the sequential evaluation process, we determine whether an individual's impairment(s) meets or medically equals the severity requirements of a listed impairment. To decide whether the impairment meets the level of severity described in a listed impairment, we will consider an individual's symptoms when a symptom(s) is one of the criteria in a listing to ensure the symptom is present in combination with the other criteria. If the symptom is not one of the criteria in a listing, we will not evaluate an individual's symptoms at this step as long as all other findings required by the specific listing are present. Unless the listing states otherwise, it is not necessary to provide information about the intensity, persistence, or limiting effects of a symptom as long as all other findings required by the specific listing are present.[23] In considering whether an individual's symptoms, signs, and laboratory findings are medically equal to the symptoms, signs, and laboratory findings of a listed impairment, we will look to see whether the symptoms, signs, and laboratory findings are at least equal in severity to the listed criteria. However, we will not substitute the individual's allegations of pain or other symptoms for a missing or deficient sign or laboratory finding to raise the severity of the impairment(s) to that of a listed impairment.[24] If an individual's impairment meets or medically equals the severity requirements of a listing, we find him or her disabled. If an individual's impairment does not meet or medically equal a listing, we proceed to assess the individual's residual functional capacity at step 4 of the sequential evaluation process unless the individual is a child with a title XVI disability claim.

For a child with a title XVI disability claim whose impairment does not meet or medically equal the severity requirements of a listing, we consider whether his or her impairment functionally equals the listings. This

[19] See 20 CFR 404.1520 and 416.920. For continuing disability, see 404.1594, 416.994 and 416.994a.

[20] See 20 CFR 404.1520(a)(4)(ii) and 416.920(a)(4)(ii).

[21] See 20 CFR 416.924(c).

[22] See 20 CFR 416.920(c) for adults and 416.924(c) for children.

[23] See 20 CFR 404.1529(d)(2) and 416.929(d)(2).

[24] See 20 CFR 404.1529(d)(3) and 416.929(d)(3).

means that the impairment results in ''marked'' limitations in two out of six domains of functioning or an ''extreme'' limitation in one of the six domains.[25] We will evaluate an individual's symptoms at this step when we rate how a child's impairment-related symptoms affect his or her ability to function independently, appropriately, and effectively in an age-appropriate manner in each functional domain. If a child's impairment functionally equals a listing, we find him or her disabled. If a child's impairment does not functionally equal the listings, we find him or her not disabled. For a child with a title XVI disability claim, the sequential evaluation process ends at this step.

If the individual's impairment does not meet or equal a listing, we will assess and make a finding about an individual's residual functional capacity based on all the relevant medical and other evidence in the individual's case record. An individual's residual functional capacity is the most the individual can still do despite his or her impairment-related limitations. We consider the individual's symptoms when determining his or her residual functional capacity and the extent to which the individual's impairment-related symptoms are consistent with the evidence in the record.[26]

After establishing the residual functional capacity, we determine whether an individual is able to do any past relevant work. At step 4, we compare the individual's residual functional capacity with the requirements of his or her past relevant work. If the individual's residual functional capacity is consistent with the demands of any of his or her past relevant work, either as the individual performed it or as the occupation is generally performed in the national economy, then we will find the individual not disabled. If none of the individual's past relevant work is within his or her residual functional capacity, we proceed to step 5 of the sequential evaluation process.

At step 5 of the sequential evaluation process, we determine whether the individual is able to adjust to other work that exists in significant numbers in the national economy. We consider the same residual functional capacity, together with the individual's age, education, and past work experience. If the individual is able to adjust to other work that exists in significant numbers in the national economy, we will find him or her not disabled. If the individual cannot adjust to other work that exists in significant numbers in the national economy, we find him or her disabled. At step 5 of the sequential evaluation process, we will not consider an individual's symptoms any further because we considered the individual's symptoms when we determined the individual's residual functional capacity.

This SSR is applicable on MARCH 28, 2016.[27]

CROSS-REFERENCES: SSR 96–8p, ''Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims,'' and Program Operations Manual System, section DI 24515.064.

[FR Doc. 2017–23143 Filed 10–24–17; 8:45 am]

BILLING CODE 4191–02–P

[25] See 20 CFR 416.926a.

[26] See 20 CFR 404.1545 and 416.945.

[27] Our adjudicators will apply this ruling when we make determinations and decisions on or after March 28, 2016. When a Federal court reviews our final decision in a claim, we expect the court will review the final decision using the rules that were in effect at the time we issued the decision under review. If a court finds reversible error and remands a case for further administrative proceedings after March 28, 2016, the applicable date of this ruling, we will apply this ruling to the entire period at issue in the decision we make after the court's remand. Our regulations on evaluating symptoms are unchanged.

DEPARTMENT OF STATE

[Delegation of Authority: 439]

Delegation to the Assistant Secretary for Oceans and International Environmental and Scientific Affairs of Authorities for International Fisheries Organizations and Related Issues

By virtue of the authority vested in the Secretary of State, including Section 1 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a), I hereby delegate to the Assistant Secretary for Oceans and International Environmental and Scientific Affairs the following:

1. The functions vested in the Secretary of State by the relevant provisions of the Northwest Atlantic Fisheries Convention Act of 1995, 16 U.S.C. 5603 and 5607(a).

2. The functions vested in the Secretary of State by the relevant provisions of the Western and Central Pacific Fisheries Convention Implementation Act, 16 U.S.C. 6902(b), (d)(1)(D), 6903, and 6908.

3. The functions vested in the Secretary of State by the relevant provisions of the North Pacific Anadromous Stocks Act of 1992, 16 U.S.C. 5003(b), 5004(a)(4), 5005, and 5006(b).

4. The functions vested in the Secretary of State by section 5 of Public Law 100–629, November 7, 1988, relating to the North Pacific and Bering Sea Fisheries Advisory Body.

5. The functions vested in the Secretary of State by the relevant provisions of the South Pacific Tuna Act of 1988, 16 U.S.C. 973a; 973b, 973f(a) and (e); 973g(b) and (g); 973h(a), (b)(1), (c)(1), and (c)(2); 973i(a) and (b); 973m; 973n; 973p; and 973q.

6. The functions vested in the Secretary of State by the relevant provisions of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1821(e)(1) and (2), 1821(g), 1824, 1825(a), 1825(b)(2), 1825(c), 1852(c)(1)(D), and 1852(f)(5).

7. The functions vested in the Secretary of State by section 7 of Public Law 95–541, the Antarctic Conservation Act (16 U.S.C. 2406).

8. The functions vested in the Secretary of State by sections 304 and 305(a), (b), and (c) of Public Law 98–623, the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2433 and 2434(a), (b), and (c)).

9. The functions vested in the Secretary of State by the relevant provisions of the Atlantic Tunas Convention Act, 16 U.S.C. 971a(b); 971b(b)(3) and (b)(4)(B); 971c(a); 971d(a), (c)(4) and (c)(5); and 971g(a).

10. The functions vested in the Secretary of State by the Great Lakes Fishery Act, 16 U.S.C. 939.

11. The functions vested in the Secretary of State by the Atlantic Salmon Convention Act, 16 U.S.C. 3602(b), 3603, and 3604(b).

12. The functions vested in the Secretary of State by of the relevant provisions of the Pacific Salmon Treaty Act of 1985, 16 U.S.C. 3632(b), (g), and (h)(8); and 3633(a) and (b).

13. The functions vested in the Secretary of State by the Yukon River Salmon Act of 2000, 16 U.S.C. 5721.

14. The functions vested in the Secretary of State by the relevant provisions of the Tuna Conventions Act of 1950, 16 U.S.C. 952, 953(a)(2), and 955.

15. The functions vested in the Secretary of State by of the relevant provisions of the Whaling Convention Act of 1949, 16 U.S.C. 916a and 916b.

16. The functions vested in the Secretary of State by the relevant provisions of the Northern Pacific Halibut Act of 1982, 16 U.S.C. 773a(b), 773b, and 773c(b)(2).

17. All functions, with respect to oceans and fisheries matters, conferred upon the Secretary of State by section 201 of Public Law 92–471 of October 9, 1972 (22 U.S.C. 2672a), regarding the designation of alternate U.S. commissioners.

18. The functions vested in the Secretary of State by the relevant provisions of the Ensuring Access to Pacific Fisheries Act (16 U.S.C. 7702, 7703, 7708, 7802, 7803, and 7808.

Notwithstanding this delegation of authority, the Secretary, Deputy Secretary, and the Under Secretary for Economic Growth, Energy, and the Environment may at any time exercise any authority or function delegated by this delegation of authority.

Any act, executive order, regulation, or procedure subject to, or affected by, this delegation shall be deemed to be such act, executive order, regulation, or procedure as amended from time to time.

This delegation of authority shall be published in the **Federal Register**.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2017–23043 Filed 10–24–17; 8:45 am]

BILLING CODE 4710–09–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2017–0020]

Request for Comments and Public Hearing About the Administration's Action Following a Determination of Import Injury With Regard to Certain Crystalline Silicon Photovoltaic Cells

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments and notice of public hearing.

SUMMARY: The United States International Trade Commission (ITC) has determined that certain crystalline silicon photovoltaic (CSPV) cells (whether or not partially or fully assembled into other products) are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article that is like or directly competitive with the imported articles. The Commissioners who voted in the affirmative are now conducting a process to recommend a safeguard measure for the President to apply. The Office of the United States Trade Representative (USTR), on behalf of the Trade Policy Staff Committee (TPSC), is announcing a process so that, once the ITC makes its recommendation, domestic producers, importers, exporters, and other interested parties may submit their views and evidence on the appropriateness of the recommended safeguard measure and whether it would be in the public interest. USTR also invites interested parties to participate in a public hearing regarding this matter.

DATES:

November 20, 2017 at midnight EST: Deadline for submission of written comments.

November 29, 2017 at midnight EST: Deadline for submission of written responses to the initial round of comments.

December 6, 2017 at 9:30 a.m. EST: The TPSC will hold a public hearing in Rooms 1 and 2, 1724 F Street NW., Washington DC.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments in section III below. The docket number is USTR–2017–0020. For alternatives to on-line submissions, please contact Yvonne Jamison, Trade Policy Staff Committee at (202) 395–9666.

FOR FURTHER INFORMATION CONTACT: Victor Mroczka, Office of WTO and Multilateral Affairs, at *Victor_S_Mroczka@ustr.eop.gov* or (202) 395–9450, or Dax Terrill, Office of the General Counsel, at *Dax.Terrill@ustr.eop.gov* or (202) 395–4739.

SUPPLEMENTARY INFORMATION:

I. The ITC Investigation and Section 201

On June 1, 2017, the ITC instituted Investigation No. TA–201–75 under section 202 of the Trade Act (19 U.S.C. 2252), as a result of a petition properly filed on May 17, 2017, by Suniva, Inc., a domestic producer of CSPV cells and CSPV modules. The ITC would determine if CSPV cells (whether or not partially or fully assembled into other products) were being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article that is like or directly competitive with the imported articles. The ITC notice of institution (82 FR 25332) identifies the scope of the products covered by this investigation. On May 25, 2017, another domestic producer of CSPV cells, SolarWorld Americas, Inc., joined the investigation as a petitioner seeking import relief.

On September 22, 2017, after receiving submissions from interested parties and holding a public hearing that provided an opportunity to present opposing views and supporting evidence, the ITC determined that the increased importation of CSPV cells is a substantial cause of serious injury, or threat thereof, to the domestic industry. You can find the ITC determination and additional information about the investigation, including the administrative record consisting of briefs and other submissions, in the Electronic Document Information System (EDIS) on the ITC Web site at *www.usitc.gov.*

In light of the affirmative finding on injury, the ITC held a public hearing on October 3, 2017, regarding remedies and interested parties had the opportunity to file submissions on this issue. On November 13, 2017, after the remedy hearing and consideration of the submissions, the ITC will submit to the President a report with its recommendation on action(s) to address the serious injury, or threat thereof, to the domestic industry and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

II. Proposed Measure and Opportunity To Comment

Section 201 of the Trade Act (19 U.S.C. 2251) authorizes the President, in the event of an affirmative determination by the ITC, to take all appropriate and feasible action within his power that he determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs. The statute provides for the President to take action within 60 days after receiving the ITC report, subject to any decision the President makes to request additional information from the ITC. In accordance with section 203(a)(1)(C) of the Trade Act (19 U.S.C. 2253(a)(1)(C)), the TPSC will make a recommendation to the President. This recommendation will take into account the ITC recommendation, the extent to which the domestic industry will benefit from adjustment assistance, the efforts of the domestic industry to make positive adjustments, and other relevant considerations.

The potential action the President may take to provide a remedy in the form of a safeguard measure includes:

- Imposition, or increase, of a duty on the imported articles in question.
- Use of a tariff-rate quota.
- Modification or imposition of any quantitative restriction on the importation of the articles into the United States.
- A proposal to negotiate and carry out an agreement with foreign countries to limit the exportation from foreign countries and importation into the United States.

• Procedures for the granting of import licenses.

• Other negotiations to identify the underlying cause of the increased imports to alleviate the injury or threat thereof.

• Legislative proposals that would facilitate a positive adjustment.

• Other action consistent with the President's authority.

• Any combination of these actions.

USTR offers these potential remedies for further consideration by domestic producers, importers, exporters, and other interested parties, and invites views and evidence on whether a proposed remedy is appropriate and in the public interest. In commenting on the action to take, we request that you address:

1. The appropriateness of any other proposed action and how it would be in the public interest;

2. the short- and long-term effects the proposed action is likely to have on the domestic CSPV industry, other domestic industries, and downstream consumers; and

3. the short- and long-term effects that not taking the proposed action is likely to have on the domestic CSPV industry, its workers, and on other domestic industries and communities.

The TPSC will convene a public hearing on December 6, 2017, at 9:30 a.m. EST in Rooms 1 and 2, 1724 F Street NW., Washington DC. We will provide information about the format and schedule for the hearing to interested parties. Requests to testify must include the following information: (1) Name, address, telephone number, email address, and firm or affiliation of the individual wishing to testify, and (2) a brief summary of the proposed oral presentation.

III. Submission Instructions

USTR seeks public comments with respect to the issues described in Section II. To be assured of consideration, you must submit written comments by midnight EST on November 20, 2017, and any written responses to those comments by midnight EST on November 29, 2017. All comments must be in English and must identify on the reference line of the first page of the submission ''Potential Action: CSPV Cells.''

We strongly encourage commenters to make on-line submissions, using the *www.regulations.gov* Web site. To submit comments via *www.regulations.gov,* enter docket number USTR–2017–0020 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled ''Comment Now!'' For further information on using *www.regulations.gov,* please consult the resources provided on the Web site by clicking ''How to Use *Regulations.gov*'' on the bottom of the home page. We will not accept hand-delivered submissions.

The *www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comment'' field, or by attaching a document using an ''Upload File'' field. We prefer that you provide comments as an attached document in Microsoft Word (.doc) or Adobe Acrobat (.pdf) format. If the submission is in another file format, please indicate the name of the software application in the ''Type Comment'' field. File names should reflect the name of the person or entity submitting the comments. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the comment itself, rather than submitting them as separate files.

For any comments submitted electronically that contain business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is business confidential. A filer requesting business confidential treatment must certify that the information is business confidential and would not customarily be released to the public by the submitter.

Filers of submissions containing business confidential information also must submit a public version of their comments. The file name of the public version should begin with the character ''P''. Follow the ''BC'' and ''P'' with the name of the person or entity submitting the comments. Filers submitting comments containing no business confidential information should name their file using the name of the person or entity submitting the comments.

As noted, we strongly urge submitters to file comments through *www.regulations.gov.* You must make arrangements for any alternative method of submission with Yvonne Jamison at (202) 395–9666 in advance of transmitting a comment. You can find general information about USTR at *www.ustr.gov.*

We will post comments in the docket for public inspection, except business confidential information. You can view comments on *www.regulations.gov* by entering the relevant docket number in the search field on the home page.

Edward Gresser,

Chair of the Trade Policy Staff Committee, Office of the United States Trade Representative.

[FR Doc. 2017–23098 Filed 10–24–17; 8:45 am]

BILLING CODE 3290–F8–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2017–86]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before November 6, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0996 using any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.

• *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: 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 *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lynette Mitterer, AIR–673, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, email *Lynette.Mitterer@faa.gov,* phone (425) 227–1047; or Alphonso Pendergrass, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, email *alphonso.pendergrass@faa.gov,* phone (202) 267–4713.

This notice is published pursuant to 14 CFR 11.85.

Issued in Renton, Washington, on October 20, 2017.

Suzanne Masterson,

Acting Manager, Transport Standards Branch.

Petition for Exemption

Docket No.: FAA–2017–0996.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: §§ 25.863(a) and 25.1191(b)(1).

Description of Relief Sought: Boeing is petitioning for an exemption from § 25.1191(b)(1) at amendment 25–0 and § 25.863(a) at amendment 25–46 for part markings hidden under structure of the non-fire side of the auxiliary power unit (APU) forward firewall on the first 41 Boeing Model 767–2C Series airplanes produced (through production line number 1164).

[FR Doc. 2017–23182 Filed 10–24–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions of Proposed Highway/Interchange Improvement in Ohio; Statute of Limitations on Claims

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the Ohio Department of Transportation (ODOT), pursuant to 23 U.S.C. 327.

SUMMARY: The FHWA, on behalf of ODOT, is issuing this notice to announce actions taken by ODOT that are final. The actions relate to the proposed modification of the existing interchange at Interstate Route 71 (I–71), United States Route 36 (US–36), and State Route 37 (SR–37) in the County of Delaware, State of Ohio. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, of behalf of ODOT, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal Agency Actions on the highway project will be barred unless the claim is filed on or before March 26, 2018. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter period of time still applies.

FOR FURTHER INFORMATION CONTACT: For ODOT: Timothy M. Hill, Administrator, Office of Environmental Services, Ohio Department of Transportation, 1980 West Broad Street, Columbus, Ohio, 43223, 614–644–0377, *Tim.Hill@dot.ohio.gov.*

SUPPLEMENTARY INFORMATION: Effective December 11, 2015, the Federal Highway Administration (FHWA) assigned, and the Ohio Department of Transportation (ODOT) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that ODOT, has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of Ohio. The project will involve construction of an interchange at I–71, south of the existing US 36/SR 37 interchange. This interchange will carry the new Sunbury Parkway over I–71 and run east and west of the interstate, operating in conjunction with the existing interchange to the north at US 36/SR37. Specifically, the revisions to the interchange will include a relocated I–71 northbound off-ramp which will provide access to both Sunbury Parkway and US 36/SR 37 and will occur south of the current northbound off ramp. Access to US 36/SR 37 from northbound I–71 will be accommodated by a collector-distributor road. Access to I–71 northbound from Sunbury Parkway will also occur via the collector/distributor road. Southbound on-ramps to I–71 from Sunbury Parkway eastbound and westbound will be provided. The existing interchange at US 36/SR 37 will remain, but as stated above, the northbound exit from I–71 to access both Sunbury Parkway and US 36/SR 37 will be at the same exiting point.

The project will also construct Sunbury Parkway from Africa Road at US 36/SR 37 east to Wilson Road as a six lane road with a median, multi-use path and sidewalk. The Africa Road intersection with US 36/SR 37 will be realigned to create a four-legged intersection with Sunbury Parkway. 3B's & K Road south of Sunbury Parkway will be relocated to create an intersection with Sunbury Parkway and the future Fourwinds Drive, which will be extended south by others. A cul-de-sac will be constructed on 3B's & K Road, north of Sunbury Parkway.

East of Wilson Road, a new arterial roadway, also identified as Sunbury Parkway, is listed on the Village of Sunbury's Comprehensive Plan which was adopted by Village of Sunbury Council on November 2, 2016. This project is currently on the Mid-Ohio Regional Planning Commission (MORPC) 2018–2021 Transportation Improvement Plan (TIP) for construction by the Village of Sunbury New Community Authority 1 (NCA1), by 2019. This project, the ''Committed Sunbury Parkway,'' will be built with two travel lanes (one in each direction), with left turn lanes at the intersections with South Galena Road, Domigan Road, and US 36/SR 37 (Cherry Street). Because a five-lane corridor will eventually be necessary to meet the future traffic needs of development, all the right-of-way and grading along the Committed Sunbury Parkway will be for the ultimate (five-lane) configuration. All culverts and the bridge over Little Walnut Creek, will also be built wide enough for the ultimate (five-lane) configuration.

The ODOT project will widen on the inside of the Committed Sunbury Parkway in order to provide five lanes with a grass median from Wilson Road to US 36/SR 37 (Cherry Street) along with constructing additional turn lanes to accommodate the future traffic demands at Galena Road. ODOT's project east of Wilson Road will not involve construction of bridges or culverts or include any earth disturbing activity outside of the right-of-way previously established for the Committed Sunbury Parkway.

Subsequent to the distribution of the June 20, 2017 EA and the July 11, 2017 public hearing, several roadway design features were altered to improve roadside safety. These alterations were

related to roadway and interchange ramp embankment fill slopes and the need to eliminate fragmented residual parcels. Additionally, in an email dated July 28, 2017, the FHWA, Ohio Division, upon review of the project's Interchange Modification Study, notified ODOT that the project's preferred alternative constituted the creation of a new interchange, not a modification of the existing US 36/SR 37 interchange. FHWA also determined that the preferred alternative is a partial interchange as a direct connection from I–71 southbound to Sunbury Parkway is not provided. As part of the required documentation to obtain FHWA approval of the interchange study, ODOT was required by FHWA to consider a full interchange that provided all movements, even though it would not be constructed. ODOT reconsidered the above changes and compared them to the findings in the EA. ODOT conducted additional studies as needed and summarized the coordination and findings in an Addendum to the EA, September 20, 2017 Based upon ODOT's review and consideration of the analysis and evaluation contained in the EA and the Addendum to the EA for this project, and after careful consideration of all social, economic, and environmental factors, including input from the state/federal agencies, ODOT has determined that the changes contained within this document do not rise to the level of significance and therefore do not required the recirculation of the EA nor the creation of a supplemental EA document.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Environmental Assessment (EA), the Addendum to the EA, and the Finding on No Significant Impact (FONSI), approved on October 16, 2017. The EA, Addendum to the EA, FONSI, and other project records are available by contacting ODOT at the address provided above and can be viewed and downloaded from the project Web site at *https://www.dot.state.oh.us/districts/D06/projects/71/Pages/default.aspx*. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

(1) Council on Environmental Quality regulations;

(2) National Environmental Policy Act (NEPA);

(3) Moving Ahead for Progress in the 21st Century Act (MAP–21);

(4) Department of Transportation Act of 1966;

(5) Federal Aid Highway Act of 1970;

(6) Clean Air Act Amendments of 1990;

(7) Noise Control Act of 1970;

(8) 23 CFR part 772 FHWA Noise Standards, Policies and Procedures;

(9) Department of Transportation Act of 1966, Section 4(f);

(10) Clean Water Act of 1977 and 1987;

(11) Endangered Species Act of 1973;

(12) Migratory Bird Treaty Act;

(13) National Historic Preservation Act of 1966, as amended;

(14) Historic Sites Act of 1935; and,

(15) Executive Order 13112, Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal Programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1)

Issued On: October 19, 2017.

Laura S. Leffler,

Division Administrator, Federal Highway Administration, Columbus, Ohio.

[FR Doc. 2017–23202 Filed 10–24–17; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2017–0082]

Automated Driving Systems 2.0: A Vision for Safety; Listening Session

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: NHTSA is announcing a public meeting to seek input regarding the recently released *Automated Driving Systems 2.0: A Vision for Safety*. In this document, NHTSA provides Voluntary Guidance to support the automotive industry and other key stakeholders as they consider and design best practices for the testing and deployment of Automated Driving Systems (ADSs), Best Practices for Legislatures, as well as a framework for States to develop procedures and considerations for the safe operation of ADSs on public roadways.

The objective of the public meeting is to identify if further clarification is necessary to support voluntary implementation of the new Voluntary Guidance. The public meeting will be an open listening session style to provide as great an opportunity for comment as possible. All comments will be oral and any presentations should be submitted to the docket for consideration.

DATES: NHTSA will hold the public meeting on November 6, 2017, in Washington, DC. The meeting will start at 9 a.m. and continue until 12 a.m., local time. Check-in (through security) will begin at 8 a.m. Attendees should arrive early enough to enable them to go through security by 8:50 a.m.

ADDRESSES: The meeting will be held at the DOT headquarters building located at 1200 New Jersey Avenue SE., Washington, DC 20590 (Green Line Metro station at Navy Yard) on the [Ground Floor Atrium]. This facility is accessible to individuals with disabilities. The meeting will also be webcast live, and a link to the actual webcast will be available.

FOR FURTHER INFORMATION CONTACT: If you have questions about the public meeting, please contact us at *av_info_nhtsa@dot.gov* or Debbie Sweet at 202–366–7179.

SUPPLEMENTARY INFORMATION:

Registration is necessary for all attendees. Attendees should register at: *https://docs.google.com/forms/d/e/1FAIpQLSfyIZcOtsNUO3gU8adVWWsVVYjXFqhAkSyOviIh90DbZn51Cg/viewform?usp=sf_link* by November 1, 2017. Please provide your name, email address, and affiliation. Also indicate if you wish to offer technical remarks (speaking would be limited to 5 minutes per agenda topic) and please indicate whether you require accommodations such as a sign language interpreter. Space is limited, so advanced registration is highly encouraged.

Although attendees will be given the opportunity to offer technical remarks, there will not be time for attendees to make audio-visual presentations during the meeting. Note: We may not be able to accommodate all attendees who wish to make oral remarks. Should it be necessary to cancel the meeting due to inclement weather or other emergency, NHTSA will take all available measures to notify registered participants.

NHTSA will conduct the public meeting informally, and technical rules of evidence will not apply. We will arrange for a written transcript of the meeting and keep the official record open for 30 days after the meeting to allow submission of supplemental information. You may make arrangements for copies of the transcripts directly with the court reporter, and the transcript will also be posted in the docket when it becomes available.

Written Comments: Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public meeting. Please submit all written comments no later than November 14, 2017, by any of the following methods:

- *Federal Rulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: DOT, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Hand Delivery or Courier:* 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.
- *Fax:* 202–366–1767.

Instructions: All submissions must include the Agency name and docket number. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act discussion below.

Docket: For access to the docket go to *http://www.regulations.gov* at any time or to 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 202–366–9826.

Privacy Act: 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.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (Volume 65, Number 70; Pages 19477–78), or you may visit *http://www.regulations.gov/privacy.html*.

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 under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a comment containing information claimed to be confidential business information, you should submit a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

Background

On September 12, 2017, DOT released *Automated Driving Systems 2.0: A Vision for Safety* and requested public comment. NHTSA has issued *2.0* as the next step on the path forward for the safe testing and deployment of ADSs. Together, the Voluntary Guidance for ADS and Technical Assistance to States serve to support industry, Government officials, safety advocates, and the public. By replacing the Federal Automated Vehicles Policy, *2.0* responds to public comments, continues the voluntary guidance framework, and assures industry, the States, and the public that the Agency will remain a leader in innovation and safety. The full *Automated Driving Systems 2.0: A Vision for Safety* can be found at *www.nhtsatransportation.gov/av*.

Meeting and Draft Agenda

This public meeting is being held during the open comment period and provides an opportunity for individuals and stakeholders to express feedback regarding both *Section 1: Voluntary Guidance for Automated Driving Systems* and *Section 2: Technical Assistance to States*. Input received at the public meeting will be used to make any necessary clarifications to *2.0*, in support of its voluntary implementation. As appropriate, NHTSA will post clarification information on the NHTSA Web site in the Frequently Asked Questions section. The meeting agenda follows:

8–9 a.m.—Arrival/Check-In

9–10:30 a.m.—Section 1: Voluntary Guidance for ADSs

10:30–10:45 a.m.—Break

10:45–12 a.m.—Section 2: Technical Assistance to States

12 a.m.—Adjourn

Issued in Washington, DC under authority delegated by 49 CFR 1.95.

Nathaniel Beuse,

Associate Administrator for Vehicle Safety Research.

[FR Doc. 2017–23198 Filed 10–24–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2017–0081]

Traffic Records Program Assessment Advisory; Public Comment

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Request for public comment.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) is in the process of reviewing the *Traffic Records Program Assessment Advisory,* DOT HS 811 644, (Advisory) and requests comments to determine if updates or improvements are appropriate. States need timely, accurate, complete, and uniform traffic records to identify and prioritize traffic safety issues and to choose appropriate safety countermeasures and evaluate their effectiveness. The Advisory provides information on the contents, capabilities, and data quality attributes of an effective traffic records system, and includes assessment questions that qualified independent assessors use to evaluate the capabilities of a State's traffic records systems. Based on the input received in response to this notice, and NHTSA's experience in applying the previous Advisory to conduct assessments in the past, we anticipate issuing a revised Advisory by June 2018.

DATES: Written comments may be submitted to this agency and must be received no later than December 26, 2017.

ADDRESSES: You may submit comments identified by DOT Docket ID number NHTSA–2017–0081 by any of the following methods:

Electronic Submissions: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 202–366–2746.

Mail: Docket Management Facility, M–30 U.S. Department of Transportation, West Building, Ground floor, Room W12–140, 1200 New Jersey Ave. SE., Washington, DC 20590.

Hand Delivery or Courier: Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground floor, Room W12–140, 1200 New Jersey Ave. SE., Washington, DC 20590, between 9 a.m. and 5 p.m. Eastern time, Monday through Friday, except Federal holidays.

Regardless of how you submit your comments, you should identify the Docket number of this notice.

Instructions: For detailed instructions on submitting comments and additional information, see *http://www.regulations.gov.* Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please read the ''Privacy Act'' heading below.

Privacy Act: Anyone is able to search the electronic form of all contents 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.). You may review DOT's complete Privacy Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://docketsInfo.dot.gov.*

Confidential 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, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under

When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512) 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. Follow the online instructions for accessing the dockets.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to 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.

FOR FURTHER INFORMATION CONTACT: For programmatic issues: John Siegler, Office of Traffic Records and Analysis, NVS–423, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone (202) 366–1268. For legal issues: Megan Brown, Office of Chief Counsel, NCC–113, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone (202) 366–1834.

SUPPLEMENTARY INFORMATION: States need timely, accurate, complete, and uniform traffic records data to identify and prioritize traffic safety issues, and choose appropriate safety countermeasures and evaluate their effectiveness. The National Highway Traffic Safety Administration published the *Traffic Records Program Assessment Advisory* (DOT HS 811 644) in 2012 to provide guidance on the peer review of States' crash, driver, vehicle, roadway, citation and adjudication, and injury surveillance systems.

The Advisory describes the capabilities of an ideal traffic records system and includes a set of questions, which are the basis for an in-depth review of State highway safety data and State traffic records systems. Specifically, these questions examine how the State Highway Safety Office (SHSO), State Traffic Records Coordinating Committee (TRCC), and the representative TRCC agencies plan, collect, manage, and integrate information from the crash, driver, vehicle, roadway, citation and adjudication, and injury surveillance data systems.

In order to qualify for a State Traffic Safety Information System Improvements grant under 23 U.S.C. 405(c), a State must certify that ''an assessment of the State's highway safety data and traffic records system was conducted or updated during the preceding 5 years.'' [1] The 2012 Advisory was created in response to a GAO recommendation that ''NHTSA take steps to ensure state traffic records assessments are complete and consistent to provide an in-depth evaluation of all state traffic safety data systems across all performance measures''.[2]

The *Advisory* is divided into nine topical areas: Traffic records coordinating committee, strategic planning for traffic records systems, crash data system, vehicle data system, driver data system, roadway data system, citation and adjudication systems, injury surveillance systems, and data use and integration. Each of these modules is further subdivided into submodules: Description and contents, applicable guidelines, data dictionaries, procedures and process flows, interface with other traffic records components, and data quality and control. Each assessment question is supplemented by ''suggested evidence'' and linked to the associated narrative description of the ideal traffic records system.

Between 2012 and 2017, NHTSA conducted 55 traffic records assessments where independent subject matter expert assessors evaluated the response to each question and rated State responses as either (1) meeting the description of the ideal traffic records system, (2) partially meeting the description, or (3) not meeting the description. These assessments identified the strengths and opportunities of each component of the State's traffic records systems and provided States with recommendations to improve their traffic records programs.

During the first five-year assessment cycle (2012–2017), NHTSA received feedback on the assessment process from State coordinators and respondents as well as the assessment facilitators and assessors. NHTSA intends to consider this feedback in addition to comments received on this notice to update the Advisory. Specifically, NHTSA will revise as appropriate the questions and evidence for the nine topical areas. Based on the feedback received during the first assessment cycle, anticipated changes may include updates to the ideal traffic records system description, expansion of suggested evidence notes, alteration and/or elimination of questions—particularly regarding performance measures—and a restructuring of the Injury Surveillance System section.

NHTSA is seeking comment on the description of the ideal traffic records system and associated assessment questions in the *Advisory* to provide greater clarity and ease for both State respondents and assessment teams. In undertaking this update to the Advisory, NHTSA seeks to minimize the level of effort required by States while still ensuring a robust evaluation of State traffic safety data systems that States can use to inform improvements to traffic safety data systems. The most helpful comments will suggest potential procedural changes that will streamline the process or will provide feedback on how to improve a specific question, its suggested evidence, and/or the associated text found in the module introduction. The full text of the *Traffic Records Program Assessment Advisory,* DOT HS 811 644, is available at *http://www-nrd.nhtsa.dot.gov/Pubs/811644.pdf.* NHTSA will consider all comments received as part of its revision of the *Advisory.* Comments will be addressed in a subsequent **Federal Register** notice that announces the final version of the *Advisory.*

[1] 23 U.S.C. 405(c)(3)(E).

[2] U.S. Gov't Accountability Office, GAO–10–454, Traffic Safety Data: State Data System Quality Varies and Limited Resources and Coordination Can Inhibit Further Progress 41 (2010), *available at http://www.gao.gov/products/GAO-0-454.*

Authority: 23 U.S.C. Section 405(c)(3)(E).

Issued in Washington, DC.

Terry T. Shelton,

Associate Administrator, National Center for Statistics and Analysis.

[FR Doc. 2017–23124 Filed 10–24–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2016–0128; Notice 2]

Harley-Davidson Motor Company, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Harley-Davidson Motor Company, Inc. (Harley-Davidson), has determined that certain model year (MY) 2016–2017 Harley-Davidson XL 1200CX Roadster motorcycles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 120, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds).* Harley-Davidson filed a noncompliance information report dated November 4, 2016. Harley-Davidson also petitioned NHTSA on November 28, 2016, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

ADDRESSES: For further information on this decision, contact Kerrin Bressant, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–1110, facsimile (202) 366–3081.

SUPPLEMENTARY INFORMATION:

I. Overview: Harley-Davidson Motor Company, Inc. (Harley-Davidson), has determined that certain model year (MY) 2016–2017 Harley-Davidson XL 1200CX Roadster motorcycles do not fully comply with paragraph S5.3.2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 120, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds).* Harley-Davidson filed a report dated November 4, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Harley-Davidson also petitioned NHTSA on November 28, 2016, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published with a 30-day public comment period, on April 7, 2017, in the **Federal Register** (82 FR 17074). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *https://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2016–0128.''

II. Vehicles Involved: Approximately 2,352 MY 2016–2017 Harley-Davidson XL 1200CX Roadster motorcycles manufactured between March 8, 2016 and August 23, 2016, are potentially involved.

III. Noncompliance: Harley-Davidson explains that the noncompliance is that the certification label on the subject vehicles incorrectly identifies the rear wheel rim size as 18 X 4.50 instead of 18 X 4.25, and therefore does not meet the requirements of paragraph S5.3.2 of FMVSS No. 120.

IV. Rule Text: paragraph 5.3 of FMVSS No. 120 states:

Each vehicle shall show the information specified in S5.3.1. and S5.3.2 . . . in the English language, lettered in block capitals and numerals not less than 2.4 millimeters high and in the format set forth following this paragraph. This information shall appear either:

(a) After each GAWR listed on the certification label required by § 567.4 or § 567.5 of this chapter; or at the option of the manufacturer,

(b) On the tire information label affixed to the vehicle in the manner, location, and form described in § 567.4(b) through (f) of this chapter as appropriate of each GVWR–GAWR combination listed on the certification label.

Paragraph S5.3.2 of FMVSS No. 120 states:

S5.3.2 Rims. The size designation and, if applicable, the type designation of Rims (not necessarily those on the vehicle) appropriate for those tires.

V. Summary of Harley-Davidson's Petition: Harley-Davidson described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Harley-Davidson submitted the following reasoning:

1. Harley-Davidson believes this labeling noncompliance is inconsequential to motor vehicle safety because consumers have the following sources to reliably identify the correct tire and rim combination:

a. The correct tire size is listed on the sidewall of the tire originally installed on the rim;

b. The correct tire, including tire size, is listed in the Owner's Manual;

c. The correct wheel size is shown in the Original Equipment & Recommended Replacement Tires table in the Harley-Davidson Genuine Motor Parts and Accessories catalog; and

d. The correct wheel size is imprinted in the wheel.

Harley-Davidson believes these sources, particularly the tire size information listed on the rear tire's sidewall, are the most likely places for consumers to look when replacing tires and rims.

2. Harley-Davidson states that NHTSA has granted petitions for inconsequential noncompliance for similar labeling errors regarding the rim size or the omission of the rim size. (Please see Harley-Davidson's petition for a complete list of referenced petitions.)

In these cases, Harley-Davidson stated that the agency reasoned that consumers were unlikely to mismatch tires and rims because ''the rim size information can be found in the vehicle's owner's manual or on the rim itself, and the tire size information is available from multiple sources including the owner's manual, the sidewalls of the tires on the vehicle and on the tire placard or information label located on the door or door opening. The rim size can be derived using this tire information.

3. The incorrect rim size on the subject motorcycles' certification label is unlikely to expose operators to a significantly greater risk than an operator riding a compliant motorcycle. Operators have several reliable sources to assist them in correctly matching the rims and tires.

4. Lastly, Harley-Davidson is not aware of any warranty claims, field reports, customer complaints, legal claims, or any incidents or injuries related to the subject condition.

Harley-Davidson concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the

noncompliance, as required by 49 U.S.C. 30120, should be granted.

To view Harley-Davidson's petition analyses in its entirety you can visit *https://www.regulations.gov* by following the online instructions for accessing the dockets and by using the docket ID number for this petition shown in the heading of this notice.

NHTSA Decision

NHTSA Analysis: NHTSA has evaluated the merits of Harley Davidson's inconsequential noncompliance petition and has determined that this particular noncompliance is inconsequential to motor vehicle safety. Specifically, the 49 C.F.R Part 567 label containing the FMVSS No. 120 S5.3 rim information incorrectly identifies the rear-wheel rim size as 18 X 4.50 instead of 18 X 4.25. NHTSA has concluded that the mislabeling noncompliance does not affect motor vehicle safety because the 18 X 4.50 rim size identified on the certification label is compatible with both the tire fitted to the vehicle and to the tire specified on the label (which are the same in this case). Also, the intended rim and tire sizing combination is available and accessible from multiple sources and locations.

The 2016 Tire and Rim Association guide for rim contours for motorcycle tires, indicates that both the 4.25-inch and the 4.50-inch rim widths are approved rim contours for the tire size (150/70R18), which is the size specified on the certification label and the size of the tires fitted to the vehicle. Therefore, use of either rim size is acceptable for the tire indicated and tire/rim mismatch should not occur.

If the rim size listed on the certification label is not used to determine tire and rim combination when either is being replaced, there are numerous other sources and locations of that information available to the consumer and service technician. These sources include: (1) The correct wheel size imprinted on the wheel, (2) correct wheel size shown in the original equipment and recommended replacement tires table in the Harley-Davidson Genuine Motor Parts and Accessories Catalog, (3) the correct tire size listed in the Owner's Manual, and (4) the correct tire size listed on the sidewall of the tire originally installed on the wheel rim. In particular, we agree with Harley-Davidson's assertion that source number ''4'' is the most likely place for consumers to look when replacing tires and rims to verify tire size.

NHTSA'S Decision: In consideration of the foregoing, NHTSA finds that Harley-Davidson has met its burden of persuasion that the FMVSS No. 120 noncompliance is inconsequential as it relates to motor vehicle safety. Accordingly, Harley-Davidson's petition is hereby granted and Harley-Davidson Motor Company, Inc. is consequently exempted from the obligation to provide notification of, and remedy for, the subject noncompliance in the affected vehicles under 49. U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject motorcycles that Harley-Davidson no longer controlled at the time it determined that the noncompliance existed. However, on the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Harley-Davidson notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2017–23209 Filed 10–24–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2017–0023; Notice 2]

Porsche Cars North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Porsche Cars North America, Inc. (PCNA), on behalf of Dr. Ing. h.c.F. Porsche AG (PAG), has determined that certain model year (MY) 2017 Porsche 911 Turbo and Porsche 911 Turbo Cabriolet motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 101, *Controls and Displays,* and FMVSS No. 135, *Light Vehicle Brake Systems.* PCNA filed a noncompliance report dated March 16, 2017. PCNA also petitioned NHTSA on March 17, 2017, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

ADDRESSES: For further information on this decision contact Stu Seigel, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5287, facsimile (202) 366–3081.

SUPPLEMENTARY INFORMATION:

I. Overview: Porsche Cars North America, Inc. (PCNA), on behalf of Dr. Ing. h.c.F. Porsche AG (PAG), has determined that certain model year (MY) 2017 Porsche 911 Turbo and Porsche 911 Turbo Cabriolet motor vehicles do not fully comply with paragraph S5.2.1 of FMVSS No. 101, *Controls and Displays,* and paragraph S5.5.5 of FMVSS No. 135, *Light Vehicle Brake Systems.* PCNA filed a noncompliance report dated March 16, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* PCNA petitioned NHTSA on March 17, 2017, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published with a 30-day public comment period, on April 11, 2017, in the **Federal Register** (82 FR 17507). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *https://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2017–0023.''

II. Vehicles Involved: Approximately 17 MY 2017 Porsche 911 Turbo and Porsche 911 Turbo Cabriolet motor vehicles, manufactured between May 31, 2016, and January 11, 2017, are potentially involved.

III. Noncompliance: PCNA explains that the noncompliance is that the telltales used for Brake Warning, Park Brake Warning and Antilock Braking System (ABS) failure warnings are displayed using International Organization for Standardization (ISO) symbols instead of the words ''Brake'' and ''ABS'' as required by paragraph

S5.2.1 of FMVSS No. 101 and paragraph S5.5.5 of FMVSS No. 135.

IV. Rule Text: Paragraph S5.2.1 of FMVSS No. 101 requires in pertinent part:

S5.2.1 Except for the Low Tire Pressure Telltale, each control, telltale and indicator that is listed in column 1 of Table 1 or Table 2 must be identified by the symbol specified for it in column 2 or the word or abbreviation specified for it in column 3 of Table 1 or Table 2. If a symbol is used, each symbol provided pursuant to this paragraph must be substantially similar in form to the symbol as it appears in Table 1 or Table 2. If a symbol is used, each symbol provided pursuant to this paragraph must have the proportional dimensional characteristics of the symbol as it appears in Table 1 or Table 2 . . .

Paragraphs S5.5.5 of FMVSS No. 135 requires in pertinent part:

S5.5.5. Labeling. (a) Each visual indicator shall display a word or words in accordance with the requirements of Standard No. 101 (49 CFR 571.101) and this section, which shall be legible to the driver under all daytime and nighttime conditions when activated. Unless otherwise specified, the words shall have letters not less than 3.2 mm (one-eighth inch) high and the letters and background shall be of contrasting colors, one of which is red. Words or symbols in addition to those required by Standard No. 101 and this section may be provided for purposes of clarity.

(b) Vehicles manufactured with a split service brake system may use a common brake warning indicator to indicate two or more of the functions described in S5.5.1(a) through S5.5.1(g). If a common indicator is used, it shall display the word ''Brake.'' . . .

(d) If separate indicators are used for one or more of the conditions described in S5.5.1(a) through S5.5.1(g), the indicators shall display the following wording: . . .

(3) If a separate indicator is provided for the condition specified in S5.5.1(b), the letters and background shall be of contrasting colors, one of which is yellow. The indicator shall be labeled with the words ''Antilock'' or ''Anti-lock'' or ''ABS''; or ''Brake Proportioning,'' in accordance with Table 2 of Standard No. 101 . . .

V. Summary of PCNA's Petition: PCNA described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, PCNA submitted the following reasoning:

(a) The Owner's Manual for the subject vehicles is written for multiple markets and depicts both the ''BRAKE'' and ISO symbols telltales for brake warning, as well as the ''ABS'' and ISO symbol telltales for ABS lamp.

(b) The ISO symbol for ABS lamp also contains the word ''ABS'', which is additionally embedded in a circle with two vertical lines. In case of an illumination of the ISO symbol, the malfunction display, located in the instrument cluster will display an additional warning message that states ''ABS/PSM failure. Drive with caution'' and an initial warning chime will sound. Porsche believes that in the event the ISO ABS telltale is displayed, the driver would recognize a possible ABS malfunction.

(c) In the event the brake fluid level in the master cylinder reservoir is less than the recommended safe level, the ISO symbol will illuminate, and the multifunction display will display a warning message that states ''Brake fluid level. Park vehicle safely'' and an initial warning chime will sound. The message will stay continuously displayed, provided there are no other serious message(s), which would result in the messages being displayed in an alternating manner. If the brake fluid is still low on subsequent ignition key cycles the message will be redisplayed in the message center.

(d) The parking brake in the subject vehicles are set by pushing a button labelled ''P'', which is located on the left hand side of the steering wheel. Once the parking brake is set, a red light indicator located in the button will illuminate. Thus, the application of the parking brake is in full view of the operator. When the parking brake is engaged it illuminates the ISO symbol and, should the operator proceed with the parking brake engaged, the parking brake releases automatically if the following prerequisites are fulfilled:

1. Engine is running;
2. Driver's door is closed;
3. Driver's seat belt is fastened.

If one of these prerequisites is not fulfilled, the electric parking brake is not automatically released when the operator attempts to drive off. A message appears on the multifunction display, and the red light indicator in the button as well as the ISO symbol for the brake will flash.

(e) In all cases the ISO symbols for the brake and ABS telltale illuminate and remain illuminated in accordance with the requirements of FMVSS No. 135.

(f) Porsche is unaware of any field or owner complaints regarding the issue of non-compliant telltales.

PCNA concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA'S Decision

NHTSA's Analysis: NHTSA has reviewed PCNA's analyses that the subject noncompliances are inconsequential to motor vehicle safety. Specifically, the use of an ISO telltale indicating both low fluid and parking brake actuation instead of the word ''BRAKE,'' as required by paragraph S5.5.5(b) of FMVSS No. 135 and paragraph S5.2.1 of FMVSS No. 101, and an ISO symbol for the ABS telltale, instead of the words ''Antilock'' or Anti-lock'' or ''ABS'' as required by paragraph S5.5.5(d)(3) of FMVSS No. 135 and paragraph S5.2.1 of FMVSS No. 101, poses little if any risk to motor vehicle safety. As discussed below, NHTSA believes that the inadvertent use of the ISO symbols for these specific vehicles is inconsequential primarily because multiple sources of information are simultaneously activated to properly warn the driver of the conditions, and because drivers have, over time, become increasingly familiar with ISO symbol meaning as many ISO symbols have been used on U.S.-certified vehicles in conjunction with the required text.

1. Per paragraph S5.5.2 of FMVSS No. 135, all indicators are activated as a check function when the ignition (start) switch is turned to the ''on'' (''run'') position when the engine is not running or when the ignition (start) switch is in a positon between ''on'' (''run'') and ''start.'' As such, each time the driver activates the starting system on these affected vehicles, the ISO brake warning symbol and the ISO ABS Malfunction symbol will illuminate. If the driver is not familiar with the ISO symbol meaning, the owner's manual can be referenced, which will explain the relationship between the symbol and its function. NHTSA also believes that as some vehicles have, over time, incorporated both the required telltale labeling with adjacent supplementary ISO symbols, the ISO symbols have evolved to become increasingly recognizable and understandable to drivers. NHTSA further believes drivers recognize that a telltale illuminated in red or amber, as is the case here, even if unlabeled, represents a malfunction which needs to be remedied.

2. PCNA uses an allowed common indicator for the condition of low brake fluid and activation of the parking brake. The symbol is red with a contrasting background color as required in the standard. In a low-brake-fluid situation, in addition to the ISO symbol illumination, the operator is provided multiple sources of information of the existence of a problem. A multifunction display will display a warning message that is clear and definitive stating ''Brake fluid level. Park vehicle safely''. In the affected vehicles, the malfunction display is

contained in the instrument panel in plain view of the driver. In addition, an initial warning chime will sound. The message will be continuously displayed unless another serious condition is displayed in which case the messages would be alternating. Low fluid is redisplayed on subsequent ignition cycles.

The combination of the red brake ISO symbol, a detailed message on the instrument cluster for low fluid, and a warning chime provides the operator ample notification of a brake condition requiring action.

3. The parking brake on the subject vehicles is electronically activated by pushing a button labelled ''P'', which is located on the left side of the steering wheel. When the parking brake is engaged, the dual-function common ISO symbol will illuminate in red with additional visual feedback to the operator from illumination of a red indicator light located in the button. If the operator proceeds with the parking brake engaged, the brake will release automatically if (1) the engine is running, (2) the driver's door is closed, and (3) the driver's seat belt is fastened. These conditions are met most of the time, so the likelihood of driving with the parking brake engaged is limited. However, if one these three prerequisite conditions is not fulfilled, the electric parking brake will not automatically release when the operator attempts to drive off. Under this circumstance, the red ISO symbol will flash, which makes it highly noticeable to the driver, the red parking brake button will remain illuminated, and a message will appear on the multifunction display. These three redundant visual indicators to the operator provide ample feedback that the parking brake remains activated. The agency also believes that the operator in many cases would be aware of an activated parking brake due to reduced vehicle drivability from brake drag.

4. When an ABS malfunction occurs, the amber ISO symbol with the word ''ABS'' embedded in it illuminates. Although this is the correct telltale word as specified in the standard, the lettering height is less than the required 3.2mm. There are two additional redundancies that provide notification to the operator of an ABS situation: The statement ''ABS/PSM failure. Drive with caution'' is displayed on the multifunction instrument cluster and an initial warning chime will sound. An operator is very unlikely to overlook these three separate notifications, and remedial action can be taken.

5. Lastly, the presence of ISO symbols instead of wording on the instrument panel has no effect on the functionality and performance of the parking brake system, the service brake system, and the ABS system.

NHTSA believes that the subject noncompliances on these specific vehicles—use of the ISO symbol for low brake fluid and parking brake actuation and ABS malfunction instead of the required words—are inconsequential to motor vehicle safety, primarily because illumination of each ISO symbol is accompanied by multiple redundant operator notifications including messages on an instrument cluster display and audible chimes. The manufacturer has stated and we agree, that the ISO symbol usage for these specific vehicles is unlikely to lead to any misunderstanding since other sources of correct information beyond the provided telltales are available.

NHTSA's Decision: In consideration of the foregoing, NHTSA finds that PCNA has met its burden of persuasion that the FMVSS Nos. 101 and 135 noncompliances are inconsequential as they relate to motor vehicle safety. Accordingly, PCNA's petition is hereby granted and PCNA is consequently exempted from the obligation to provide notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject vehicles that PCNA no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery into interstate commerce of the noncompliant vehicles under their control after PCNA notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120: Delegations of authority at 49 CFR 1.95 and 501.8.

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2017–23208 Filed 10–24–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2016–0053]

Establishment of Interim National Multimodal Freight Network

AGENCY: Office of the Secretary of Transportation (OST), Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), Maritime Administration (MARAD), Saint Lawrence Seaway Development Corporation (SLSDC), and U.S. Department of Transportation (DOT).

ACTION: Notice of reopening of comment period and extension of deadline.

SUMMARY: DOT is extending the deadline and comment period for materials related to the Interim National Multimodal Freight Network (Interim NMFN), as established in a notice published on June 6, 2016 at 81 FR 36381. The original notice asked for comments by September 6, 2016. The reopening and extension of the comment period is based on input received from DOT stakeholders that the September 6, 2016 closing date did not provide sufficient time for submission of comments to the Department, as well as an analysis that some comments submitted by States did not include the required statutory certification. DOT agrees that the comment period should be reopened and extended. Therefore, the comment period on the establishment of the Interim NMFN is reopened.

DATES: Comments must be received on or before February 22, 2018 to receive consideration by DOT with respect to the final designation of the NMFN. Late-filed comments received after this date will be considered to the fullest extent practicable. Comments may be submitted by all interested stakeholders.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE., W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

• *Instructions:* You must include the agency name and docket number at the beginning of your comments. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. If you have any GIS shapefiles or other geographic information to submit to the docket, please email those files to *ryan.endorf@dot.gov* with the agency name and docket number in the email.

FOR FURTHER INFORMATION CONTACT: Ryan Endorf, 202–366–4835 or email *ryan.endorf@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background: Section 70103 of title 49, U.S.C., which was established in section 8001 of the Fixing America's Surface Transportation (FAST) Act, directs the Under Secretary of Transportation for Policy (Under Secretary) to establish a NMFN that will be used to: (1) Assist States in strategically directing resources toward improved system performance for the efficient movement of freight on the NMFN; (2) inform freight transportation planning; (3) assist in the prioritization of Federal investment; and (4) assess and support Federal investments to achieve the national multimodal freight policy goals described in section 70101(b) of title 49, U.S.C., and the national highway freight program goals described in section 167 of title 23, U.S.C.

On June 6, 2016, the Under Secretary established an Interim NMFN that includes the following components: (1) The National Highway Freight Network (NHFN), as established under section 167 of title 23, U.S.C.; (2) the freight rail systems of Class I railroads as designated by the Surface Transportation Board; (3) the public ports of the United States that have total annual foreign and domestic trade of at least 2,000,000 short tons, as identified by the Waterborne Commerce Statistics Center of the Army Corps of Engineers (USACE), using the data from the latest year for which such data are available; (4) the inland and intracoastal waterways of the United States, as described in section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804); (5) the Great Lakes, the St. Lawrence Seaway, and coastal and ocean routes along which domestic freight is transported; (6) the 50 airports located in the United States with the highest annual landed weight, as identified by the FAA; and (7) other strategic freight assets, including strategic intermodal facilities and freight rail lines of Class II and Class III railroads, designated by the Under Secretary as critical to interstate commerce.

The Interim NMFN was published in the **Federal Register** at 81 FR 36381 on June 6, 2016, and the public was invited to submit comments to the docket through September 6, 2016. In the **Federal Register** notice, DOT posed several questions for the public to consider, and States and other stakeholders were provided the opportunity to submit additional designations for consideration of inclusion to the Final NMFN to be designated by the Under Secretary. As part of their submission, States were required by statute to certify that they had satisfied the statutory requirements under 49 U.S.C. 70103(c)(4)(A) and that any additional designations submitted address the factors for designation under 49 U.S.C. 70103(c)(2). Per the statute, only States are required to submit this certification along with their comments; other stakeholders or members of the public do not have this requirement.

Several commenters stated in their comments to the docket that the initial 90-day comment period was insufficient in order to coordinate and prepare their comments and additional designations. In particular, multiple States stated that they did not have sufficient time to consider nominations from their public and private stakeholders, which is a requirement that these States would have needed to certify. Additionally, upon a review of comments submitted by the States, DOT has identified that many comments submitted by States lack the statutorily required certification and thus, DOT cannot consider those comments.

As a result, DOT is reopening the comment period for all stakeholders to submit comments on the Interim NMFN. Comments that have previously been submitted will continue to receive consideration, though States that previously submitted comments should refer to the below section on State Input. Any stakeholder or member of the public is free to submit new comments and to amend or supplement previously submitted comments. In the initial June 6, 2016 **Federal Register** notice establishing the Interim NMFN at 81 FR 36381, DOT posed a number of questions by mode and solicited input from the public. DOT continues to seek input on these questions and encourages the public to refer back to the original FR notice located at Docket Number DOT–OST–2016–0053. Previously submitted comments can also be viewed at this docket. Interested stakeholders and members of the public can find more information on the Interim NMFN, including maps and tables by State, at *https://www.transportation.gov/freight/InterimNMFN.*

State Input: 49 U.S.C. 70103(c)(4)(D) requires that each State certify that they have considered nominations for additional designations from a wide range of stakeholders, including MPOs, State Freight Advisory Committees (as applicable), and owners and operators of port, rail, pipeline, and airport facilities. Each State proposing additional designations must certify that all additional designations are consistent with the Statewide transportation improvement program (STIP) or State freight plan. Finally, each State must also certify that each proposed designation addresses the factors listed in 49 U.S.C. 70103(c)(2). Each State comment must include a statement addressing these certifications in order to it to receive consideration from DOT. An example of an acceptable certification is the following: ''The State of A certifies it considered nominations from the stakeholders and the State Freight Advisory Committee [as applicable], required under 49 U.S.C. 70103(c)(4)(A)(i) and (ii), in identifying additional NMFN designations within the State. These additional designations are consistent with the State's Statewide Transportation Improvement Program and our State Freight Plan [as applicable—some States may not have a completed State Freight Plan]. Further, the State of A certifies that the proposed additional designations address the factors described in 49 U.S.C. 70103(c)(2).''

States are not required to resubmit any comments provided in response to the June 6, 2016 **Federal Register** notice unless the State did not provide a certification with their previously submitted comments. If no certification was provided, the State should resubmit their comments with a certification in order to receive consideration. If a State has already provided the required certification and is not seeking to modify those comments or proposed designations, they are not required to resubmit their original comments or certification. Any State offering changes to prior submitted comments, including proposed additional designations, modifications, or deletions, must include a new certification. States that are commenting for the first time must provide a certification to receive consideration. In all cases, the State must submit a written certification to the docket consistent with 49 U.S.C. 70103(c)(4)(D).

Public Comment: The DOT invites comments by all those interested in the NMFN. Comments on the Interim

NMFN may be submitted and viewed at Docket Number DOT–OST–2016–0053. Comments must be received on or before February 22, 2018 to receive full consideration by DOT with respect to the final designation of the NMFN. After February 22, 2018, comments will continue to be available for viewing by the public.

Dated: October 10, 2017.

Finch Fulton,

Deputy Assistant Secretary of Transportation for Policy.

[FR Doc. 2017–22315 Filed 10–24–17; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Availability of Draft DOT Strategic Plan for FY 2018–2022 and Request for Public Comment

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

ACTION: Notice of availability and request for public comment.

SUMMARY: The Office of the Secretary of Transportation invites the public to comment on the draft DOT Strategic Plan for FY 2018–2022.

DATES: Comments must be received on or before November 13, 2017.

ADDRESSES: Written comments may be submitted by email or U.S. mail. Respondents are encouraged to submit comments electronically to ensure timely receipt. Please include your name, title, organization, postal address, telephone number, and email address.

Email: dotstrategicplanning@dot.gov. Please include the full body of your comments in the text of the electronic message and as an attachment.

Mail: U.S. Department of Transportation, Office of the Under Secretary for Policy, Attn: Strategic Plan Comments, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Barbara McCann, Director, Office of Policy Development, Strategic Planning and Performance, Office of the Under Secretary for Policy, *dotstrategicplanning@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Government Performance and Results Act (GPRA) of 1993, as amended by the GPRA Modernization Act of 2010 (Pub. L. 111–352), requires that Federal agencies revise and update their strategic plan at the beginning of each new presidential term, and in doing so, solicit input from interested stakeholders.

The draft DOT Strategic Plan reflects the Secretary's priorities for achieving DOT's mission through four strategic goals:

- *Safety:* Reduce Transportation-Related Fatalities and Serious Injuries Across the Transportation System.
- *Infrastructure:* Invest in Infrastructure to Ensure Mobility and Accessibility and to Stimulate Economic Growth, Productivity and Competitiveness for American Workers and Businesses.
- *Innovation:* Lead in the Development and Deployment of Innovative Practices and Technologies that Improve the Safety and Performance of the Nation's Transportation System.
- *Accountability:* Serve the Nation with Reduced Regulatory Burden and Greater Efficiency, Effectiveness and Accountability.

These strategic goals are supported by objectives that reflect the outcomes DOT is trying to achieve and strategies that describe how DOT plans to make progress toward the objectives.

The draft DOT Strategic Plan for FY 2018–2022 may be accessed through the DOT Web site at *https://www.transportation.gov/dot-strategic-plan.*

DOT will consider all input and revise the draft DOT Strategic Plan as appropriate. DOT anticipates that the final DOT Strategic Plan for FY 2018–2022 will be submitted to Congress and posted on the DOT Web site in February 2018.

Dated: October 19, 2017.

Finch Fulton,

Deputy Assistant Secretary for Transportation Policy.

[FR Doc. 2017–23155 Filed 10–24–17; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple IRS Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before November 24, 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: Return of Excise Taxes Related to Employee Benefit Plans.

OMB Control Number: 1545–0575.

Type of Review: Extension without change of a currently approved collection.

Abstract: Code sections 4971, 4972, 4973(a)(3), 4975, 4976, 4977, 4978, 4978A, 4978B, 4979, 4979A and 4980 impose various excise taxes in connection with employee benefit plans. Form 5330 is used to compute and collect these taxes.

Form: Form 5330.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 540, 145.

Title: Information Reporting by Passport Applicants (REG–208274–86).

OMB Control Number: 1545–1359.

Type of Review: Revision of a currently approved collection.

Abstract: This document contains regulations that provide information reporting rules for certain passport applicants. The information provided by passport applicants will be used by the IRS for tax compliance purposes.

Forms: None.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 1,213,354.

Title: Return of U.S. Persons With Respect to Certain Foreign Partnerships.

OMB Control Number: 1545–1668.

Type of Review: Revision of a currently approved collection.

Abstract: The Taxpayer Relief Act of 1997 significantly modified the information reporting requirements with respect to foreign partnerships. The Act made the following three changes (1) expanded section 6038B to require U.S. persons transferring property to foreign partnerships in certain transactions to report those transfers; (2) expanded section 6038 to require certain U.S. Partners of controlled foreign partnerships to report information about the partnerships; and (3) modified the reporting required under section 6046A with respect to acquisitions and dispositions of foreign partnership interests. Form 8838–P is used to extend the statute of limitations for U.S. persons who transfers appreciated property to partnerships with foreign partners related to the transferor. The form is filed when the transferor makes a gain recognition agreement. This agreement allows the transferor to defer the payment of tax on the transfer. The IRS uses Form 8838–P so that it may assess tax against the transferor after the expiration of the original statute of limitations.

Forms: 8865, Sch P (Form 8865), Sch O (Form 8865), Sch K–1 (Form 8865), Form 8838–P.

Affected Public: Businesses or other for profits, Individuals or Households.

Estimated Total Annual Burden Hours: 254,084.

Title: Form 13818—Limited Payability Claim Against the United States For Proceeds of an Internal Revenue Refund Check.

OMB Control Number: 1545–2024.

Type of Review: Revision of a currently approved collection.

Abstract: This form is used by taxpayers for completing a claim against the United States for the proceeds of an Internal Revenue refund check.

Form: Form 13818.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 6,000.

Title: Paid Preparer Tax Identification Number (PTIN) Application and Renewal.

OMB Control Number: 1545–2190.

Type of Review: Extension without change of a currently approved collection.

Abstract: Paid tax return preparers are required to obtain a preparer tax identification number (PTIN) by completing Form W–12, IRS Paid Preparer Tax Identification Number (PTIN) Application and Renewal, and to pay the fee required with the application. A third party will administer the PTIN application process. Most applications will be filled out on-line. Form W–12 will be used to collect the information required by § 1.6109–2 and to collect the information the third party needs to administer the PTIN application process.

Form: W–12.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 1,464,000.

Authority: 44 U.S.C. 3501 et seq.

Dated: October 19, 2017.

Jennifer P. Leonard,

Treasury PRA Clearance Officer.

[FR Doc. 2017–23100 Filed 10–24–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of Citizens Coinage Advisory Committee October 25, 2017, Public Meeting

Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for October 25, 2017.

Date: October 25, 2017.

Time: 3:00 p.m. to 4:00 p.m. EST.

Location: This meeting will occur *via teleconference.* Interested members of the public may dial in to listen to the meeting at (866) 564–9287/Access Code: 62956028.

Subject: Review of candidate designs for the Bob Dole Congressional Gold Medal, and consideration of themes for the 2019 American Legion 100th Anniversary Commemorative Coin Program.

Interested persons should call the CCAC HOTLINE at (202) 354–7502 for the latest update on meeting time and room location.

In accordance with 31 U.S.C. 5135, the CCAC:

- Advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals.
- Advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.
- Makes recommendations with respect to the mintage level for any commemorative coin recommended.

FOR FURTHER INFORMATION CONTACT: Betty Birdsong, Acting United States Mint Liaison to the CCAC; 801 9th Street NW., Washington, DC 20220; or call 202–354–7200.

Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by fax to the following number: 202–756–6525.

Authority: 31 U.S.C. 5135(b)(8)(C).

David Motl,

Acting Deputy Director, United States Mint.

[FR Doc. 2017–23171 Filed 10–24–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0029]

Agency Information Collection Activity Under OMB Review: The PRA Submission Describes the Nature of the Information Collection and its Expected Cost and Burden; it Includes the Actual Data Collection Instrument

AGENCY: Loan Guaranty Service, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Loan Guaranty Service, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 24, 2017.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0029'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Office of Quality, Privacy and Risk, Department of Veterans Affairs, 811 Vermont Avenue NW., Floor 5, Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0029'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: VA Form 26–6705, Offer to Purchase and Contract of Sale, VA Form 26–6705b and Fannie Mae (FNMA) Form 1003, Uniform Residential Loan Application, Credit Statement of Prospective Purchaser, and VA Form 26–6705d, Addendum to VA Form 26–6705 (Virginia).

OMB Control Number: 2900–0029.

Type of Review: Extension of a currently approved collection.

Abstract: Under the authority of 38 U.S.C. 3720(a)(5) and (6) the Department of Veterans Affairs (VA) acquires properties for sale to the general public utilizing a private Service Provider. The Service Provider utilizes private listings and sales brokers to sell VA properties.

The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FR 38761 on August 15, 2017, pages 38761 and 38762.

Affected Public: Individuals or Households.

Estimated Annual Burden: 17,458.

Estimated Average Burden per Respondent: 20 minutes and 5 minutes (average 15 minutes between the three forms).

Frequency of Response: One time.

Estimated Number of Respondents: 53,500.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy, and Risk, Department of Veterans Affairs.

[FR Doc. 2017–23136 Filed 10–24–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0108]

Agency Information Collection Activity: Report of Income From Property or Business

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veteran's Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 26, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Dawn Johnson, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *Dawn.Johnson7@va.gov.* Please refer to ''OMB Control No. 2900–0108'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 1521, 1541, 1315.

Title: Report of Income from Property or Business, VA Form 21P–4185.

OMB Control Number: 2900–0108.

Type of Review: Extension without change of a currently approved collection.

Abstract: Abstract A claimant's eligibility to Pension or Parents' Dependency and Indemnity Compensation (DIC) is determined, in part, by the claimant's countable income. VA Form 21P–4185 is used to gather information that is necessary to determine a claimant's countable income received from rental property and/or operation of a business. Some expenses associated with rental property and business operation are deductible from the gross income received. Complete information about expenses and income is necessary in order to determine the net amount of income that is countable. The information is used to determine eligibility for VA benefits, and, if eligibility exists, the proper rate of payment.

Affected Public: Individuals and households.

Estimated Annual Burden: 3,500 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 7,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2017–23135 Filed 10–24–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0565]

Agency Information Collection Activity: State Application for Interment Allowance Under 38 U.S.C. Chapter 23

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veteran's Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 26, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy Kessinger, Veterans Benefits

Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0565'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 2302 and 2303.

Title: State Application for Interment Allowance Under 38 U.S.C. Chapter 23 (VA Form 21P–530a)

OMB Control Number: 2900–0565.

Type of Review: Extension without change of a currently approved collection.

Abstract: VA Form 21P–530A is used to gather information that is necessary to determine whether a State is eligible for interment allowances for eligible veterans who have been buried in a State Veteran's cemetery. Without this information, VA would be unable to properly determine eligibility and pay benefits due to a State. This form solicits information necessary to determine eligibility to internment allowance benefits.

Affected Public: State, Local, and Tribal Governments.

Estimated Annual Burden: 1,550 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 3,100.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2017–23207 Filed 10–24–17; 8:45 am]

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