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DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Part 1003

[Docket No. EOIR 183; A.G. Order No. 4119–2018]

RIN 1125–AA79

Expanding the Size of the Board of Immigration Appeals

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the Executive Office for Immigration Review (EOIR) regulations relating to the organization of the Board of Immigration Appeals (Board) by adding four additional Board member positions, thereby expanding the Board to 21 members.

DATES: This rule is effective February 27, 2018.

FOR FURTHER INFORMATION CONTACT: Lauren Alder Reid, Acting Chief of the Immigration Law Division, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 1902, Falls Church, VA 20530, telephone (703) 305–0289 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Current Interim Rule

On June 3, 2015, the Department of Justice (Department) published an interim rule amending 8 CFR 1003.1 to increase the Board of Immigration Appeals (Board) from 15 to 17 members, with a request for comments. 80 FR 31461 (June 3, 2015). As explained in the interim rule, expanding the number of Board members is necessary to accomplish EOIR's commitment to promptly provide Board appellate review of timely filed immigration case appeals. The interim rule provided two primary reasons for increasing the number of Board members from 15 to 17. First, EOIR was managing the largest caseload the immigration court system had ever seen. Second, the Department was in the process of hiring a substantial number of additional immigration judges, which the Department expected would increase the number of appeals filed with the Board.

The Department provided an opportunity for post-promulgation comment even though this was a rule of internal agency organization and therefore notice-and-comment rulemaking was not required. The Department received two comments by the deadline of August 3, 2015. For the reasons set forth below, the Department is finalizing the interim rule amending 8 CFR part 1003, and adding four additional Board members for a total of 21 Board members.

II. Background

EOIR administers the Nation's immigration court system. Generally, cases commence before an immigration judge when the Department of Homeland Security (DHS) files with the immigration court a charging document against an alien. *See* 8 CFR 1003.14(a). EOIR primarily decides whether foreign nationals whom DHS charges with violating immigration law pursuant to the Immigration and Nationality Act are removable as charged and, if so, whether they should be ordered removed from the United States, or should be granted protection or relief from removal and be permitted to remain in the United States. EOIR's Office of the Chief Immigration Judge administers the adjudications of the immigration judges nationwide.

Decisions of the immigration judges are subject to review by EOIR's appellate body, the Board, which is currently composed of 17 Board members. The Board is the highest administrative tribunal for interpreting and applying U.S. immigration law. The Board's decisions can be reviewed by the Attorney General, as provided in 8 CFR 1003.1(g) and (h). Decisions of the Board and the Attorney General are subject to judicial review in the United States Courts of Appeals.

III. Expansion of Number of Board Members

EOIR's mission is to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws. This task includes the initial adjudication of aliens' cases in immigration courts nationwide, as well as appellate review by the Board when appeals are timely filed. In order to more efficiently accomplish the agency's commitment to promptly decide an increasing volume of cases, as well as to review appeals in those cases, this rule serves to finalize the interim rule, with the addition of four additional Board members.[1] This rule adopts a revision to the third sentence of 8 CFR 1003.1(a)(1). The remainder of paragraph (a)(1) is unchanged.

Expanding the number of Board members was necessary when the interim rule was published in 2015 because EOIR was experiencing an increased caseload. Since the interim rule's publication, EOIR's caseload has continued to grow; EOIR is currently managing the largest caseload the immigration court system has ever seen. At the end of FY 2016, there were 518,545 total cases pending before the immigration courts, marking an increase of 58,988 cases pending above those at the end of FY 2015. *See* 2016 EOIR Statistics Yearbook W1.[2] As of January 1, 2018, there were 667,292 total cases pending before the immigration courts. This total increase included an increase in the number of pending cases of detained aliens. EOIR's highest priority is the efficient and timely adjudication of detained alien cases, and EOIR requires additional resources to handle the increased caseload.

The Department is taking steps to address the unprecedented pending caseload. The Department hired 64 additional immigration judges in FY 2017 and continues to hire new immigration judges. The Department expects that, as these additional immigration judges enter on duty, the number of decisions rendered by the immigration judges nationwide will

[1] The Department previously expanded the number of Board members—from 11 to 15 members—on December 7, 2006, when it published in the **Federal Register** an interim rule amending 8 CFR 1003.1. 71 FR 70855 (Dec. 7, 2006). On June 16, 2008, the Department published a final rule adopting, without change, that interim rule. 73 FR 33875 (June 16, 2008).

[2] EOIR's FY 2016 Statistics Yearbook, prepared by EOIR's Office of Planning, Analysis, and Statistics, is available at *https://www.justice.gov/eoir/page/file/fysb16/download.*

increase, and the number of appeals filed with the Board will increase as a result. The Department is also taking a number of management steps to more efficiently address the pending caseload, which EOIR expects will result in an increase in immigration judge decisions and, in turn, an increase in the flow of appeals to the Board.[3]

Since January 2017, the Board has experienced a steady increase in appeals. For example, the number of appeals increased throughout FY 2017, from 2,618 in October 2016 to 3,035 in September 2017. This caseload is burdensome and, given current trends, may become overwhelming were the Board to maintain 17 members.

The interim rule modified the number of Board members to 17, and requested post-promulgation comment on the proposal to increase the number of Board members in light of the increased caseload. Keeping in mind the goal of maintaining cohesion and the ability to reach consensus, but recognizing the challenges the Board faces in light of its current and anticipated increased caseload, the Department has determined that four additional members should be added to the Board. The Department acknowledges the potential impact of the expansion to 21 members upon the Board's ability to provide coherent direction and to issue precedential decisions, which require approval of a majority of the Board, and will continue to consider means to improve the Board's operations over time. But the interim rule's logic—balancing efficiency with administrability—supports increasing the size of the Board in the final rule to 21. These changes will help support an efficient system of appellate adjudication in light of the increasing caseload.

IV. Public Comments

The interim rule was exempt from the usual requirements of prior notice and comment and a 30-day delay in effective date because, as an internal delegation of authority, it is a rule of management or personnel and relates to a matter of agency organization, procedure, or practice. *See* 5 U.S.C. 553(a), (b), (d). Nonetheless, when promulgating the interim rule, the Department provided an opportunity for post-promulgation comment. The Department received two comments by the deadline, only one of which was responsive to the rule. The commenter stated that ''[e]xpanding the Board of Immigration Appeals (BIA) to 17 members from 15 members is . . . a necessary action as the pending times for appeals has substantially increased as the docket of EOIR has expanded.''

In response, the Department appreciates this expression of support. EOIR has steadily hired new immigration judges, and continues to hire new immigration judges, to adjudicate EOIR's historically large caseload. As the number of immigration judges increases, so does the number of decisions rendered by immigration judges. In turn, the number of appeals filed with the Board also increases. Increasing the number of Board members will assist EOIR in accomplishing its mission of adjudicating appeals in a timely manner.

V. Regulatory Requirements

A. Administrative Procedure Act

As this rule is the finalization of an interim final rule, further request for comment is not required. Alternately, comment is unnecessary because this final rule is a rule of management or personnel as well as a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(a)(2), (b)(A). For the same reasons, this rule is not subject to a 30-day delay in effective date. *See* 5 U.S.C. 553(a)(2), (d).

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), ''[w]henever an agency is required by section 553 of [the Administrative Procedure Act], or any other law, to publish general notice of proposed rulemaking for any proposed rule . . . the agency shall prepare and make available for public comment an initial regulatory flexibility analysis.'' 5 U.S.C. 603(a); *see* 5 U.S.C. 604(a). Such analysis is not required when a rule is exempt from notice-and-comment rulemaking under 5 U.S.C. 553(b). Because this is a rule of internal agency organization and therefore is exempt from notice-and-comment rulemaking, no RFA analysis under 5 U.S.C. 603 or 604 is required for this rule.

C. Unfunded Mandates Reform Act of 1995

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

D. Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 13771 (Reducing Regulation and Controlling Regulatory Costs)

This rule is limited to agency organization, management, or personnel matters and is therefore not subject to review by the Office of Management and Budget pursuant to section 3(d)(3) of Executive Order 12866, Regulatory Planning and Review. Nevertheless, the Department certifies that this regulation has been drafted in accordance with the principles of Executive Order 12866, section 1(b), and Executive Order 13563. Executive Orders 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 consideration of potential economic, environmental, public health, and safety effects; distributive impacts; and equity. The benefits of this rule include providing the Department with an appropriate means of responding to the increased number of appeals to the Board. The public will benefit from the expansion of the number of Board members because such expansion will help EOIR better accomplish its mission of adjudicating cases in an efficient and timely manner. Overall, the benefits provided by the Board's expansion outweigh the costs of employing additional federal employees. Finally, because this rule is one of internal organization, management, or personnel, it is not subject to the requirements of Executive Order 13771.

E. Executive Order 13132—Federalism

This rule 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. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Executive Order 12988—Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

[3] Statement of James McHenry, Acting Director, Executive Office for Immigration Review, United States Department of Justice, Before the Subcommittee on Immigration and Border Security, Committee on the Judiciary, United States House of Representatives, November 1, 2017.

G. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

H. Congressional Review Act

This is not a major rule as defined by 5 U.S.C. 804(2). This action pertains to agency organization, management, and personnel and, accordingly, is not a ''rule'' as that term is used in 5 U.S.C. 804(3). Therefore, the reports to Congress and the Government Accountability Office specified by 5 U.S.C. 801 are not required.

List of Subjects in 8 CFR Part 1003

Administrative practice and procedure, Aliens, Immigration, Legal services, Organization and functions (Government agencies).

Accordingly, for the reasons stated in the preamble, the interim rule amending 8 CFR part 1003, which was published at 80 FR 31461 on June 3, 2015, is adopted as a final rule, with the following change:

PART 1003—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

■ 1. The authority citation for part 1003 continues to read as follows:

Authority: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1254a, 1255, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950; 3 CFR, 1949–1953 Comp., p. 1002; section 203 of Pub. L. 105–100, 111 Stat. 2196–200; sections 1506 and 1510 of Pub. L. 106–386, 114 Stat. 1527–29, 1531–32; section 1505 of Pub. L. 106–554, 114 Stat. 2763A–326 to –328.

■ 2. Amend § 1003.1 by revising the third sentence of paragraph (a)(1) to read as follows:

§ 1003.1 Organization, jurisdiction, and powers of the Board of Immigration Appeals.

(a)(1) * * * The Board shall consist of 21 members. * * *

* * * * *

Dated: February 20, 2018.

Jefferson B. Sessions III,

Attorney General.

[FR Doc. 2018–03980 Filed 2–26–18; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9519; Product Identifier 2016–NM–099–AD; Amendment 39–19200; AD 2018–04–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A319–112, A319–115, A320–214, A320–232, and A321–211 airplanes. This AD was prompted by in-service experience and further analysis, which showed that the galley 5 without kick-load retainers, was unable to withstand the expected loading during several flight phases or in case of emergency landing. This AD requires modification of galley 5 trolley compartments by adding kick-load retainers. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 3, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 3, 2018.

ADDRESSES: For service information identified in this final rule, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9519.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9519; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198; telephone 206–231–3223; fax 206–231–3398.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Model A319–112, A319–115, A320–214, A320–232, and A321–211 airplanes. The SNPRM published in the **Federal Register** on November 9, 2017 (82 FR 52022) (''the SNPRM''). We preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on January 3, 2017 (82 FR 50) (''the NPRM''). The NPRM was prompted by in-service experience and further analysis, which showed that the galley 5 without kick-load retainers was unable to withstand the expected loading during several flight phases or in case of an emergency landing. The NPRM proposed to require modification of galley 5 trolley compartments by adding kick-load retainers. The SNPRM proposed to modify the applicability. We are issuing this AD to prevent galley/trolley detachment and collapse into an adjacent cabin aisle or cabin zone, possibly spreading loose galley equipment items, compartment doors, or leaking fluids. These hazards could block an evacuation route and result in injury to crew or passengers.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016–0040, dated March 2, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A319–112, A319–115, A320–214, A320–232, and A321–211 airplanes. The MCAI states:

> Following in-service experience and further analyses, it was ascertained that the galley 5 without kick load retainers on external position could not withstand the expected loading during several flight phases or in case of emergency landing.

This condition, if not corrected, could lead to galley/trolley detachment and collapse into an adjacent cabin aisle or cabin zone, possibly spreading loose galley equipment items, compartment doors or leaking fluids, blocking an evacuation route, and consequently resulting in injury to crew or passengers.

To address this potential unsafe condition, Airbus issued 6 Service Bulletins (SB) to provide modification instructions for the affected aeroplanes.

For the reasons described above, this [EASA] AD requires modification of galley 5 trolley compartments to install kick load retainers.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9519.

Comments

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

Request To Change the Applicability To Be Based on Galley 5 Part and Serial Number

Etihad Airways (Etihad) requested that the applicability of the proposed AD (in the SNPRM) be changed to list specific galley 5 part numbers and serial numbers. Etihad noted that the same galley 5 part number installed on the airplanes listed in the applicability of the proposed AD (in the SNPRM) was also installed on certain Model A320–232 airplanes under supplemental type certificates (STCs). Etihad noted that the proposed change would help to ensure all affected parts are addressed.

We disagree with the commenter's request. We appreciate Etihad's initiative in attempting to address the unsafe condition on their fleet, including airplanes modified by STCs or other approved installation methods. However, making the requested change would require us to issue another supplemental NPRM, delaying the issuance of a final rule. To delay this action would be inappropriate, since we have determined that an unsafe condition exists and that galley modifications must be made to ensure continued safety. We will consider additional rulemaking to address airplanes modified by STCs. We have not changed this AD in this regard.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

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

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A320–25–1B29, dated June 19, 2014; and Service Bulletin A320–25–1B30, dated June 19, 2014. This service information describes procedures for installing kick-load retainers on certain galley 5 trolley compartments. These documents are distinct since they apply to different airplane configurations. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 19 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification	2 work-hours × $85 per hour = $170	$0	$170	$3,230

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–04–05 Airbus: Amendment 39–19200; Docket No. FAA–2016–9519; Product Identifier 2016–NM–099–AD.

(a) Effective Date

This AD is effective April 3, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A319–112, A319–115, A320–214, A320–232, and A321–211 airplanes, certificated in any category, manufacturer's serial numbers 1479, 3096, 3693, 3713, 3739, 3791, 3896, 3902, 3907, 3931, 3949, 3969, 4030, 4045, 4049, 4059, 4066, 4077, 4083, 4124, 4146, 4158, 4188, 4198, 4206, 4209, 4218, 4235, 4255, 4264, 4304, 4321, 4371, 4374, 4395, 4411, 4417, 4431, 4485, 4492, 4502, 4528, 4541, 4548, 4592, 4595, 4638, 4651, 4669, 4703, 4724, 4737, 4746, 4770, 4780, 4783, 4826, 4827, 4860, 4863, 4865, 4902, 4934, 4945, 4951, 4952, 4971, 4996, 5023, 5029, 5042, 5088, 5095, 5132, 5159, 5164, 5171, 5175, 5192, 5210, 5227, 5241, 5247, 5251, 5275, 5277, 5297, 5306, 5340, 5343, 5348, 5356, 5366, 5370, 5385, 5387, 5392, 5396, 5400, 5407, 5418, 5427, 5438, 5456, 5458, 5469, 5495, 5517, 5555, 5624, 5674, 5678, 5698, 5699, 5704, 5709, 5714, 5791, 5745, 5753, 5761, 5781, 5786, 5788, 5789, 5798, 5804, 5810, 5821, 5827, 5842, 5874, 5882, 5889, 5903, 5907, 5916, 5924, 5958, 5984, 5994, 6000, 6004, 6054, 6080, 6107, 6166, 6176, 6234, 6266, 6293, 6335, 6344, 6365, 6430, and 6444.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Reason

This AD was prompted by in-service experience and further analysis, which showed that the galley 5 without kick-load retainers was unable to withstand the expected loading during several flight phases or in case of emergency landing. We are issuing this AD to prevent galley/trolley detachment and collapse into an adjacent cabin aisle or cabin zone, possibly spreading loose galley equipment items, compartment doors, or leaking fluids. These hazards could block an evacuation route and result in injury to crew or passengers.

(f) Compliance

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

(g) Install Kick-Load Retainers

Within 12 months after the effective date of this AD, install kick-load retainers on the galley 5 trolley compartments as specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD, as applicable. For airplanes on which galley 5 is not installed, no action is required by this paragraph.

(1) For Airbus Model A319–115 airplanes, manufacturer's serial numbers 5678, 5698, 5704, 5745, 5753, 5761, 5781, 5786, 5788, 5789, 5798, 5810, 5827, and 5842, do the installation in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–25–1B29, dated June 19, 2014.

(2) For Airbus Model A320–232 airplanes, manufacturer's serial numbers 5458, 5517, 5624, and 5804, do the installation in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–25–1B30, dated June 19, 2014.

(3) For airplanes not identified in paragraph (g)(1) or (g)(2) of this AD, do the installation using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (i)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(i) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0040, dated March 2, 2016, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9519.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198; telephone 206–231–3223; fax 206–231–3398.

(j) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A320–25–1B29, dated June 19, 2014.

(ii) Airbus Service Bulletin A320–25–1B30, dated June 19, 2014.

(3) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.*

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

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

Issued in Des Moines, Washington, on February 9, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–03495 Filed 2–26–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0766; Product Identifier 2017–NM–046–AD; Amendment 39–19203; AD 2018–04–08]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the gore web lap splices of the aft pressure bulkhead are subject to widespread fatigue damage (WFD). This AD requires repetitive inspections of the gore webs, gore web lap splices, and repair webs, as applicable, of the aft pressure bulkhead, and applicable on-condition actions. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 3, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 3, 2018.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0766.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0766; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on August 11, 2017 (82 FR 37546). The NPRM was prompted by an evaluation by the DAH indicating that the gore web lap splices of the aft pressure bulkhead are subject to WFD. The NPRM proposed to require repetitive inspections of the gore webs, gore web lap splices, and repair webs, as applicable, of the aft pressure bulkhead, and applicable on-condition actions.

We are issuing this AD to detect and correct cracking in the gore webs, gore web lap splices, and repair webs of the aft pressure bulkhead, which could result in possible rapid decompression and loss of structural integrity.

Comments

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

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing the Supplemental Type Certificate (STC) ST01219SE does not affect the actions specified in the NPRM.

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

Request To Clarify ''Related AD'' Section

Boeing recommended that a statement be added to the ''Related AD'' section of the NPRM to provide clarification of the effect of the proposed AD on the requirements of paragraph (o) of AD 2012–18–13 R1, Amendment 39–17429 (78 FR 27020, May 9, 2013) (''AD 2012–18–13 R1''). Boeing asserted that the ''Related AD'' section could be misinterpreted to imply that the inspections required by the proposed AD are in addition to the requirements of paragraph (o) of AD 2012–18–13 R1.

We agree with the commenter's rationale, but the ''Related AD'' section is not included in this final rule. Therefore, no change has been made.

Request To Address the Termination of AD 2012–18–13 R1

Boeing requested a clarification that actions required by the proposed AD terminate the requirements of paragraph (o) of AD 2012–18–13 R1. Boeing asserted that the actions of Boeing Alert Service Bulletin 737–53A1355, dated March 10, 2017, supersede the actions of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, which are mandated by paragraph (o) of AD 2012–18–13 R1.

All Nippon Airways (ANA) also requested clarification regarding termination of the requirements of paragraph (o) of AD 2012–18–13 R1. ANA stated that, because the compliance time is changed to ''after the effective date of this AD'' in the proposed AD, the inspections and corrective actions required by paragraph (o) of AD 2012–18–13 R1 may be terminated as long as the inspections for Zone 1, as specified in Boeing Alert Service Bulletin 737–53A1355, dated March 10, 2017, have been done within the changed compliance time.

We agree with the requests for clarification. We have added the requested terminating action information as paragraph (i) of this AD and redesignated subsequent paragraphs.

Request To Clarify the Zone 2 Definition

Boeing requested a clarification of the definition of Zone 2 in the ''Related Service Information under 1 CFR part 51'' paragraph of the NPRM. Boeing observed that the definition given could be misleading because it does not specify that Zone 2 contains only the gore web lap splices outside the apex area.

We agree and have added the phrase ''outside the apex area'' to the specified paragraph of this final rule.

Clarification of Compliance Exception

We have revised the compliance exception in paragraph (j)(1) of this AD to clarify that where Boeing Alert Service Bulletin 737–53A1355, dated March 10, 2017, uses the phrase ''the original issue date of this service bulletin,'' this AD requires using ''the effective date of this AD.''

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–53A1355, dated March 10, 2017. The service information describes procedures for repetitive inspections of the gore web in Zone 1 (*i.e.,* inspections around fastener locations in the gore web lap splices and around fastener locations in the apex area outside the gore web lap splices) and gore web lap splices in Zone 2 (*i.e.,* inspections around fastener locations in the gore web lap splices outside the apex area) of the aft pressure bulkhead, and applicable on-condition actions. The service information also describes, for airplanes with an existing single gore web repair, procedures for repetitive inspections of the gore web (*i.e.,* inspections around fastener locations in the gore web lap splices) and repair webs (*i.e.,* inspections around fastener locations in the gore web lap splices and around fastener locations in the apex area outside the gore web lap splices); and, for airplanes with an existing all gore web repair, procedures for repetitive inspections of the repair webs (*i.e.,* inspections around fastener locations in the repair gore web lap splices and around fastener locations in the apex area outside the repair gore web lap splices); and procedures for applicable on-condition actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 281 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	46 work-hours × $85 per hour = $3,910 per inspection cycle.	$0	$3,910 per inspection cycle.	$1,098,710 per inspection cycle.

We estimate the following costs to do any necessary on-condition actions that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need these on-condition actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Inspection of previous single gore web repair	8 work-hours × $85 per hour = $680	$0	$680
Inspection of previous all gore web repair	10 work-hours × $85 per hour = $850	0	850

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–04–08 The Boeing Company: Amendment 39–19203; Docket No. FAA–2017–0766; Product Identifier 2017–NM–046–AD.

(a) Effective Date

This AD is effective April 3, 2018.

(b) Affected ADs

This AD affects AD 2012–18–13 R1, Amendment 39–17429 (78 FR 27020, May 9, 2013) (''AD 2012–18–13 R1'').

(c) Applicability

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

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

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the gore web lap splices of the aft pressure bulkhead are subject to widespread fatigue damage (WFD). We are issuing this AD to detect and correct cracking in the gore webs, gore web lap splices, and repair webs of the aft pressure bulkhead, which could result in possible rapid decompression and loss of structural integrity.

(f) Compliance

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

(g) Required Actions for Group 1 Airplanes

For airplanes identified as Group 1 in Boeing Alert Service Bulletin 737–53A1355, dated March 10, 2017: Within 120 days after the effective date of this AD, inspect the airplane, using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(h) Actions Required for Compliance

Except as required by paragraph (j) of this AD: For airplanes identified as Group 2 in Boeing Alert Service Bulletin 737–53A1355, dated March 10, 2017, at the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1355, dated March 10, 2017, do all applicable actions identified as required for compliance (''RC'') in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1355, dated March 10, 2017.

(i) Termination of Requirements of Paragraph (o) of AD 2012–18–13 R1

Accomplishment of the initial inspection for Zone 1, defined in Boeing Alert Service Bulletin 737–53A1355, dated March 10, 2017, and required by paragraph (h) of this AD terminates the requirements of paragraph (o) of AD 2012–18–13 R1.

(j) Exceptions to Service Information Specifications

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Service Bulletin 737–53A1355, dated March 10, 2017, uses the phrase ''the original issue date of this service bulletin,'' this AD requires using ''the effective date of this AD.''

(2) Although Boeing Alert Service Bulletin 737–53A1355, dated March 10, 2017, specifies to contact Boeing for repair instructions, and specifies that action as ''RC'' (Required for Compliance), this AD requires repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(k) Alternative Methods of Compliance (AMOCs)

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

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

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

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

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

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

(l) Related Information

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

(m) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 737–53A1355, dated March 10, 2017.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on February 14, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–03600 Filed 2–26–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9435; Product Identifier 2016–NM–108–AD; Amendment 39–18830; AD 2017–06–06]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2012–22–15, which applied to all Fokker Services B.V. Model F28 Mark 0070 and Mark 0100 airplanes. AD 2012–22–15 required revising the maintenance program to incorporate the limitations,

tasks, thresholds, and intervals specified in certain revised Fokker maintenance review board (MRB) documents. This new AD requires revising the maintenance or inspection program, as applicable, to incorporate new maintenance requirements and airworthiness limitations. This AD was prompted by new and more restrictive airworthiness limitations. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 3, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 3, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of December 20, 2012 (77 FR 68063, November 15, 2012).

ADDRESSES: For service information identified in this final rule, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone: +31 (0)88–6280–350; fax: +31 (0)88–6280–111; email: *technicalservices@fokker.com;* internet *http://www.myfokkerfleet.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9435.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9435; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW, Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to supersede AD 2012–22–15, Amendment 39–17252 (77 FR 68063, November 15, 2012) (''AD 2012–22–15''). AD 2012–22–15 applied to all Fokker Services B.V. Model F28 Mark 0070 and Mark 0100 airplanes. The SNPRM published in the **Federal Register** on October 19, 2017 (82 FR 48671) (''the SNPRM''). We preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on December 16, 2016 (81 FR 91068) (''the NPRM''). The NPRM was prompted by new and more restrictive airworthiness limitations. The NPRM proposed to revise the maintenance or inspection program, as applicable, to incorporate the new and more restrictive airworthiness limitations. The SNPRM proposed to require revising the maintenance or inspection program, as applicable, to incorporate new and more restrictive airworthiness limitations that were issued since the NPRM was released. We are issuing this AD to prevent reduced structural integrity of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive AD 2017–0095, dated May 30, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Fokker Services B.V. Model F28 Mark 0070 and Mark 0100 airplanes. The MCAI states:

> Fokker Services Engineering Report SE–623 contains the Airworthiness Limitation Items (ALIs) and Safe Life Items (SLIs). This report is Part 2 of the Airworthiness Limitations Section (ALS Part 2) of the Instructions for Continued Airworthiness, referred to in Section 06, Appendix 1, of the Fokker 70/100 Maintenance Review Board document.
>
> The complete ALS consists of:
>
> Part 1—Report SE–473, Certification Maintenance Requirements (CMRs)—ref. EASA AD 2015–0027 [which corresponds to FAA AD 2016–11–22, Amendment 39–18549 (81 FR 36438, June 7, 2016)],
>
> Part 2—Report SE–623, ALIs and SLIs—ref. EASA AD 2016–0125 [which corresponds to certain requirements in FAA AD 2012–22–15], and
>
> Part 3—Report SE–672, Fuel ALIs and CDCCLs—ref. EASA AD 2015–0032 [which corresponds to FAA AD 2016–11–15, Amendment 39–18542 (81 FR 36447, June 7, 2016)].
>
> The instructions contained in those reports have been identified as mandatory actions for continued airworthiness. Failure to accomplish these actions could result in an unsafe condition.
>
> EASA previously issued AD 2016–0125, requiring the actions described in ALS Part 2, Report SE–623 at issue 15 and 16.
>
> Since that AD was issued, Fokker Services published issue 17 of Report SE–623, containing new and/or more restrictive maintenance tasks.
>
> For the reasons described above, this [EASA] AD retains the requirements of AD 2016–0125, which is superseded, and requires implementation of the maintenance actions as specified in ALS Part 2 of the Instructions for Continued Airworthiness, Fokker Services Engineering Report SE–623 at issue 17 (hereafter referred to as ''ALS Part 2'' in this [EASA] AD).

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9435.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the SNPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

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

Related Service Information Under 1 CFR Part 51

Fokker Services B.V. has issued Engineering Report SE–623, ''Fokker 70/100 ALI's and SLI's,'' Issue 17, issued April 26, 2017. The service information describes new and more restrictive airworthiness limitations. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES**.

Costs of Compliance

We estimate that this AD affects 15 airplanes of U.S. registry.

The actions required by AD 2012–22–15, and retained in this AD, take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that are required by AD 2012–22–15 is $85 per product.

We also estimate that it would take about 1 work-hour per product to

comply with the new basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $1,275, or $85 per product.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive 2012–22–15, Amendment 39–17252 (77 FR 68063, November 15, 2012), and adding the following new AD.

2017–06–06 Fokker Services B.V: Amendment 39–18830; Docket No. FAA–2016–9435; Product Identifier 2016–NM–108–AD.

(a) Effective Date

This AD is effective April 3, 2018.

(b) Affected ADs

(1) This AD replaces AD 2012–22–15, Amendment 39–17252 (77 FR 68063, November 15, 2012) (''AD 2012–22–15'').

(2) This AD affects AD 2012–12–07, Amendment 39–17087 (77 FR 37788, June 25, 2012) (''AD 2012–12–07'').

(3) This AD affects AD 2008–06–20 R1, Amendment 39–16089 (74 FR 61018, November 23, 2009) (''AD 2008–06–20 R1'').

(c) Applicability

This AD applies to Fokker Services B.V. Model F28 Mark 0070 and Mark 0100 airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a revision of an airworthiness limitations items (ALI) document, which introduces new and more restrictive maintenance requirements and airworthiness limitations. We are issuing this AD to prevent reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Maintenance Program Revision, with Revised Compliance Language

This paragraph restates the requirements of paragraph (i) of AD 2012–22–15, with revised compliance language. Within 3 months after December 20, 2012 (the effective date of AD 2012–22–15), revise the maintenance program to incorporate the airworthiness limitations specified in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011. For all tasks and retirement lives identified in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011, the initial compliance times start from the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD, and the repetitive inspections must be accomplished thereafter at the applicable interval specified in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011. Doing the revision required by paragraph (k) of this AD terminates the requirements of this paragraph.

(1) Within 3 months after December 20, 2012 (the effective date of AD 2012–22–15).

(2) At the time specified in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011.

(h) Retained Corrective Actions, With Specific Delegation Approval Language

This paragraph restates the requirements of paragraph (j) of AD 2012–22–15, with specific delegation approval language. If any discrepancy, as defined in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011, is found during accomplishment of any task specified in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011: Within the applicable compliance time specified in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011, accomplish the applicable corrective actions in accordance with Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011, except as required by paragraphs (h)(1) and (h)(2) of this AD.

(1) If no compliance time is identified in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011, accomplish the applicable corrective actions before further flight.

(2) If any discrepancy is found and there is no corrective action specified in Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011: Before further flight, contact the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Fokker B.V. Services' EASA Design Organization Approval (DOA); for approved corrective actions, and accomplish those actions before further flight.

(i) Retained ''No Alternative Actions or Intervals,'' With a New Exception

This paragraph restates the requirements of paragraph (k) of AD 2012–22–15, with a new

exception. Except as required by paragraph (k) of this AD, after accomplishing the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (m)(1) of this AD.

(j) Retained Method of Compliance With AD 2008–06–20 R1, With Revised Compliance Language

This paragraph restates the terminating action specified in paragraph (m) of AD 2012–22–15, with revised compliance language. Accomplishing the actions specified in paragraph (g) of this AD terminates the requirements of paragraphs (f)(1) through (f)(5) of AD 2008–06–20 R1.

(k) New Requirement of This AD: Maintenance or Inspection Program Revision

Within 30 days of the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the airworthiness limitations specified in Fokker Services B.V. Engineering Report SE–623, ''Fokker 70/100 ALI's and SLI's,'' Issue 17, issued April 26, 2017. Accomplishing the revision required by this paragraph terminates the requirements of paragraph (g) of this AD. Accomplishing the revision required by this paragraph also terminates the requirements of paragraph (g) of AD 2012–12–07.

(1) The initial compliance times for the tasks specified in Fokker Services B.V. Engineering Report SE–623, ''Fokker 70/100 ALI's and SLI's,'' Issue 17, issued April 26, 2017, are at the later of the applicable compliance times specified in Fokker Services B.V. Engineering Report SE–623, ''Fokker 70/100 ALI's and SLI's,'' Issue 17, issued April 26, 2017, or within 30 days after the effective date of this AD, whichever is later.

(2) If any discrepancy is found, before further flight, repair using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the EASA; or Fokker B.V. Service's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(l) No Alternative Actions or Intervals

After the maintenance or inspection program, as applicable, has been revised as required by paragraph (k) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an AMOC in accordance with the procedures specified in paragraph (m)(1) of this AD.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (n)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Fokker B.V. Services' EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive AD 2017–0095, dated May 30, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9435.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW, Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

(o) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on April 3, 2018.

(i) Fokker Services B.V. Engineering Report SE–623, ''Fokker 70/100 ALI's and SLI's,'' Issue 17, issued April 26, 2017.

(ii) Reserved.

(4) The following service information was approved for IBR on December 20, 2012 (77 FR 68063, November 15, 2012).

(i) Fokker Report SE–623, ''Fokker 70/100 Airworthiness Limitation Items and Safe Life Items,'' Issue 8, released March 17, 2011.

(ii) Reserved.

(5) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone: +31 (0)88–6280–350; fax: +31 (0)88–6280–111; email: *technicalservices@fokker.com;* internet *http://www.myfokkerfleet.com.*

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

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

Issued in Renton, Washington, on February 9, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–03430 Filed 2–26–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31180; Amdt. No. 3788]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective February 27, 2018. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 27, 2018.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125), telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary.

This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on February 9, 2018.

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97 (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [AMENDED]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
29–Mar–18	NY	Le Roy	Le Roy	7/0404	1/31/18	RNAV (GPS) RWY 28, Orig-B.
29–Mar–18	SC	Columbia	Columbia Metropolitan	7/0591	1/25/18	RNAV (GPS) RWY 5, Amdt 2B.
29–Mar–18	HI	Kailua/Kona	Kona Intl At Keahole	7/0594	1/24/18	RNAV (GPS) Y RWY 17, Amdt 1B.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
29–Mar–18	HI	Kailua/Kona	Kona Intl At Keahole	7/0595	1/24/18	RNAV (GPS) Y RWY 35, Amdt 1A.
29–Mar–18	HI	Kailua/Kona	Kona Intl At Keahole	7/0596	1/24/18	RNAV (GPS) Z RWY 35, Amdt 1A.
29–Mar–18	HI	Kailua/Kona	Kona Intl At Keahole	7/0604	1/24/18	VOR/DME OR TACAN RWY 35, Orig-A.
29–Mar–18	HI	Kailua/Kona	Kona Intl At Keahole	7/0614	1/24/18	VOR/DME OR TACAN RWY 17, Orig-A.
29–Mar–18	HI	Kailua/Kona	Kona Intl At Keahole	7/0615	1/24/18	LOC/DME BC RWY 35, Amdt 10A.
29–Mar–18	HI	Kailua/Kona	Kona Intl At Keahole	7/0616	1/24/18	ILS OR LOC/DME RWY 17, Amdt 2A.
29–Mar–18	IN	Terre Haute	Terre Haute Intl-Hulman Field.	7/0632	1/31/18	RNAV (GPS) RWY 5, Orig-C.
29–Mar–18	IN	Terre Haute	Terre Haute Intl-Hulman Field.	7/0636	1/31/18	RNAV (GPS) RWY 14, Orig-B.
29–Mar–18	IN	Terre Haute	Terre Haute Intl-Hulman Field.	7/0637	1/31/18	RNAV (GPS) RWY 23, Amdt 1B.
29–Mar–18	IN	Terre Haute	Terre Haute Intl-Hulman Field.	7/0638	1/31/18	RNAV (GPS) RWY 32, Orig-B.
29–Mar–18	IN	Terre Haute	Terre Haute Intl-Hulman Field.	7/0639	1/31/18	LOC BC RWY 23, Amdt 19B.
29–Mar–18	IN	Terre Haute	Terre Haute Intl-Hulman Field.	7/0640	1/31/18	VOR RWY 23, Amdt 20C.
29–Mar–18	IN	Terre Haute	Terre Haute Intl-Hulman Field.	7/0641	1/31/18	RADAR 1, Amdt 5.
29–Mar–18	IN	Terre Haute	Terre Haute Intl-Hulman Field.	7/0642	1/31/18	Takeoff Minimums and Obstacle DP, Orig.
29–Mar–18	NJ	Woodbine	Woodbine Muni	7/0855	1/30/18	VOR–A, Amdt 1B.
29–Mar–18	AL	Evergreen	Middleton Field	7/0919	1/25/18	Takeoff Minimums and Obstacle DP, Amdt 2.
29–Mar–18	CA	Susanville	Susanville Muni	7/1141	1/24/18	RNAV (GPS) RWY 29, Amdt 1A.
29–Mar–18	CT	Willimantic	Windham	7/1583	1/24/18	RNAV (GPS) RWY 27, Amdt 1A.
29–Mar–18	PR	Ponce	Mercedita	7/1992	2/1/18	RNAV (GPS) RWY 12, Orig-C.
29–Mar–18	PR	Ponce	Mercedita	7/1994	2/1/18	RNAV (GPS) RWY 30, Orig-A.
29–Mar–18	FL	Miami	Miami-Opa Locka Executive.	7/2864	1/24/18	ILS OR LOC RWY 9L, Amdt 5A.
29–Mar–18	FL	Miami	Miami-Opa Locka Executive.	7/2866	1/24/18	ILS OR LOC RWY 27R, Amdt 1B.
29–Mar–18	FL	Miami	Miami-Opa Locka Executive.	7/2867	1/24/18	RNAV (GPS) RWY 9L, Orig-A.
29–Mar–18	FL	Miami	Miami-Opa Locka Executive.	7/2868	1/24/18	RNAV (GPS) RWY 12, Orig-A.
29–Mar–18	FL	Miami	Miami-Opa Locka Executive.	7/2884	1/24/18	ILS OR LOC RWY 12, Amdt 2A.
29–Mar–18	IL	Shelbyville	Shelby County	7/3075	1/25/18	NDB–A, Amdt 2A.
29–Mar–18	IL	Shelbyville	Shelby County	7/3078	1/25/18	RNAV (GPS) RWY 36, Orig-A.
29–Mar–18	MI	Mount Pleasant	Mount Pleasant Muni	7/3159	1/25/18	RNAV (GPS) RWY 9, Orig.
29–Mar–18	MI	Mount Pleasant	Mount Pleasant Muni	7/3162	1/25/18	RNAV (GPS) RWY 27, Orig.
29–Mar–18	MI	Mount Pleasant	Mount Pleasant Muni	7/3167	1/25/18	VOR RWY 27, Amdt 1.
29–Mar–18	ME	Brunswick	Brunswick Executive	7/3376	1/30/18	RNAV (GPS) RWY 19L, Amdt 1A.
29–Mar–18	MO	Nevada	Nevada Muni	7/3535	1/30/18	RNAV (GPS) RWY 2, Orig.
29–Mar–18	MO	Nevada	Nevada Muni	7/3539	1/30/18	RNAV (GPS) RWY 20, Orig.
29–Mar–18	MO	Nevada	Nevada Muni	7/3541	1/30/18	VOR/DME–A, Amdt 2.
29–Mar–18	GA	Cartersville	Cartersville	7/3971	1/30/18	VOR/DME–A, Amdt 2B.
29–Mar–18	GA	Cartersville	Cartersville	7/3973	1/30/18	LOC RWY 19, Amdt 3A.
29–Mar–18	GA	Cartersville	Cartersville	7/3974	1/30/18	RNAV (GPS) RWY 1, Amdt 1A.
29–Mar–18	GA	Cartersville	Cartersville	7/3976	1/30/18	RNAV (GPS) RWY 19, Amdt 1A.
29–Mar–18	GA	Sandersville	Kaolin Field	7/4182	1/24/18	RNAV (GPS) RWY 13, Amdt 2.
29–Mar–18	GA	Sandersville	Kaolin Field	7/4183	1/24/18	RNAV (GPS) RWY 31, Amdt 2.
29–Mar–18	TX	Carthage	Panola County-Sharpe Field.	7/4269	1/25/18	NDB RWY 35, Amdt 2.
29–Mar–18	TX	Carthage	Panola County-Sharpe Field.	7/4273	1/25/18	RNAV (GPS) RWY 17, Orig.
29–Mar–18	AL	Haleyville	Posey Field	7/4926	1/30/18	RNAV (GPS) RWY 18, Orig-B.
29–Mar–18	WA	Moses Lake	Grant Co Intl	7/5203	1/30/18	ILS OR LOC RWY 32R, Amdt 20C.
29–Mar–18	WI	Oshkosh	Wittman Rgnl	7/5251	1/25/18	ILS OR LOC RWY 36, Amdt 7B.
29–Mar–18	WI	Oshkosh	Wittman Rgnl	7/5257	1/25/18	RNAV (GPS) RWY 36, Amdt 2B.
29–Mar–18	AR	Russellville	Russellville Rgnl	7/5518	1/30/18	RNAV (GPS) RWY 7, Orig.
29–Mar–18	NE	Fremont	Fremont Muni	7/5777	1/25/18	RNAV (GPS) RWY 14, Amdt 2A.
29–Mar–18	NE	Fremont	Fremont Muni	7/5783	1/25/18	RNAV (GPS) RWY 32, Orig-A.
29–Mar–18	MO	St Louis	St Louis Lambert Intl	7/5807	1/24/18	RNAV (GPS) Y RWY 11, Orig-C.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
29–Mar–18	FL	Key West	Key West Intl	7/5830	1/25/18	RNAV (GPS) RWY 27, Orig-A.
29–Mar–18	LA	Lake Charles	Lake Charles Rgnl	7/5988	1/25/18	LOC BC RWY 33, Amdt 20.
29–Mar–18	LA	Lake Charles	Lake Charles Rgnl	7/5989	1/25/18	RNAV (GPS) RWY 33, Amdt 2A.
29–Mar–18	KY	Owensboro	Owensboro-Daviess County Rgnl.	7/6329	1/30/18	RNAV (GPS) RWY 24, Amdt 2.
29–Mar–18	KY	Owensboro	Owensboro-Daviess County Rgnl.	7/6331	1/30/18	ILS OR LOC RWY 36, Amdt 13.
29–Mar–18	KY	Owensboro	Owensboro-Daviess County Rgnl.	7/6338	1/30/18	RNAV (GPS) RWY 6, Amdt 1.
29–Mar–18	KY	Owensboro	Owensboro-Daviess County Rgnl.	7/6341	1/30/18	RNAV (GPS) RWY 18, Amdt 2.
29–Mar–18	KY	Owensboro	Owensboro-Daviess County Rgnl.	7/6347	1/30/18	VOR RWY 6, Amdt 2.
29–Mar–18	KY	Owensboro	Owensboro-Daviess County Rgnl.	7/6356	1/30/18	VOR RWY 18, Amdt 10.
29–Mar–18	IL	Pinckneyville	Pinckneyville-Du Quoin	7/6357	1/30/18	RNAV (GPS) RWY 36, Orig-B.
29–Mar–18	KY	Owensboro	Owensboro-Daviess County Rgnl.	7/6360	1/30/18	VOR RWY 36, Amdt 19.
29–Mar–18	KY	Owensboro	Owensboro-Daviess County Rgnl.	7/6363	1/30/18	Takeoff Minimums and Obstacle DP, Amdt 5.
29–Mar–18	KY	Owensboro	Owensboro-Daviess County Rgnl.	7/6373	1/30/18	RNAV (GPS) RWY 36, Amdt 4.
29–Mar–18	PA	Mount Pocono	Pocono Mountains Muni	7/6959	1/30/18	RNAV (GPS) RWY 5, Orig-B.
29–Mar–18	AR	Corning	Corning Muni	7/7409	1/30/18	RNAV (GPS) RWY 36, Orig-B.
29–Mar–18	FL	Miami	Miami-Opa Locka Executive.	7/7701	1/24/18	RNAV (GPS) RWY 27R, Orig-B.
29–Mar–18	NJ	Millville	Millville Muni	7/8575	1/25/18	RNAV (GPS) RWY 32, Orig-C.
29–Mar–18	IL	Pinckneyville	Pinckneyville-Du Quoin	7/8591	1/30/18	RNAV (GPS) RWY 18, Amdt 1A.
29–Mar–18	PA	Somerset	Somerset County	7/8747	1/25/18	RNAV (GPS) RWY 7, Amdt 1.
29–Mar–18	KS	Wichita	Wichita Dwight D Eisenhower National.	7/8751	1/30/18	Takeoff Minimums and Obstacle DP, Orig-B.
29–Mar–18	IN	Indianapolis	Hendricks County-Gordon Graham Fld.	7/8863	1/24/18	RNAV (GPS) RWY 18, Amdt 1A.
29–Mar–18	NC	Kinston	Kinston Rgnl Jetport at Stallings Fld.	7/8927	1/31/18	ILS OR LOC RWY 5, Amdt 12.
29–Mar–18	AL	Evergreen	Middleton Field	7/9113	1/24/18	RNAV (GPS) RWY 1, Amdt 1B.
29–Mar–18	SD	Watertown	Watertown Rgnl	8/0327	2/1/18	ILS OR LOC RWY 35, Amdt 11.
29–Mar–18	NE	Fremont	Fremont Muni	8/0723	1/25/18	VOR/DME RWY 14, Amdt 3A.
29–Mar–18	KY	Georgetown	Georgetown-Scott County Rgnl.	8/2410	1/31/18	Takeoff Minimums and Obstacle DP, Orig.
29–Mar–18	KY	Georgetown	Georgetown-Scott County Rgnl.	8/2411	1/31/18	RNAV (GPS) RWY 3, Amdt 2.
29–Mar–18	KY	Georgetown	Georgetown-Scott County Rgnl.	8/2412	1/31/18	RNAV (GPS) Y RWY 21, Orig.
29–Mar–18	KY	Georgetown	Georgetown-Scott County Rgnl.	8/2413	1/31/18	RNAV (GPS) Z RWY 21, Amdt 2.
29–Mar–18	KY	Georgetown	Georgetown-Scott County Rgnl.	8/2844	1/31/18	VOR/DME RWY 3, Amdt 1.
29–Mar–18	IN	Terre Haute	Terre Haute Rgnl	8/2860	1/31/18	ILS OR LOC RWY 5, Amdt 23A.
29–Mar–18	IN	Terre Haute	Terre Haute Rgnl	8/2863	1/31/18	VOR/DME RWY 5, Amdt 17E.
29–Mar–18	OK	Muskogee	Muskogee-Davis Rgnl	8/4270	1/24/18	RNAV (GPS) RWY 4, Amdt 1B.

[FR Doc. 2018–03527 Filed 2–26–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31179; Amdt. No. 3787]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective February 27, 2018. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of February 27, 2018.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125), Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on February 9, 2018.

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 29 March 2018

Buckland, AK, Buckland, Takeoff Minimums and Obstacle DP, Amdt 2

Fairbanks, AK, Fairbanks Intl, ILS OR LOC RWY 2L, ILS RWY 2L (SA CAT I), ILS RWY 2L (CAT II), ILS RWY 2L (CAT III), Amdt 10A

Fairbanks, AK, Fairbanks Intl, ILS OR LOC RWY 20R, ILS RWY 20R (SA CAT I), ILS RWY 20R (SA CAT II), Amdt 25A

Fairbanks, AK, Fairbanks Intl, RNAV (GPS) Y RWY 2L, Amdt 1A

Fairbanks, AK, Fairbanks Intl, RNAV (GPS) Y RWY 20R, Amdt 1B

Fairbanks, AK, Fairbanks Intl, VOR OR TACAN RWY 20R, Orig-A

Miami, FL, Dade-Collier Training and Transition, ILS OR LOC RWY 9, Amdt 15A, CANCELED

Miami, FL, Dade-Collier Training and Transition, NDB RWY 9, Amdt 14, CANCELED

Miami, FL, Dade-Collier Training and Transition, RNAV (GPS) RWY 9, Orig-A

Fitzgerald, GA, Fitzgerald Muni, LOC RWY 2, Amdt 2
Fitzgerald, GA, Fitzgerald Muni, NDB RWY 2, Amdt 2
Fitzgerald, GA, Fitzgerald Muni, RNAV (GPS) RWY 2, Amdt 2
Council Bluffs, IA, Council Bluffs Muni, RNAV (GPS) RWY 14, Amdt 3
Council Bluffs, IA, Council Bluffs Muni, RNAV (GPS) RWY 32, Amdt 1
Chicago/Lake in the Hills, IL, Lake in the Hills, RNAV (GPS) RWY 8, Orig-A
Chicago, IL, Chicago Midway Intl, RNAV (RNP) Y RWY 31C, Orig-B
Gary, IN, Gary/Chicago Intl, RNAV (GPS) Y RWY 12, Amdt 2
New Castle, IN, New Castle-Henry Co Muni, NDB RWY 10, Orig
New Castle, IN, New Castle-Henry Co Muni, NDB OR GPS RWY 9, Amdt 5C, CANCELED
New Castle, IN, New Castle-Henry Co Muni, RNAV (GPS) RWY 9, Orig-A, CANCELED
New Castle, IN, New Castle-Henry Co Muni, RNAV (GPS) RWY 10, Orig
New Castle, IN, New Castle-Henry Co Muni, RNAV (GPS) RWY 27, Orig-B, CANCELED
New Castle, IN, New Castle-Henry Co Muni, RNAV (GPS) RWY 28, Orig
New Castle, IN, New Castle-Henry Co Muni, Takeoff Minimums and Obstacle DP, Amdt 1
New Castle, IN, New Castle-Henry Co Muni, VOR RWY 27, Amdt 10A, CANCELED
Leonardtown, MD, St Mary's County Rgnl, RNAV (GPS) RWY 11, Amdt 2
Detroit, MI, Willow Run, ILS OR LOC RWY 5R, Amdt 16
Detroit, MI, Willow Run, RNAV (GPS) RWY 5R, Amdt 2
Detroit, MI, Willow Run, RNAV (GPS) RWY 23R, Amdt 1B
Hastings, MI, Hastings, Takeoff Minimums and Obstacle DP, Amdt 6
Brownfield, TX, Terry County, RNAV (GPS) RWY 2, Amdt 1
Brownfield, TX, Terry County, RNAV (GPS) RWY 20, Amdt 1
Cheyenne, WY, Cheyenne Rgnl/Jerry Olson Field, RADAR 1, Amdt 2
Cheyenne, WY, Cheyenne Rgnl/Jerry Olson Field, RNAV (GPS) RWY 9, Amdt 1B
Cheyenne, WY, Cheyenne Rgnl/Jerry Olson Field, RNAV (GPS) RWY 13, Amdt 1B
Cheyenne, WY, Cheyenne Rgnl/Jerry Olson Field, RNAV (GPS) RWY 27, Orig-C
Cheyenne, WY, Cheyenne Rgnl/Jerry Olson Field, RNAV (GPS) RWY 31, Amdt 1B
Cheyenne, WY, Cheyenne Rgnl/Jerry Olson Field, VOR OR TACAN–A, Amdt 10B

RESCINDED: On January 26, 2018 (83 FR 3572), the FAA Published an Amendment in Docket No. 31175, Amdt No. 3783, to Part 97 of the Federal Aviation Regulations Under Section 97.23, 97.29, and 97.33. The Following Entries for East Tawas, MI, Duluth, MN, and Dayton, OH, Effective March 29, 2018, Are Hereby Rescinded in Their Entirety:

East Tawas, MI, Iosco County, VOR–A, Amdt 8, CANCELED
Duluth, MN, Duluth Intl, COPTER ILS OR LOC RWY 27, Amdt 2B
Duluth, MN, Duluth Intl, ILS OR LOC RWY 9, ILS RWY 9 (SA CAT I), ILS RWY 9 (CAT II), Amdt 22B
Duluth, MN, Duluth Intl, ILS OR LOC RWY 27, Amdt 10C
Dayton, OH, James M Cox Dayton Intl, ILS OR LOC RWY 18, Amdt 10A
Dayton, OH, James M Cox Dayton Intl, ILS OR LOC RWY 24L, Amdt 10A
Dayton, OH, James M Cox Dayton Intl, ILS OR LOC RWY 24R, Amdt 10A

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BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1420

[CPSC Docket No. 2017–0032]

All-Terrain Vehicles

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Act (CPSA), as amended by the Consumer Product Safety Improvement Act of 2008 (CPSIA), required the Consumer Product Safety Commission (CPSC or the Commission) to publish, as a mandatory consumer product safety standard, the *American National Standard for Four-Wheel All-Terrain Vehicles,* developed by the Specialty Vehicle Institute of America (ANSI/SVIA 1–2007). CPSC published that mandatory consumer product safety standard on November 14, 2008. ANSI/SVIA issued a 2017 edition of its standard in June 2017. In accordance with the CPSA, CPSC is issuing this final rule to amend the Commission's mandatory ATV standard to reference the 2017 edition of the ANSI/SVIA standard.

DATES: This rule will become effective on January 1, 2019. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of January 1, 2019.

FOR FURTHER INFORMATION CONTACT: Justin Jirgl, Compliance Officer, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: 301–504–7814; email: *jjirgl@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

Section 42 of the Consumer Product Safety Act (CPSA), as amended by section 232 of the CPSIA, directed the Commission to ''publish in the **Federal Register** as a mandatory consumer product safety standard the American National Standard for Four-Wheel All-Terrain Vehicles Equipment Configuration, and Performance Requirements developed by the Specialty Vehicle Institute of America (American National Standard ANSI/SVIA 1–2007).'' 15 U.S.C. 2089(a)(1). Accordingly, on November 14, 2008, CPSC published a final rule, codified at 16 CFR part 1420, mandating ANSI/SVIA 1–2007 as a consumer product safety standard. 73 FR 67385.

Section 42(b) of the CPSA provides that, if ANSI/SVIA 1–2007 is revised after the Commission has published a **Federal Register** notice mandating the standard as a consumer product safety standard, ANSI must notify the Commission of the revision, and the Commission has 120 days after it receives that notification to issue a notice of proposed rulemaking to amend the Commission's mandatory ATV standard ''to include any such revision that the Commission determines is reasonably related to the safe performance of [ATVs] and notify the Institute of any provision it has determined not to be so related.'' 15 U.S.C. 2089(b)(1) and (2). Thereafter, the Commission has 180 days after publication of the proposed amendment to publish a final amendment to revise the ATV standard. *Id.* On February 29, 2012, the Commission revised part 1420, in accordance with the revision procedures set out in the CPSA, to reference the 2010 edition of the ANSI/SVIA standard. 77 FR 12197.

II. The Proposed and Final Rules

On June 14, 2017, ANSI notified the Commission that the ANSI/SVIA standard had been revised in 2017, and that the new standard, ANSI/SVIA 1–2017, was approved on June 8, 2017. On September 13, 2017, the Commission published a proposed rule (NPR), 82 FR 42962, to amend part 1420 to reference the 2017 edition of the ANSI/SVIA standard. In the NPR, the Commission described two material changes to ANSI/SVIA 1–2017, which compared to the 2010 edition of the standard, are reasonably related to the safe performance of ATVs: (A) Requirements for stop lamps or combination tail-stop lamps on all adult and transition category ATVs, and on all youth ATVs equipped with a head lamp or conspicuity lamp; and (B) requirements for reflectors for all categories of ATVs. 82 FR at 42961. These revisions have not changed for the final rule.

A. Stop Lamps and Reflectors

ANSI/SVIA 1–2017 Section 4.17, Lighting & Reflective Equipment, requires that all categories of ATVs be equipped with reflectors, all adult and transition ATVs be equipped with stop

lamps, and that all youth ATVs already equipped with a head lamp or conspicuity lamp also be equipped with stop lamps.

1. Stop Lamps

ANSI/SVIA 1–2017 requires stop lamps or combination tail-stop lamps on all adult and transition category ATVs, and on all youth ATVs equipped with a head lamp or conspicuity lamp. In May 2015, CPSC requested that SVIA consider adding requirements relating to stop lamps to increase the detectability of ATVs, based on a preliminary analysis of 2007 ATV fatality data involving two ATVs colliding. CPSC staff worked with SVIA to develop the stop lamp requirements contained in ANSI/SVIA 1–2017. The stop lamp requirements in ANSI/SVIA 1–2017 are intended to improve the optional provision for stop lamps in the 2010 edition of the voluntary standard, to reduce rear-end collisions related to non-detection of a vehicle braking.

2. Reflectors

ANSI/SVIA 1–2017 requires one amber reflector on each side of the ATV (mounted as far forward as practicable), one red reflector on each side of the ATV (mounted as far rearward as practicable), one red reflector on the rear of the vehicle, and one white reflector on the front of the ATV, if not equipped with a headlamp or conspicuity light. These requirements are for all categories of ATV. The NPR reviewed that reflector use may increase the detectability of ATVs, citing CPSC staff's review of 331 fatal ATV-related vehicular collision incidents that found that more than 30 percent of these incidents occurred at night and an additional 5 percent occurred in low light (*i.e.,* dusk). Moreover, CPSC's review of data demonstrate that fatalities occur when ATVs cross public roads between fields or trails. Although many factors contribute to incidents, increasing the visibility of ATVs at night will raise the likelihood that the driver of an oncoming vehicle will detect the ATV. Early detection of an ATV may allow the driver of an oncoming vehicle sufficient time to react and avoid a collision.

In May 2015, CPSC requested that SVIA consider adding requirements relating to reflectors, and worked with SVIA in developing the reflector requirements contained in ANSI/SVIA 1–2017. The ANSI/SVIA 1–2017 reflector requirements are intended to increase the visibility of an ATV at night and may reduce vehicular collisions related to non-detection of other vehicles.

The Commission now reviews the comments on the NPR, and finalizes the amendment to part 1420, updating the reference in part 1420 to ANSI/SVIA 1–1017, as described herein.

III. Response to Comments

The Commission received 32 comments on the NPR. However, 26 comments were about renewable energy and climate issues, and thus, were not related to the proposed amendment of the consumer product safety standard for ATVs. Of the remaining six comments relevant to the NPR, three agreed with the proposed rule, two opposed the proposed rule, and one commented on the proposed effective date.

Below the Commission summarizes and responds to the significant issues raised in the relevant comments.

A. Comment Regarding the Effective Date of the Final Rule

Comment: The SVIA objected to the proposed 60-day effective date specified in the NPR. SVIA noted that although the CPSIA requires the Commission to issue an NPR within 120 days of receiving notification of the revised ANSI/SVIA standard, the Commission issued the NPR within 90 days of notification, on September 13, 2017, instead of closer to the statutory deadline of October 12, 2017. SVIA added that although the Commission is required to publish a final rule by March 12, 2018, the Commission could issue the final rule earlier. SVIA contended that the Commission's ability to issue the final rule earlier than the statutory deadline presents an uncertainty in the effective date, which makes it difficult for ATV manufacturers to plan for compliance. SVIA requested that the effective date of the final rule apply to ATVs beginning with the 2019 model year, to accommodate changes to the design of certain ATVs.

Moreover, SVIA stated that modifications to meet the new standard require ''changes to the electrical system and will require new engineering, designing, fabricating, and testing of reflectors and mounting brackets, all of which must be arranged significantly in advance of implementation.'' SVIA noted that to meet the proposed 60-day effective date, all of these changes must be done before ATVs are imported and would apply to 2018 model year ATVs, which have already been designed and are under production, and may be awaiting shipment. SVIA contended that a 60-day effective date would also impose a financial burden on manufacturers, contrary to CPSC's statement that the proposed rule would not pose a significant impact on small manufacturers.

Response: The Commission cannot set an effective date based on a model year for several reasons. First, effective dates for Commission rules are set by providing a calendar date based on the date of publication of a final rule. Second, manufacturers have varying schedules for manufacturing, importing, and distributing model years, making enforcement of a rule based on a model year more difficult. For enforcement purposes, and for clarity for consumers, the final rule provides an effective date that is a specific calendar date.

Note that when the Commission amended the mandatory standard for ATVs in 2012, the seven major distributors of ATVs requested that the amended mandatory standard be effective for 2013 model year ATVs, or alternatively, 60 days after publication of the final rule.[1] In the 2012 rulemaking, CPSC responded that tying the effective date to a particular model year was problematic because vehicle model years do not begin and end on the same date for each company. Based on this previous experience, the Commission proposed a 60-day effective date for the final rule, believing that the revisions required to meet the revised standard were not substantial, and that such a date would correspond with planning for the 2019 model year. 82 FR 42962.

SVIA's comment on the current rulemaking, however, provides sufficient rationale to demonstrate why the proposed 60-day effective date is not suitable for all ATV manufacturers. Moreover, as explained above, the Commission's intention was to align the effective calendar date of the final rule with the introduction of model year 2019 ATVs to the U.S. market. SVIA's past comments indicate that planning for the 2019 model year has been under way since March 2017, and that model year 2019 vehicles will be released in the 2018 calendar year.

Based on SVIA's comments, the final rule establishes an effective date of January 1, 2019. A January 1, 2019 effective date will address staff's enforcement concerns, as well as provide manufacturers with sufficient time to make the changes SVIA states are needed so that all vehicles manufactured or imported after that date comply with the final rule.

[1] All-Terrain Vehicles: Final Rule Amending Consumer Product Safety Standard, dated February 8, 2012. Retrieved from: *https://www.cpsc.gov/s3fs-public/pdfs/foia_atvfinal.pdf.*

B. Comments Regarding Data Presented in the NPR

Comment: Several commenters stated that the data presented in the NPR are insufficient to support the final rule. One commenter stated that the Commission failed to base the proposed requirement for rear-end lamps and reflectors on accurate or convincing statistics, noting: ''Commission staff claims that this 13 incident-study provides proof that rear-end lamps would have prevented the pattern of rear-end collisions related to braking.'' Another commenter stated that the final rule should include additional evidence regarding the number of fatalities that result from rear-end collisions and the benefits that will accrue if manufacturers are required to install stop lamps on ATVs.

Focusing on the sufficiency of the data, one commenter argued that CPSC may exceed its authority to promulgate a rule because the majority of ATVs already have stop lamps, which does not support the conclusion that a stop lamp requirement is reasonably related to the safe performance of ATVs. Similarly, another commenter concluded that the proposed rule lacked ''the factual or analytical basis'' to support a rule, and therefore, was ''arbitrary and capricious.''

Response: Under section 42(b) of the CPSA, 15 U.S.C. 2089(b)(2), once notified by ANSI of a change to the voluntary standard for ATVs, the Commission is required to amend the consumer product safety standard for all-terrain vehicles to include any such revision that the Commission determines is reasonably related to the safe performance of all-terrain vehicles, and must notify ANSI of any provision the Commission determines not to be so related. This rulemaking follows the procedure required by the statute for the Commission to use when ANSI revises its voluntary standard. The Commission is not establishing its own consumer product safety standard under the requirements of sections 7 and 9 of the CPSA.

Regarding the data presented in the NPR, staff's analysis of the 2007 study identified 13 rear-end collisions, and staff noted that eight of the 13 incidents ''illustrate the hazard of rear-end collisions related to braking.'' Staff did not, and does not, represent that anecdotal incidents constitute ''proof'' of the effectiveness of stop lamps.

The information provided in the NPR explained CPSC staff's interactions with the voluntary standard organization, and provided context for why the Commission determined that the provisions in the voluntary standard are reasonably related to the safe performance of ATVs, which is the standard required by statute. Further, the National Highway Traffic Safety Administration (NHTSA) recognizes that conspicuity of a vehicle is related to the safety performance of vehicles in its Federal Motor Vehicle Safety Standards (FMVSS) for automobiles. Stop lamps and reflectors are specifically included in FMVSS 108 *Lamps, reflective devices, and associated equipment* and FMVSS 500 *Low-speed vehicles* as safety equipment. SVIA also recognizes conspicuity to be related to the safe performance of ATVs, and in the Annex of ANSI/SVIA 1–2017, specifically states that ''conspicuity lights, tail lamps, and stop lamps can also be beneficial under certain riding conditions such as heavy brush, dusty or shaded trails, and similar low-light conditions'' and that ''reflex reflectors have been added for all categories of ATVs to aid in making ATVs more visible.''

Based on the information described in the NPR and reviewed above, the Commission has no basis to conclude that the conspicuity changes to the ANSI standard are not reasonably related to the safe performance of ATVs. In the NPR, the Commission determined that increasing the conspicuity of an ATV helps an ATV to be seen by other vehicles in various lighting conditions. Accordingly, the Commission determined that voluntary standard provisions that increase ATV conspicuity are reasonably related to the safe performance of ATVs. By statute, the Commission is required to include such provisions in the mandatory consumer product safety standard.

C. Comments Regarding the Scope of the Stop-Lamp Requirement

Comment: Two commenters stated that the final rule should clarify the scope of the proposed stop-lamp requirement and provide rationale if the requirement only applies to adult and transition category ATVs. One commenter stated that the requirement for stop-lamps should be for ''all categories of ATVs.''

Response: ANSI/SVIA 1–2017 requires stop lamps on all adult and transition ATVs, and on all youth ATVs equipped with a head lamp or conspicuity lamp. A youth ATV without any front lights does not require a stop lamp. By design, youth ATVs do not have the same speed and equipment capabilities as adult and transition ATVs. For example, not all youth ATVs are equipped with lights, nor do they have electrical systems that are robust enough to support front or rear lights. Accordingly, revisions to the voluntary standard require reflectors on all categories of ATVs, but the revisions only require stop lamps on youth ATVs when it is technically feasible to do so. This approach in the voluntary standard is a practical technical solution for increasing conspicuity of youth ATVs.

The final consumer product safety standard for ATVs (16 CFR part 1420) will require that ATVs comply with the applicable provisions of the 2017 revision of ANSI/SVIA, 1 *American National Standard for Four Wheel All-Terrain Vehicles.* Therefore, the mandatory standard for ATVs will require stop lamps on all adult and transition ATVs, and also require them on all youth ATVs equipped with a head lamp or conspicuity lamp.

D. Comment on the Burden Imposed by the Final Rule

Comment: One commenter stated that the Commission did not adequately consider the burden on industry if the final rule is implemented, stating that the NPR ''disregards the fact that adopting these new standards will impose financial hardship on ATV manufacturers.'' This commenter suggested that, in lieu of the final rule, ''the Commission implement a mandatory licensing program that teaches ATV safety.''

Response: The commenter provided no information or data for CPSC to evaluate regarding the alleged hardship to industry. SVIA stated that manufacturer planning for 2019 model year ATVs is under way and that manufacturers intend to meet the requirements of ANSI/SVIA 1–2017 for the 2019 model year. Other than the effective date issue discussed above, the Commission did not receive any comments from any ATV manufacturer or SVIA to support the contention that implementation of the final rule will impose a financial hardship. As discussed above, the final rule sets January 1, 2019 as the effective date to address SVIA's concern.

Regarding the suggestion that the Commission establish a licensing and instruction program, such action is outside the jurisdiction of the CPSC's authority. The authority to implement any licensing requirements for ATV drivers rests with the states.

IV. Description of the Final Rule

The final rule revises 16 CFR 1420.3(a), ''Requirements for four-wheel ATVs'' to incorporate by reference the ANSI/SVIA 1–2017 standard, instead of the ANSI/SVIA 1–2010 version. ANSI/SVIA 1–2017 contains requirements and

test methods relating to ATVs, including vehicle equipment and configuration, vehicle speed capability, brake performance, pitch stability, electromagnetic compatibility, and sound level limits. Revisions incorporated into ANSI/SVIA 1–2017 are described in section II of this preamble.

V. Effective Date

Section 42(b) of the CPSA provides a timetable for the Commission to issue a notice of proposed rulemaking (within 120 days of receiving notification of a revised ANSI/SVIA standard) and to issue a final rule (within 180 days of publication of the proposed rule), but the statute does not set an effective date. The Commission proposed in the NPR that the final rule would take effect 60 days after publication of a final rule in the **Federal Register**, and it would apply to ATVs manufactured or imported on or after that date. However, based on the SVIA's objection to a 60-day effective date, as discussed above in section III.A, the effective date for this final rule is January 1, 2019. Accordingly, all ATVs manufactured or imported on or after January 1, 2019, must comply with the final rule.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that agencies review a proposed rule for the rule's potential economic impact on small entities, including small businesses. The NPR explained that the most significant changes to the voluntary standard involved requirements for brake-actuated stop lamps and reflectors, and that CPSC's analysis demonstrated that the majority of ATVs already comply with these requirements. Consequently, the Commission anticipated that the cost of the changes required to bring ATVs that do not comply into compliance with the rule would be very low on a per-unit basis. The Commission certified that the rule would not have a significant impact on a substantial number of small entities. 82 FR at 42962.

As discussed in section III.A of this preamble, the Commission received a comment from the SVIA stating that the proposed 60-day effective date could change the financial impact of the rule. In response, the Commission will provide additional time to comply with the final rule, setting January 1, 2019 as the effective date. Affording a later effective date should provide manufacturers sufficient time to incorporate any necessary changes during the normal planning and design of new model year ATVs. Accordingly, based on staff's assessment using January 1, 2019 as the effective date, the Commission certifies that the final rule is unlikely to have a significant impact on a substantial number of small entities.

VII. Paperwork Reduction Act

The final rule does not impose any information collection requirements. Accordingly, this rule is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501–3520.

VIII. Environmental Considerations

The Commission's regulations provide a categorical exemption for the Commission's rules from any requirement to prepare an environmental assessment or an environmental impact statement as they ''have little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(2). This final rule falls within the categorical exemption.

IX. Incorporation by Reference

Section 1420.3 of the final rule provides that ATVs must comply with ANSI/SVIA 1–2017. The OFR has regulations concerning incorporation by reference. 1 CFR part 51. These regulations require that, for a final rule, agencies must discuss in the preamble to the rule the way in which materials that the agency incorporates by reference are reasonably available to interested persons, and how interested parties can obtain the materials. Additionally, the preamble to the rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR's requirements, the discussion in sections II, III, and IV of this preamble summarize the provisions of ANSI/SVIA 1–2017. ANSI/SVIA 1–2017 is copyrighted. Interested persons may purchase a copy of ANSI/SVIA 1–2017 from Specialty Vehicle Institute of America, 2 Jenner, Suite 150, Irvine, CA 92618–3806; telephone: 949–727–3727 ext. 3023; *www.svia.org.* One may also inspect a copy at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone: 301–504–7923.

X. Preemption

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that when a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a standard or regulation that prescribes requirements for the performance, composition, contents, design, finish, construction, packaging, or labeling of such product dealing with the same risk of injury unless the state requirement is identical to the federal standard. Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the Commission for an exemption from this preemption under certain circumstances. Section 42(a)(1) of the CPSA refers to rules issued under that section as ''consumer product safety standards.'' Therefore, the preemption provision of section 26(a) of the CPSA applies to this final rule.

XI. Notice of Requirements

The CPSA establishes certain requirements for product certification and testing. Certification of children's products subject to a children's product safety rule must be based on testing conducted by a CPSC-accepted third-party conformity assessment body. 15 U.S.C. 2063(a)(2). The Commission is required to publish a notice of requirements (NOR) for the accreditation of third-party conformity assessment bodies to assess conformity with a children's product safety rule to which a children's product is subject. *Id.* 2063(a)(3). On August 27, 2010, the Commission published an NOR for accreditation of third-party conformity assessment bodies for testing ATVs designed or intended primarily for children 12 years of age or younger. 75 FR 52616. The 2017 revision to the ATV standard does not substantially alter third party conformance testing requirements for ATVs designed or intended primarily for children 12 years of age or younger. Accordingly, the NOR for third-party testing of youth ATVs remains unchanged. The Commission considers the existing accreditations that the Commission has accepted for testing to the ATV standard to also cover testing to the revised 2017 ATV standard.

List of Subjects in 16 CFR Part 1420

Consumer protection, Imports, Incorporation by reference, Infants and children, Information, Labeling, Law enforcement, Recreation and recreation areas, Reporting and recordkeeping requirements, Safety.

For the reasons stated in the preamble, the Commission amends 16 CFR part 1420 as follows:

PART 1420—REQUIREMENTS FOR ALL-TERRAIN VEHICLES

■ 1. The authority citation for part 1420 continues to read as follows:

Authority: The Consumer Product Safety Improvement Act of 2008, Pub. Law 110–314, § 232, 122 Stat. 3016 (August 14, 2008).

§ 1420.1 [Amended]

■ 2. In the second sentence of § 1420.1, remove the words, ''April 30, 2012'', and add in their place ''January 1, 2019''.

■ 3. Revise § 1420.3(a) to read as follows:

§ 1420.3 Requirements for four-wheel ATVs.

(a) Each ATV shall comply with all applicable provisions of the American National Standard for Four-Wheel All-Terrain Vehicles (ANSI/SVIA 1–2017), ANSI-approved on June 8, 2017. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from Specialty Vehicle Institute of America, 2 Jenner, Suite 150, Irvine, CA 92618–3806; telephone: 949–727–3727 ext. 3023; *www.svia.org.* You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD. 20814, telephone: 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

* * * * *

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2018–03904 Filed 2–26–18; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

[CPSC Docket No. CPSC–2012–0036]

Hazardous Substances and Articles; Administration and Enforcement Regulations: Corrections to Animal Testing Regulations

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: The Consumer Product Safety Commission (CPSC or Commission) is issuing a direct final rule to correct its animal testing regulations under the Federal Hazardous Substances Act (FHSA). The rule reinserts text that was inadvertently omitted and corrects references.

DATES: The rule is effective on April 30, 2018, unless we receive significant adverse comment by March 29, 2018. If we receive timely significant adverse comment, we will publish notification in the **Federal Register**, withdrawing this direct final rule before its effective date.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2012–0036, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *www.regulations.gov.* Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *www.regulations.gov,* and insert the docket number CPSC–2012–0036, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Alice Thaler, Associate Executive Director for Health Sciences, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone (301) 987–2240; *athaler@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261–1278, requires appropriate cautionary labeling on certain hazardous household substances to alert consumers to the potential hazards that a product may present. Among the hazards addressed by the FHSA are products that are toxic, corrosive, irritants, flammable, combustible, or strong sensitizers. The FHSA and the Commission's regulations at 16 CFR part 1500 provide the definitions and test methods used to determine whether a substance is ''hazardous'' under the FHSA. Specifically, § 1500.3(b) of these regulations restates the statutory definitions that are in the FHSA. Section 1500.3(c) interprets, supplements, or provide alternatives to the statutory definitions. Section 1500.40 provides the method of testing toxic substances.

On December 10, 2012, the CPSC amended and updated regulations on the CPSC's animal testing methods under the FHSA (77 FR 73289). Among other things, the amendment to 16 CFR 1500.3 explained that alternative test methods exist that avoid, reduce, or refine animal testing to determine toxicity. At the same time, the CPSC codified its statement of policy on animal testing to reflect new test methods accepted by the scientific community, including recommendations of the Interagency Coordinating Committee on the Validation of Alternative Methods in a new section, 16 CFR 1500.232. (77 FR 73286). Sections 1500.3(c) and 1500.232 cross-reference each other.

CPSC staff recently reviewed the animal testing regulations. Staff's review showed that when CPSC revised the animal testing regulations, the definitions in 16 CFR 1500.3(c)(2)(i), inadvertently removed the definition of ''acute toxicity'' (oral, dermal, and inhalation). Before the 2012 amendment, this definition appeared at § 1500.3(c)(2)(i)(A) through (C). We are amending § 1500.3(c)(2)(i) to restore the ''acute toxicity'' definition. In addition, staff found that two other corrections are needed. As explained below, we are reinserting a sentence into the definition of ''corrosive'' in § 1500.3, and we are correcting a reference that appears in the regulation on method of testing toxic substances at § 1500.40.

B. Amendments

1. Definition of ''Toxic''

The FHSA defines the term ''toxic.'' 15 U.S.C. 1261(f). The Commission has issued regulations that supplement the FHSA's statutory definition under 16 CFR 1500.3(c). Before 2012, the regulatory definitions included a definition of ''acute toxicity,'' which provided guidance on the toxicity of substances falling in different toxicity ranges for oral, dermal, and inhalation exposures. The Commission intended to retain those paragraphs in the CFR under § 1500.3(c)(2)(i) when it amended the animal testing regulations. 77 FR 73293. However, the subsequent

versions of the CFR omitted those subparagraphs. These provisions are necessary because they give specificity to the definition of ''toxic.'' The paragraphs that were omitted included guidance on when a substance might be considered for exemption from some or all of the labeling requirements of the FHSA. In addition, the omitted provisions provided guidance on the toxicity of substances falling within the toxicity range of 500 mg and 5 grams per kilogram of body weight. Without this text in the CFR, the CPSC cannot reference the testing criteria that help to determine acute toxicity. The animal testing policy under 16 CFR 1500.232(b)(1)(i) also refers to these paragraphs (16 CFR 1500.3(c)(1) and (2)) to describe the traditional animal testing methods.

Accordingly, the Commission amends § 1500.3(c)(2)(i) to reinstate the omitted paragraphs to give specificity to the definition of ''toxic.''

2. Interpretation of ''Corrosive''

Section 1500.3(c)(3) provides a regulatory definition of ''corrosive'' that supplements the statutory definition of ''corrosive'' under the FHSA. Before the 2012 amendment of the animal testing regulations, 16 CFR 1500.3(c)(3) included a citation to the relevant section of the FHSA that defined the term ''corrosive,'' 15 U.S.C. 1261(h)(2)(i), and a cross-reference to 16 CFR 1500.3(b)(7), which restated the statutory definition of ''corrosive.'' However, that text was removed in the subsequent editions of the CFR. The Commission believes that reinserting that sentence in § 1500.3(c)(3) will help clarify what is meant by ''corrosive'' by providing the references to the statutory definition under the FHSA. Accordingly, the Commission amends § 1500.3(c)(3) to reference the definition of ''corrosive'' under 15 U.S.C. 1261(h)(2)(i), as cross-referenced in 16 CFR 1500.3(b)(7).

3. Method of Testing Toxic Substances

The method of testing toxic substances for acute dermal toxicity is set forth in 16 CFR 1500.40. Currently, the method of testing the toxic substances references ''§ 1500.3(c)(1)(ii)(C) and (c)(2)(iii).'' However, § 1500.3(c)(2)(iii) does not exist. Accordingly, the Commission is amending § 1500.40 to correct the references for testing toxic substances, which are § 1500.3(c)(1) and (2).

C. Direct Final Rule Process

The Commission is issuing this rule as a direct final rule. The Administrative Procedure Act (APA) generally requires notice and comment rulemaking. 5 U.S.C. 553. The direct final rule process is an appropriate process for expediting the issuance of non-controversial rules. In Recommendation 95–4, the Administrative Conference of the United States (ACUS) endorsed direct final rulemaking as an appropriate procedure to expedite promulgating rules that are noncontroversial and that are not expected to generate significant adverse comment. *See* 60 FR 43108 (August 18, 1995). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule because we believe the corrections will not be controversial. The rule will not impose any new obligations, but rather, will reinstate text that was inadvertently omitted and correct references. Therefore, the Commission believes this rulemaking is a non-controversial matter that is not likely to engender any significant comments.

Unless we receive a significant adverse comment within 30 days, the rule will take effect on April 30, 2018. In accordance with ACUS's recommendation, the Commission considers a significant adverse comment to be one where the commenter explains why the rule would be inappropriate, including an assertion challenging the rule's underlying premise or approach, or a claim that the rule would be ineffective or unacceptable without change.

Should the Commission receive significant adverse comment, the Commission would withdraw this direct final rule. Depending on the comments and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that agencies review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603 and 604. When CPSC issued the animal testing regulations in December 2012, staff assessed the potential effect the regulations would have on small businesses, and the Commission certified that the rule would not have a significant impact on a substantial number of small entities. 77 FR 73293. The corrections to the regulations do not make any substantive changes. Therefore, the Commission certifies that the direct final rule will not have a significant impact on a substantial number of small entities.

E. Paperwork Reduction Act

This rule would not impose any information collection or disclosure requirements. Accordingly, the rule is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501–3520.

F. Environmental Considerations

This rule makes corrections to regulatory definitions and references. As such, the rule will not affect the human environment. See 16 CFR 1021.5.

List of Subjects in 16 CFR Part 1500

Consumer protection, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, Reporting and recordkeeping requirements, Toys.

Accordingly, 16 CFR part 1500 is amended as follows:

PART 1500—[AMENDED]

■ 1. The authority citation for part 1500 is revised to reads as follows:

Authority: 15 U.S.C. 1261–1278.

■ 2. Amend § 1500.3 by:
■ a. Revising paragraph (c)(2)(i); and
■ b. Adding a sentence to the beginning of paragraph (c)(3).

The revision and addition read as follows:

§ 1500.3 Definitions.

* * * * *

(c) * * *

(2) * * *

(i) *Acute toxicity. Toxic* means any substance that produces death within 14 days in half or more than half of a group of:

(A) White rats (each weighing between 200 and 300 grams) when a single dose of from 50 milligrams to 5 grams per kilogram of body weight is administered orally. Substances falling in the toxicity range between 500 milligrams and 5 grams per kilogram of body weight will be considered for exemption from some or all of the labeling requirements of the act, under § 1500.82, upon a showing that such labeling is not needed because of the physical form of the substances (solid, a thick plastic, emulsion, etc.), the size or closure of the container, human experience with the article, or any other relevant factors;

(B) White rats (each weighing between 200 and 300 grams) when an atmospheric concentration of more than 200 parts per million but not more than 20,000 parts per million by volume of gas or vapor, or more than 2 but not more than 200 milligrams per liter by

volume of mist or dust, is inhaled continuously for 1 hour or less, if such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner; and/or

(C) Rabbits (each weighing between 2.3 and 3.0 kilograms) when a dosage of more than 200 milligrams but not more than 2 grams per kilogram of body weight is administered by continuous contact with the bare skin for 24 hours by the method described in § 1500.40.

(D) The number of animals tested shall be sufficient to give a statistically significant result and shall be in conformity with good pharmacological practices. *Toxic* also applies to any substance that can be labeled as such, based on the outcome of any of the approved test methods described in the CPSC's animal testing policy set forth in § 1500.232, including data from *in vitro* or *in silico* test methods that the Commission has approved; or a validated weight-of-evidence analysis comprising all of the following that are available: Existing human and animal data, structure activity relationships, physicochemical properties, and chemical reactivity data.

* * * * *

(3) The definition of corrosive in section 2(i) of the act (restated in paragraph (b)(7) of this section) is interpreted to also mean the following:

* * *

* * * * *

§ 1500.40 [Amended]

■ 3. Amend the last sentence of the introductory text of § 1500.40 by removing the citation ''§ 1500.3(c)(1)(ii)(C) and (c)(2)(iii)'' and adding in its place ''§ 1500.3(c)(1) and (2).''

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2018–03916 Filed 2–26–18; 8:45 am]

BILLING CODE 6355–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 270 and 274

[Release No. IC–33010; File No. S7–03–18]

RIN 3235–AM26

Investment Company Liquidity Risk Management Programs; Commission Guidance for In-Kind ETFs

AGENCY: Securities and Exchange Commission.

ACTION: Interim final rule; request for comment; interpretation.

SUMMARY: The Securities and Exchange Commission is adopting an interim final rule that revises the compliance date for the requirements of rule 22e–4 for classification, highly liquid investment minimum, and board approval, as well as related reporting requirements of Part D on Form N–LIQUID and liquidity disclosures on Form N–PORT under the Investment Company Act of 1940. The revised compliance date will be June 1, 2019, for larger entities (revised from December 1, 2018) and December 1, 2019, for smaller entities (revised from June 1, 2019). The Commission is not extending the compliance date for the other provisions of rule 22e–4 and Form N–LIQUID, and liquidity-related changes to Form N–CEN—which remain December 1, 2018 for larger entities and June 1, 2019 for smaller entities. The Commission also is not extending the compliance date for the liquidity-related provisions of Form N–1A, which has already passed. Finally, the Commission is providing guidance to assist funds that will not be engaging in full portfolio classification before the revised compliance date, and In-Kind ETFs, which are not required to engage in full portfolio classification, in identifying illiquid investments for purposes of complying with the 15% illiquid investment limit.

DATES:

Effective Dates: The effective date of the interim final rule is March 29, 2018. The effective date for 17 CFR 270.22e–4 and 270.30b1–10 and the amendments to Form N–PORT (referenced in 17 CFR 274.150) published at 81 FR 82267 (November 18, 2016) remains January 17, 2017, and the effective date for amendments to Form N–CEN (referenced in 17 CFR 274.101) published at 81 FR 82267 (November 18, 2016) remains June 1, 2018.

Compliance Dates: The compliance date for 17 CFR 270.22e–4(b)(1)(ii) except to the extent referenced in 17 CFR 270.22e–4(a)(8),[1] 17 CFR 270.22e–4(b)(1)(iii), 17 CFR 270.22e–4(b)(2)(i) and (iii), certain elements of 17 CFR 270.22e–4(b)(3) related to the delayed provisions of rule 22e–4, and the liquidity-related amendments to Form N–PORT (discussed in section I.C below) and Part D of Form N–LIQUID have been extended until June 1, 2019 for larger entities, and December 1, 2019 for smaller entities, as defined in section I below.

Comment Date: Comments should be received on or before April 27, 2018.

[1] *See infra* footnote 71.

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/interim-final-temp.shtml*);
- Send an email to *rule-comments@sec.gov*. Please include File Number S7–03–18 on the subject line; or

Paper Comments

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

All submissions should refer to File Number S7–03–18. This file number should be included on the subject line if email is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/interim-final-temp.shtml*). Comments are also available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change. 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.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the Commission's website. To ensure direct electronic receipt of such notifications, sign up through the ''Stay Connected'' option at www.sec.gov to receive notifications by email.

FOR FURTHER INFORMATION CONTACT: Zeena Abdul-Rahman, Senior Counsel, or Thoreau Bartmann, Senior Special Counsel, at (202) 551–6792, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (''Commission'') is extending the compliance dates associated with following provisions of rule 22e–4 [17 CFR 270.22e–4]: Rule 22e–4(b)(1)(ii) [17 CFR 270.22e–4(b)(1)(ii)] except to the extent it is referenced in rule 22e–4(a)(8) [17 CFR 270.22e–4(a)(8)]; rule 22e–4(b)(1)(iii) [17 CFR 270.22e–4(b)(1)(iii)];

rule 22e–4(b)(2)(i) [17 CFR 270.22e–4(b)(2)(i)]; rule 22e–4(b)(2)(iii) [17 CFR 270.22e–4(b)(2)(iii)]; and certain elements of rule 22e–4(b)(3) [17 CFR 270.22e–4(b)(3)] under the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq.*] (''Investment Company Act'' or ''Act''). The Commission also is extending the compliance dates associated with Part D of Form N–LIQUID [referenced in 17 CFR 274.223] as well as amendments to Form N–PORT [referenced in 17 CFR 274.150] under the Investment Company Act.

I. Discussion

On October 13, 2016, the Commission adopted rule 22e–4 and related rule and form amendments to enhance the regulatory framework for liquidity risk management of registered open-end investment companies (''funds'').[2] Specifically, we adopted rules 22e–4 and 30b1–10, new Form N–LIQUID, as well as amendments to Forms N–1A, N–PORT, and N–CEN (collectively, the ''Liquidity Rule Requirements'').[3] We designed these rules and forms to promote effective liquidity risk management throughout the fund industry and to enhance disclosure regarding fund liquidity and redemption practices.[4]

The compliance date for the amendments to Form N–1A was June 1, 2017. For the remainder of the Liquidity Rule Requirements, the Commission established a tiered set of compliance dates based on a fund group's asset size. Specifically, for larger entities,[5] we adopted a compliance date of December 1, 2018. For smaller entities, we adopted a compliance date of June 1, 2019. As discussed in more detail below, the Commission believes it is appropriate to revise the compliance date for certain elements of the Liquidity Rule Requirements until June 1, 2019 for larger entities and December 1, 2019 for smaller entities.[6]

A. Summary of the Liquidity Rule Requirements

Rule 22e–4—Liquidity Risk Management Programs

Rule 22e–4 requires each fund to adopt and implement a written liquidity risk management program reasonably designed to assess and manage the fund's liquidity risk. A fund's liquidity risk management program must incorporate certain specified elements: (i) Assessment, management, and periodic review of the fund's liquidity risk; (ii) classification of the liquidity of each of the fund's portfolio investments, as well as at least monthly reviews of the fund's liquidity classifications (''portfolio classification'' or ''classification''); (iii) determining and periodically reviewing a highly liquid investment minimum (the ''HLIM''); (iv) limiting the fund's investment in illiquid investments that are assets to no more than 15% of the fund's net assets (''15% illiquid investment limit''); and (v) for funds that engage in, or reserve the right to engage in, redemptions in-kind, the establishment of policies and procedures regarding how they will engage in such redemptions in-kind.

The rule requires each fund to adopt a liquidity risk management program and obtain board approval of such program. Fund boards must also approve an administrator for the program (''program administrator''), and review annual reports from the fund's program administrator on the operation of the program and the program's adequacy and effectiveness of implementation, including, if applicable, the operation of the HLIM, and any material changes to the program.

The portfolio classification requires a fund to classify each portfolio investment into one of four defined liquidity categories, known as ''buckets'': Highly liquid investments, moderately liquid investments, less liquid investments, and illiquid investments.[7] These buckets are intended to take into account relevant market-, trading-, and investment-specific considerations, as well as market depth and whether sales of an investment would significantly change the market value of the investment.[8] While the rule permits a fund to classify portfolio investments based on asset class, it requires the fund to implement a ''reasonable exceptions process'' for investments that should be classified separately from their class.[9] Finally, portfolio classification requires a fund to review its portfolio investments' classifications monthly unless a ''reasonable exceptions process'' requires a more frequent review.[10]

The HLIM requires a fund to determine the minimum amount of net assets that it will invest in highly liquid investments that are assets.[11] This requirement relies on the portfolio classification process to identify which investments are bucketed as highly liquid.

The 15% illiquid investment limit prohibits a fund (as well as an In-Kind ETF) from acquiring any illiquid investment if, immediately after such acquisition, it would have invested more than 15% of its net assets in illiquid investments that are assets.[12] This limit on illiquid investments also refers to the classification element of the rule, but we are providing guidance on how funds may comply with this requirement without engaging in full portfolio classification. In-Kind ETFs, which are exempt from the classification requirement, may look to this guidance to assist them in complying with the 15% illiquid investment limit on a permanent basis.

Disclosure Amendments

In addition to rule 22e–4, the Commission adopted certain public disclosure requirements to provide shareholders and other users with additional information on fund liquidity

[2] The term ''funds'' used in this release includes open-end management companies, including exchange-traded funds (''ETFs'') that do not qualify as In-Kind ETFs (as defined in rule 22e–4(a)(9)), and excludes money market funds.

[3] Investment Company Liquidity Risk Management Programs, Investment Company Act Release No IC–32315 (Oct. 13, 2016) [81 FR 82142 (Nov. 18, 2016)] (''Adopting Release'').

[4] *See id.,* at text accompanying n.112.

[5] ''Larger entities'' are defined as funds that, together with other investment companies in the same ''group of related investment companies,'' have net assets of $1 billion or more as of the end of the most recent fiscal year of the fund. ''Smaller entities'' are defined as funds that, together with other investment companies in the same group of related investment companies, have net assets of less than $1 billion as of the end of its most recent fiscal year. *See* Adopting Release, *supra* footnote 3, at n.997. We adopted this tiered set of compliance dates based on asset size because we anticipated that smaller groups would benefit from this extra time to comply and from the lessons learned by larger investment companies. *See* Adopting Release, *supra* footnote 3, at n.1009 and accompanying text.

[6] The effective date of January 17, 2017 for these elements is unchanged. As described in this release, the Commission is revising compliance dates associated with certain aspects of rule 22e–4, Form N–PORT and Form N–LIQUID.

[7] Rule 22e–4(b)(1)(ii). This classification is based on the number of days in which a fund reasonably expects an investment would be convertible to cash (or, in the case of the less-liquid and illiquid categories, sold or disposed of) without the conversion significantly changing the market value of the investment.

[8] Rule 22e–4(b)(1)(ii).

[9] Rule 22e–4(b)(1)(ii)(A) (''The fund may generally classify and review its portfolio investments . . . according to their asset class, provided, however, that the fund must separately classify and review any investment within an asset class if the fund or its adviser has information about any market, trading, or investment-specific considerations that are reasonably expected to significantly affect the liquidity characteristics of that investment as compared to the fund's other portfolio holdings within that asset class.'').

[10] Rule 22e–4(b)(1)(ii)(''A fund must review its portfolio investments' classifications, at least monthly in connection with reporting the liquidity classification for each portfolio investment on Form N–PORT . . . and more frequently if changes in relevant market, trading, and investment-specific considerations are reasonably expected to materially affect one or more of its investments' classifications.'').

[11] Rule 22e–4(a)(7).

[12] Rule 22e–4(b)(1)(iv).

risk. It also adopted certain non-public reporting requirements to assist the Commission in its monitoring efforts.[13] Specifically:

- Rule 30b1–10 and related Form N–LIQUID provide non-public notification to the Commission whenever a fund's illiquid investments exceed 15% of its net assets and if its amount of highly liquid investments declines below its HLIM for more than seven days.
- Amendments to Form N–PORT generally require a fund to report monthly to the Commission, on a non-public basis, the portfolio investments in each of the defined buckets and the fund's HLIM.[14] The form also requires a fund to disclose publicly the aggregated percentage of its portfolio representing each of the four liquidity classification categories as of the end of each of its fiscal quarters.[15]
- The amendments to Form N–1A require a fund to disclose publicly certain information regarding the fund's redemption procedures.[16]
- The amendments to Form N–CEN require funds to provide public disclosure about funds' use of lines of credit and interfund lending.[17]

B. Monitoring and Compliance Date Extension Requests

The Commission has received numerous requests to extend the compliance date for the Liquidity Rule Requirements.[18] Some have requested that the Commission delay compliance with the entire rule,[19] while others requested that the Commission only delay compliance with the portfolio classification and related requirements.[20] Several industry members, including trade associations (on behalf of their members) and funds, have expressed concerns regarding the difficulties that funds are facing in preparing to comply in a timely manner (*i.e.,* by the December 1, 2018 compliance date for larger entities).[21] They requested that the Commission extend the compliance date for these elements for an additional period of time ranging from six months to one year.[22]

Since the Commission adopted rule 22e–4 and the related rule and form amendments, Commission staff has engaged actively with funds to discuss complex compliance and implementation challenges and evaluate operational issues relating to portfolio classification. The staff also has met with third-party service providers (''service providers'') who expect to assist fund groups in implementing the classification requirements of the rule. Based on this staff engagement, we have observed that: (1) Due to a lack of readily available market data for certain asset classes (*e.g.,* fixed income), the implementation of the portfolio classification requirement will be heavily dependent on service providers to provide funds with scalable liquidity models and assessment tools that are necessary for bucketing and reporting (*see* ''Role of Service Providers'' below); (2) fund groups believe that full implementation of service provider and fund systems will require additional time for further refinement and testing of systems, classification models, and liquidity data, as well as for finalizing certain policies and procedures (*see* ''Systems Readiness'' below); and (3) funds are facing compliance challenges due to questions that they have raised about the Liquidity Rule Requirements that may require interpretive guidance (*see* ''Interpretive Questions'' below).[23]

Role of Service Providers

Based on our staff's engagement, we understand that market data gaps and the need to develop efficient and effective systems for liquidity classification and reporting are leading many fund groups to rely extensively on technology tools developed by service providers.[24] It is our understanding that these tools will collect relevant data, feed that data and other related information into liquidity models and assessment tools, and then provide the resulting information to the funds. To reasonably rely on these tools, fund groups have told our staff they expect to conduct significant diligence before determining which service provider systems to use and whether to build out some form of proprietary liquidity assessment and classification systems.[25] In the Adopting Release, we discussed the appropriate role of service providers in funds' liquidity risk management programs, and provided guidance on the type of due diligence and oversight we expect that funds would provide when using such service providers.[26] This diligence and oversight would take time to accomplish upon inception and on an ongoing basis.

While the fund groups with whom our staff has met vary in their degree of dependency on service providers for classification, we understand that virtually all will rely on such service providers to a significant degree. It is our understanding that many will rely heavily on the liquidity data and tools provided by these service providers, while others may use service providers largely as a source of trading and other market information that will feed into the funds' internal classification systems. We also understand that many fund groups will use service providers to assist with the reporting obligations under the rule, which may be accomplished more efficiently through third party systems, where funds benefit from the service provider's technology and economies of scale. Similarly, we understand that even for those funds that may be able to gather market data on their own or develop liquidity assessment tools internally, they may rely on service provider systems and tools to the extent it is more cost-

[13] *See* Adopting Release, *supra* footnote 3, at n.120.

[14] Items B.7 and C.7 of Form N–PORT.

[15] Item B.8 of Form N–PORT.

[16] Item 11(c)(7) and (8) of Form N–1A.

[17] Item C.20 of Form N–CEN.

[18] These comment letters (File No. S7–03–18) are available at *https://www.sec.gov/comments/s7-03-18/s70318.htm.*

[19] *See, e.g.,* Letter from Wellington Management Company LLP (Nov. 17, 2017) (''Wellington Letter'').

[20] *See* Letter from the Investment Company Institute to The Honorable Jay Clayton (July 20, 2017) (''ICI Letter I'').

[21] *See, e.g.,* Supplemental Comments on Investment Company Liquidity Risk Management Programs from the Investment Company Institute (Nov. 3, 2017) (''ICI Letter II''); Letter from SIFMA AMG to Chairman Jay Clayton, Commissioner Stein, and Commissioner Piwowar (Sept. 12, 2017) (''SIFMA AMG Letter''); Letter from TCW to Chairman Jay Clayton, Commissioner Stein, and Commissioner Piwowar (Sept. 15, 2017); Letter from Vanguard on Investment Company Liquidity Risk Management Programs (Nov. 8, 2017) (''Vanguard Letter''); and Letter from Nuveen LLC to Chairman Jay Clayton (Nov. 22, 2017) (''Nuveen Letter'').

[22] *Id.*

[23] As of the date of this release, the staff has responded to some requests for interpretive guidance the Commission received. The staff is also publishing additional interpretive guidance in conjunction with this release. Due to the tiered nature and complexity of the rule's implementation process, we expect to receive additional requests for guidance in the future, and will respond to them accordingly.

[24] *See* ICI Letter II (reporting a survey of its members that found that a large majority of respondents (91%) are considering using a service provider).

[25] For example, we understand that fund groups expect to conduct extensive classification system testing and model validation, including the installation of cybersecurity and disaster recovery protections, before these systems are usable for compliance with Commission rules.

[26] *See* Adopting Release, *supra* footnote 3, at text following n.323 (encouraging program administrators for funds that choose to rely on service providers for liquidity risk management to maintain oversight of these service providers by: (1) Reviewing the quality of the liquidity data received from service providers; (2) reviewing the relevant methodologies and metrics used by service providers to determine the effectiveness of the data to inform or supplement the fund's consideration of its portfolio holdings' liquidity characteristics, and (3) assessing whether any modifications to an ''off-the-shelf'' service provider liquidity model are necessary to accurately reflect the liquidity characteristics of the fund's portfolio investments).

effective to do so. We also understand that, because service providers vary in the level of data they currently have about different asset classes, some funds may need to contract with multiple service providers to gain access to the trading and market information necessary to classify all of their investments or assume responsibility for certain investments for which service providers do not currently provide classification data. In sum, we expect that virtually all fund groups will rely on service providers to some extent in meeting their obligations under the Liquidity Rule Requirements.

Systems Readiness

As a consequence of this heavy reliance on service providers, those requesting a later compliance date have focused primarily on the readiness of service providers to deploy fully-functional products to assist funds with their classification obligations.[27] In meeting with funds and service providers, the staff has learned that most of the service providers that plan on offering liquidity data and assessment tools to assist with classification still have gaps in the investments that they cover. For example, most do not currently have the ability to assess effectively the liquidity of certain asset classes, such as over-the-counter derivatives and certain fixed income securities.[28] For most of these remaining asset classes, market and trading data is more limited or unavailable and thus many plan to create models to evaluate the liquidity of these investments based on the limited data available and other information, such as the structural characteristics of the asset and analysis of comparable securities. Accordingly, we understand that under current timelines, most service providers' products will not provide full coverage for all asset classes until the end of the first quarter of 2018 or perhaps later.[29] Two trade associations expressed concern that, without a compliance date extension, the challenges in building classification systems would shorten the time for liquidity model validation, testing, service provider oversight, and implementing cybersecurity and disaster recovery protections for the new technology-dependent liquidity risk management programs.[30]

Fund groups have informed our staff that they are not able to evaluate fully the liquidity assessment tools and market data offered by these service providers until the buildout of coverage for asset classes and related models is complete.[31] In addition, even for asset classes where service provider offerings are currently available, fund groups have informed us that different service providers' liquidity assessments of certain securities have been unexpectedly disparate.[32] This has led to further delays as fund groups seek to evaluate the cause of the differences between service providers' data and assessment tools (including underlying models and assumptions), and attempt to determine whether such tools are reliable and effective.[33] As a consequence, our staff understands that many fund groups have not been able to make significant progress in finalizing the selection of their service provider(s), and do not expect to be able to do so in the near term.[34] Once service provider selection is completed, fund groups then expect to evaluate the need for additional internal systems to implement their classification programs, and then to build out those systems as needed.

In general, the service providers with whom the staff has met have indicated that they expect to have tools and market data for all asset classes available before the current compliance date of the rule, though they are not complete yet. They also generally indicated that they expected to have products with complete asset coverage by the first or second quarter of 2018. They also informed our staff that entering into contracts and onboarding fund groups are progressing at different paces and that fund group classification systems similarly are in various stages of development and readiness. The service providers have also acknowledged that significant disparities can exist between service providers in assessing the liquidity of the same security as a result of different models, market data, or assumptions used. The service providers informed our staff that they believed their products generally would be ready in time for most funds to meet the current compliance date of the rule, though some of the fund groups with whom they have engaged suggested that additional time may be needed to implement the required classification process and related program and reporting requirements.

Fund groups have also told our staff that they generally plan to develop processes and/or systems to provide service providers with fund-specific portfolio information relevant to classification and to provide ongoing input and oversight over any classification information derived from service provider tools. These data provision and oversight elements require additional processes or system modifications, or both, that are currently being evaluated as the service providers' offerings near completion and also may require some customization by service

[27] *See* ICI Letter I (noting that most funds will engage third-party service providers to help with classification and that those service providers will not have mature products for fund groups to evaluate for some time); *see also* SIFMA AMG Letter (noting that the lack of readiness on the part of service providers makes it difficult for funds to make ''build or buy'' decisions regarding their classification systems).

[28] *See* ICI Letter II (noting that certain investment types not yet covered by one or more service providers include asset-backed securities, mortgage-backed securities, preferred securities, bank loans, and to-be-announced (TBA) securities).

[29] *See* ICI Letter II (discussing a survey of members which found that 73% of respondents did not believe that service providers' offerings will be sufficiently mature for funds to make an informed selection until 2018, with 37% of respondents believing that it will take until the second quarter of 2018 or beyond).

[30] *See* SIFMA AMG Letter (arguing that a compliance date extension is necessary to give funds time to implement cybersecurity and disaster recovery protections). *See also* ICI Letter II (discussing the need for a compliance date extension in order to test the classification models of service providers).

[31] *See* ICI Letter II (noting that it will take two to six months for fund complexes to select a service provider once they can evaluate their offerings, and an additional three to nine months to ''onboard'' the vendor; also noting that fund complexes will not be in position to complete other critical implementation work (*e.g.,* conducting an initial liquidity risk assessment for all funds, determining whether a fund qualifies as a ''primarily highly liquid fund,'' and determining an appropriate HLIM for applicable funds). Only when all of this work is complete will fund complexes be in a position to present substantially complete liquidity risk management programs (able to perform full classification) to their boards for approval, which funds expect will take place over multiple meetings with final approval occurring after the program is substantially complete, adding additional months to the process).

[32] *See* ICI Letter II (noting an evaluation of sample output from five service providers' current offerings, which showed a fund's liquidity classifications, when run through multiple service providers' models, may differ widely, and pointing in particular to scenarios where, depending on the vendor used, analysis of a large high yield bond fund's portfolio resulted in ranges from 7% to 95% for the fund's highly liquid bucket).

[33] *See* ICI Letter II (describing its September 2017 survey results of selected members where the majority of respondents cited multiple areas in which service providers need to do additional work, including gaps in asset coverage, improving the quality of underlying methodologies, improving the depth, breadth and quality of data, and improving the user interface/delivery of data).

[34] *Id.* The ICI also stated that, beyond the survey results, additional factors suggested even more time would be necessary due to challenges that may emerge in the coming months, given that hundreds of fund complexes will be performing due diligence on and attempting to onboard the same handful of service providers at the same time. Providing the requested delay will allow for a smoother onboarding of the new services for both funds and service providers.

providers or fund groups.[35] Finally, for asset classes where trading and market data is constrained, some fund groups and service providers have told our staff that they are building models to more qualitatively assess liquidity, which may take additional time to develop and test. The ability for a fund to classify its assets is a foundation for other aspects of the rule, such as establishing the HLIM, and thus funds generally need to establish a classification system before finalizing policies and procedures for other aspects of the rule.[36]

One association also noted that additional complexity and time pressures exist for fund groups that engage sub-advisers for portfolio management, relating to sharing and reconciling classification information across multiple sub-advisers each of whom may have their own liquidity classification methodologies and systems.[37] We also understand that additional complexity results when a fund group uses multiple sub-advisers for portfolio management of certain funds and that funds with sub-advisers require additional coordination (and thus additional technology infrastructure) for portfolio classification and to potentially reconcile classification information that may be distributed among various investment advisory firms.

Interpretive Questions

In meeting with fund groups and service providers, our staff has learned that many of the most difficult interpretive questions relating to the rule have only become apparent as funds have worked through the design, evaluation, and testing of the new and complex systems that will support compliance with their liquidity risk management programs. As a consequence, funds are still in the process of identifying certain issues that may need interpretive guidance in order to complete the build-out of their classification systems and to design and draft policies and procedures implementing their programs.[38] One association has requested that Commission staff provide interpretive guidance on certain questions relating to classification, and stated that any such interpretive guidance may shape how its members design certain aspects of their classification systems.[39] Funds have indicated that they will need time to evaluate and incorporate any such guidance as they implement the new systems and policies and procedures for managing liquidity risk required under the rule.

In addition, fund groups have cautioned that if no compliance date extension is provided, fund groups may have to incur the expense of implementing classification once now and then again to make any necessary changes to classification systems after any interpretive guidance on new questions has been issued.[40] However, if an extension is provided, funds could take the time to evaluate any guidance provided in connection with building their systems, thereby avoiding the costs of rushed builds or redone systems.

Finally, as we discussed in the Adopting Release, we understood that service providers may have some role in assisting funds in complying with the liquidity rule requirements, especially in providing data and collating data for reporting.[41] Nonetheless, we believed that many fund groups would build and create their own classification methodologies, considering that funds have significant practical experience in observing the liquidity of the assets that they trade.[42] As discussed above, however, our staff has learned that with respect to most funds, implementation is more complex than anticipated and the role for service providers is going to be more extensive than we had originally understood, thereby resulting in even more complexity and raising interpretive questions.

We believe that the interpretive guidance our staff has provided, and any additional guidance it may provide in the future, should ease the complexity of compliance, and may result in more funds refining their classification systems and liquidity assessment models, whether developed internally or when using vendor-provided tools. Our staff also will consider providing future interpretive guidance as needed to assist funds as they comply with the requirements of the rule.

C. Extension of Certain Elements of the Rule

Today, we are extending by six months the compliance date for the rule's portfolio classification and certain related requirements. Based on the staff's engagement with fund groups and service providers, as well as the representations of the commenters discussed above, we believe that a six-month extension of the compliance date for the portfolio classification and certain related requirements that are dependent on the classification requirement is appropriate. We believe this additional time will allow fund groups and service providers to adequately address these complex and technology-dependent requirements and promote a smooth and efficient implementation of the rule.

In providing this extension, we considered not only the issues discussed above, but also the objective of the Liquidity Rule Requirements more generally in advancing effective liquidity risk management across the fund industry. As a result, while we are extending the compliance date for the portfolio classification and certain related requirements, we are limiting such extension to six months, and we are maintaining the existing compliance dates for the other aspects of the rule. Indeed, two provisions of the rule that are at the heart of the investor protection benefits that the rule seeks to achieve—the requirement that a fund institute a liquidity risk management program and the 15% illiquid investment limit—will go into effect as planned.

1. Extension of Portfolio Classification, HLIM, and Related Reporting Compliance Dates

In light of the concerns discussed above, the Commission believes that it is appropriate to extend the compliance date for the portfolio classification requirement of rule 22e–4 and the HLIM requirement. Rule 22e–4 defines ''highly liquid investments'' that count towards the HLIM requirement by referencing the broader classification framework. For a fund to establish and monitor an HLIM, it will need to determine which investments meet the definition of highly liquid investments as defined by the rule and then determine and monitor its HLIM as compared to that bucket of investments.[43] Therefore, a

[35] *See* ICI Letter II (noting because the liquidity rule is new, funds will need to complete an extensive assessment of the new services and how they will be incorporated into existing oversight programs).

[36] *See supra* footnote 30.

[37] *See* SIFMA AMG Letter. *See also* Wellington Letter, noting that more time is necessary and appropriate due to the additional complications that sub-advised funds face in implementing the rule.

[38] *See supra* footnote 22.

[39] *See* SIFMA AMG Letter.

[40] *See* SIFMA AMG Letter. As noted above, Commission staff is publishing guidance today on the classification process and may publish additional guidance in the future if it deems it appropriate.

[41] *See* Adopting Release, *supra* footnote 3, at n.323 and accompanying text.

[42] *See* Adopting Release, *supra* footnote 3, at text following n.709.

[43] *See* Rule 22e–4(a)(6) (defining highly liquid investments as ''any cash held by a fund and any investment that the fund reasonably expects to be convertible into cash in current market conditions in three business days or less without the conversion to cash significantly changing the

fund's ability to comply with the HLIM requirement is dependent on the fund's ability to classify its highly liquid investments under the rule. Funds have experience following the 15% guideline restricting purchases of illiquid assets when considering whether to purchase additional illiquid assets. By contrast, the HLIM is a new requirement that funds have not previously been required to establish and about which funds have not received previous Commission guidance. In order to implement the HLIM independent of the full classification requirements, funds would have to establish policies, procedures, and systems to determine their highly liquid investments so that they may be able to determine and monitor their HLIM. In addition, in adopting the 15% illiquid investment limit, we specifically recognized that it was possible to comply with such limit without classification for a category of funds, the In-Kind ETFs.[44] The HLIM, on the other hand, is a new requirement specifically tied to classification for which there has been no previous Commission guidance. As a result, we believe that even with guidance, implementing the HLIM and identifying highly liquid investments would be more likely to require funds to either incur significant expenses to build out an interim system or redo certain elements of their systems as they implement the full portfolio classification requirements, or both. Therefore, we believe it is appropriate to extend consistently the compliance date for both the portfolio classification and HLIM requirements.

As a consequence of the delay in portfolio classification and HLIM, the Commission is also extending the compliance date for the classification and HLIM reporting requirements of Forms N–PORT and N–LIQUID.[45] Form N–PORT requires a fund to disclose information regarding the fund's HLIM and individual portfolio holding liquidity classifications on a non-public basis.[46] Currently, it also requires a fund to disclose publicly the aggregate percentage of its portfolio that is highly liquid, moderately liquid, less liquid, and illiquid on a quarterly basis.[47] Part D of Form N–LIQUID requires non-public notifications to the Commission when the fund's HLIM is breached for more than a specified period of time.[48] Because the information required by these items of Form N–PORT is related to the fund's classification of its investments, a delay in the classification requirement would also require a delay for these items. Similarly, because notifications on Part D of Form N–LIQUID are tied to the HLIM, the Commission believes that revising the compliance date for these notifications is also necessary.[49]

Finally, we are providing a six-month extension of the compliance date for the recordkeeping requirements related to the elements of rule 22e–4 we are delaying today,[50] though we are not delaying the recordkeeping requirement related to the liquidity risk management program itself, the 15% illiquid investments restriction, or the board designation of the program administrator.[51]

The Commission seeks comment on the delay in the classification, HLIM, and related reporting and recordkeeping requirements.

- Should the Commission provide an extension in the compliance dates for the classification requirement? Why or why not?
- Should the Commission provide an extension in the compliance dates for the requirements related to classification such as the HLIM requirement? Is it feasible to let the HLIM requirement go into effect without the related classification requirement?
- Should we delay the liquidity-related reporting requirements of Form N–PORT and Part D of Form N–LIQUID?

2. Length of Extension

In light of the staff's monitoring and conversations with service providers and fund groups, as well as the commenters' statements regarding the projected timelines to effectively implement the classification requirement, we believe that a six-month extension is more appropriate than a one-year extension. One association stated that a compliance date extension of at least six months is necessary for the portfolio classification and related elements of the rule,[52] and the other requested that the Commission extend the compliance date at least one year for these requirements.[53]

We believe that a six-month period should provide sufficient time for funds to comply with the elements of the rule we are extending today. Specifically this should provide enough time to allow for service providers to provide effective classification tools and data, as well as for funds to integrate and implement these tools and certain related requirements into their programs and gain board approvals. We considered delaying the compliance date for one year rather than six months. As discussed above, many funds believe that service providers will have sufficiently mature offerings for funds to make informed service provider selections by approximately the second quarter of 2018. If funds select their service providers by June of 2018, we believe that they will be able to effectively comply with all of the Liquidity Rule Requirements, including classification, by the revised compliance dates. Therefore, we do not believe a one-year extension is necessary.[54]

We previously adopted temporary rule 30b1–9(T), which will require larger entities to maintain in their records the information that is required to be included in Form N–PORT, in lieu of filing reports with the Commission, until April 2019. As a result, larger entities that previously would have been required to submit their first reports on Form N–PORT on Electronic Data Gathering, Analysis, and Retrieval (''EDGAR'') by July 30, 2018 would submit their first reports on EDGAR by April 30, 2019.[55] Because we are revising the compliance date for the disclosures related to liquidity on Form N–PORT, larger entities will not need to

market value of the investment'' as determined pursuant to rule 22e–4(b)(1)(ii)).

[44] *See* Adopting Release, *supra* footnote 3, at nn.745 and 836 and accompanying text.

[45] We are not delaying reporting to the Commission information required by Form N–CEN related to lines of credit, and inter-fund lending and borrowing. It is our understanding that information related to lines of credit and inter-fund lending and borrowing activities is currently readily available to funds. Therefore, we do not believe that a delay is necessary and are not revising the compliance date for Form N–CEN. Because we are delaying compliance with the classification requirement of rule 22e–4(b)(1)(ii) and the HLIM requirement of rule 22e–4(b)(1)(iii), the in-kind status of certain ETFs may be noted as ''N/A'' on Form N–CEN until funds are required to comply with those requirements.

[46] Items B.7 and C.7 of Form N–PORT.

[47] Item B.8 of Form N–PORT.

[48] Part D of Form N–LIQUID.

[49] We are not delaying the implementation of rule 30b–10 (the obligation to file Form N–LIQUID or the other parts of the form). The parts of the form that are not being delayed (parts A, B, and C) relate to breaches of the 15% illiquid investment limit, which as discussed below is not being delayed. Accordingly, funds should file Form N–LIQUID reports related to such incidents as scheduled.

[50] We are extending the compliance date for the recordkeeping requirements of rule 22e–4(b)(3)(i) that relate to classification as well as the recordkeeping requirements of rule 22e–4(b)(3)(iii) related to the HLIM requirements. Similarly, we are delaying the recordkeeping requirements of rule 22e-4(b)(3)(ii) related to the materials provided to the fund's board regarding the liquidity risk management program.

[51] Rule 22e–4(b)(3)(i).

[52] *See* SIFMA AMG Letter.

[53] *See* ICI Letters I and II. Several fund groups supported the ICI's one-year extension request. *See, e.g.,* the Nuveen and Vanguard Letters.

[54] *See supra* footnote 28.

[55] *See* Investment Company Reporting Modernization, Investment Company Act Release No. 32936 (Dec. 8, 2017) [82 FR 58731 (Dec. 14, 2017)] (''N–PORT Release'').

include those disclosures in their reports on Form N–PORT until July 30, 2019.[56]

We request comment on the six-month compliance period extension that we are adopting today.

- Is six months a sufficient amount of time for funds to implement classification and other related requirements we are delaying today? If not, how much additional time would funds need to comply and why?
- Should we provide a shorter compliance date extension, such as three months, or none? If so, why?
- Should we provide an additional six-month (or other period) extension in the compliance date for smaller entities, so that their liquidity classification obligations also align with their N–PORT filing requirements?

3. Board Oversight

We are providing a six-month extension of the compliance date for board approval of the liquidity risk management program and the related annual review requirements.[57] Although funds will need to implement liquidity risk management programs as originally scheduled, these programs need not, for now, include the rule's classification or HLIM requirements. Other than the elements that are not being delayed, funds may implement a program that achieves the goals laid out in the rule using any additional elements they view as reasonable during the period of the compliance date extension, but need not get board approval of that program until the end of the extension period. Because the Commission is granting funds additional time to incorporate the delayed elements into their programs, we believe that it would be unnecessarily burdensome to require the board to review the fund's program before funds incorporate all elements of the program. Similarly, we believe it is unnecessarily burdensome to require the board to conduct annual reviews of the program prior to the complete development of the fund's program.

However, as we stated in the Adopting Release and as we continue to believe, requiring that the board designate a program administrator independent from portfolio management is necessary for the program to be administered with sufficient independence.[58] We also expect that having a designated program administrator will better enable funds to create and operate the liquidity risk management program, and facilitate implementation of the delayed aspects of the rule when they go into effect. Accordingly, we are not delaying the requirement for the board to designate the program administrator.

The Commission seeks comment on the delay of these board oversight requirements.

- Should we provide this delay to the board approval requirements? Why or why not?
- Should we instead require the board to approve the initial programs without the classification and related requirements? If so, why?
- Should we provide the delay to the board's annual review requirement?

4. Liquidity Risk Management Programs

We are not extending the compliance date for the general obligation that each fund implement a liquidity risk management program, including the required assessment, management, and periodic review of the fund's liquidity risk.[59] We believe that implementing a liquidity risk management program, even in the absence of the classification and HLIM requirements, will enhance fund liquidity risk management practices and provide protection to investors.[60]

While we understand that there are issues with the classification requirement, we are unaware of any claims that funds are or anticipate experiencing difficulties in implementing a liquidity risk management program by the original compliance date.[61] We understand that many funds already have in place systems to assess and manage the liquidity of their funds. In addition, both trade associations that commented indicated that they believed that compliance with the overall obligation to implement a liquidity risk management program under the rule was feasible by the original compliance date.[62] We believe that funds can establish a program that assesses, manages, and reviews their liquidity risk without the elements we are delaying today, using elements they view as reasonable to achieve these goals during the period of the compliance date extension.

5. 15% Illiquid Investment Limit and Guidance

We are not extending the compliance date for the 15% illiquid investment limit of rule 22e-4, or the related board and Commission reporting requirements.[63] Limiting the amount of illiquid investments held by open-end funds is critical to effective liquidity risk management and is a cornerstone of rule 22e–4. As stated in the Adopting Release, ''a limit on funds' illiquid investments should be a central element of managing open-end funds' liquidity risk, which in turn would further the protection of investors.'' [64]

While we agree that additional time is necessary to efficiently and effectively comply with the portfolio classification and certain related requirements of the rule, we do not believe that complying with the 15% illiquid investment limit presents challenges that warrant a similar delay in compliance. Funds have experience following the previous guideline to limit an open-end fund's aggregate holding of illiquid assets to no more than 15% of the fund's net assets.[65] Although the final rule's definition of illiquid investments differs in some respects from the previous 15% guideline definition of illiquid asset, we believe funds have gained significant experience in evaluating and identifying illiquid assets consistent with the prior guidance, and should be able to apply that experience and associated systems in complying with the 15% limit in rule 22e–4.[66] In addition, the guidance we

[56] Smaller entities will be subject to classification, HLIM, and the related requirements we are delaying today on December 1, 2019, but would not be required to file that information through EDGAR on Form N–PORT until April 30, 2020.

[57] Rule 22e–4(b)(2)(i) and (iii).

[58] *See* Adopting Release, *supra* footnote 3 at n.814 and accompanying text. Rule 22e–4(b)(2)(ii).

[59] Rule 22e–4(b) requires each fund and In-Kind ETF to adopt and implement a program that is reasonably designed to assess and manage its liquidity risk. *See* rule 22e–4(b)(1)(i).

[60] Accordingly, by December 1, 2018, larger entities will be required to adopt and implement a written liquidity risk management program that is reasonably designed to assess and manage its liquidity risk. *See* rule 22e–4(b). Smaller entities will be required to comply on June 1, 2019. The program must include policies and procedures reasonably designed to incorporate the elements articulated in rule 22e–4(b)(1)(i) related to a fund's assessment, management, and periodic review of its liquidity risk. The fund's board must also designate a program administrator pursuant to rule 22e–4(b)(2)(ii).

[61] The requirement for funds that engage in redemptions in-kind to implement policies and procedures under rule 22e–4(b)(1)(v) (and their related recordkeeping requirements in rule 22e–4(b)(3)) and the requirements for unit investment trusts (''UITs'') to comply with rule 22e–4(c) related to a UIT's liquidity assessment and related recordkeeping requirements will go into effect as originally scheduled. We do not believe that these requirements pose a burden on funds such that a delay in compliance would be necessary or appropriate, and some commenters suggested that they could go into effect as scheduled. *See, e.g.,* SIFMA AMG Letter.

[62] *See* SIFMA AMG Letter and ICI Letter I.

[63] Rule 22e–4(b)(1)(iv); Parts A, B, and C of Form N–LIQUID.

[64] Adopting Release, *supra* footnote 3, at text following n.757.

[65] Adopting Release, *supra* footnote 3, at n.38 and accompanying text.

[66] Adopting Release, *supra* footnote 3, at n.836 and accompanying text (noting that In-Kind ETFs are exempt only from the classification and HLIM requirements of rule 22e–4).

provide below on complying with the 15% illiquid investment limit for funds that do not engage in full portfolio classification during the compliance extension period should assist such funds in their compliance with this requirement, and reduce the challenges associated with its implementation.

While this limit on illiquid investments refers to the classification element of the rule, as we discuss below, we are providing guidance on how funds can comply with this requirement without engaging in full portfolio classification during the period of the extension we are providing today.[67] As noted above, In-Kind ETFs are required to abide by the 15% illiquid investment limit but are not required to classify their investments.[68] We expect many In-Kind ETFs will rely on the guidance provided below, or use other reasonable methods, to identify and monitor their illiquid investments during the period of the compliance date extension and thereafter. Accordingly, we believe that funds can effectively comply with the 15% illiquid investment limit during the compliance extension period.

We are providing the following guidance to assist In-Kind ETFs and funds not engaging in full portfolio classification during the compliance extension period in identifying illiquid investments as a part of their application of the 15% illiquid investment limit.[69] We believe one reasonable method for a fund to comply with these requirements is to preliminarily identify certain asset classes or investments that the fund reasonably believes are likely to be illiquid (''preliminary evaluation''). We expect that the fund could base this reasonable belief on its previous trading experience (including its experience in the investment's typical market depth and price impact when trading), on its understanding of the general characteristics of the asset classes it is preliminarily evaluating, or through other means. A fund could choose to determine that certain investments identified in such asset classes that it purchases are illiquid based solely on this preliminary evaluation, and not engage in any further analysis under the rule at that time.[70] This evaluation need not occur prior to the trade being placed. Alternatively, if the preliminary evaluation establishes a reasonable basis for believing that an investment is likely to be illiquid, but the fund wishes to further evaluate its status, the fund may then, as a secondary step, determine whether that investment is illiquid through the full classification process set forth in the rule (''secondary evaluation''). Investments in asset classes the fund acquires that it does not reasonably believe are likely to be illiquid would not need to be classified when performing this preliminary analysis.

Funds could automate such a preliminary evaluation of asset classes or investments, and they could base that evaluation on the general characteristics of the investments the fund purchases. For example, in establishing the list of asset classes or investments that the fund believes have a reasonable likelihood of being illiquid, the fund could take into account the trading characteristics of the investment (for example, whether it is a restricted security or has structural liquidity limitations, the trading history of the asset class, or whether the investment typically requires significant negotiations to trade) and use such characteristics to form the reasonable belief of illiquidity. We expect that a fund making use of preliminary evaluation would conduct periodic testing of the results of the preliminary evaluations to determine whether they continue to be accurate as part of their required review of the adequacy and effectiveness of the liquidity risk management program's implementation.

In evaluating the likelihood of an asset class or investment being illiquid, we do not believe it would be reasonable to assume that a fund is only selling a single trading lot when looking at the market depth of the asset or class. However, a fund would not need to evaluate the actual size of its holdings in the asset class or engage in the full process of evaluating its reasonably anticipated trading size for the asset class under the rule. Instead, a fund could use any reasonable method in evaluating the market depth of the asset classes or investments it identifies as likely being illiquid in the preliminary evaluation.

Although the illiquidity status of an investment is generally evaluated upon acquisition (and then at least monthly thereafter),[71] certain events may lead an In-Kind ETF or fund not yet subject to the classification requirement to re-evaluate the liquidity status of an investment more frequently. For example, a reasonable approach for a fund to re-evaluate the liquidity of an investment might be by identifying in its policies and procedures in advance certain events that it reasonably expects would materially affect the investment's classification. Reasonable policies and procedures could limit such events to those that are objectively determinable (*e.g.,* a trading halt or delisting of a security, an issuer or counterparty default or bankruptcy, significant macro-economic developments (such as a sovereign default), or events like extraordinary natural disasters or political upheavals, for funds with concentrated geographic exposures). This intra-month review would not create a *de facto* ongoing review requirement for classification. However, a fund generally should regularly monitor the amount of its illiquid investments to ensure that it does not exceed the limit as a result of the purchase or redemption activity of the fund or changes in the value of the fund's holdings.

We believe that the method discussed in the guidance above would be a reasonable approach for a fund to help assure itself that it has not violated the 15% illiquid investment limit during the intra-month period between scheduled classifications. However, funds may use reasonable approaches other than the one described in this guidance as well.

D. Compliance Date Extension Chart

The following chart identifies the provisions of the Liquidity Rule Requirements that we are delaying and those we are not. For the items subject to the six-month extension, the compliance date will be June 1, 2019 for larger entities and December 1, 2019 for smaller entities. For the provisions that we are not delaying, the original compliance dates of December 1, 2018 for larger entities and June 1, 2019 for smaller entities remain in effect.

[67] Rule 22e–4(b)(1)(iv).

[68] Rule 22e–4(b)(1)(ii).

[69] *See* Rule 22e–4(b)(1)(iv) (''No fund or In-Kind ETF may acquire any illiquid investment if, immediately after the acquisition, the fund or In-Kind ETF would have invested more than 15% of its net assets in illiquid investments that are assets. . . .'').

[70] Rule 22e–4(b)(1)(ii).

[71] *See* rule 22e–4(a)(8) which references rule 22e–4(b)(1)(ii). An ''illiquid investment'' is defined as being determined, in part, through the classification process, which requires at least monthly review.

Though we are revising the compliance date for the classification provisions of the rule, we are not revising the compliance date for those provisions related to the 15% illiquid investment limit, including the related monthly (or more frequent) review requirement in rule 22e–4(b)(1)(ii) referenced in 22e–4(a)(8), subject to the guidance in this release.

Requirements not subject to extension	Requirements subject to extension
Rule 22e–4: [72] • Liquidity Risk Management Program [paragraph (b)]. ○ Assessment, management, and periodic review of liquidity risk [paragraph (b)(1)(i)]. ○ Illiquid investments [paragraph (b)(1)(iv)]. ○ Redemptions in Kind [paragraph (b)(1)(v)]. ○ Board Designation of Program Administrator [paragraph (b)(2)(ii)]. • UIT Liquidity [paragraph (c)]. *N–LIQUID* • Part A. General Information. • Part B. Above 15% Illiquid Investments. • Part C. At or Below 15% Illiquid Investments. *N–CEN*: • Item C.20. Lines of credit, interfund lending, and interfund borrowing. • Part E.5. In-Kind ETF.	*Rule 22e–4*: [73] • Classification [paragraph (b)(1)(ii)].[74] • Highly liquid investment minimum [paragraph (b)(1)(iii)]. • Board Oversight. ○ Initial approval of the liquidity risk management program [paragraph (b)(2)(i)]. ○ Annual Board Reporting [paragraph (b)(2)(iii)]. *N–LIQUID* • Part D. Assets that are Highly Liquid Investments Below the HLIM. *N–PORT*: • Item B.7. Highly Liquid Investment Minimum. • Item B.8. Liquidity aggregate classification information. • Item C.7. Liquidity Classification Information.

II. Procedural and Other Matters

The Administrative Procedure Act (''APA'') generally requires an agency to publish notice of a rulemaking in the **Federal Register** and provide an opportunity for public comment.[75] This requirement does not apply, however, if the agency ''for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' [76]

We have determined to adopt this interim final rule delaying certain of the Liquidity Rule Requirements. Specifically, the Commission is extending the compliance date for the classification requirement of rule 22e–4(b)(1)(ii) except to the extent referenced in rule 22e–4(a)(8).[77] The Commission also is extending the compliance date for rule 22e–4(b)(1)(iii) pertaining to the HLIM. Furthermore, the Commission is extending the compliance date for rule 22e–4(b)(2)(i) and (iii) pertaining to the requirement that fund boards initially approve the fund's liquidity risk management program as well as the requirement that the fund's board review annual reports on the operation of the program and the program's adequacy and effectiveness of implementation from the fund's program administrator. Finally, the Commission is extending the compliance date for the liquidity-related reporting requirements of Form N–PORT as well as Part D of Form N–LIQUID.

The trade associations expressed concern that, because of the significant investment funds will have to incur and the time commitment involved, funds will have to continue to build their classification technology infrastructure well before the compliance date of the Liquidity Rule Requirements, and they therefore requested that the Commission make any extension in the compliance date as quickly as possible. The SIFMA AMG Letter argued that a prompt extension of the compliance date for the classification requirement of the rule will ''provide the industry with the breathing room it needs to build, implement and test the necessary systems in an orderly and prudent manner'' and the ICI Letter I echoed the sentiment, asking for ''[q]uick and decisive action—with respect to delaying the rule's classification requirements.''

The Commission has determined that funds are encountering significant challenges in their efforts to achieve timely compliance with the classification and related requirements of rule 22e–4 and related forms. Most notably, as discussed in detail in section I.B above, compliance with these requirements entails service providers and funds building complex, technology-dependent liquidity classification systems. These systems are not yet complete nor are they projected to be fully developed and tested by the current compliance date. We are basing this judgment on Commission staff outreach to funds and service providers, and information they have provided us discussed above. Based on this information, we believe the projected timelines for completing the development of classification tools, along with the time necessary to effectively evaluate, implement and test new systems and infrastructure, further enhance liquidity programs, and obtain approval from fund boards justify a six-month delay limited to the classification and related requirements. The scope of the difficulties that are being experienced in developing liquidity classification systems, the extent of fund reliance on external service providers to provide liquidity classification solutions, and the substantial number of implementation questions that have been posed, are matters that were not anticipated in the Adopting Release.

As discussed previously, providing immediate certainty regarding this compliance date extension is critical because funds currently are evaluating and making decisions on the source and structure of their classification systems in an effort to meet the original compliance date. By providing an extension, funds may take the time to evaluate the staff interpretive guidance that is being issued along with this release in connection with building their systems, thereby avoiding the costs of expediting the construction of their systems (in dollar value and/or reduced quality) after having reviewed the staff interpretive guidance or revising their systems as may be occasioned by any additional subsequently-issued staff or Commission guidance. Because funds are making decisions now as to the structure of their programs and the service providers they will use, funds need to have certainty that there will be a six-month delay of the classification and related requirements so that they can take this time to evaluate and design the necessary systems and infrastructure and evaluate the need for and choice of a service provider to assist in this process. This certainty will allow them time to adjust their implementation process accordingly and avoid costs of rushed implementation and potential revisions to their programs and use or

[72] The recordkeeping requirements of rule 22e–4(b)(3) related to these elements are similarly not subject to extension. *See supra* footnote 50 and accompanying text.

[73] The recordkeeping requirements of rule 22e–4(b)(3) related to these elements are similarly subject to extension. *See supra* footnote 49.

[74] As discussed in footnote 71, we are not delaying the aspects of classification that relate to the implementation of the illiquid investment limit, subject to the guidance in this release.

[75] *See* 5 U.S.C. 553(b)–(c).

[76] 5 U.S.C. 553(b)(3)(B).

[77] *See supra* footnote 71.

choice of service providers after service providers complete their product offerings, which costs could be passed on to the fund's investors. Waiting until after the notice and comment period to make the necessary delay effective would undermine this effort to give certainty for these complex technology infrastructure timelines and thus we believe it would be impracticable, unnecessary, and contrary to the public interest.

For these reasons, the Commission finds that good cause exists to dispense with advance notice and comment regarding the delay of the classification and related requirements outlined above.[78] The Commission and its staff will continue to monitor implementation of the Liquidity Rule Requirements to determine if further action is necessary to address questions or issues that may arise in addition to the delay in compliance we are providing today and to address interpretive issues as they arise.

III. Economic Analysis

A. Introduction

The Commission is sensitive to the potential economic effects of extending the compliance date for certain provisions of the Liquidity Rule Requirements. These effects include the benefits and costs to funds, their investors and investment advisers, issuers of the portfolio securities in which funds invest, and other market participants potentially affected by fund and investor behavior as well as any effects on efficiency, competition, and capital formation.

B. Economic Baseline

The costs and benefits of the compliance date extension as well as any impact of the extension on efficiency, competition, and capital formation are considered relative to an economic baseline. For the purposes of this economic analysis, the baseline is the regulatory framework and liquidity risk management practices currently in effect, any systems and processes that funds have already implemented in order to comply with the Liquidity Rule Requirements as adopted, and the expected changes to liquidity risk management practices assuming the compliance dates established in the Adopting Release remain in effect.

The economic baseline's regulatory framework consists of the Liquidity Rule Requirements adopted by the Commission on October 12, 2016. With respect to current liquidity risk management market practices, the baseline remains as described in the Adopting Release, with two exceptions. First, funds are already complying with Form N–1A's requirement that they make additional disclosures about redemption practices.[79] Second, we expect that funds will rely more extensively on third-party service providers to comply with the classification requirement relative to the baseline in the Adopting Release.[80] Under the baseline, larger entities must comply with the Liquidity Rule Requirements by December 1, 2018, while smaller entities must comply by June 1, 2019.[81] The baseline also includes funds' efforts to develop the systems and processes necessary to comply with the Liquidity Rule Requirements since the rule was adopted, but we do not have data sufficient to quantify the extent to which funds have already invested in such systems and processes.[82]

The primary SEC-regulated entities affected by this interim final rule are mutual funds and ETFs. As of the end of 2016, there were 9,090 mutual funds managing assets of approximately $16 trillion,[83] and there were 1,716 ETFs managing assets of approximately $2.5 trillion.[84] Other potentially affected parties include investors, investment advisers that advise funds, issuers of the securities in which these funds invest, and other market participants that could be affected by fund and investor behavior.

C. Economic Impacts

We are mindful of the costs and benefits of this interim final rule. The Commission, where possible, has sought to quantify the benefits and costs, and effects on efficiency, competition and capital formation expected to result from the compliance date extension for certain provisions of the Liquidity Rule Requirements. However, as discussed below, the Commission is unable to quantify certain of the economic effects because it lacks information necessary to provide reasonable estimates.

Impacts on Funds

The compliance date extension provides funds with the option to delay the implementation of a full portfolio classification system. This option allows funds to forgo some or all of the additional costs that may be associated with implementing a classification system by the compliance date in the Adopting Release,[85] depending on how they choose to comply with the 15% illiquid investment limit during the compliance date extension period.[86] The option to delay may also be valuable to funds because it permits them to adjust the manner in which they comply with the classification related elements of the Liquidity Rule Requirements in response to new information about implementation choices, including new technologies or

[78] *See* section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) (an agency may dispense with prior notice and comment when it finds, for good cause, that notice and comment are ''impracticable, unnecessary, or contrary to the public interest''). This finding also satisfies the requirements of 5 U.S.C. 808(2) (stating that if a federal agency finds that notice and public comment are impractical, unnecessary or contrary to the public interest, a rule shall take effect at such time as the federal agency promulgating the rule determines). This section would allow the rule amendment to become effective notwithstanding the requirement of 5 U.S.C. 801. The interim final rule also does not require analysis under the Regulatory Flexibility Act. *See* 5 U.S.C. 604(a).

[79] *See* section IV.B of the Adopting Release for a detailed discussion of funds' current liquidity risk management practices. *See* section III.L of the Adopting Release for a discussion of the enhanced disclosure requirements regarding redemption practices on Form N–1A.

[80] *See supra* footnote 23 and surrounding text for a discussion of how funds will rely on service providers in complying with the Liquidity Rule Requirements.

[81] *See supra* footnote 5 for a detailed description of larger and smaller entities.

[82] We received comment letters providing certain information, including a survey of funds, regarding fund reliance on vendor solutions and vendor readiness, *see supra* footnote 20. While these letters indicate that the funds surveyed are still in the early stages of developing their classification systems because of vendor readiness issues, they do not provide concrete estimates of the extent to which funds have invested in implementing portfolio classification systems. In addition, while a large number of funds with significant assets under management responded to the survey, the survey was self-reported by members of the commenter's organization and may not necessarily reflect the state of the entire fund industry.

[83] *See* 2017 ICI Fact Book, *available at https://www.ici.org/pdf/2017_factbook.pdf*, at 22, 170, 174. The number of open-end mutual funds includes funds that primarily invest in other mutual funds but excludes 421 money-market funds.

[84] *See* 2017 ICI Fact Book, *available at https://www.ici.org/pdf/2017_factbook.pdf*, at 180, 181.

[85] *See supra* section I.B for a discussion of the issues funds may face in complying with the rule by the compliance date in the Adopting Release.

[86] For example, as discussed above (*see supra* footnote 70 and surrounding text), some funds that delay the implementation of a full portfolio classification system might comply with the 15% illiquid investment limit through the preliminary evaluation process discussed in the guidance above, which allows them to forgo most of the costs associated with the implementation of a classification system. Alternatively, some funds may choose to comply with the 15% illiquid investment limit by supplementing such an evaluation with the secondary evaluation discussed in the guidance. Funds making this compliance choice will still incur the costs of implementing systems that assess whether a given holding is an illiquid investment according to the portfolio classification requirement but will not incur the costs associated with implementing systems associated with the other portfolio classification categories.

classification software.[87] The value of the option to delay the implementation of a full portfolio classification system for a given fund will depend on the extent to which the fund has already invested in implementing a full classification system, the remaining costs the fund expects to incur by implementing such a system by the compliance date in the Adopting Release, and the manner in which the fund would comply with the 15% illiquid investment limit during the compliance period if it chooses to exercise the option to delay.

Under the interim final rule, funds will also be able to amortize the costs of establishing systems associated with the elements of the Liquidity Rule Requirements for which the compliance date is being extended over an additional six months. As above, any change in the amortization of these costs relative to the baseline will vary with the extent to which a fund has already invested in building systems and processes to comply with these elements, whether it opts to delay its implementation of a full portfolio classification system under the interim final rule, and the manner in which the fund would comply with the 15% illiquid investment limit during the compliance date extension period. We cannot quantify these because we do not have sufficient data and cannot anticipate how funds will choose to comply with the 15% illiquid investment limit during the compliance date extension period. Funds will also save six months' worth of any ongoing costs associated with the elements of the Liquidity Rule Requirements being delayed.

In the Adopting Release, we estimated aggregate costs associated with some of these elements. First, some portion of the aggregate onetime cost of approximately $641 million associated with the establishment of liquidity classification systems that has not already been incurred by funds will be amortized over an additional six months for funds that opt to delay the implementation of their classification systems, and those funds will not incur some portion of six months' worth of the associated ongoing annual costs, which we estimated to range from $30,000 to $2.5 million per fund complex.[88] Second, while we did not individually estimate the costs associated with implementing other elements of the Liquidity Rule Requirements that are being delayed such as the establishment of an HLIM, they constitute some fraction of the $214 million we estimated as being associated with implementing the liquidity risk management program. Funds have the option to amortize the portion of these costs that has not yet been incurred over an additional six months. Funds will also not incur six months' worth of the ongoing costs associated with the delayed elements of the liquidity risk management program if they opt to delay implementation of those elements, which we estimated as ranging from $10,000 to $0.8 million depending on the size of a given fund complex. Third, the portion of the aggregate onetime costs of approximately $158 million associated with the rule's disclosure and reporting requirements on Form N–PORT that has not already been incurred by funds will be amortized over an additional six months. Funds will also not incur six months' worth of the associated aggregate ongoing annual costs, which we estimated as being approximately $3.9 million.[89] Finally, funds will not have to incur six months' worth of the annual aggregate costs associated with filing Part D of form N–LIQUID, which we estimated as being $52,350.[90]

As a result of the compliance date extension, some funds that do not already have a liquidity risk management program in place and opt to delay the implementation of a full portfolio classification system may incur additional costs, relative to the baseline, associated with the development of interim systems and processes that allow for compliance with those elements of the Liquidity Risk Requirements that are not being delayed. For example, funds that intended to base their implementation of a liquidity risk management program on portfolio classification but opt to delay the implementation of a classification system will need to establish other interim systems and processes to assess, manage, and periodically review the fund's liquidity during the compliance date extension period.[91] In addition, funds that opt to delay the implementation of their classification system under the interim final rule will have to develop systems and processes to comply with the 15% limit in the absence of a classification system. In deciding whether they should exercise their option to delay, funds will weigh the costs of implementing any interim systems and processes during the compliance date extension period if they opt to delay the implementation of a full portfolio classification system against the costs of implementing a full portfolio classification system by the original compliance date if they do not.

Impacts on Investors and Other Market Participants

As discussed above, the compliance date extension provides funds with the option to delay the implementation of a full portfolio classification system. The compliance date extension for certain of the Liquidity Rule Requirements will delay benefits to fund investors and other market participants who otherwise would have benefited from those portions of the rule during the compliance date extension period. These delayed benefits include, for example, the increased likelihood that funds would be able to effectively meet redemption obligations by establishing an HLIM and any benefits associated with the Commission's ability to monitor and analyze trends in fund liquidity based on the portfolio holding classifications reported on Form N–PORT.[92] However, because smaller entities will not begin filing Form N–PORT until April 30, 2020 and the compliance date for larger entities filing Form N–PORT has been delayed until

[87] *See supra* footnote 39 and surrounding text for an example of how funds might modify their implementation of portfolio classification systems in response to new information.

[88] *See* Adopting Release, *supra* footnote 3, at n.1101. We assumed the classification process constitutes 75% of both onetime and ongoing costs. Estimated onetime aggregate costs of $855 million consist of approximately $641 million (75%) associated with a classification system and approximately $214 million associated with the remaining elements of rule 22e–4. Similarly, the range of ongoing costs, estimated to be $40,000 to $3.3 million, imply a range of $30,000 to $2.5 million associated with the classification system and $10,000 to $0.8 million associated with the remaining elements of rule 22e–4. We do not have sufficient data to estimate the portion of these costs that has already been incurred.

[89] *See* Adopting Release, *supra* footnote 3, at n.1188–1191. We estimated the total one-time costs associated with the rule's disclosure and reporting requirements on Form N–PORT as being approximately $55 million for funds that will file reports on Form N–PORT in house and approximately $103 million for funds that will use a third-party service provider. Similarly, we estimated the total ongoing annual costs as being approximately $1.6 million for funds filing reports in house and $2.3 million for funds that will use a third-party service provider.

[90] *See* Adopting Release, *supra* footnote 3, at n.1287–1288. We estimated that an average of 30 reports would be filed per year in response to an event specified on Part D of Form N–LIQUID at a total cost of $1,745 per filing, resulting in an aggregate cost of $30 \times \$1,745 = \$52,350$.

[91] *See supra* footnote 62 and surrounding text for a discussion of liquidity risk management program implementation in the absence of a portfolio classification system.

[92] *See* section IV.C of the Adopting Release for a comprehensive discussion of the benefits associated with the Liquidity Rule Requirements. *See* Adopting Release, *supra* footnote 3, at n.1089 and surrounding text for a discussion of why we are unable to quantify these benefits.

April 30, 2019, the only delayed benefits associated with disclosures on Form N–PORT would be for larger entities during the three-month period between April 30, 2019 and the extended compliance date of July 30, 2019.[93] In addition, to the extent that funds would not have been able to effectively comply with the provisions of the Liquidity Risk Requirements that are being extended as of the original compliance date, such benefits would not have existed under the baseline, and thus the diminution of the expected benefits would be not be attributable to the compliance date extension.

Efficiency, Competition, and Capital Formation

In the Adopting Release, we discussed the effects of the Liquidity Rule Requirements on efficiency, competition, and capital formation. In general, the interim final rule will delay, for six months, those effects that are associated with the elements of the Liquidity Rule Requirements that we are delaying today. For example, funds may shift their portfolios away from less liquid assets and towards more liquid assets as a result of the HLIM. Some of the potential economic effects associated with such a shift, as discussed in the Adopting Release, include a potentially lower yield on the funds available to investors, a decrease in the investment options available to investors, an additional decrease in the liquidity of less liquid securities, and an additional increase in the liquidity of more liquid securities.[94] With respect to capital formation, any shift by funds or investors away from less liquid assets and towards more liquid assets could discourage new issuance of illiquid securities or a shift in the capital structure of issuers away from less liquid assets such as bonds and towards more liquid asset such as equities.[95]

The compliance date extension may disadvantage some funds that have already invested in systems and processes to implement the Liquidity Rule Requirements and would be able to effectively comply with those requirements as of the compliance date established in the Adopting Release. To the extent that the capital invested by these funds makes them less able to invest in other aspects of their business, the rule may put them at a competitive disadvantage relative to funds that have not invested as heavily in complying with the Liquidity Rule Requirements. However, to the extent that investors have a preference for funds with complete liquidity risk management programs, some funds may prefer to comply with the Liquidity Rule Requirements by the compliance date in the Adopting Release, and may perceive having significant capital invested already as a competitive advantage. In addition, to the extent that funds have complete liquidity risk management programs, they would not have to implement systems for complying with the 15% illiquid investment limit under the guidance provided in this release, which would diminish any potential competitive differential. As is the case with the amortization of one-time costs over an additional six months discussed above, this effect will vary with the extent to which a fund has already invested in implementing systems and processes to comply with these elements, which we cannot quantify.

As discussed above, funds that opt to delay the implementation of a full classification system may choose different ways of complying with the 15% illiquid investment limit during the compliance date extension period. The manner in which funds choose to comply with the 15% illiquid investment limit may lead otherwise similar funds to have different capacities for holding illiquid investments. For example, two otherwise identical funds could perform the same preliminary evaluation discussed in the guidance above, while only one of the funds might perform the secondary evaluation under the guidance. Any secondary evaluation in which it is determined that some investments are not illiquid results in the fund that performs the secondary evaluation holding a lower percentage of illiquid assets than the otherwise identical fund that only performs a preliminary evaluation. If having a higher capacity to invest in illiquid investments allows some funds to increase the expected return of their portfolios, these funds will consider this potential competitive advantage when determining how they will comply with the 15% illiquid investment limit. In-kind ETFs will consider this potential competitive advantage on an ongoing basis. Other types of funds will consider this potential competitive advantage in determining how they will comply with the 15% illiquid investment limit during the compliance date extension period if they opt to delay the implementation of a classification system and whether it is worth exercising their option to delay.

D. Reasonable Alternatives

The Commission considered several alternatives to the interim final rule's six-month compliance date extensions. First, the compliance date could have been extended for a shorter or longer period of time. A shorter extension would have reduced the extent to which investors and other market participants will forgo any benefits associated with the delayed elements of the Liquidity Rule Requirements, but may not have provided ample time to fully mitigate the concerns raised by the commenters regarding the industry's ability to effectively comply with the elements of the rule related to classification. A longer extension would provide more time to mitigate commenters' concerns but also would have further delayed any potential benefits associated with the Liquidity Rule Requirements.

Second, the Commission could have delayed all of the Liquidity Rule Requirements. Delaying all of the Liquidity Rule Requirements would have saved funds from incurring the costs associated with any interim systems or processes required to implement a liquidity risk management program (rule 22e–4(b)(1)(i)) and to comply with the 15% illiquid investment limit during the compliance date extension period. It also would have allowed funds to amortize startup costs for the rest of the elements of the Liquidity Rule Requirements that are not being delayed over an additional six months and would have saved the ongoing costs associated with those elements for six months. However, delaying all of the Liquidity Rule Requirements would also delay any of the benefits to investors and market participants associated with the general liquidity risk management program and the 15% illiquid investment limit, such as the reduced risk that funds are unable to meet their redemption obligations.

Third, the compliance date extension could have been applied to all elements of the Liquidity Rule Requirements that refer to the classification requirement, including the 15% illiquid investment limit, the associated board reporting requirement, and the associated reporting requirements on Form N–PORT. This alternative would have saved funds from incurring the costs associated with any interim systems required to perform a preliminary evaluation of whether an asset is likely to be illiquid and, to the extent funds opt to implement classification systems during the interim period to allow for a

[93] *See* N–PORT Release, *supra* footnote 55.

[94] *See* section IV.C of the Adopting Release for a detailed discussion of the Liquidity Rule Requirements' effect on efficiency, competition, and capital formation.

[95] *See* Adopting Release, *supra* footnote 3, at n.1128 and surrounding text for a discussion of the effects of a shift away from illiquid assets on capital formation.

secondary evaluation of asset liquidity in the context of the 15% illiquid investment limit, the costs associated with building such interim systems by the compliance date in the Adopting Release. Delaying all of the classification-related elements would have also delayed any benefits associated with the 15% illiquid investment limit, such as the increased likelihood that a fund's portfolio is not overly concentrated in illiquid investments and the decreased likelihood that a fund's portfolio remains overly concentrated in illiquid investments for an extended period of time as result of the requirements that funds report violations of their 15% illiquid investment limit to their boards and the Commission on Form N–LIQUID.

Finally, the Commission could have chosen not to delay the compliance date for the HLIM requirement, and instead provided guidance as to how funds could comply with that requirement during the period that portfolio classification requirements are extended. Maintaining the original compliance date for the HLIM requirement also would have maintained any benefits associated with the HLIM during the compliance date extension period such as the increased likelihood that funds would be able to effectively meet redemption obligations. However, as discussed previously, not delaying the HLIM requirement may have caused funds that opted to delay the implementation of a portfolio classification system to incur costs in developing any interim systems required to comply with the HLIM requirement absent a portfolio classification system, or redo certain elements of their systems when they implement full portfolio classification. Because HLIM is a new requirement for which there has been no previous Commission guidance and the establishment of an HLIM may depend more heavily on a full portfolio classification system, implementing interim systems to comply with HLIM could be more costly to funds than implementing interim systems to comply with the 15% illiquid investment limit.

E. Request for Comment

We are requesting comment on our analysis of the potential economic effects of the interim final rule delaying the compliance date for those elements of the Liquidity Rule Requirements associated with the classification requirement:

- Are there any other costs or benefits we should consider in our analysis? If so please explain why those costs or benefits are relevant and provide quantitative estimates where possible.
- Are there other reasonable alternatives to the interim final rule's delayed compliance date that we should consider?

IV. Paperwork Reduction Act Analysis

We do not believe that the revision of the compliance date for Part D of Form N–LIQUID, amendments to Form N–PORT, and certain provisions of rule 22e–4 make any substantive modifications to any existing collection of information requirements or impose any new substantive recordkeeping or information collection requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[96]

We believe that the current burden and cost estimates for the existing collection of information requirements remain appropriate.[97] We are only delaying certain burdens for six months. Thus, we believe that there are no new substantive burdens imposed on the overall population of respondents and the current overall burden estimates for the relevant forms are not affected.[98] Accordingly, we are not revising any burden and cost estimates in connection with the revision of the compliance date. We request comment on whether our belief is correct.

By the Commission.

Dated: February 22, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–03917 Filed 2–26–18; 8:45 am]

BILLING CODE 8011–01–P

[96] 44 U.S.C. 3501 *et seq.*

[97] The titles for the existing collections of information are: ''Rule 22e–4 (17 CFR 270.22e–4) under the Investment Company Act of 1940'' (OMB Control No. 3235–0737); ''Rule 30b1–10 (17 CFR 270.30b1–10) under the Investment Company Act of 1940, 'Current report for open-end management investment companies' and Form N–LIQUID, 'Current report, open-end investment company.' '' (OMB Control No. 3235–0754); ''Rule 30b1–9 and Form N–PORT'' (OMB Control No. 3235–0730).

[98] *See* section III above.

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 18–02]

RIN 1515–AE37

Extension of Import Restrictions Imposed on Certain Archaeological Material From Belize

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This final rule amends U.S. Customs and Border Protection (CBP) regulations to reflect the extension of import restrictions on certain archaeological material from Belize. These restrictions, which were imposed by CBP Dec. 13–05, are due to expire on February 27, 2018, unless extended. The Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State (Department of State), has determined that conditions continue to warrant the imposition of import restrictions. Accordingly, the restrictions will remain in effect for an additional five years, and the CBP regulations are being amended to indicate this additional extension. These restrictions are being extended pursuant to determinations of the Department of State under the terms of the Convention on Cultural Property Implementation Act, which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. CBP Dec. 13–05 contains the Designated List of archaeological material that describes the articles to which the restrictions apply.

DATES: Effective February 27, 2018.

FOR FURTHER INFORMATION CONTACT: For legal aspects, Lisa L. Burley, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325–0215, *lisa.burley@cbp.dhs.gov.* For operational aspects, William R. Scopa, Branch Chief, Partner Government Agency Branch, Trade Policy and Programs, Office of Trade, (202) 863–6554, *william.r.scopa@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the Convention on Cultural Property Implementation Act (hereafter, the Cultural Property Implementation Act or the Act) (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*), which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereinafter, the Convention), in U.S. law, the United States may enter into an international agreement with another State Party to the Convention to impose import restrictions on eligible archaeological and ethnological materials under procedures and requirements prescribed by the Act. Under the Act and applicable CBP regulations (19 CFR 12.104g), the restrictions are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States (19 U.S.C. 2602(b)). This period may be extended for additional periods, not to exceed five years, if it is determined that the factors justifying the initial agreement still pertain and no cause for suspension of the agreement exists (19 U.S.C. 2602(e); 19 CFR 12.104g(a)).

On February 27, 2013, the United States entered into a bilateral agreement with the Government of Belize concerning the imposition of import restrictions on certain categories of archaeological material originating in Belize, pursuant to the Act. (The agreement can be found online at *https://eca.state.gov/files/bureau/bzmou2013.pdf.*) On March 5, 2013, CBP published CBP Dec. 13–05 in the **Federal Register** (78 FR 14183), which amended 19 CFR 12.104g(a) to reflect the imposition of restrictions on this material and included a list designating the types of archaeological material covered by the restrictions. These restrictions were to be effective through February 27, 2018.

On January 12, 2018, after reviewing the findings and recommendations of the Cultural Property Advisory Committee, the Acting Assistant Secretary for Educational and Cultural Affairs, Department of State, concluding that the cultural heritage of Belize continues to be in jeopardy from pillage of certain archaeological material, made the necessary statutory determinations, and decided to extend the agreement with Belize for an additional five-year period to February 27, 2023. Diplomatic notes have been exchanged that reflect the extension of the agreement. Accordingly, CBP is amending 19 CFR 12.104g(a) in order to reflect the extension of the import restrictions pursuant to the agreement.

The Designated List of Archaeological Material originating in Belize covered by these import restrictions is set forth in CBP Dec. 13–05, which can be found online at: *https://eca.state.gov/files/bureau/bz2013dlfrn.pdf.*

The restrictions on the importation of this archaeological material originating in Belize are to continue in effect for an additional five years. Importation of such material continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). In addition, CBP has determined that such notice or public procedure would be impracticable and contrary to the public interest because the action being taken is essential to avoid interruption of the application of the existing import restrictions (5 U.S.C. 553(b)(B)). For the same reason, a delayed effective date is not required under 5 U.S.C 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Orders 12866 and 13771

Because this rule involves a foreign affairs function of the United States, it is not subject to either Executive Order 12866 or Executive Order 13771.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below.

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

§ 12.104g [Amended]

■ 2. In § 12.104g, the table in paragraph (a) is amended in the entry for Belize by adding the words ''extended by ''CBP Dec. 18–02'' after the words ''CBP Dec. 13–05'' in the column headed ''Decision No.''.

Kevin K. McAleenan,

Acting Commissioner, U.S. Customs and Border Protection.

Approved: February 21, 2018.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2018–03946 Filed 2–26–18; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 864

[Docket No. FDA 2018–N–0339]

Medical Devices; Hematology and Pathology Devices; Classification of Lynch Syndrome Test Systems

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying Lynch syndrome test systems into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the Lynch syndrome test systems' classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices, in part by reducing regulatory burdens.

DATES: This order is effective February 27, 2018. The classification was applicable on October 27, 2017.

FOR FURTHER INFORMATION CONTACT: Scott McFarland, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4676, Silver Spring,

MD 20993–0002, 301–796–5866, *Scott.McFarland@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified Lynch syndrome test systems as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act to a predicate device that does not require premarket approval (see 21 U.S.C. 360c(i)). We determine whether a new device is substantially equivalent to a predicate by means of the procedures for premarket notification under section 510(k) of the FD&C Act and part 807 (21 U.S.C. 360(k) and 21 CFR part 807, respectively).

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act. Section 207 of the Food and Drug Administration Modernization Act of 1997 established the first procedure for De Novo classification (Pub. L. 105–115). Section 607 of the Food and Drug Administration Safety and Innovation Act modified the De Novo application process by adding a second procedure (Pub. L. 112–144). A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically within class III, the De Novo classification is considered to be the initial classification of the device.

We believe this De Novo classification will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens. When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see 21 U.S.C. 360c(f)(2)(B)(i)). As a result, other device sponsors do not have to submit a De Novo request or premarket approval application in order to market a substantially equivalent device (see 21 U.S.C. 360c(i), defining ''substantial equivalence''). Instead, sponsors can use the less-burdensome 510(k) process, when necessary, to market their device.

II. De Novo Classification

On May 31, 2017, Ventana Medical Systems, Inc. submitted a request for De Novo classification of the Ventana MMR IHC Panel. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on October 27, 2017, FDA issued an order to the requester classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 864.1866. We have named the generic type of device Lynch syndrome test systems, and it is identified as in vitro diagnostic tests for use with tumor tissue to identify previously diagnosed cancer patients at risk for having Lynch syndrome.

FDA has identified the following risks to health associated specifically with this type of device and the measures required to mitigate these risks in table 1.

TABLE 1—LYNCH SYNDROME TEST SYSTEMS RISKS AND MITIGATION MEASURES

Identified risk	Mitigation measures
False positive test result	General controls; Special controls (1) and (2) (21 CFR 864.1866(b)(1) and (2)).
False negative test result	General controls; Special control (1) and (2) (21 CFR 864.1866(b)(1) and(2)).

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. For a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this order. This device is subject to premarket notification requirements under section 510(k).

III. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment

nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. 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 the guidance document ''De Novo Classification Process (Evaluation of Automatic Class III Designation)'' have been approved under OMB control number 0910–0844; the collections of information in part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR parts 801 and 809, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 864

Blood, Medical devices, Packaging and containers.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 864 is amended as follows:

PART 864—HEMATOLOGY AND PATHOLOGY DEVICES

■ 1. The authority citation for part 864 continues to read as follows:

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

■ 2. Add § 864.1866 to subpart B to read as follows:

§ 864.1866 Lynch syndrome test systems.

(a) *Identification.* Lynch syndrome test systems are in vitro diagnostic tests for use with tumor tissue to identify previously diagnosed cancer patients at risk for having Lynch syndrome.

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

(1) Premarket notification submissions must include the following information, as appropriate:

(i) A detailed description of all test components, including all provided reagents, and required but not provided, ancillary reagents.

(ii) A detailed description of instrumentation and equipment, including illustrations or photographs of non-standard equipment or manuals.

(iii) Detailed documentation of the device software, including, but not limited to, standalone software applications and hardware-based devices that incorporate software.

(iv) A detailed description of quality controls including appropriate positive and negative controls that are recommended or provided.

(v) Detailed specifications for sample collection, processing, and storage.

(vi) A detailed description of methodology and assay procedure.

(vii) A description of the assay cut-off (*i.e.,* the medical decision point between positive and negative results) or other relevant criteria that distinguishes positive and negative results, or ordinal classes of marker expression, including the rationale for the chosen cut-off or other relevant criteria and results supporting validation of the cut-off.

(viii) Detailed specification of the criteria for test result interpretation and reporting.

(ix) Detailed information demonstrating the performance characteristics of the device, including:

(A) Data from an appropriate study demonstrating clinical accuracy using well-characterized clinical specimens representative of the intended use population (*i.e.,* concordance to Deoxyribonucleic Acid (DNA) sequencing results of the Lynch syndrome associated genes or method comparison to the predicate device using samples with known alterations in genes representative of Lynch syndrome). Pre-specified acceptance criteria must be provided and followed.

(B) Appropriate device reproducibility data investigating all sources of variance (*e.g.,* for distributed tests, data generated using a minimum of three sites, of which at least two sites must be external sites). Each site must perform testing over a minimum of 5 nonconsecutive days evaluating a sample panel that spans the claimed measuring range, and includes the clinical threshold. Pre-specified acceptance criteria must be provided and followed.

(C) Data demonstrating reader reproducibility, both within-reader and between-reader, assessed by three readers over 3 nonconsecutive days at each site, including a 2 week washout period between reads, as appropriate.

(D) Device precision data using clinical samples spanning the measuring range and controls to evaluate the within-lot, between-lot, within-run, between run, and total variation.

(E) Analytical specificity studies including as appropriate, western blots, peptide inhibition, testing in normal tissues and neoplastic tissues, interference by endogenous and exogenous substances, and cross-reactivity and cross contamination testing.

(F) Device analytical sensitivity data generated by testing an adequate number of samples from individuals with the target condition such that prevalence of the biomarker in the target population is established.

(G) Device stability data, including real-time stability and in-use stability, and stability evaluating various storage times, temperatures, and freeze-thaw conditions, as appropriate.

(H) The staining performance criteria assessed must include overall staining acceptability, background staining acceptability, and morphology acceptability, as appropriate.

(I) Appropriate training requirements for users, including interpretation manual, as applicable.

(J) Identification of risk mitigation elements used by the device, including a description of all additional procedures, methods, and practices incorporated into the instructions for use that mitigate risks associated with testing.

(2) The device's § 809.10(b) of this chapter compliant labeling must include a detailed description of the protocol, including the information described in paragraphs (b)(1)(i) through (viii) of this section, as appropriate, and a detailed description of the performance studies performed and the summary of the results, including those that relate to paragraph (b)(1)(ix) of this section, as appropriate.

Dated: February 21, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–03924 Filed 2–26–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0074]

RIN 1625–AA00

Safety Zone; Wando Terminal Crane Movement; Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone in the Port of Charleston in Charleston, SC around the vessel, M/V Zhen Hua 16. This temporary safety zone is necessary to provide for the safety of waterway users and the M/V Zhen Hua 16 during the vessel's transit into the Port of Charleston, its stay at Columbus Street Terminal, its transit to and stay at Wando Terminal, and its outbound transit departing the Port of Charleston. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Charleston.

DATES: This rule is effective without actual notice from February 27, 2018 through March 31, 2018. For the purposes of enforcement, actual notice will be used from February 23, 2018 through February 27, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0074 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Justin Heck, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *Justin.c.heck@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this safety zone by February 23, 2018 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule because the details of the event were not provided to the Coast Guard until January 24, 2018. It is also contrary to the public interest as it would delay the planning and implementation of safety measures necessary to protect the public and mariners from the hazards associated with the transit of the M/V Zhen Hua 16.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to respond to the potential safety hazards associated with the transit of the M/V Zhen Hua 16.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port (COTP) Charleston has determined that potential hazards exist and will be associated with navigation and dockside operations of the M/V Zhen Hua 16 while within the Sector Charleston Captain of the Port Zone. Due to the size of the cranes aboard the vessel and the vessel's limited ability to maneuver this temporary safety zone is necessary to ensure the safety of, and reduce the risk to, the public and mariners.

IV. Discussion of the Rule

This rule establishes a temporary moving safety zone from 12:00 a.m. on February 23, 2018, through 11:59 p.m. on March 31, 2018, encompassing all navigable waters from the surface to the sea floor within 100 yards of the M/V Zhen Hua 16 while the vessel is underway, moored, or anchored in the Sector Charleston Captain of the Port Zone. No vessel or person is permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. Sector Charleston may be contacted on VHF-FM Channel 16 or (843) 740–7050.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the safety zone. The size of the zone is the minimum necessary to provide adequate protection for the waterway users, adjoining areas, and the public. The temporary safety zone will be in place during the vessel's time inside the Sector Charleston Captain of the Port Zone. Any hardships experienced by persons or vessels are considered minimal compared to the interest in protecting the public.

B. Impact on Small Entities

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

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

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone that will prohibit entry within a 100-yard radius of the vessel, M/V Zhen Hua 16, during the vessel's transit, mooring and anchoring in the Sector Charleston Captain of the Port Zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T07–0074 to read as follows:

§ 165.T07–0074 Safety Zone; Wando Terminal Crane Movement; Charleston, SC.

(a) *Regulated area.* The following regulated area is a moving safety zone: All waters of the Charleston Harbor, Cooper River, and Wando River in Charleston, SC within a 100 yard radius around the outer most points of the M/V Zhen Hua 16 while the vessel is underway, moored or anchored.

(b) *Definition.* As used in this section, ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated areas.

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

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

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

(d) *Enforcement period.* This section will be enforced beginning at 12:00 a.m. on February 23, 2018, until 11:59 p.m. on March 31, 2018. This rule will be enforced while M/V Zhen Hua is underway, moored, or anchored in the Sector Charleston Captain of the Port Zone.

Dated: February 21, 2018.

J.W. Reed,

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

[FR Doc. 2018–03915 Filed 2–26–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2017–0077; FRL–9974–51—Region 6]

Approval and Promulgation of Implementation Plans; Texas; Approval of Texas Motor Vehicle Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA)

is approving revisions submitted by the State of Texas that affect the Texas State Implementation Plan (SIP) concerning Texas' motor vehicle air pollution rules and retail gasoline dispensing labeling requirements for El Paso. The revisions are non-substantive in nature and do not affect implementation of federal requirements.

DATES: This rule is effective on May 29, 2018 without further notice, unless the EPA receives relevant adverse comment by March 29, 2018. If the EPA receives such comment, the EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2017–0077, at *http://www.regulations.gov* or via email to *walser.john@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Mr. John Walser, 214–665–7128, *walser.john@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Mr. John Walser, 214–665–7128, *walser.john@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Mr. Bill Deese at 214–665–7253.

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

I. Background

Section 110 of the CAA requires states to develop and submit to the EPA a SIP to ensure that state air quality meets National Ambient Air Quality Standards. These ambient standards currently address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin through air pollution regulations and control strategies. The EPA approved SIP regulations and control strategies are federally enforceable.

II. The SIP Submittals and EPA's Evaluation

On July 12, 1995, the Texas Commission on Environmental Quality (TCEQ) submitted SIP revisions to EPA that amend 30 Texas Administrative Code (TAC) Chapter 114.13 (renumbered to 114.100) [1] which include minor rephrasing regarding gasoline pump dispensing labeling dates. Specifically, the revisions modify § 114.100(f)(1) and (2) to indicate when the legible labels shall be displayed. See Docket EPA–R06–OAR–2017–0077 online at *www.regulations.gov* for the submittal and adopted rules published in the Texas Register (20 TexReg 3097, April 25, 1995). EPA is approving these minor changes submitted to EPA on July 12, 1995. Note, it was discovered in the processing of the 2017 SIP revision discussed below that EPA had inadvertently never processed the 1995 revision.

On January 20, 2017, TCEQ submitted SIP revisions to EPA that amend 30 TAC Chapter Section 114.100 and 114.305 that make non-substantive, minor modifications to the following Sections: § 114.100 (b), (c), (d), (e)(1), (e)(2), (f) and 114.305(a) and (c). For example, § 114.100(c) changes the date ''September 1'' to ''September 1st.'' The revision to § 114.100(d) includes replacing the phrase ''commission, EPA'' with ''executive director, United States Environmental Protection Agency (EPA).'' The revision to § 114.100(e)(2) adds the words ''the active version'' to the beginning of the phrase ''American Society for Testing and Materials (ASTM)'' to ensure that the most active ASTM version is used for determining the oxygen content of fuel.[2] Revisions to § 114.305(a) ensure that the most active current version of the ASTM Test Method for determining compliance with the Reid Vapor Pressure (RVP) limits is required consistent with industry's current testing practices and state and federal law.[3] We have prepared a TSD for this action which details our evaluation. The TSD may be accessed on-line at *www.regulations.gov,* Docket No. EPA–R06–OAR–2017–0077.

Section 211(m) of the Act requires that various States submit revisions to their SIPs, and implement oxygenated gasoline programs by no later than November 1, 1992. EPA previously approved the State's adopted labeling regulations, enforcement procedures, and oxygenate test methods in conformity with Federal regulations (*See,* 59 FR 15683 (April 4, 1994)). The labeling regulations of retail gasoline pumps also may be found at 40 CFR 80.35.[4] Texas has complied with federal requirements and the above revisions function to add further clarity to the existing rule language and are approvable.

III. Final Action

Pursuant to Sections 110 and 182 of the Act, EPA is approving, through a direct final action, revisions to the Texas SIP that were submitted on July 12, 1995 and January 20, 2017. We are approving revisions to the following sections within Chapter 114 of 30 TAC: 114.100 and 114.305. We evaluated the state's submittals and determined that they meet the applicable requirements of the CAA. Also, in accordance with CAA section 110(l), the revisions will not interfere with attainment of the NAAQS, reasonable further progress, or any other applicable requirement of the CAA.

The EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on May 29, 2018 without further notice unless we receive relevant

[1] *See,* 63 FR 35839 (July 1, 1998).

[2] The most active current ASTM Test Method is ASTM D4815.

[3] Volatility is the property of a liquid fuel that defines its evaporation characteristics. RVP is an abbreviation for ''Reid Vapor Pressure'', a common measure of and the generic term for gasoline volatility. The most active current version of the test for gasoline volatility is the ASTM Test Method D5191.

[4] See ''Notice of Final Oxygenated Fuels Labeling Regulations under Section 211(m) of the CAA as Amended—Notice of Final Rulemaking.'' (*See,* 57 FR 47769 (October 20, 1992)).

adverse comment by March 29, 2018. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive relevant adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the revisions to the Texas regulations as described in the Final Action section above. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 6 Office (please contact Mr. John Walser for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation (62 FR 27968, May 22, 1997).

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 30, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: February 22, 2018.

Anne Idsal,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart SS—Texas

■ 2. In § 52.2270(c), the table entitled ''EPA Approved Regulations in the Texas SIP'' is amended by adding a centered heading for ''Subchapter D—Oxygen Requirements for Gasoline'' under Chapter 114, followed by a new entry for Section 114.100; and revising the entry for Section 114.305.

The additions and revisions read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
*	*	*	*	*
Chapter 114 (Reg 4)—Control of Air Pollution from Motor Vehicles				
*	*	*	*	*
Subchapter D—Oxygen Requirements for Gasoline				
Section 114.100	Oxygenated Fuels	1/20/2017	2/27/2018, [Insert **Federal Register** citation].	
*	*	*	*	*
Subchapter H—Low Emission Fuels Division 1: Gasoline Volatility				
*	*	*	*	*
Section 114.305	Approved Test Methods	1/20/2017	2/27/2018, [Insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2018–03974 Filed 2–26–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 170808738–7777–01]

RIN 0648–BH11

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Groundfish Fishery; Fishing Year 2017; Extension of Emergency Removal of Southern Windowpane Accountability Measures

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

ACTION: Temporary rule; emergency action extended.

SUMMARY: This rule extends the emergency action to remove the 2017 southern windowpane flounder accountability measures (AM) for non-groundfish trawl vessels. The rule is necessary because the emergency measures would otherwise expire before the end of the 2017 fishing year. This rule is intended to mitigate negative economic impacts to non-groundfish vessels, while maintaining conservation benefits for the southern windowpane flounder stock.

DATES: Effective March 1, 2018, through April 30, 2018.

ADDRESSES: Copies of recent related actions, including Framework 52, 55, and Framework 56, the Environmental Assessments (EA), and their Regulatory Impact Review, and the Final Regulatory Flexibility Act analysis prepared by the New England Fishery Management Council and NMFS are available from Michael Pentony, Regional Administrator, NMFS Greater Atlantic Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. The documents are also accessible via the internet at: *https://www.nefmc.org/management-plans/northeast-multispecies.*

FOR FURTHER INFORMATION CONTACT: Sarah Heil, Senior Fishery Policy Analyst, phone: 978–281–9257.

SUPPLEMENTARY INFORMATION: On September 1, 2017, we implemented emergency measures to remove the southern windowpane flounder AMs for non-groundfish trawl vessels (82 FR 41564). These emergency measures expire on February 28, 2018. The emergency rule published on September 1, 2017, included detailed information on the background, reasons, and justification for the emergency measures, and this information is not repeated here.

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) limits NMFS' emergency action authority to an initial period of 180 days, with a potential extension up to an additional 186 days, if certain criteria are met. An extension is allowed if the public has had an opportunity to comment on the emergency regulation, and in the case of a Council recommendation for an emergency action, the Council is actively developing a change to the Fishery Management Plan (FMP) or regulations to address the emergency on a permanent basis. We accepted public comment on the emergency measures, and received one comment in support of the action. Additionally, the New England Fishery Management Council developed changes in Framework Adjustment 57 to the Northeast Multispecies (Groundfish) FMP to permanently address the emergency. Framework 57 is intended to be implemented for the 2018 fishing year beginning on May 1, 2018. As discussed in more detail below, we determined the necessary criteria to extend the emergency measures have been met. Therefore, this temporary rule removes the southern windowpane flounder AMs for non-groundfish trawl vessels for the remainder of the 2017 fishing year through April 30, 2018.

Background

On August 1, 2017, we implemented AMs because the 2015 total annual catch limit (ACL) for southern windowpane flounder was exceeded (82 FR 35660). Due to data availability, we typically implement AMs for windowpane flounder at the start of the second fishing year after an overage. These AMs require trawl vessels fishing in certain Southern New England areas to use selective gear that limit flatfish catch. The southern windowpane AM areas apply to all groundfish trawl vessels. The AM areas also apply to non-groundfish trawl vessels fishing with a 5 inch (12.7 centimeter) or greater codend mesh size, which includes vessels that target summer flounder, scup, black sea bass, and skates. The AMs impose a substantial financial hardship on both groundfish and non-groundfish vessels, particularly because the AM areas eliminate access to target species that vessels are unlikely to recoup even if they move to fish in other areas. These AMs are estimated to result in $2 million in lost revenue in catch of yellowtail flounder, winter flounder, summer flounder, and scup.

In 2015, we implemented Framework Adjustment 52 to the Northeast Multispecies FMP to reduce the economic impacts of the windowpane flounder AMs for the groundfish fishery (80 FR 2021; January 15, 2015). At the time, the AMs had only been triggered for the groundfish fishery. The Council intentionally limited the scope of Framework 52 to the groundfish fishery to ensure the action could be completed and implemented during the 2015 fishing year. Framework 52 gave the Regional Administrator authority to remove the windowpane flounder AM in-season if catch is below the ACL in the year immediately following the overage. For example, if we implement an AM in year 3 (2017) due to an overage in year 1 (2015), we can remove the AM in September if catch did not exceed the ACL in year 2 (2016).

Total 2016 catch of southern windowpane flounder was 82 percent of the total ACL. As a result, under the Regional Administrator authority that Framework 52 established, we removed the AMs for the groundfish fishery on September 1, 2017 (82 FR 35676; August 1, 2017). However, because this authority is limited to the groundfish fishery only, the AMs for non-groundfish trawl vessels would have remained in place for the entire 2017 fishing year without additional action.

As a result of the 2015 ACL overage, we implemented the AMs for non-groundfish trawl vessels for the first time in 2017. Neither we, nor the New England Council, considered or foresaw the possibility of removing the AMs inseason for groundfish vessels, but maintaining them for non-groundfish trawl vessels despite catch being below the ACL. This situation presented an issue of fairness and equity, particularly because catch by non-groundfish vessels was well below the sub-ACL for this fishery component. Maintaining the AMs for non-groundfish trawl vessels for the full fishing year would have substantial economic impacts without further contributing to the conservation goals of the AMs. For these reasons, and at the request of the New England and Mid-Atlantic Councils, on September 1, 2017, we implemented an emergency rule to remove the 2017 southern windowpane flounder AMs for non-groundfish trawl vessels (82 FR 41564). These emergency measures expire on February 28, 2018.

Extension of Emergency Measures

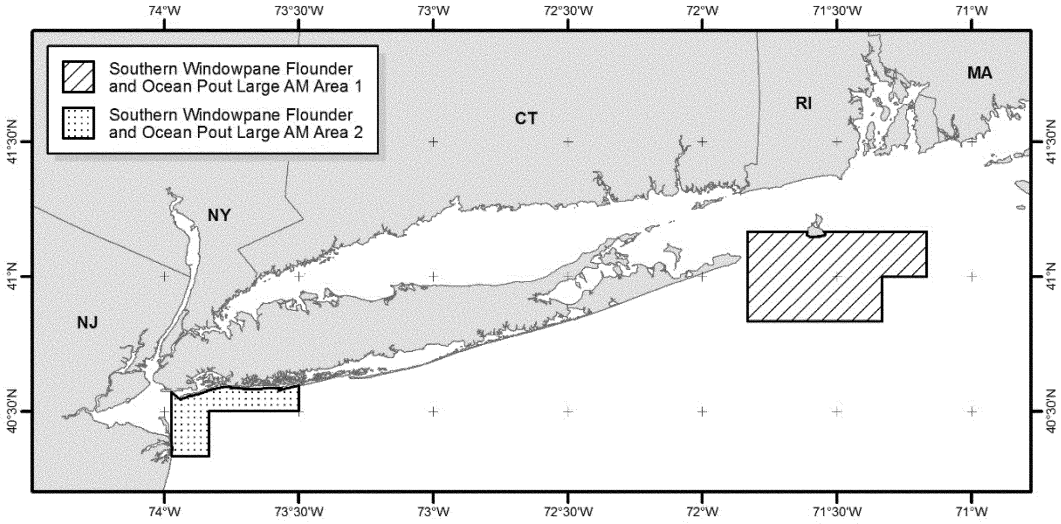
If the emergency measures expire, the southern windowpane flounder AMs would be re-implemented for non-groundfish trawl vessels for the remainder of the 2017 fishing year. This would undermine the conservation and management goals of the September 1, 2017, emergency action. AMs are intended to correct operational issues that cause overages and mitigate biological consequences of overages. The fishery's 2016 catch was below the overall ACL, which is consistent with the fishery having corrected the operational issues that caused the 2015 overage. We expect 2017 catch to be similar to 2016 because of recent quota reductions for key flounder species that limit overall fishing effort on all flatfish stocks, including southern windowpane flounder. Additionally, the 2017 assessment update shows a stable and slightly increasing southern windowpane stock. This assessment information, along with 2016 catch, is consistent with the AM's goal of mitigating or addressing the effects of the overage. As a result, we determined that removing the AMs in September would not result in negative impacts for the stock. Thus, allowing the emergency measures to expire would result in unnecessary economic loss to non-groundfish trawl vessels.

Additionally, as noted earlier in this preamble, emergency action was justified because new information presented an issue of fairness and equity that we, nor the Council, previously contemplated. At the time of the emergency action, the New England Council was developing Framework Adjustment 57 to the Northeast Multispecies FMP, in part to address the issue of southern windowpane flounder AM impacts on non-groundfish trawls that arose during 2017. In this action, the New England Council recommended giving the Regional Administrator authority to remove the AMs inseason for non-groundfish vessels. The New England Council also recommended revising the southern windowpane flounder AM areas. These measures are intended to provide non-groundfish trawl vessels additional flexibility while continuing to reduce impacts on southern windowpane flounder. Framework 57 is intended to be implemented for the 2018 fishing year. The New England Council took final action on Framework 57 in December 2017, and has submitted the action to us for review. Framework 57 could not be developed and implemented in time to address this issue for the 2017 fishing year. Extending the emergency measures for the remainder of this fishing year will prevent disruption to non-groundfish trawl vessels while we consider the New England Council's recommended permanent changes.

Emergency Measures

This emergency action extends the Regional Administrator authority to remove the southern windowpane flounder AM inseason for non-groundfish trawl vessels if we determine that catch is below the ACL in the year immediately following an overage. Effective March 1, 2018, this action removes the southern windowpane flounder AMs for non-groundfish trawl vessels fishing with 5 inches (12.7 centimeter) or greater codend mesh size. These emergency measures are effective through April 30, 2018. There will be no southern windowpane flounder AM in effect beginning on May 1, 2018, because the 2016 ACL was not exceeded and current 2017 catch information does not suggest an ACL overage will occur. Non-groundfish trawl vessels may fish inside the southern windowpane flounder AM areas (Figure 1) without selective gear, which increases fishing opportunities to target other flatfish species for which they hold a permit and for which quota is available.

Figure 1. Southern Windowpane Flounder Accountability Measure Areas.



Comments and Responses

We received one comment during the comment period on the emergency rule.

Comment 1: Lund's Fisheries, Inc. commented in support of the emergency measures, and agreed that maintaining the AMs for non-groundfish trawl vessels would have presented fairness and equity issues, as well as serious economic impacts, without contributing to conservation goals of the AMs.

Response: We agree. For all of the reasons described in detail in the initial emergency rule, as well as those reasons in the preamble above, allowing the emergency measures to expire before the end of the fishing year would undermine the goals of the emergency action. As a result, this rule extends the emergency measures for the remainder of the 2017 fishing year to prevent disruption to Mid-Atlantic trawl vessels in the middle of the fishing year, maintain fairness and equity, and continue to mitigate the negative economic impacts on these vessels that the AMs would otherwise impose.

Classification

The NMFS Assistant Administrator has determined that this extension to the emergency rule is consistent with the criteria and justifications for use of emergency measures in section 305(c) of the Magnuson-Stevens Act, and is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, the Administrative Procedure Act (APA), and other applicable law.

Section 553 of the APA establishes procedural requirements applicable to rulemaking by Federal agencies. The purpose of these requirements is to ensure public access to the Federal rulemaking process and to give the public adequate notice and opportunity for comment. Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries finds good cause to waive prior notice and the opportunity for public comment because it would be impracticable and contrary to the public interest and would prevent the positive benefits this rule is intended to provide. Additionally, because this rule relieves a restriction and removes the southern windowpane flounder AM areas for non-groundfish trawl vessels, it is not subject to the 30-day delayed effectiveness provision of the APA under 5 U.S.C. 553(d)(1).

Without additional action, the emergency measures implemented on September 1, 2017, to remove the AMs for non-groundfish vessels would expire before the end of the 2017 fishing year. Implementing the AMs only for non-groundfish trawl vessels would present fairness and equity issues. The AMs would also have substantial economic impacts without contributing further to the conservation goals of the AMs. The AM areas eliminate access to target species that vessels are unlikely to recoup even if they move to fish in other areas. Thus, extending the emergency measures to remove the AMs for the remainder of the 2017 fishing year continues to mitigate serious economic harm to affected vessels until permanent measures can be implemented. There are less than 3 months remaining in the 2017 fishing year. The time necessary to provide prior notice and an opportunity for public comment would allow the emergency measures to expire, and prevent this action from being implemented before the end of the fishing year.

Additionally, the original emergency rule provided for public comment on the emergency measures. The Council also addressed this issue in Framework 57 to the Northeast Multispecies FMP, which is scheduled for implementation for the 2018 fishing year beginning on May 1, 2018. During the development of Framework 57, there was extensive public comment on potential changes to the windowpane flounder AMs. Thus, prior notice and opportunity for public comment for this rule would not provide added benefit that would outweigh the need to avoid unnecessary economic harm on non-groundfish trawl vessels fishing in Southern New England.

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

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

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: February 21, 2018.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 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 § 648.90, add paragraph (a)(5)(i)(D)(*1*)(*iii*) effective March 1, 2018, through April 30, 2018.

The addition reads as follows:

§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.

(a) * * *

(5) * * *

(i) * * *

(D) * * *

(*1*) * * *

(*iii*) *Emergency rule reducing the duration of southern windowpane flounder AM for non-groundfish vessels.* Effective March 1, 2018, through April 30, 2018, the southern windowpane flounder AM is removed for all vessels fishing with trawl gear with a codend mesh size equal to or greater than 5 inches (12.7 cm) in other, non-specified sub-components of the fishery, including, but not limited to, exempted fisheries that occur in Federal waters and fisheries harvesting exempted species specified in § 648.80(b)(3).

* * * * *

[FR Doc. 2018–03899 Filed 2–26–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 170817779–8161–02]

RIN 0648–XF636

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; 2018 and 2019 Harvest Specifications for Groundfish

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

ACTION: Final rule; closures.

SUMMARY: NMFS announces final 2018 and 2019 harvest specifications, apportionments, and prohibited species catch allowances for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits for groundfish during the 2018 and 2019 fishing years, and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). The intended effect of this action is to conserve and manage the groundfish resources in the BSAI in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective from 1200 hrs, Alaska local time (A.l.t.), February 27, 2018, through 2400 hrs, A.l.t., December 31, 2019.

ADDRESSES: Electronic copies of the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (EIS), Record of Decision (ROD), Supplementary Information Report (SIR) to the EIS, and the Initial Regulatory Flexibility Analysis (IRFA) prepared for this action are available from *http://alaskafisheries.noaa.gov.* The final 2017 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the BSAI, dated November 2017, as well as the SAFE reports for previous years, are available from the North Pacific Fishery Management Council (Council) at 605 West 4th Avenue, Suite 306, Anchorage, AK, 99510–2252, phone 907–271–2809, or from the Council's website at *http://www.npfmc.org/.*

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

SUPPLEMENTARY INFORMATION: Federal regulations at 50 CFR part 679 implement the FMP and govern the groundfish fisheries in the BSAI. The Council prepared the FMP, and NMFS approved it, under the Magnuson-Stevens Act. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify annually the total allowable catch (TAC) for each target species category. The sum of all TAC for all groundfish species in the BSAI must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (see § 679.20(a)(1)(i)(A)). This final rule specifies the TAC at 2.0 million mt for both 2018 and 2019. NMFS also must specify apportionments of TAC, prohibited species catch (PSC) allowances, and prohibited species quota (PSQ) reserves established by § 679.21; seasonal allowances of pollock, Pacific cod, and Atka mackerel TAC; American Fisheries Act allocations; Amendment 80 allocations; Community Development Quota (CDQ) reserve amounts established by § 679.20(b)(1)(ii); and acceptable biological catch (ABC) surpluses and reserves for CDQ groups and the Amendment 80 cooperative for flathead sole, rock sole, and yellowfin sole. The final harvest specifications set forth in Tables 1 through 25 of this action satisfy these requirements.

Section 679.20(c)(3)(i) further requires NMFS to consider public comment on the proposed harvest specifications and to publish final harvest specifications in the **Federal Register**. The proposed 2018 and 2019 harvest specifications for the groundfish fishery of the BSAI were published in the **Federal Register** on December 8, 2017 (82 FR 57906). Comments were invited and accepted through January 8, 2018. NMFS received no substantive comments on the proposed harvest specifications. NMFS consulted with the Council on the final 2018 and 2019 harvest specifications during the December 2017 Council meeting in Anchorage, AK. After considering public comments, as well as biological and economic data that were available at the Council's December meeting, in this final rule NMFS implements the final 2018 and 2019 harvest specifications as recommended by the Council.

ABC and TAC Harvest Specifications

The final ABC levels for Alaska groundfish are based on the best available biological and socioeconomic information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. In general, the development of ABCs and overfishing levels (OFLs) involves sophisticated statistical analyses of fish populations. The FMP specifies a series of six tiers to define OFL and ABC amounts based on the level of reliable information available to fishery scientists. Tier 1 represents the highest level of information quality available, while Tier 6 represents the lowest.

In December 2017, the Council, its Scientific and Statistical Committee (SSC), and its Advisory Panel (AP) reviewed current biological and harvest information about the condition of the BSAI groundfish stocks. The Council's BSAI Groundfish Plan Team (Plan Team) compiled and presented this information in the final 2017 SAFE report for the BSAI groundfish fisheries,

dated November 2017 (see **ADDRESSES**). The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the BSAI ecosystem and the economic condition of groundfish fisheries off Alaska. NMFS notified the public of the comment period for these harvest specifications—and of the publication of the 2017 SAFE report—in the notice of proposed harvest specifications. From the data and analyses in the SAFE report, the Plan Team recommended an OFL and ABC for each species or species group at the November 2017 Plan Team meeting.

In December 2017, the SSC, AP, and Council reviewed the Plan Team's recommendations. The final TAC recommendations were based on the ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the sum of all the TACs within the required OY range of 1.4 million to 2.0 million mt. As required by annual catch limit rules for all fisheries (74 FR 3178, January 16, 2009), none of the Council's recommended TACs for 2018 or 2019 exceed the final 2018 or 2019 ABCs for any species or species group. NMFS finds that the Council's recommended OFLs, ABCs, and TACs are consistent with the preferred harvest strategy and the biological condition of groundfish stocks as described in the 2017 SAFE report that was approved by the Council. Therefore, this final rule provides notice that the Secretary of Commerce (Secretary) approves the final 2018 and 2019 harvest specifications as recommended by the Council.

The 2018 harvest specifications set in this final action will supersede the 2018 harvest specifications previously set in the final 2017 and 2018 harvest specifications (82 FR 11826, February 27, 2017). The 2019 harvest specifications herein will be superseded in early 2019 when the final 2019 and 2020 harvest specifications are published. Pursuant to this final action, the 2018 harvest specifications therefore will apply for the remainder of the current year (2018), while the 2019 harvest specifications are projected only for the following year (2019) and will be superseded in early 2019 by the final 2019 and 2020 harvest specifications. Because this final action (published in early 2018) will be superseded in early 2019 by the publication of the final 2019 and 2020 harvest specifications, it is projected that this final action will implement the harvest specifications for the BSAI for approximately one year.

Other Actions Affecting the 2018 and 2019 Harvest Specifications

Amendment 117: Reclassify Squid as an Ecosystem Species

In June 2017, the Council recommended for Secretarial review Amendment 117 to the FMP. Amendment 117 would reclassify squid in the FMP as an ''Ecosystem Component Species,'' which is a category of non-target species that are not in need of conservation and management. Currently, NMFS annually sets an OFL, ABC, and TAC for squid in the BSAI groundfish harvest specifications. Under Amendment 117, OFL, ABC, and TAC specifications would no longer be required. Proposed regulations to implement Amendment 117 would prohibit directed fishing for squid, require recordkeeping and reporting to monitor and report catch of squid species annually, and establish a squid maximum retainable amount when directed fishing for groundfish species at 20 percent to discourage retention, while allowing flexibility to prosecute groundfish fisheries. Further details will be available on publication of the proposed rule for Amendment 117. If Amendment 117 and its implementing regulations are approved by the Secretary, Amendment 117 and its implementing regulations are anticipated to be effective by 2019. Until Amendment 117 is effective, NMFS will continue to publish OFLs, ABCs, and TACs for squid in the BSAI groundfish harvest specifications.

State of Alaska Guideline Harvest Levels

The Alaska Board of Fisheries (BOF), a regulatory body for the Alaska Department of Fish and Game, established a guideline harvest level (GHL) in State of Alaska (State) waters between 164 and 167 degrees west longitude in the Bering Sea subarea (BS) equal to 6.4 percent of the Pacific cod ABC for the BS. The Council recommended that the final 2018 and 2019 Pacific cod TACs accommodate the State's GHLs for Pacific cod in State waters in the BS. The Council and its Plan Team, SSC, and AP recommended that the sum of all State and Federal water Pacific cod removals from the BS not exceed the final ABC recommendations of 201,000 mt for 2018 and 170,000 mt for 2019. Accordingly, the Council recommended that the final 2018 and 2019 Pacific cod TACs in the BS account for State GHLs, and NMFS sets the final BS TAC at 6.4 percent less than the Pacific cod BS ABC.

For 2018 and 2019, the BOF established a GHL in State waters in the Aleutian Islands subarea (AI) equal to 27 percent of the Pacific cod ABC for the AI. The Council recommended that the final 2018 and 2019 Pacific cod TACs accommodate the State's GHLs for Pacific cod in State waters in the AI. The Council and its Plan Team, SSC, and AP recommended that the sum of all State and Federal water Pacific cod removals from the AI not exceed the final ABC recommendations of 21,500 mt. Accordingly, the Council recommended that the final 2018 and 2019 Pacific cod TACs in the AI account for State GHLs, and in this final rule NMFS sets the final AI TAC at 27 percent less than the final AI ABC.

Changes From the Proposed 2018 and 2019 Harvest Specifications for the BSAI

The Council's recommendations for the proposed 2018 and 2019 harvest specifications (82 FR 57906, December 8, 2017) were based largely on information contained in the 2016 SAFE report for the BSAI groundfish fisheries. Through the proposed harvest specifications, NMFS notified the public that these harvest specifications could change, as the Council would consider information contained in the final 2017 SAFE report; recommendations from the Plan Team, SSC, and AP committees; and public testimony when making its recommendations for final harvest specifications at the December 2017 Council meeting. NMFS further notified the public that, as required by the FMP and its implementing regulations, the sum of the TACs must be within the OY range of 1.4 million and 2.0 million mt.

Information contained in the 2017 SAFE report indicates biomass changes from the 2016 SAFE report for several groundfish species. The 2017 report was made available for public review during the public comment period for the proposed harvest specifications. At the December 2017 Council meeting, the SSC recommended the 2018 and 2019 ABCs for many species based on the best and most recent information contained in the 2017 SAFE reports. This recommendation resulted in an ABC sum total for all BSAI groundfish species in excess of 2 million mt for both 2018 and 2019.

Based on increased fishing effort in 2017, the Council recommends final BS pollock TACs increase by 4,483 mt in 2018 and increase by 23,142 mt in 2019 compared to the proposed 2018 and 2019 BS pollock TACs. In terms of percentage, the largest increases in final 2018 TACs relative to the proposed 2018 TACs were for BSAI ''other flatfish'' and BSAI sharks, while the largest increases for 2019 also included

sablefish. The 2018 increases were to account for higher incidental catches of these species in 2017. Other increases in the final 2018 TACs relative to the proposed 2018 TACs included sablefish, Greenland turbot, Alaska plaice, BS Pacific ocean perch, northern rockfish, Central Aleutian and Western Aleutian (CAI/WAI) blackspotted and rougheye rockfish, shortraker rockfish, AI ''other rockfish,'' Eastern Aleutian Islands and Bering Sea (EAI/BS) Atka mackerel, skates, and sculpins. The 2018 increases were to account for higher interest in directed fishing or higher anticipated incidental catch needs.

Decreases in final 2018 TACs compared to the proposed 2018 TACs were for Bogoslof pollock, BS Pacific cod, arrowtooth flounder, rock sole, flathead sole, EAI Pacific ocean perch, WAI Pacific ocean perch, BS/EAI blackspotted and rougheye rockfish, BS ''other rockfish,'' CAI Atka mackerel, WAI Atka mackerel, squids, and octopuses. As noted in the proposed 2018 and 2019 harvest specifications, the BS Pacific cod ABC and TAC proposed for 2018 and 2019 decreased based on the final 2017 stock assessment. The remaining 2018 decreases were to account for the increases to the TACs for the species listed above and for the requirement not to exceed the 2.0 million mt OY limit on overall TAC in the BSAI.

The changes to TACs between the proposed and final harvest specifications are based on the most recent scientific and economic information and are consistent with the FMP, regulatory obligations, and harvest strategy as described in the proposed harvest specifications, including the upper limit for OY of 2.0 million mt. These changes are compared in Table 1A.

Table 1 lists the Council's recommended final 2018 OFL, ABC, TAC, initial TAC (ITAC), and CDQ reserve allocations of the BSAI groundfish species or species groups; and Table 2 lists the Council's recommended final 2019 OFL, ABC, TAC, ITAC, and CDQ reserve allocations of the BSAI groundfish species or species groups. NMFS concurs in these recommendations. These final 2018 and 2019 TAC recommendations for the BSAI are within the OY range established for the BSAI and do not exceed the ABC for any species or species group. The apportionment of TAC amounts among fisheries and seasons is discussed below.

TABLE 1—FINAL 2018 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUNDFISH IN THE BSAI [1]

[Amounts are in metric tons]

Species	Area	2018				
		OFL	ABC	TAC	ITAC [2]	CDQ [3]
Pollock [4]	BS	4,797,000	2,592,000	1,364,341	1,227,907	136,434
	AI	49,289	40,788	19,000	17,100	1,900
	Bogoslof	130,428	60,800	450	450	0
Pacific cod [5]	BS	238,000	201,000	188,136	168,005	20,131
	AI	28,700	21,500	15,695	14,016	1,679
Sablefish	BS	2,887	1,464	1,464	1,208	201
	AI	3,917	1,988	1,988	1,615	335
Yellowfin sole	BSAI	306,700	277,500	154,000	137,522	16,478
Greenland turbot	BSAI	13,148	11,132	5,294	4,500	n/a
	BS	n/a	9,718	5,125	4,356	548
	AI	n/a	1,414	169	144	0
Arrowtooth flounder	BSAI	76,757	65,932	13,621	11,578	1,457
Kamchatka flounder	BSAI	11,347	9,737	5,000	4,250	0
Rock sole	BSAI	147,300	143,100	47,100	42,060	5,040
Flathead sole [6]	BSAI	79,862	66,773	14,500	12,949	1,552
Alaska plaice	BSAI	41,170	34,590	16,100	13,685	0
Other flatfish [7]	BSAI	17,591	13,193	4,000	3,400	0
Pacific ocean perch	BSAI	51,675	42,509	37,361	32,853	n/a
	BS	n/a	11,861	11,861	10,082	0
	EAI	n/a	10,021	9,000	8,037	963
	CAI	n/a	7,787	7,500	6,698	803
	WAI	n/a	12,840	9,000	8,037	963
Northern rockfish	BSAI	15,888	12,975	6,100	5,185	0
Blackspotted and Rougheye rockfish [8].	BSAI	749	613	225	191	0
	BS/EAI	n/a	374	75	64	0
	CAI/WAI	n/a	239	150	128	0
Shortraker rockfish	BSAI	666	499	150	128	0
Other rockfish [9]	BSAI	1,816	1,362	845	718	0
	BS	n/a	791	275	234	0
	AI	n/a	571	570	485	0
Atka mackerel	BSAI	108,600	92,000	71,000	63,403	7,597
	BS/EAI	n/a	36,820	36,500	32,595	3,906
	CAI	n/a	32,000	21,000	18,753	2,247
	WAI	n/a	23,180	13,500	12,056	1,445
Skates	BSAI	46,668	39,082	27,000	22,950	0
Sculpins	BSAI	53,201	39,995	5,000	4,250	0
Sharks	BSAI	689	517	180	153	0
Squids	BSAI	6,912	5,184	1,200	1,020	0
Octopuses	BSAI	4,769	3,576	250	213	0

TABLE 1—FINAL 2018 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUNDFISH IN THE BSAI [1]—Continued

[Amounts are in metric tons]

Species	Area	2018				
		OFL	ABC	TAC	ITAC [2]	CDQ [3]
Total		6,235,729	3,779,809	2,000,000	1,791,308	196,081

[1] These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these harvest specifications, the Bering Sea subarea (BS) includes the Bogoslof District.

[2] Except for pollock, the portion of the sablefish TAC allocated to hook-and-line and pot gear, and Amendment 80 species, 15 percent of each TAC is put into a non-specified reserve. The ITAC for these species is the remainder of the TAC after the subtraction of these reserves. For pollock and Amendment 80 species, ITAC is the non-CDQ allocation of TAC (see footnotes 3 and 5).

[3] For the Amendment 80 species (Atka mackerel, flathead sole, rock sole, yellowfin sole, Pacific cod, and Aleutian Islands Pacific ocean perch), 10.7 percent of the TAC is reserved for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31). Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear, 7.5 percent of the sablefish TAC allocated to trawl gear, and 10.7 percent of the TACs for Bering Sea Greenland turbot and arrowtooth flounder are reserved for use by CDQ participants (see § 679.20(b)(1)(ii)(B) and (D)). Aleutian Islands Greenland turbot, ''other flatfish,'' Alaska plaice, Bering Sea Pacific ocean perch, northern rockfish, shortraker rockfish, blackspotted and rougheye rockfish, ''other rockfish,'' skates, sculpins, sharks, squids, and octopuses are not allocated to the CDQ program.

[4] Under § 679.20(a)(5)(i)(A), the annual BS pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (3.9 percent), is further allocated by sector for a pollock directed fishery as follows: inshore—50 percent; catcher/processor—40 percent; and motherships—10 percent. Under § 679.20(a)(5)(iii)(B)(*2*), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (2,400 mt), is allocated to the Aleut Corporation for a pollock directed fishery.

[5] The BS Pacific cod TAC is set to account for the 6.4 percent of the BS ABC for the State of Alaska's (State) guideline harvest level in State waters of the BS. The AI Pacific cod TAC is set to account for the 27 percent of the AI ABC for the State guideline harvest level in State waters of the AI.

[6] ''Flathead sole'' includes *Hippoglossoides elassodon* (flathead sole) and *Hippoglossoides robustus* (Bering flounder).

[7] ''Other flatfish'' includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder, Kamchatka flounder, and Alaska plaice.

[8] ''Rougheye rockfish'' includes *Sebastes aleutianus* (rougheye) and *Sebastes melanostictus* (blackspotted).

[9] ''Other rockfish'' includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, northern rockfish, shortraker rockfish, and blackspotted and rougheye rockfish.

Note: Regulatory areas and districts are defined at § 679.2 (BSAI = Bering Sea and Aleutian Islands Management Area, BS = Bering Sea subarea, AI = Aleutian Islands subarea, EAI = Eastern Aleutian district, CAI = Central Aleutian district, WAI = Western Aleutian district.)

TABLE 1A—COMPARISON OF FINAL 2018 AND 2019 WITH PROPOSED 2018 AND 2019 TOTAL ALLOWABLE CATCH IN THE BSAI

[Amounts are in metric tons]

Species	Area [1]	2018 final TAC	2018 proposed TAC	2018 difference from proposed	2018 percentage difference from proposed	2019 final TAC	2019 proposed TAC	2019 difference from proposed	2019 percentage difference from proposed
Pollock	BS	1,364,341	1,359,858	4,483	0.3	1,383,000	1,359,858	23,142	1.7
	AI	19,000	19,000	0	0.0	19,000	19,000	0	0.0
	Bogoslof	450	500	−50	−10.0	500	500	0	0.0
Pacific cod	BS	188,136	194,936	−6,800	−3.5	159,120	194,936	−35,816	−18.4
	AI	15,695	15,695	0	0.0	15,695	15,695	0	0.0
Sablefish	BS	1,464	1,274	190	14.9	2,061	1,274	787	61.8
	AI	1,988	1,735	253	14.6	2,798	1,735	1,063	61.3
Yellowfin sole	BSAI	154,000	154,000	0	0.0	156,000	154,000	2,000	1.3
Greenland turbot	BS	5,125	4,375	750	17.1	5,125	4,375	750	17.1
	AI	169	125	44	35.2	169	125	44	35.2
Arrowtooth flounder	BSAI	13,621	14,000	−379	−2.7	14,000	14,000	0	0.0
Kamchatka flounder	BSAI	5,000	5,000	0	0.0	5,000	5,000	0	0.0
Rock sole	BSAI	47,100	50,100	−3,000	−6.0	49,100	50,100	−1,000	−2.0
Flathead sole	BSAI	14,500	15,500	−1,000	−6.5	16,500	15,500	1,000	6.5
Alaska plaice	BSAI	16,100	13,000	3,100	23.8	16,252	13,000	3,252	25.0
Other flatfish	BSAI	4,000	2,500	1,500	60.0	4,000	2,500	1,500	60.0
Pacific ocean perch	BS	11,861	11,000	861	7.8	11,499	11,000	499	4.5
	EAI	9,000	9,900	−900	−9.1	9,715	9,900	−185	−1.9
	CAI	7,500	7,500	0	0.0	7,549	7,500	49	0.7
	WAI	9,000	12,000	−3,000	−25.0	9,117	12,000	−2,883	−24.0
Northern rockfish	BSAI	6,100	5,000	1,100	22.0	6,500	5,000	1,500	30.0
Blackspotted/Rougheye rockfish.	BS/EAI	75	100	−25	−25.0	75	100	−25	−25.0
	CAI/WAI	150	125	25	20.0	150	125	25	20.0
Shortraker rockfish	BSAI	150	125	25	20.0	150	125	25	20.0
Other rockfish	BS	275	325	−50	−15.4	275	325	−50	−15.4
	AI	570	550	20	3.6	570	550	20	3.6
Atka mackerel	EAI/BS	36,500	34,000	2,500	7.4	33,780	34,000	−220	−0.6
	CAI	21,000	21,500	−500	−2.3	24,895	21,500	3,395	15.8
	WAI	13,500	13,910	−410	−2.9	13,825	13,910	−85	−0.6
Skates	BSAI	27,000	26,000	1,000	3.8	27,000	26,000	1,000	3.8
Sculpins	BSAI	5,000	4,500	500	11.1	5,000	4,500	500	11.1
Sharks	BSAI	180	125	55	44.0	180	125	55	44.0
Squids	BSAI	1,200	1,342	−142	−10.6	1,200	1,342	−142	−10.6

TABLE 1A—COMPARISON OF FINAL 2018 AND 2019 WITH PROPOSED 2018 AND 2019—Continued
TOTAL ALLOWABLE CATCH IN THE BSAI

[Amounts are in metric tons]

Species	Area [1]	2018 final TAC	2018 proposed TAC	2018 difference from proposed	2018 percentage difference from proposed	2019 final TAC	2019 proposed TAC	2019 difference from proposed	2019 percentage difference from proposed
Octopuses	BSAI	250	400	−150	−37.5	200	400	−200	−50.0
Total	BSAI	2,000,000	2,000,000	0	0.0	2,000,000	2,000,000	0	0.0

[1] Bering Sea subarea (BS), Aleutian Islands subarea (AI), Bering Sea and Aleutian Islands management area (BSAI), Eastern Aleutian District (EAI), Central Aleutian District (CAI), and Western Aleutian District (WAI).

TABLE 2—FINAL 2019 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUNDFISH IN THE BSAI[1]

[Amounts are in metric tons]

Species	Area	2019				
		OFL	ABC	TAC	ITAC [2]	CDQ [3]
Pollock [4]	BS	4,592,000	2,467,000	1,383,000	1,244,700	138,300
	AI	37,431	30,803	19,000	17,100	1,900
	Bogoslof	130,428	60,800	500	500	0
Pacific cod [5]	BS	201,000	170,000	159,120	142,094	17,026
	AI	28,700	21,500	15,695	14,016	1,679
Sablefish	BS	4,576	2,061	2,061	876	77
	AI	6,209	2,798	2,798	595	52
Yellowfin sole	BSAI	295,600	267,500	156,000	139,308	16,692
Greenland turbot	BSAI	13,540	11,473	5,294	4,500	n/a
	BS	n/a	10,016	5,125	4,356	548
	AI	n/a	1,457	169	144	0
Arrowtooth flounder	BSAI	75,084	64,494	14,000	11,900	1,498
Kamchatka flounder	BSAI	12,022	10,317	5,000	4,250	0
Rock sole	BSAI	136,000	132,000	49,100	43,846	5,254
Flathead sole [6]	BSAI	78,036	65,227	16,500	14,735	1,766
Alaska plaice	BSAI	38,800	32,700	16,252	13,814	0
Other flatfish [7]	BSAI	17,591	13,193	4,000	3,400	0
Pacific ocean perch	BSAI	50,098	41,212	37,880	33,332	n/a
	BS	n/a	11,499	11,499	9,774	0
	EAI	n/a	9,715	9,715	8,675	1,040
	CAI	n/a	7,549	7,549	6,741	808
	WAI	n/a	12,449	9,117	8,141	976
Northern rockfish	BSAI	15,563	12,710	6,500	5,525	0
Blackspotted and Rougheye rockfish [8].	BSAI	829	678	225	191	0
	BS/EAI	n/a	414	75	64	0
	CAI/WAI	n/a	264	150	128	0
Shortraker rockfish	BSAI	666	499	150	128	0
Other rockfish [9]	BSAI	1,816	1,362	845	718	0
	BS	n/a	791	275	234	0
	AI	n/a	571	570	485	0
Atka mackerel	BSAI	97,200	84,400	72,500	64,743	7,758
	EAI/BS	n/a	33,780	33,780	30,166	3,614
	CAI	n/a	29,350	24,895	22,231	2,664
	WAI	n/a	21,270	13,825	12,346	1,479
Skates	BSAI	44,202	36,957	27,000	22,950	0
Sculpins	BSAI	53,201	39,995	5,000	4,250	0
Sharks	BSAI	689	517	180	153	0
Squids	BSAI	6,912	5,184	1,200	1,020	0
Octopuses	BSAI	4,769	3,576	200	170	0
Total		5,942,962	3,578,956	2,000,000	1,788,813	195,373

[1] These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these harvest specifications, the Bering Sea subarea (BS) includes the Bogoslof District.

[2] Except for pollock, the portion of the sablefish TAC allocated to hook-and-line and pot gear, and Amendment 80 species, 15 percent of each TAC is put into a non-specified reserve. The ITAC for these species is the remainder of the TAC after the subtraction of these reserves. For pollock and Amendment 80 species, ITAC is the non-CDQ allocation of TAC (see footnotes 3 and 5).

[3] For the Amendment 80 species (Atka mackerel, flathead sole, rock sole, yellowfin sole, Pacific cod, and Aleutian Islands Pacific ocean perch), 10.7 percent of the TAC is reserved for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31). Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear, 7.5 percent of the sablefish TAC allocated to trawl gear, and 10.7 percent of the TACs for Bering Sea Greenland turbot and arrowtooth flounder are reserved for use by CDQ participants (see § 679.20(b)(1)(ii)(B) and (D)). Aleutian Islands Greenland turbot, ''other flatfish,'' Alaska plaice, Bering Sea Pacific ocean perch, northern rockfish, shortraker rockfish, blackspotted and rougheye rockfish, ''other rockfish,'' skates, sculpins, sharks, squids, and octopuses are not allocated to the CDQ program.

[4] Under § 679.20(a)(5)(i)(A), the annual BS pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (3.9 percent), is further allocated by sector for a pollock directed fishery as follows: inshore—50 percent; catcher/processor—40 percent; and motherships—10 percent. Under § 679.20(a)(5)(iii)(B)(*2*), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (2,400 mt), is allocated to the Aleut Corporation for a pollock directed fishery.

[5] The BS Pacific cod TAC is set to account for the 6.4 percent of the BS ABC for the State of Alaska's (State) guideline harvest level in State waters of the BS. The AI Pacific cod TAC is set to account for the 27 percent of the AI ABC for the State guideline harvest level in State waters of the AI.

[6] ''Flathead sole'' includes *Hippoglossoides elassodon* (flathead sole) and *Hippoglossoides robustus* (Bering flounder).

[7] ''Other flatfish'' includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder, Kamchatka flounder, and Alaska plaice.

[8] ''Rougheye rockfish'' includes *Sebastes aleutianus* (rougheye) and *Sebastes melanostictus* (blackspotted).

[9] ''Other rockfish'' includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, northern rockfish, shortraker rockfish, and blackspotted and rougheye rockfish.

Note: Regulatory areas and districts are defined at § 679.2 (BSAI = Bering Sea and Aleutian Islands management area, BS = Bering Sea subarea, AI = Aleutian Islands subarea, EAI = Eastern Aleutian district, CAI = Central Aleutian district, WAI = Western Aleutian district.)

Groundfish Reserves and the Incidental Catch Allowance (ICA) for Pollock, Atka Mackerel, Flathead Sole, Rock Sole, Yellowfin Sole, and Aleutian Islands Pacific Ocean Perch

Section 679.20(b)(1)(i) requires NMFS to reserve 15 percent of the TAC for each target species, except for pollock, hook-and-line and pot gear allocation of sablefish, and Amendment 80 species, in a non-specified reserve. Section 679.20(b)(1)(ii)(B) requires that NMFS allocate 20 percent of the hook-and-line or pot gear allocation of sablefish for the fixed-gear sablefish CDQ reserve for each subarea. Section 679.20(b)(1)(ii)(D) requires that NMFS allocate 7.5 percent of the trawl gear allocations of sablefish in the BS and AI and 10.7 percent of the Bering Sea Greenland turbot and arrowtooth flounder TACs to the respective CDQ reserves. Section 679.20(b)(1)(ii)(C) requires that NMFS allocate 10.7 percent of the TAC for Atka mackerel, Aleutian Islands Pacific ocean perch, yellowfin sole, rock sole, flathead sole, and Pacific cod to the CDQ reserves. Sections 679.20(a)(5)(i)(A) and 679.31(a) also require that 10 percent of the Bering Sea pollock TAC be allocated to the pollock CDQ directed fishing allowance (DFA). Similarly, §§ 679.20(a)(5)(iii)(B)(*2*)(*i*) and 679.31(a) require that 10 percent of the Aleutian Islands TAC be allocated to the pollock CDQ reserve. The entire Bogoslof District pollock TAC is allocated as an ICA pursuant to § 679.20(a)(5)(ii) because the Bogoslof District is closed to directed fishing for pollock by regulation (§ 679.22(a)(7)(i)(B)). With the exception of the hook-and-line or pot gear sablefish CDQ reserve, the regulations do not further apportion the CDQ allocations by gear.

Pursuant to § 679.20(a)(5)(i)(A)(*1*), NMFS allocates a pollock ICA of 3.9 percent of the BS pollock TAC after subtracting the 10 percent CDQ reserve. This allowance is based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 2000 through 2017. During this 18-year period, the pollock incidental catch ranged from a low of 2.4 percent in 2006 to a high of 4.8 percent in 2014, with an 18-year average of 3.3 percent. Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(*ii*), NMFS establishes a pollock ICA of 2,400 mt of the AI TAC after subtracting the 10-percent CDQ DFA. This allowance is based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 2003 through 2017. During this 15-year period, the incidental catch of pollock ranged from a low of 5 percent in 2006 to a high of 17 percent in 2014, with a 15-year average of 8 percent.

Pursuant to § 679.20(a)(8) and (10), NMFS allocates ICAs of 4,000 mt of flathead sole, 6,000 mt of rock sole, 4,000 mt of yellowfin sole, 10 mt of WAI Pacific ocean perch, 120 mt of CAI Pacific ocean perch, 100 mt of EAI Pacific ocean perch, 20 mt of WAI Atka mackerel, 75 mt of CAI Atka mackerel, and 800 mt of EAI and BS Atka mackerel TAC after subtracting the 10.7 percent CDQ reserve. These ICA allowances are based on NMFS' examination of the incidental catch in other target fisheries from 2003 through 2016.

The regulations do not designate the remainder of the non-specified reserve by species or species group. Any amount of the reserve may be apportioned to a target species that contributed to the non-specified reserves during the year, provided that such apportionments are consistent with § 679.20(a)(3) and do not result in overfishing (see § 679.20(b)(1)(i)). The Regional Administrator has determined that the ITACs specified for the species listed in Table 1 need to be supplemented from the non-specified reserve because U.S. fishing vessels have demonstrated the capacity to catch the full TAC allocations. Therefore, in accordance with § 679.20(b)(3), NMFS is apportioning the amounts shown in Table 3 from the non-specified reserve to increase the ITAC for shortraker rockfish, blackspotted and rougheye rockfish, ''other rockfish,'' sharks, and octopuses by 15 percent of the TAC in 2018 and 2019.

TABLE 3—FINAL 2018 AND 2019 APPORTIONMENT OF NON–SPECIFIED RESERVES TO ITAC CATEGORIES

[Amounts are in metric tons]

Species-area or subarea	2018 ITAC	2018 reserve amount	2018 final ITAC	2019 ITAC	2019 reserve amount	2019 final ITAC
Shortraker rockfish-BSAI	128	22	150	128	22	150
Rougheye rockfish-BS/EAI	64	11	75	64	11	75
Rougheye rockfish-CAI/WAI	128	22	150	128	22	150
Other rockfish-Bering Sea subarea	234	41	275	234	41	275
Other rockfish-Aleutian Islands subarea	485	85	570	485	85	570
Sharks	153	27	180	153	27	180
Octopuses	213	37	250	340	60	400
Total	1,405	245	1,650	1,532	268	1,800

Allocation of Pollock TAC Under the American Fisheries Act (AFA)

Section 679.20(a)(5)(i)(A) requires that the BS pollock TAC be apportioned as a DFA, after subtracting 10 percent for the CDQ program and 3.9 percent for the ICA, as follows: 50 percent to the inshore sector, 40 percent to the catcher/processor (C/P) sector, and 10 percent to the mothership sector. In the BS, 45 percent of the DFA is allocated to the A season (January 20–June 10), and 55 percent of the DFA is allocated to the B season (June 10–November 1) (§§ 679.20(a)(5)(i)(B)(*1*) and 679.23(e)(2)). The Aleutian Islands directed pollock fishery allocation to the Aleut Corporation is the amount of pollock TAC remaining in the AI after subtracting 1,900 mt for the CDQ DFA (10 percent) and 2,400 mt for the ICA (§ 679.20(a)(5)(iii)(B)(*2*)). In the AI, the total A season apportionment of the TAC (including the AI directed fishery allocation, the CDQ allowance, and the ICA) may equal up to 40 percent of the ABC for AI pollock, and the remainder of the TAC is allocated to the B season (§ 679.20(a)(5)(iii)(B)(*3*)). Tables 4 and 5 list these 2018 and 2019 amounts.

Section 679.20(a)(5)(iii)(B)(*6*) sets harvest limits for pollock in the A season (January 20 to June 10) in Areas 543, 542, and 541 (see § 679.20(a)(5)(iii)(B)(*6*)). In Area 543, the A season pollock harvest limit is no more than 5 percent of the Aleutian Islands pollock ABC. In Area 542, the A season pollock harvest limit is no more than 15 percent of the Aleutian Islands pollock ABC. In Area 541, the A season pollock harvest limit is no more than 30 percent of the Aleutian Islands pollock ABC.

Section 679.20(a)(5)(i)(A)(*4*) also includes several specific requirements regarding BS pollock allocations. First, it requires that 8.5 percent of the pollock allocated to the C/P sector be available for harvest by AFA catcher vessels (CVs) with C/P sector endorsements, unless the Regional Administrator receives a cooperative contract that allows the distribution of harvest among AFA C/Ps and AFA CVs in a manner agreed to by all members. Second, AFA C/Ps not listed in the AFA are limited to harvesting not more than 0.5 percent of the pollock allocated to the C/P sector. Tables 4 and 5 list the 2018 and 2019 allocations of pollock TAC. Tables 20 through 25 list the AFA C/P and CV harvesting sideboard limits. The tables for the pollock allocations to the BS inshore pollock cooperatives and open access sector will be posted on the Alaska Region website at *http://alaskafisheries.noaa.gov.*

Tables 4 and 5 also list seasonal apportionments of pollock and harvest limits within the Steller Sea Lion Conservation Area (SCA). The harvest within the SCA, as defined at § 679.22(a)(7)(vii), is limited to no more than 28 percent of the annual pollock DFA before 12:00 noon, April 1, as provided in § 679.20(a)(5)(i)(C). The A season pollock SCA harvest limit will be apportioned to each sector in proportion to each sector's allocated percentage of the DFA. Tables 4 and 5 list these 2018 and 2019 amounts by sector.

TABLE 4—FINAL 2018 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

Area and sector	2018 allocations	2018 A season [1]		2018 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea TAC [1]	1,364,341	n/a	n/a	n/a
CDQ DFA	136,434	61,395	38,202	75,039
ICA [1]	47,888	n/a	n/a	n/a
Total Bering Sea non-CDQ DFA	1,180,019	531,008	330,405	649,010
AFA Inshore	590,009	265,504	165,203	324,505
AFA Catcher/Processors [3]	472,007	212,403	132,162	259,604
Catch by C/Ps	431,887	194,349	n/a	237,538
Catch by CVs [3]	40,121	18,054	n/a	22,066
Unlisted C/P Limit [4]	2,360	1,062	n/a	1,298
AFA Motherships	118,002	53,101	33,041	64,901
Excessive Harvesting Limit [5]	206,503	n/a	n/a	n/a
Excessive Processing Limit [6]	354,006	n/a	n/a	n/a
Aleutian Islands subarea ABC	40,788	n/a	n/a	n/a
Aleutian Islands subarea TAC [1]	19,000	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	14,700	14,355	n/a	345
Area harvest limit [7]	n/a	n/a	n/a	n/a
541	12,236	n/a	n/a	n/a
542	6,118	n/a	n/a	n/a
543	2,039	n/a	n/a	n/a
Bogoslof District ICA [8]	450	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the Bering Sea subarea pollock, after subtracting the CDQ DFA (10 percent) and the ICA (3.9 percent), is allocated as a DFA as follows: Inshore sector—50 percent, catcher/processor sector (C/P)—40 percent, and mothership sector—10 percent. In the Bering Sea subarea, 45 percent of the DFA is allocated to the A season (January 20–June 10) and 55 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(*i*) through (*iii*), the annual Aleutian Islands pollock TAC, after subtracting first for the CDQ DFA (10 percent) and second for the ICA (2,400 mt), is allocated to the Aleut Corporation for a pollock directed fishery. In the Aleutian Islands subarea, the A season is allocated up to 40 percent of the ABC, and the B season is allocated the remainder of the pollock directed fishery.

[2] In the Bering Sea subarea, pursuant to § 679.20(a)(5)(i)(C), no more than 28 percent of each sector's annual DFA may be taken from the SCA before noon, April 1.

[3] Pursuant to § 679.20(a)(5)(i)(A)(*4*), 8.5 percent of the DFA allocated to listed catcher/processors shall be available for harvest only by AFA catcher vessels with catcher/processor sector endorsements delivering to listed catcher/processors, unless there is a C/P sector cooperative contract for the year.

[4] Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.
[5] Pursuant to § 679.20(a)(5)(i)(A)(*6*), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.
[6] Pursuant to § 679.20(a)(5)(i)(A)(*7*), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.
[7] Pursuant to § 679.20(a)(5)(iii)(B)(*6*), NMFS establishes harvest limits for pollock in the A season in Area 541 of no more than 30 percent, in Area 542 of no more than 15 percent, and in Area 543 of no more than 5 percent of the Aleutian Islands pollock ABC.
[8] Pursuant to § 679.22(a)(7)(i)(B), the Bogoslof District is closed to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.
Note: Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 5—FINAL 2019 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

Area and sector	2019 allocations	2019 A season [1]		2019 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea TAC [1]	1,383,000	n/a	n/a	n/a
CDQ DFA	138,300	62,235	38,724	76,065
ICA [1]	48,543	n/a	n/a	n/a
Total Bering Sea non-CDQ DFA	1,196,157	538,271	334,924	657,886
AFA Inshore	598,078	269,135	167,462	328,943
AFA Catcher/Processors [3]	478,463	215,308	133,970	263,154
Catch by C/Ps	437,793	197,007	n/a	240,786
Catch by CVs [3]	40,669	18,301	n/a	22,368
Unlisted C/P Limit [4]	2,392	1,077	n/a	1,316
AFA Motherships	119,616	53,827	33,492	65,789
Excessive Harvesting Limit [5]	209,327	n/a	n/a	n/a
Excessive Processing Limit [6]	358,847	n/a	n/a	n/a
Aleutian Islands subarea ABC	30,803	n/a	n/a	n/a
Aleutian Islands subarea TAC [1]	19,000	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	14,700	10,361	n/a	4,339
Area harvest limit [7]	n/a	n/a	n/a	n/a
541	9,241	n/a	n/a	n/a
542	4,620	n/a	n/a	n/a
543	1,540	n/a	n/a	n/a
Bogoslof District ICA [8]	500	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the Bering Sea subarea pollock, after subtracting the CDQ DFA (10 percent) and the ICA (3.9 percent), is allocated as a DFA as follows: inshore sector—50 percent, catcher/processor sector (C/P)—40 percent, and mothership sector—10 percent. In the Bering Sea subarea, 45 percent of the DFA is allocated to the A season (January 20–June 10) and 55 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(*i*) through (*iii*), the annual Aleutian Islands pollock TAC, after subtracting first for the CDQ DFA (10 percent) and second the ICA (2,400 mt), is allocated to the Aleut Corporation for a pollock directed fishery. In the Aleutian Islands subarea, the A season is allocated up to 40 percent of the ABC, and the B season is allocated the remainder of the pollock directed fishery.
[2] In the Bering Sea subarea, pursuant to § 679.20(a)(5)(i)(C), no more than 28 percent of each sector's annual DFA may be taken from the SCA before noon, April 1.
[3] Pursuant to § 679.20(a)(5)(i)(A)(*4*), 8.5 percent of the DFA allocated to listed catcher/processors shall be available for harvest only by AFA catcher vessels with catcher/processor sector endorsements delivering to listed catcher/processors, unless there is a C/P sector cooperative contract for the year.
[4] Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.
[5] Pursuant to § 679.20(a)(5)(i)(A)(*6*), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.
[6] Pursuant to § 679.20(a)(5)(i)(A)(*7*), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.
[7] Pursuant to § 679.20(a)(5)(iii)(B)(*6*), NMFS establishes harvest limits for pollock in the A season in Area 541 of no more than 30 percent, in Area 542 of no more than 15 percent, and in Area 543 of no more than 5 percent of the Aleutian Islands pollock ABC.
[8] Pursuant to § 679.22(a)(7)(i)(B), the Bogoslof District is closed to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.
Note: Seasonal or sector apportionments may not total precisely due to rounding.

Allocation of the Atka Mackerel TACs

Section 679.20(a)(8) allocates the Atka mackerel TACs to the Amendment 80 and BSAI trawl limited access sectors, after subtracting the CDQ reserves, ICAs for the BSAI trawl limited access sector and non-trawl gear sector, and the jig gear allocation (Tables 6 and 7). The percentage of the ITAC for Atka mackerel allocated to the Amendment 80 and BSAI trawl limited access sectors is listed in Table 33 to 50 CFR part 679 and in § 679.91. Pursuant to § 679.20(a)(8)(i), up to 2 percent of the EAI and the BS Atka mackerel ITAC may be allocated to vessels using jig gear. The percent of this allocation is recommended annually by the Council based on several criteria, including, among other criteria, the anticipated harvest capacity of the jig gear fleet. The Council recommended, and NMFS approves, a 0.5 percent allocation of the Atka mackerel ITAC in the EAI and BS to the jig gear sector in 2018 and 2019.

Section 679.20(a)(8)(ii)(A) apportions the Atka mackerel TAC into two equal

seasonal allowances. Section 679.23(e)(3) sets the first seasonal allowance for directed fishing with trawl gear from January 20 through June 10 (A season), and the second seasonal allowance from June 10 through December 31 (B season). Section 679.23(e)(4)(iii) applies Atka mackerel seasons to CDQ Atka mackerel trawl fishing. The ICA and jig gear allocations are not apportioned by season.

Section 679.20(a)(8)(ii)(C)(*1*)(*i*) and (*ii*) limits Atka mackerel catch within waters 0 nm to 20 nm of Steller sea lion sites listed in Table 6 to 50 CFR part 679 and located west of 178° W longitude to no more than 60 percent of the annual TACs in Areas 542 and 543, and equally divides the annual TAC between the A and B seasons as defined at § 679.23(e)(3). Section 679.20(a)(8)(ii)(C)(*2*) requires that the annual TAC in Area 543 will be no more than 65 percent of the ABC in Area 543. Section 679.20(a)(8)(ii)(D) requires that any unharvested Atka mackerel A season allowance that is added to the B season be prohibited from being harvested within waters 0 nm to 20 nm of Steller sea lion sites listed in Table 6 to 50 CFR part 679 and located in Areas 541, 542, and 543.

Tables 6 and 7 list these 2018 and 2019 Atka mackerel seasonal and area allowances, and the sector allocations. One Amendment 80 cooperative has formed for the 2018 fishing year. The 2019 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2018.

TABLE 6—FINAL 2018 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2018 allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District [5]	Western Aleutian District
TAC	n/a	36,500	21,000	13,500
CDQ reserve	Total	3,906	2,247	1,445
	A	1,953	1,124	722
	Critical Habitat	n/a	674	433
	B	1,953	1,124	722
	Critical Habitat	n/a	674	433
Non-CDQ TAC	n/a	32,595	18,753	12,056
ICA	Total	800	75	20
Jig [6]	Total	159	0	0
BSAI trawl limited access	Total	3,164	1,868	0
	A	1,582	934	0
	Critical Habitat	n/a	560	0
	B	1,582	934	0
	Critical Habitat	n/a	560	0
Amendment 80 sector	Total	28,472	16,885	12,056
	A	14,236	8,443	6,028
	Critical Habitat	n/a	5,066	3,617
	B	14,236	8,443	6,028
	Critical Habitat	n/a	5,066	3,617

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, jig gear allocation, and ICAs, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to 50 CFR part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

[2] Sections 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

[3] The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

[4] Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to December 31.

[5] Section 679.20(a)(8)(ii)(C)(*1*)(*i*) limits no more than 60 percent of the annual TACs in Areas 542 and 543 to be caught inside of Steller sea lion critical habitat; section 679.20(a)(8)(ii)(C)(*1*)(*ii*) equally divides the annual TACs between the A and B seasons as defined at § 679.23(e)(3); and section 679.20(a)(8)(ii)(C)(*2*) requires the TAC in Area 543 shall be no more than 65 percent of ABC in Area 543.

[6] Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtracting the CDQ reserve and the ICA. NMFS set the amount of this allocation for 2018 at 0.5 percent. The jig gear allocation is not apportioned by season.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 7—FINAL 2019 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATION OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2019 allocation by area		
		Eastern Aleutian District/Bering Sea [5]	Central Aleutian District [5]	Western Aleutian District [5]
TAC	n/a	33,780	24,895	13,825
CDQ reserve	Total	3,614	2,664	1,479
	A	1,807	1,332	740
	Critical Habitat	n/a	799	444
	B	1,807	1,332	740

TABLE 7—FINAL 2019 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATION OF THE BSAI ATKA MACKEREL TAC—Continued

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2019 allocation by area		
		Eastern Aleutian District/Bering Sea [5]	Central Aleutian District [5]	Western Aleutian District [5]
	Critical Habitat	n/a	799	444
non-CDQ TAC	n/a	30,166	22,231	12,346
ICA	Total	800	75	20
Jig [6]	Total	147	0	0
BSAI trawl limited access	Total	2,922	2,216	0
	A	1,461	1,108	0
	Critical Habitat	n/a	665	0
	B	1,461	1,108	0
	Critical Habitat	n/a	665	0
Amendment 80 sectors [7]	Total	26,297	20,016	12,346
	A	13,148	10,008	6,173
	Critical Habitat	n/a	6,005	3,704
	B	13,148	10,008	6,173
	Critical Habitat	n/a	6,005	3,704

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, jig gear allocation, and ICAs, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to 50 CFR part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

[2] Sections 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

[3] The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

[4] Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to December 31.

[5] Section 679.20(a)(8)(ii)(C)(*1*)(*i*) limits no more than 60 percent of the annual TACs in Areas 542 and 543 to be caught inside of Steller sea lion critical habitat; section 679.20(a)(8)(ii)(C)(*1*)(*ii*) equally divides the annual TACs between the A and B seasons as defined at § 679.23(e)(3); and section 679.20 (a)(8)(ii)(C)(*2*) requires the TAC in Area 543 shall be no more than 65 percent of ABC in Area 543.

[6] Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtracting the CDQ reserve and the ICA. NMFS set the amount of this allocation for 2019 at 0.5 percent. The jig gear allocation is not apportioned by season.

[7] The 2019 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2018. NMFS will post 2019 Amendment 80 allocations when they become available in December 2018.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Allocation of the Pacific Cod TAC

The Council separated Bering Sea and Aleutian Islands subarea OFLs, ABCs, and TACs for Pacific cod in 2014 (79 FR 12108, March 4, 2014). Section 679.20(b)(1)(ii)(C) allocates 10.7 percent of the Bering Sea TAC and Aleutian Islands TAC to the CDQ program. After CDQ allocations have been deducted from the respective Bering Sea and Aleutian Islands Pacific cod TACs, the remaining Bering Sea and Aleutian Islands Pacific cod TACs are combined for calculating further BSAI Pacific cod sector allocations. If the non-CDQ Pacific cod TAC is or will be reached in either the Bering Sea or the Aleutian Islands subareas, NMFS will prohibit non-CDQ directed fishing for Pacific cod in that subarea as provided in § 679.20(d)(1)(iii).

Section 679.20(a)(7)(i) and (ii) allocates to the non-CDQ sectors the Pacific cod TAC in the combined BSAI TAC, after subtracting 10.7 percent for the CDQ program, as follows: 1.4 percent to vessels using jig gear; 2.0 percent to hook-and-line or pot CVs less than 60 ft (18.3 m) length overall (LOA); 0.2 percent to hook-and-line CVs greater than or equal to 60 ft (18.3 m) LOA; 48.7 percent to hook-and-line C/Ps; 8.4 percent to pot CVs greater than or equal to 60 ft (18.3 m) LOA; 1.5 percent to pot C/Ps; 2.3 percent to AFA trawl C/Ps; 13.4 percent to Amendment 80 sector; and 22.1 percent to trawl CVs. The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. For 2018 and 2019, the Regional Administrator establishes an ICA of 400 mt based on anticipated incidental catch by these sectors in other fisheries.

The ITAC allocation of Pacific cod to the Amendment 80 sector is established in Table 33 to 50 CFR part 679 and § 679.91. One Amendment 80 cooperative has formed for the 2018 fishing year. The 2019 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2018.

The Pacific cod ITAC is apportioned into seasonal allowances to disperse the Pacific cod fisheries over the fishing year (see §§ 679.20(a)(7)(i)(B), 679.20(a)(7)(iv)(A), and 679.23(e)(5)). In accordance with § 679.20(a)(7)(iv)(B) and (C), any unused portion of a seasonal Pacific cod allowance for any sector, except the jig sector, will become available at the beginning of that sector's next seasonal allowance.

Section 679.20(a)(7)(vii) requires the Regional Administrator to establish an Area 543 Pacific cod harvest limit based on Pacific cod abundance in Area 543. Based on the 2017 stock assessment, the Regional Administrator determined the Area 543 Pacific cod harvest limit to be 25.6 percent of the Aleutian Islands Pacific cod TAC for 2018 and 2019. NMFS will first subtract the State GHL Pacific cod amount from the Aleutian Islands Pacific cod ABC. Then NMFS will determine the harvest limit in Area 543 by multiplying the percentage of Pacific cod estimated in Area 543 by the remaining ABC for Aleutian Islands Pacific cod. Based on these calculations, the Area 543 harvest limit is 4,018 mt.

Section 679.20(a)(7)(viii) requires specification of annual Pacific cod allocations for the Aleutian Islands non-CDQ ICA, non-CDQ DFA, CV Harvest Set-Aside, and Unrestricted Fishery, as well as the Bering Sea Trawl CV A-Season Sector Limitation. The CV Harvest Set-Aside is a portion of the AI Pacific cod TAC that is available for harvest by catcher vessels directed fishing for AI Pacific cod and delivering their catch for processing to an AI shoreside processor. The CV Harvest Set-Aside will be effective in a fishing year if certain notification and performance requirements are met. First, in accordance with § 679.20(a)(7)(viii)(D), NMFS must receive timely and complete notification of intent to process AI Pacific cod from either the City Manager of the City of Adak or the City Administrator for Atka prior to the start of that fishing year. Second, if the performance requirement in § 679.20(a)(7)(viii)(E)(*4*), which requires a set amount of the Aleutian Islands CV Harvest Set-Aside to be landed at Aleutian Islands shoreplants on or before February 28, 2018, is not met during that fishing year, then the Aleutian Islands CV Harvest Set-Aside is lifted and the Bering Sea Trawl CV A-Season Sector Limitation is suspended for the remainder of that fishing year.

For 2018, NMFS received prior to October 31, 2017, timely and complete notice from the City of Adak indicating an intent to process AI Pacific cod in 2018. Accordingly, the harvest limits in Table 9a will be in effect in 2018, subject to the requirements outlined in § 679.20(a)(7)(viii)(E)(*4*): If less than 1,000 mt of the Aleutian Islands CV Harvest Set-Aside is landed at Aleutian Islands shoreplants on or before February 28, 2018, then for the remainder of the year the Aleutian Islands CV Harvest Set-Aside is lifted and the Bering Sea Trawl CV A-Season Sector Limitation is suspended. If the entire Aleutian Islands CV Harvest Set-Aside is fully harvested and delivered to Aleutian Islands shoreplants before March 15, 2018, then the Bering Sea Trawl CV A-Season Sector Limitation will be suspended for the remainder of the fishing year.

The CDQ and non-CDQ seasonal allowances by gear based on the 2018 and 2019 Pacific cod TACs are listed in Tables 8 and 9, and are based on the sector allocation percentages and seasonal allowances for Pacific cod set forth at § 679.20(a)(7)(i)(B) and (a)(7)(iv)(A); and the seasons for Pacific cod set forth at § 679.23(e)(5).

TABLE 8—FINAL 2018 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Gear sector	Percent	2018 share of gear sector total	2018 share of sector total	2018 seasonal apportionment	
				Seasons	Amount
BS TAC	n/a	188,136	n/a	n/a	n/a
BS CDQ	n/a	20,131	n/a	see § 679.20(a)(7)(i)(B)	n/a
BS non-CDQ TAC	n/a	168,005	n/a	n/a	n/a
AI TAC	n/a	15,695	n/a	n/a	n/a
AI CDQ	n/a	1,679	n/a	see § 679.20(a)(7)(i)(B)	n/a
AI non-CDQ TAC	n/a	14,016	n/a	n/a	n/a
Western Aleutian Island Limit	n/a	4,018	n/a	n/a	n/a
Total BSAI non-CDQ TAC [1]	100	182,021	n/a	n/a	n/a
Total hook-and-line/pot gear	60.8	110,669	n/a	n/a	n/a
Hook-and-line/pot ICA [2]	n/a	400	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	110,269	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	88,324	Jan 1–Jun 10	45,045
				Jun 10–Dec 31	43,279
Hook-and-line catcher vessel ≥60 ft LOA.	0.2	n/a	363	Jan 1–Jun 10	185
				Jun 10–Dec 31	178
Pot catcher/processor	1.5	n/a	2,720	Jan 1–Jun 10	1,387
				Sept 1–Dec 31	1,333
Pot catcher vessel ≥60 ft LOA	8.4	n/a	15,235	Jan 1–Jun 10	7,770
				Sept 1–Dec 31	7,465
Catcher vessel <60 ft LOA using hook-and-line or pot gear.	2	n/a	3,627	n/a	n/a
Trawl catcher vessel	22.1	40,227	n/a	Jan 20–Apr 1	29,768
				Apr 1–Jun 10	4,425
				Jun 10–Nov 1	6,034
AFA trawl catcher/processor	2.3	4,186	n/a	Jan 20–Apr 1	3,140
				Apr 1–Jun 10	1,047
				Jun 10–Nov 1	0
Amendment 80	13.4	24,391	n/a	Jan 20–Apr 1	18,293
				Apr 1–Jun 10	6,098
				Jun 10–Nov 1	0
Jig	1.4	2,548	n/a	Jan 1–Apr 30	1,529
				Apr 30–Aug 31	510
				Aug 31–Dec 31	510

[1] The gear shares and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs, after the subtraction of CDQ. If the TAC for Pacific cod in either the AI or BS is reached, then directed fishing for Pacific cod in that subarea may be prohibited, even if a BSAI allowance remains.

[2] The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 400 mt for 2018 based on anticipated incidental catch in these fisheries.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 9—FINAL 2019 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Gear sector	Percent	2019 share of gear sector total	2019 share of sector total	2019 seasonal apportionment	
				Seasons	Amount
BS TAC	n/a	159,120	n/a	n/a	n/a
BS CDQ	n/a	17,026	n/a	see § 679.20(a)(7)(i)(B)	n/a
BS non-CDQ TAC	n/a	142,094	n/a	n/a	n/a
AI TAC	n/a	15,695	n/a	n/a	n/a
AI CDQ	n/a	1,679	n/a	see § 679.20(a)(7)(i)(B)	n/a
AI non-CDQ TAC	n/a	14,016	n/a	n/a	n/a
Western Aleutian Island Limit	n/a	4,018	n/a	n/a	n/a
Total BSAI non-CDQ TAC [1]	n/a	156,110	n/a	n/a	n/a
Total hook-and-line/pot gear	60.8	94,915	n/a	n/a	n/a
Hook-and-line/pot ICA [2]	n/a	400	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	94,515	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	75,705	Jan 1–Jun 10	38,610
				Jun 10–Dec 31	37,095
Hook-and-line catcher vessel ≥60 ft LOA.	0.2	n/a	311	Jan 1–Jun 10	159
				Jun 10–Dec 31	152
Pot catcher/processor	1.5	n/a	2,332	Jan 1–Jun 10	1,189
				Sept 1–Dec 31	1,143
Pot catcher vessel ≥60 ft LOA	8.4	n/a	13,058	Jan 1–Jun 10	6,660
				Sept 1–Dec 31	6,398
Catcher vessel <60 ft LOA using hook-and-line or pot gear.	2	n/a	3,109	n/a	n/a
Trawl catcher vessel	22.1	34,500	n/a	Jan 20–Apr 1	25,530
				Apr 1–Jun 10	3,795
				Jun 10–Nov 1	5,175
AFA trawl catcher/processor	2.3	3,591	n/a	Jan 20–Apr 1	2,693
				Apr 1–Jun 10	898
				Jun 10–Nov 1	0
Amendment 80	13.4	20,919	n/a	Jan 20–Apr 1	15,689
				Apr 1–Jun 10	5,230
				Jun 10–Dec 31	0
Jig	1.4	2,186	n/a	Jan 1–Apr 30	1,311
				Apr 30–Aug 31	437
				Aug 31–Dec 31	437

[1] The gear shares and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs, after the subtraction of CDQ. If the TAC for Pacific cod in either the AI or BS is reached, then directed fishing for Pacific cod in that subarea may be prohibited, even if a BSAI allowance remains.

[2] The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 400 mt for 2019 based on anticipated incidental catch in these fisheries.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 9A—2018 AND 2019 BSAI A-SEASON PACIFIC COD ALLOCATIONS AND LIMITS IF THE NOTIFICATION AND PERFORMANCE REQUIREMENTS IN § 679.20(a)(7)(viii) ARE MET

2018 and 2019 Allocations under Aleutian Islands CV Harvest Set-Aside	Amount (mt)
AI non-CDQ TAC	14,016
AI ICA	2,500
AI DFA	11,516
BS non-CDQ TAC	168,005
BSAI Trawl CV A-Season Allocation	29,768
BSAI Trawl CV A-Season Allocation minus Sector Limitation [1]	24,768
BS Trawl CV A-Season Sector Limitation	5,000
AI CV Harvest Set-Aside [2]	5,000
AI Unrestricted Fishery [3]	6,516

[1] This is the amount of the BSAI trawl CV A-season allocation that may be harvested in the Bering Sea prior to March 21, 2018, unless the BS Trawl CV A-Season Sector Limitation is suspended for the remainder of the fishing year because the performance requirements pursuant to § 679.20(a)(7)(viii)(E) were not met.

[2] Prior to March 15, 2018, only catcher vessels that deliver their catch of AI Pacific cod to AI shoreplants for processing may directed fish for that portion of the AI Pacific cod non-CDQ DFA that is specified as the AI CV Harvest Set–Aside, unless lifted because the performance requirements pursuant to § 679.20(a)(7)(viii)(E) were not met.

[3] Prior to March 15, 2018, vessels otherwise authorized to directed fish for Pacific cod in the AI may directed fish for that portion of the AI Pacific cod non-CDQ DFA that is specified as the AI Unrestricted Fishery.

Sablefish Gear Allocation

Section 679.20(a)(4)(iii) and (iv) require allocation of the sablefish TAC for the Bering Sea and Aleutian Islands subareas between trawl and hook-and-line or pot gear sectors. Gear allocations of the TAC for the BS are 50 percent for trawl gear and 50 percent for hook-and-line or pot gear. Gear allocations of the TAC for the AI are 25 percent for trawl gear and 75 percent for hook-and-line or pot gear. Section 679.20(b)(1)(ii)(B) requires NMFS to apportion 20 percent of the hook-and-line or pot gear allocation of sablefish to the CDQ reserve for each subarea. Also, § 679.20(b)(1)(ii)(D)(*1*) requires that 7.5 percent of the trawl gear allocation of sablefish from the non-specified reserves, established under § 679.20(b)(1)(i), be assigned to the CDQ reserve. The Council recommended that only trawl sablefish TAC be established biennially. The harvest specifications for the hook-and-line gear or pot gear sablefish Individual Fishing Quota (IFQ) fisheries are limited to the 2018 fishing year to ensure those fisheries are conducted concurrently with the halibut IFQ fishery. Concurrent sablefish and halibut IFQ fisheries reduce the potential for discards of halibut and sablefish in those fisheries. The sablefish IFQ fisheries remain closed at the beginning of each fishing year until the final harvest specifications for the sablefish IFQ fisheries are in effect. Table 10 lists the 2018 and 2019 gear allocations of the sablefish TAC and CDQ reserve amounts.

TABLE 10—FINAL 2018 AND 2019 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS

[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2018 Share of TAC	2018 ITAC	2018 CDQ reserve	2019 Share of TAC	2019 ITAC	2019 CDQ reserve
Bering Sea:							
Trawl [1]	50	732	622	55	1,031	876	77
Hook-and-line/pot gear [2]	50	732	586	146	n/a	n/a	n/a
Total	100	1,464	1,208	201	1,031	876	77
Aleutian Islands:							
Trawl [1]	25	497	422	37	700	595	52
Hook-and-line/pot gear [2]	75	1,491	1,193	298	n/a	n/a	n/a
Total	100	1,988	1,615	335	700	595	52

[1] Except for the sablefish hook-and-line and pot gear allocation, 15 percent of TAC is apportioned to the non-specific reserve (§ 679.20(b)(1)(i)). The ITAC is the remainder of the TAC after the subtracting these reserves.

[2] For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants (§ 679.20(b)(1)(ii)(B)). The Council recommended that specifications for the hook-and-line gear sablefish IFQ fisheries be limited to one year.

Note: Sector apportionments may not total precisely due to rounding.

Allocation of the Aleutian Islands Pacific Ocean Perch, and BSAI Flathead Sole, Rock Sole, and Yellowfin Sole TACs

Section 679.20(a)(10)(i) and (ii) require that NMFS allocate Aleutian Islands Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole ITAC between the Amendment 80 sector and the BSAI trawl limited access sector, after subtracting 10.7 percent for the CDQ reserve and an ICA for the BSAI trawl limited access sector and vessels using non-trawl gear. The allocation of the ITAC for Aleutian Islands Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole to the Amendment 80 sector is established in accordance with Tables 33 and 34 to 50 CFR part 679 and § 679.91.

One Amendment 80 cooperative has formed for the 2018 fishing year. The 2019 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2018. Tables 11 and 12 list the 2018 and 2019 allocations of the Aleutian Islands Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole TACs.

TABLE 11—FINAL 2018 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	BSAI	BSAI	BSAI
TAC	9,000	7,500	9,000	14,500	47,100	154,000
CDQ	963	803	963	1,552	5,040	16,478
ICA	100	120	10	4,000	6,000	4,000
BSAI trawl limited access	794	658	161	0	0	18,351
Amendment 80	7,143	5,920	7,866	8,949	36,060	115,171

Note: Sector apportionments may not total precisely due to rounding.

TABLE 12—FINAL 2019 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	BSAI	BSAI	BSAI
TAC	9,715	7,549	9,117	16,500	49,100	156,000
CDQ	1,040	808	976	1,766	5,254	16,692
ICA	100	120	10	4,000	6,000	4,000
BSAI trawl limited access	858	662	163	0	0	19,065
Amendment 80[1]	7,718	5,959	7,969	10,735	37,846	116,243

[1] The 2019 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2018. NMFS will publish 2019 Amendment 80 allocations when they become available in December 2018.

Note: Sector apportionments may not total precisely due to rounding.

Section 679.2 defines the ABC surplus for flathead sole, rock sole, and yellowfin sole as the difference between the annual ABC and TAC for each species. Section 679.20(b)(1)(iii) establishes ABC reserves for flathead sole, rock sole, and yellowfin sole. The ABC surpluses and the ABC reserves are necessary to mitigate the operational variability, environmental conditions, and economic factors that may constrain the CDQ groups and the Amendment 80 cooperatives from achieving, on a continuing basis, the optimum yield in the BSAI groundfish fisheries. NMFS, after consultation with the Council, may set the ABC reserve at or below the ABC surplus for each species thus maintaining the TAC below ABC limits. An amount equal to 10.7 percent of the ABC reserves will be allocated as CDQ ABC reserves for flathead sole, rock sole, and yellowfin sole. Section 679.31(b)(4) establishes the annual allocations of CDQ ABC reserves among the CDQ groups. The Amendment 80 ABC reserves shall be the ABC reserves minus the CDQ ABC reserves. Section 679.91(i)(2) establishes each Amendment 80 cooperative ABC reserve to be the ratio of each cooperatives' quota share units and the total Amendment 80 quota share units, multiplied by the Amendment 80 ABC reserve for each respective species. Table 13 lists the 2018 and 2019 ABC surplus and ABC reserves for BSAI flathead sole, rock sole, and yellowfin sole.

TABLE 13—FINAL 2018 AND 2019 ABC SURPLUS, ABC RESERVES, COMMUNITY DEVELOPMENT QUOTA (CDQ) ABC RESERVES, AND AMENDMENT 80 ABC RESERVES IN THE BSAI FOR FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE

[Amounts are in metric tons]

Sector	2018 flathead sole	2018 rock sole	2018 yellowfin sole	2019[1] flathead sole	2019[1] rock sole	2019[1] yellowfin sole
ABC	66,773	143,100	277,500	65,227	132,000	267,500
TAC	14,500	47,100	154,000	16,500	49,100	156,000
ABC surplus	52,273	96,000	123,500	48,727	82,900	111,500
ABC reserve	52,273	96,000	123,500	48,727	82,900	111,500
CDQ ABC reserve	5,593	10,272	13,215	5,214	8,870	11,931
Amendment 80 ABC reserve	46,680	85,728	110,286	43,513	74,030	99,570

[1] The 2019 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2018.

PSC Limits for Halibut, Salmon, Crab, and Herring

Section 679.21(b), (e), (f), and (g) sets forth the BSAI PSC limits. Pursuant to § 679.21(b)(1), the annual BSAI halibut PSC limits total 3,515 mt. Section 679.21(b)(1) allocates 315 mt of the halibut PSC limit as the PSQ reserve for use by the groundfish CDQ program, 1,745 mt of the halibut PSC limit for the Amendment 80 sector, 745 mt of the halibut PSC limit for the BSAI trawl limited access sector, and 710 mt of the halibut PSC limit for the BSAI non-trawl sector.

Section 679.21(b)(1)(iii)(A) and (B) authorize apportionment of the BSAI non-trawl halibut PSC limit into PSC allowances among six fishery categories, and § 679.21(b)(1)(ii)(A) and (B), (e)(3)(i)(B), and (e)(3)(iv) require apportionment of the BSAI trawl limited access halibut and crab PSC limits into PSC allowances among seven fishery categories. Tables 15 and 16 list the fishery PSC allowances for the trawl fisheries, and Table 17 lists the fishery PSC allowances for the non-trawl fisheries.

Pursuant to Section 3.6 of the FMP, the Council recommends, and NMFS agrees, that certain specified non-trawl fisheries be exempt from the halibut PSC limit. As in past years, after consultation with the Council, NMFS exempts pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from halibut bycatch restrictions for the following reasons: (1) The pot gear fisheries have low halibut bycatch mortality; (2) NMFS estimates halibut mortality for the jig gear fleet to be negligible because of the small size of the fishery and the selectivity of the gear; and (3) the sablefish and halibut IFQ fisheries have low halibut bycatch mortality because the IFQ program requires legal-size halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder or a hired master is aboard and is holding unused

halibut IFQ for that vessel category and the IFQ regulatory area in which the vessel is operating (§ 679.7(f)(11)).

The 2017 total groundfish catch for the pot gear fishery in the BSAI was 46,868 mt, with an associated halibut bycatch mortality of 17 mt. The 2017 jig gear fishery harvested about 13 mt of groundfish. Most vessels in the jig gear fleet are exempt from observer coverage requirements. As a result, observer data are not available on halibut bycatch in the jig gear fishery. However, as mentioned above, NMFS estimates a negligible amount of halibut bycatch mortality because of the selective nature of jig gear and the low mortality rate of halibut caught with jig gear and released.

Under § 679.21(f)(2), NMFS annually allocates portions of either 33,318, 45,000, 47,591, or 60,000 Chinook salmon PSC limits among the AFA sectors, depending on past bycatch performance, on whether Chinook salmon bycatch incentive plan agreements (IPAs) are formed, and on whether NMFS determines it is a low Chinook salmon abundance year. NMFS will determine that it is a low Chinook salmon abundance year when abundance of Chinook salmon in western Alaska is less than or equal to 250,000 Chinook salmon. The State of Alaska provides to NMFS an estimate of Chinook salmon abundance using the 3-System Index for western Alaska based on the Kuskokwim, Unalakleet, and Upper Yukon aggregate stock grouping.

If an AFA sector participates in an approved IPA and has not exceeded its performance standard under § 679.21(f)(6) and if it is not a low Chinook salmon abundance year, then NMFS will allocate a portion of the 60,000 Chinook salmon PSC limit to that sector as specified in § 679.21(f)(3)(iii)(A). If no IPA is approved, or if the sector has exceeded its performance standard under § 679.21(f)(6), and it is not a low abundance year, NMFS will allocate a portion of the 47,591 Chinook salmon PSC limit to that sector as specified in § 679.21(f)(3)(iii)(C). If an AFA sector participates in an approved IPA and has not exceeded its performance standard under § 679.21(f)(6) in a low abundance year, then NMFS will allocate a portion of the 45,000 Chinook salmon PSC limit to that sector as specified in § 679.21(f)(3)(iii)(B). If no IPA is approved, or if the sector has exceeded its performance standard under § 679.21(f)(6), in a low abundance year, NMFS will allocate a portion of the 33,318 Chinook salmon PSC limit to that sector as specified in § 679.21(f)(3)(iii)(D).

NMFS has determined that 2017 was not a low Chinook salmon abundance year based on the State of Alaska's estimate that Chinook salmon abundance in western Alaska is greater than 250,000 Chinook salmon. Therefore, in 2018, the Chinook salmon PSC limit is 60,000 and is allocated to each AFA sector as specified in § 679.21(f)(3)(iii)(A). The AFA sector Chinook salmon PSC limit allocations are seasonally apportioned with 70 percent of the allocation for the A season pollock fishery, and 30 percent of the allocation for the B season pollock fishery (§§ 679.21(f)(3)(i) and 679.23(e)(2)). Additionally, in 2018, the Chinook salmon bycatch performance standard under § 679.21(f)(6) is 47,591 Chinook salmon, allocated to each sector as specified in § 679.21(f)(3)(iii)(C).

The basis for these PSC limits is described in detail in the final rules implementing management measures for Amendment 91 (75 FR 53026, August 30, 2010) and Amendment 110 (81 FR 37534, June 10, 2016). NMFS publishes the approved IPAs, allocations, and reports at *http://alaskafisheries.noaa.gov/sustainablefisheries/bycatch/default.htm.*

Section 679.21(g)(2)(i) specifies 700 fish as the 2018 and 2019 Chinook salmon PSC limit for the AI pollock fishery. Section 679.21(g)(2)(ii) allocates 7.5 percent, or 53 Chinook salmon, as the AI PSQ reserve for the CDQ program, and allocates the remaining 647 Chinook salmon to the non-CDQ fisheries.

Section 679.21(f)(14)(i) specifies 42,000 fish as the 2018 and 2019 non-Chinook salmon PSC limit for vessels using trawl gear from August 15 through October 14 in the Catcher Vessel Operational Area (CVOA). Section 679.21(f)(14)(ii) allocates 10.7 percent, or 4,494 non-Chinook salmon, in the CVOA as the PSQ reserve for the CDQ program, and allocates the remaining 37,506 non-Chinook salmon in the CVOA as the PSC limit for the non-CDQ fisheries.

PSC limits for crab and herring are specified annually based on abundance and spawning biomass. Section 679.21(e)(3)(i)(A)(*1*) allocates 10.7 percent from each trawl gear PSC limit specified for crab as a PSQ reserve for use by the groundfish CDQ program.

Based on the 2017 survey data, the red king crab mature female abundance is estimated at 18.5 million mature red king crabs, and the effective spawning biomass is estimated at 39.8 million lbs (18,042 mt). Based on the criteria set out at § 679.21(e)(1)(i), the 2018 and 2019 PSC limit of red king crab in Zone 1 for trawl gear is 97,000 animals. This limit derives from the mature female abundance estimate of more than 8.4 million mature king crab and the effective spawning biomass estimate of more than 14.5 million lbs (6,477 mt) but less than 55 million lbs (24,948 mt).

Section 679.21(e)(3)(ii)(B)(*2*) establishes criteria under which NMFS must specify an annual red king crab bycatch limit for the Red King Crab Savings Subarea (RKCSS). The regulations limit the RKCSS red king crab bycatch limit to 25 percent of the red king crab PSC limit, based on the need to optimize the groundfish harvest relative to red king crab bycatch. In December 2017, the Council recommended and NMFS concurs that the red king crab bycatch limit be equal to 25 percent of the red king crab PSC limit within the RKCSS (Table 15).

Based on 2017 survey data, Tanner crab (*Chionoecetes bairdi*) abundance is estimated at 344 million animals. Pursuant to criteria set out at § 679.21(e)(1)(ii), the calculated 2018 and 2019 *C. bairdi* crab PSC limit for trawl gear is 830,000 animals in Zone 1, and 2,520,000 animals in Zone 2. The limit in Zone 1 is based on the abundance of *C. bairdi* estimated at 344 million animals, which is greater than 270 million animals and less than 400 million animals. The limit in Zone 2 is based on the abundance of *C. bairdi* estimated at 344 million animals, which is greater than 290 million animals and less than 400 million animals.

Pursuant to § 679.21(e)(1)(iii), the PSC limit for snow crab (*C. opilio*) is based on total abundance as indicated by the NMFS annual bottom trawl survey. The *C. opilio* crab PSC limit is set at 0.1133 percent of the Bering Sea abundance index minus 150,000 crab. Based on the 2017 survey estimate of 8.182 billion animals, which is above the minimum PSC limit of 4.5 million and below the maximum PSC limit of 13 million animals, the calculated *C. opilio* crab PSC limit is 9,120,539 animals.

Pursuant to § 679.21(e)(1)(v), the PSC limit of Pacific herring caught while conducting any trawl operation for BSAI groundfish is 1 percent of the annual eastern Bering Sea herring biomass. The best estimate of 2018 and 2019 herring biomass is 183,017 mt. This amount was developed by the Alaska Department of Fish and Game based on biomass for spawning aggregations. Therefore, the herring PSC limit for 2018 and 2019 is 1,830 mt for all trawl gear as listed in Tables 14 and 15.

Section 679.21(e)(3)(i)(A) requires crab PSQ reserves to be subtracted from the total trawl gear crab PSC limits. The 2018 crab and halibut PSC limits

assigned to the Amendment 80 and BSAI trawl limited access sectors are specified in Table 35 to 50 CFR part 679. The resulting allocations of PSC limit to CDQ PSQ reserves, the Amendment 80 sector, and the BSAI trawl limited access sector are listed in Table 14. Pursuant to §§ 679.21(b)(1)(i), 679.21(e)(3)(vi), and 679.91(d) through (f), crab and halibut trawl PSC limits assigned to the Amendment 80 sector are then further allocated to Amendment 80 cooperatives as cooperative quota. Crab and halibut PSC cooperative quota assigned to Amendment 80 cooperatives is not allocated to specific fishery categories. In 2018, there are no vessels in the Amendment 80 limited access sector and one Amendment 80 cooperative. The 2019 PSC allocations between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2018. Section 679.21(e)(3)(i)(B) requires NMFS to apportion each trawl PSC limit for crab and herring not assigned to Amendment 80 cooperatives into PSC bycatch allowances for seven specified fishery categories in § 679.21(e)(3)(iv).

Section 679.21(b)(2) and (e)(5) authorizes NMFS, after consulting with the Council, to establish seasonal apportionments of PSC amounts for the BSAI trawl limited access and non-trawl sectors in order to maximize the ability of the fleet to harvest the available groundfish TAC and to minimize bycatch. The factors to be considered are (1) seasonal distribution of prohibited species, (2) seasonal distribution of target groundfish species relative to prohibited species distribution, (3) PSC bycatch needs on a seasonal basis relevant to prohibited species biomass and expected catches of target groundfish species, (4) expected variations in bycatch rates throughout the year, (5) expected changes in directed groundfish fishing seasons, (6) expected start of fishing effort, and (7) economic effects of establishing seasonal prohibited species apportionments on segments of the target groundfish industry. The Council recommended and NMFS approves the seasonal PSC apportionments in Tables 16 and 17 to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC based on the above criteria.

TABLE 14—FINAL 2018 AND 2019 APPORTIONMENT OF PROHIBITED SPECIES CATCH ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS

PSC species and area [1]	Total PSC	Non-trawl PSC	CDQ PSQ reserve [2]	Trawl PSC remaining after CDQ PSQ	Amendment 80 sector [3]	BSAI trawl limited access fishery
Halibut mortality (mt) BSAI	3,515	710	315	n/a	1,745	745
Herring (mt) BSAI	1,830	n/a	n/a	n/a	n/a	n/a
Red king crab (animals) Zone 1	97,000	n/a	10,379	86,621	43,293	26,489
C. opilio (animals) COBLZ	9,120,539	n/a	975,898	8,144,641	4,003,091	2,617,688
C. bairdi crab (animals) Zone 1	830,000	n/a	88,810	741,190	312,115	348,285
C. bairdi crab (animals) Zone 2	2,520,000	n/a	269,640	2,250,360	532,660	1,053,394

[1] Refer to § 679.2 for definitions of zones.

[2] The PSQ reserve for crab species is 10.7 percent of each crab PSC limit.

[3] The Amendment 80 program reduced apportionment of the trawl PSC limits for crab below the total PSC limit. These reductions are not apportioned to other gear types or sectors.

TABLE 15—FINAL 2018 AND 2019 HERRING AND RED KING CRAB SAVINGS SUBAREA PROHIBITED SPECIES CATCH ALLOWANCES FOR ALL TRAWL SECTORS

Fishery Categories	Herring (mt) BSAI	Red king crab (animals) Zone 1
Yellowfin sole	80	n/a
Rock sole/flathead sole/other flatfish [1]	39	n/a
Greenland turbot/arrowtooth flounder/Kamchatka flounder/sablefish	5	n/a
Rockfish	5	n/a
Pacific cod	9	n/a
Midwater trawl pollock	1,662	n/a
Pollock/Atka mackerel/other species [2 3]	30	n/a
Red king crab savings subarea non-pelagic trawl gear [4]	n/a	24,250
Total trawl PSC	1,830	97,000

[1] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.

[2] Pollock other than pelagic trawl pollock, Atka mackerel, and "other species" fishery category.

[3] "Other species" for PSC monitoring includes skates, sculpins, sharks, squids, and octopuses.

[4] In December 2017, the Council recommended and NMFS concurs that the red king crab bycatch limit for non-pelagic trawl fisheries within the RKCSS be limited to 25 percent of the red king crab PSC allowance (see § 679.21(e)(3)(ii)(B)(*2*)).

Note: Species apportionments may not total precisely due to rounding.

TABLE 16—FINAL 2018 AND 2018 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR

BSAI trawl limited access fisheries	Prohibited species and area [1]				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	*C. opilio* (animals) COBLZ	*C. bairdi* (animals)	
				Zone 1	Zone 2
Yellowfin sole	150	23,338	2,467,662	293,234	1,005,879
Rock sole/flathead sole/other flatfish [2]	0	0	0	0	0
Greenland turbot/arrowtooth flounder/Kamchatka flounder/ sablefish	0	0	0	0	0
Rockfish April 15—December 31	4	0	4,076	0	849
Pacific cod	391	2,954	105,182	50,816	42,424
Pollock/Atka mackerel/other species [3]	200	197	40,768	4,235	4,243
Total BSAI trawl limited access PSC	745	26,489	2,617,688	348,285	1,053,395

[1] Refer to § 679.2 for definitions of areas.
[2] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.
[3] "Other species" for PSC monitoring includes skates, sculpins, sharks, squids, and octopuses.
Note: Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 17—FINAL 2018 AND 2019 HALIBUT PROHIBITED SPECIES BYCATCH ALLOWANCES FOR NON–TRAWL FISHERIES

Halibut mortality (mt) BSAI				
Non-trawl fisheries	Seasons	Catcher/ processor	Catcher vessel	All non-trawl
Pacific cod	Total Pacific cod	648	13	661.
	January 1–June 10	388	9	n/a.
	June 10–August 15	162	2	n/a.
	August 15–December 31	98	2	n/a.
Non-Pacific cod non-trawl—Total	May 1-December 31	n/a	n/a	49.
Groundfish pot and jig	n/a	n/a	n/a	Exempt.
Sablefish hook-and-line	n/a	n/a	n/a	Exempt.
Total for all non-trawl PSC	n/a	n/a	n/a	710.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Estimates of Halibut Biomass and Stock Condition

The International Pacific Halibut Commission (IPHC) annually assesses the abundance and potential yield of the Pacific halibut stock using all available data from the commercial and sport fisheries, other removals, and scientific surveys. Additional information on the Pacific halibut stock assessment may be found in the IPHC's 2017 Pacific halibut stock assessment (December 2017), available on the IPHC website at *www.iphc.int.* The IPHC considered the 2017 Pacific halibut stock assessment at its January 2018 annual meeting when it set the 2018 commercial halibut fishery catch limits.

Halibut Discard Mortality Rates

To monitor halibut bycatch mortality allowances and apportionments, the Regional Administrator uses observed halibut incidental catch rates, halibut discard mortality rates (DMRs), and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. Halibut incidental catch rates are based on observers' estimates of halibut incidental catch in the groundfish fishery. DMRs are estimates of the proportion of incidentally caught halibut that do not survive after being returned to the sea. The cumulative halibut mortality that accrues to a particular halibut PSC limit is the product of a DMR multiplied by the estimated halibut PSC. DMRs are estimated using the best scientific information available in conjunction with the annual BSAI stock assessment process. The DMR methodology and findings are included as an appendix to the annual BSAI groundfish SAFE report.

In 2016, the DMR estimation methodology underwent revisions per the Council's directive. An interagency halibut working group (IPHC, Council, and NMFS staff) developed improved estimation methods that have undergone review by the Plan Team, SSC, and the Council. A summary of the revised methodology is included in the BSAI proposed 2017 and 2018 harvest specifications (81 FR 87863, December 6, 2016), and the comprehensive discussion of the working group's statistical methodology is available from the Council (see **ADDRESSES**). The DMR working group's revised methodology is intended to improve estimation accuracy as well as transparency and transferability in the methodology used for calculating DMRs. The working group will continue to consider improvements to the methodology used to calculate halibut mortality, including potential changes to the reference period (the period of data used for calculating the DMRs). Future DMRs, including the 2019 DMRs, may change based on an additional year of observer sampling that could provide more recent and accurate data and could improve the accuracy of estimation and progress on methodology. The new methodology will continue to ensure that NMFS is using DMRs that more accurately reflect halibut mortality, which will inform the different sectors of their estimated halibut mortality and

allow specific sectors to respond with methods that could reduce mortality and, eventually, the DMR for that sector.

At the December 2017 meeting, the SSC, AP, and Council reviewed and concurred in the revised DMRs. For 2018 and 2019, the Council recommended and NMFS adopts the halibut DMRs derived from this revised process. The final 2018 and 2019 DMRs are unchanged from the DMRs proposed in the 2018 and 2019 harvest specifications (82 FR 57906, December 8, 2017). Table 18 lists the final 2018 and 2019 DMRs.

TABLE 18—2018 AND 2019 PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI

Gear	Sector	Halibut discard mortality rate (percent)
Pelagic trawl	All	100
Non-pelagic trawl	Mothership and catcher/processor	84
Non-pelagic trawl	Catcher vessel	60
Hook-and-line	Catcher/processor	8
Hook-and-line	Catcher vessel	17
Pot	All	9

Directed Fishing Closures

In accordance with § 679.20(d)(1)(i), the Regional Administrator may establish a DFA for a species or species group if the Regional Administrator determines that any allocation or apportionment of a target species has been or will be reached. If the Regional Administrator establishes a DFA, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea, regulatory area, or district (see § 679.20(d)(1)(iii)). Similarly, pursuant to § 679.21(b)(4) and (e)(7), if the Regional Administrator determines that a fishery category's bycatch allowance of halibut, red king crab, *C. bairdi* crab, or *C. opilio* crab for a specified area has been reached, the Regional Administrator will prohibit directed fishing for each species or species group in that fishery category in the area specified by regulation for the remainder of the fishing year.

Based on historic catch patterns and anticipated fishing activity, the Regional Administrator has determined that the groundfish allocation amounts in Table 19 will be necessary as incidental catch to support other anticipated groundfish fisheries for the 2018 and 2019 fishing years. Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the DFA for the species and species groups in Table 19 as zero mt. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for these sectors and species or species groups in the specified areas effective at 1200 hrs, A.l.t., February 27, 2018, through 2400 hrs, A.l.t., December 31, 2019. Also, for the BSAI trawl limited access sector, bycatch allowances of halibut, red king crab, *C. bairdi* crab, and *C. opilio* crab listed in Table 19 are insufficient to support directed fisheries. Therefore, in accordance with § 679.21(b)(4)(i) and (e)(7), NMFS is prohibiting directed fishing for these sectors, species, and fishery categories in the specified areas effective at 1200 hrs, A.l.t., February 27, 2018, through 2400 hrs, A.l.t., December 31, 2019.

TABLE 19—2018 AND 2018 DIRECTED FISHING CLOSURES [1]

[Groundfish and halibut amounts are in metric tons. Crab amounts are in number of animals.]

Area	Sector	Species	2018 incidental catch allowance	2019 incidental catch allowance
Bogoslof District	All	Pollock	450	500
Aleutian Islands subarea	All	ICA pollock	2,400	2,400
		"Other rockfish" [2]	570	570
Eastern Aleutian District/Bering Sea.	Non-amendment 80, CDQ, and BSAI trawl limited access.	ICA Atka mackerel	800	800
Eastern Aleutian District/Bering Sea.	All	Blackspotted/Rougheye rockfish	75	75
Eastern Aleutian District	Non-amendment 80, CDQ, and BSAI trawl limited access.	ICA Pacific ocean perch	100	100
Central Aleutian District	Non-amendment 80, CDQ, and BSAI trawl limited access.	ICA Atka mackerel	75	75
		ICA Pacific ocean perch	60	60
Western Aleutian District	Non-amendment 80, CDQ, and BSAI trawl limited access.	ICA Atka mackerel	20	20
		ICA Pacific ocean perch	10	10
Western and Central Aleutian Districts.	All	Blackspotted/Rougheye rockfish	150	150
Bering Sea subarea	All	Pacific ocean perch	10,082	9,774
		"Other rockfish" [2]	275	275
		ICA pollock	47,888	48,543
Bering Sea and Aleutian Islands	All	Northern rockfish	5,185	5,525
		Shortraker rockfish	150	150
		Skates	22,950	22,950
		Sculpins	4,250	4,250
		Sharks	180	180

TABLE 19—2018 AND 2018 DIRECTED FISHING CLOSURES [1]—Continued

[Groundfish and halibut amounts are in metric tons. Crab amounts are in number of animals.]

Area	Sector	Species	2018 incidental catch allowance	2019 incidental catch allowance
		Squids	1,020	1,020
		Octopuses	250	200
	Hook-and-line and pot gear	ICA Pacific cod	400	400
	Non-amendment 80 and CDQ	ICA flathead sole	4,000	4,000
		ICA rock sole	6,000	6,000
	Non-amendment 80, CDQ, and BSAI trawl limited access.	ICA yellowfin sole	4,000	4,000
	BSAI trawl limited access	Rock sole/flathead sole/other flatfish—halibut mortality, red king crab Zone 1, *C. opilio* COBLZ, *C. bairdi* Zone 1 and 2.	0	0
		Turbot/arrowtooth/sablefish—halibut mortality, red king crab Zone 1, *C. opilio* COBLZ, *C. bairdi* Zone 1 and 2.	0	0
		Rockfish—red king crab Zone 1	0	0

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

[2] "Other rockfish" includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, northern rockfish, shortraker rockfish, and blackspotted/rougheye rockfish.

Closures implemented under the final 2017 and 2018 BSAI harvest specifications for groundfish (82 FR 11826, February 27, 2017) remain effective under authority of these final 2018 and 2019 harvest specifications and until the date specified in those notices. Closures are posted at the following websites: *http://alaskafisheries.noaa.gov/cm/info_bulletins/* and *http://alaskafisheries.noaa.gov/fisheries_reports/reports/.* While these closures are in effect, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found at 50 CFR part 679.

Listed AFA Catcher/Processor Sideboard Limits

Pursuant to § 679.64(a), the Regional Administrator is responsible for restricting the ability of listed AFA C/Ps to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the pollock directed fishery. These restrictions are set out as sideboard limits on catch. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007). Table 20 lists the 2018 and 2019 AFA C/P groundfish sideboard limits. Section 679.64(a)(1)(v) exempts AFA catcher/processors from a yellowfin sole sideboard limit because the 2018 and 2019 aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector is greater than 125,000 mt.

All harvest of groundfish sideboard species by listed AFA C/Ps, whether as targeted catch or incidental catch, will be deducted from the sideboard limits in Table 20. However, groundfish sideboard species that are delivered to listed AFA C/Ps by CVs will not be deducted from the 2018 and 2019 sideboard limits for the listed AFA C/Ps.

TABLE 20—FINAL 2018 AND 2019 LISTED BSAI AMERICAN FISHERIES ACT CATCHER/PROCESSOR GROUNDFISH SIDEBOARD LIMITS

[Amounts are in metric tons]

Target species	Area/season	1995–1997			2018 ITAC available to trawl C/Ps [1]	2018 AFA C/P sideboard limit	2019 ITAC available to trawl C/Ps* [1]	2019 AFA C/P sideboard limit
		Retained catch	Total catch	Ratio of retained catch to total catch				
Sablefish trawl	BS	8	497	0.016	622	10	876	14
	AI	0	145	0	422	0	595	0
Atka mackerel	Central AI A season [2]	n/a	n/a	0.115	9,377	1,078	11,116	1,278
	Central AI B season [2]	n/a	n/a	0.115	9,377	1,078	11,116	1,278
	Western AI A season [2]	n/a	n/a	0.2	6,028	1,206	6,173	1,235
	Western AI B season [2]	n/a	n/a	0.2	6,028	1,206	6,173	1,235
Rock sole	BSAI	6,317	169,362	0.037	42,060	1,556	43,846	1,622
Greenland turbot	BS	121	17,305	0.007	4,356	30	4,356	30
	AI	23	4,987	0.005	144	1	144	1
Arrowtooth flounder	BSAI	76	33,987	0.002	11,578	23	11,900	24
Kamchatka flounder	BSAI	76	33,987	0.002	4,250	9	4,250	9
Flathead sole	BSAI	1,925	52,755	0.036	12,949	466	14,735	530
Alaska plaice	BSAI	14	9,438	0.001	13,685	14	13,814	14

TABLE 20—FINAL 2018 AND 2019 LISTED BSAI AMERICAN FISHERIES ACT CATCHER/PROCESSOR GROUNDFISH SIDEBOARD LIMITS—Continued

[Amounts are in metric tons]

Target species	Area/season	1995–1997			2018 ITAC available to trawl C/Ps [1]	2018 AFA C/P sideboard limit	2019 ITAC available to trawl C/Ps* [1]	2019 AFA C/P sideboard limit
		Retained catch	Total catch	Ratio of retained catch to total catch				
Other flatfish	BSAI	3,058	52,298	0.058	3,400	197	3,400	197
Pacific ocean perch	BS	12	4,879	0.002	10,082	20	9,774	20
	Eastern AI	125	6,179	0.02	8,037	161	8,675	174
	Central AI	3	5,698	0.001	6,698	7	6,741	7
	Western AI	54	13,598	0.004	8,037	32	8,141	33
Northern rockfish	BSAI	91	13,040	0.007	5,185	36	5,525	39
Shortraker rockfish	BSAI	50	2,811	0.018	150	3	150	3
Blackspotted/ Rougheye rockfish.	BS/EAI	50	2,811	0.018	75	1	75	1
	CAI/WAI	50	2,811	0.018	150	3	150	3
Other rockfish	BS	18	621	0.029	275	8	275	8
	AI	22	806	0.027	570	15	570	15
Skates	BSAI	553	68,672	0.008	22,950	184	22,950	184
Sculpins	BSAI	553	68,672	0.008	4,250	34	4,250	34
Sharks	BSAI	553	68,672	0.008	180	1	180	1
Squids	BSAI	73	3,328	0.022	1,020	22	1,020	22
Octopuses	BSAI	553	68,672	0.008	250	2	200	2

[1] Aleutian Islands Pacific ocean perch, and BSAI Atka mackerel, flathead sole, and rock sole are multiplied by the remainder of the TAC for each species after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

[2] The seasonal apportionment of Atka mackerel in the open access fishery is 50 percent in the A season and 50 percent in the B season. Listed AFA catcher/processors are limited to harvesting no more than zero in the Eastern Aleutian District and Bering Sea subarea, 20 percent of the annual ITAC specified for the Western Aleutian District, and 11.5 percent of the annual ITAC specified for the Central Aleutian District.

Section 679.64(a)(2) and Tables 40 and 41 of 50 CFR part 679 establish a formula for calculating PSC sideboard limits for halibut and crab caught by listed AFA C/Ps. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007).

PSC species listed in Table 21 that are caught by listed AFA C/Ps participating in any groundfish fishery other than pollock will accrue against the 2018 and 2019 PSC sideboard limits for the listed AFA C/Ps. Section 679.21(b)(4)(iii), (e)(3)(v), and (e)(7) authorizes NMFS to close directed fishing for groundfish other than pollock for listed AFA C/Ps once a 2018 or 2019 PSC sideboard limit listed in Table 21 is reached.

Pursuant to § 679.21(b)(1)(ii)(C) and (e)(3)(ii)(C), halibut or crab PSC caught by listed AFA C/Ps while fishing for pollock will accrue against the bycatch allowances annually specified for the pollock/Atka mackerel/''other species'' fishery categories under § 679.21(b)(1)(ii)(B) and (e)(3)(iv).

TABLE 21—FINAL 2018 AND 2019 BSAI AFA LISTED CATCHER/PROCESSOR PROHIBITED SPECIES CATCH SIDEBOARD LIMITS

PSC species and area [1]	Ratio of PSC catch to total PSC	2018 and 2019 PSC available to trawl vessels after subtraction of PSQ [2]	2018 and 2019 AFA catcher/ processor sideboard limit [2]
Halibut mortality BSAI	n/a	n/a	286
Red king crab zone 1	0.007	86,621	606
C. opilio (COBLZ)	0.153	8,144,641	1,246,130
C. bairdi Zone 1	0.140	741,190	103,767
C. bairdi Zone 2	0.050	2,250,360	112,518

[1] Refer to § 679.2 for definitions of areas.

[2] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.

AFA Catcher Vessel Sideboard Limits

Pursuant to § 679.64(b), the Regional Administrator is responsible for restricting the ability of AFA CVs to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the pollock directed fishery. Section 679.64(b)(3) and (4) establishes a formula for setting AFA CV groundfish and halibut and crab PSC sideboard limits for the BSAI. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007). Section 679.64(b)(6) exempts AFA CVs from a yellowfin sole sideboard limit because the 2018 and 2019 aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector is greater than 125,000 mt. Tables 22 and 23 list the 2018 and 2019 AFA CV sideboard limits.

All catch of groundfish sideboard species made by non-exempt AFA CVs, whether as targeted catch or incidental catch, will be deducted from the 2018

and 2019 sideboard limits listed in Table 22.

Halibut and crab PSC limits listed in Table 23 that are caught by AFA CVs participating in any groundfish fishery for groundfish other than pollock will accrue against the 2018 and 2019 PSC sideboard limits for the AFA CVs. Section 679.21(b)(4)(iii), (e)(3)(v), and (e)(7) authorizes NMFS to close directed fishing for groundfish other than pollock for AFA CVs once a 2018 or 2019 PSC sideboard limit listed in Table 23 is reached. Pursuant to § 679.21(b)(1)(ii)(C) and (e)(3)(ii)(C), the PSC that is caught by AFA CVs while fishing for pollock in the BSAI will accrue against the bycatch allowances annually specified for the pollock/Atka mackerel/''other species'' fishery categories under § 679.21(b)(1)(ii)(B) and (e)(3)(iv).

TABLE 22—FINAL 2018 AND 2019 AMERICAN FISHERIES ACT CATCHER VESSEL BSAI GROUNDFISH SIDEBOARD LIMITS

[Amounts are in metric tons]

Species/gear	Fishery by area/season	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2018 initial TAC [1]	2018 AFA catcher vessel sideboard limits	2019 initial TAC [1]	2019 AFA catcher vessel sideboard limits
Pacific cod/Hook-and-line CV ≥60 feet LOA.	BSAI Jan 1–Jun 10	0.0006	185	0	159	0
	BSAI Jun 10–Dec 31	0.0006	178	0	152	0
Pacific cod pot gear CV	BSAI Jan 1–Jun 10	0.0006	7,770	5	6,660	4
	BSAI Sept 1–Dec 31	0.0006	7,465	4	6,398	4
Pacific cod CV ≤60 feet LOA using hook-and-line or pot gear.	BSAI	0.0006	3,627	2	3,109	2
Pacific cod trawl gear CV	BSAI Jan 20–Apr 1	0.8609	29,768	25,627	25,530	21,979
	BSAI Apr 1–Jun 10	0.8609	4,425	3,809	3,795	3,267
	BSAI Jun 10–Nov 1	0.8609	6,034	5,195	5,175	4,455
Sablefish trawl gear	BS	0.0906	622	56	876	79
	AI	0.0645	422	27	595	38
Atka mackerel	Eastern AI/BS Jan 1–Jun 10.	0.0032	16,298	52	15,083	48
	Eastern AI/BS Jun 10–Nov 1.	0.0032	16,298	52	15,083	48
	Central AI Jan 1–Jun 10	0.0001	9,377	1	11,116	1
	Central AI Jun 10–Nov 1	0.0001	9,377	1	11,116	1
	Western AI Jan 1–Jun 10	0	6,028	0	6,173	0
	Western AI Jun 10–Nov 1	0	6,028	0	6,173	0
Rock sole	BSAI	0.0341	42,060	1,434	43,846	1,495
Greenland turbot	BS	0.0645	4,356	281	4,356	281
	AI	0.0205	144	3	144	3
Arrowtooth flounder	BSAI	0.069	11,578	799	11,900	821
Kamchatka flounder	BSAI	0.069	4,250	293	4,250	293
Alaska plaice	BSAI	0.0441	13,685	604	13,814	609
Other flatfish	BSAI	0.0441	3,400	150	3,400	150
Flathead sole	BS	0.0505	12,949	654	14,735	744
Pacific ocean perch	BS	0.1	10,082	1,008	9,774	977
	Eastern AI	0.0077	8,037	62	8,675	67
	Central AI	0.0025	6,698	17	6,741	17
	Western AI	0	8,037	0	8,141	0
Northern rockfish	BSAI	0.0084	5,185	44	5,525	46
Shortraker rockfish	BSAI	0.0037	150	1	150	1
Blackspotted/Rougheye rockfish.	BS/EAI	0.0037	75	0	75	0
	CAI/WAI	0.0037	150	1	150	1
Other rockfish	BS	0.0048	275	1	275	1
	AI	0.0095	570	5	570	5
Skates	BSAI	0.0541	22,950	1,242	22,950	1,242
Sculpins	BSAI	0.0541	4,250	230	4,250	230
Sharks	BSAI	0.0541	180	10	180	10
Squids	BSAI	0.3827	1,020	390	1,020	390
Octopuses	BSAI	0.0541	250	14	200	11

[1] Aleutians Islands Pacific ocean perch, and BSAI Atka mackerel, flathead sole, Pacific cod, and rock sole are multiplied by the remainder of the TAC for each species after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

TABLE 23—FINAL 2018 AND 2019 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS FOR THE BSAI [1]

PSC species and area [1]	Target fishery category [2]	AFA catcher vessel PSC sideboard limit ratio	2018 and 2019 PSC limit after subtraction of PSQ reserves [3]	2018 and 2019 AFA catcher vessel PSC sideboard limit [3]
Halibut	Pacific cod trawl	n/a	n/a	887
	Pacific cod hook-and-line or pot	n/a	n/a	2
	Yellowfin sole total	n/a	n/a	101
	Rock sole/flathead sole/other flatfish [4]	n/a	n/a	228
	Greenland turbot/arrowtooth/sablefish [5]	n/a	n/a	0
	Rockfish	n/a	n/a	2
	Pollock/Atka mackerel/other species [6]	n/a	n/a	5
Red king crab Zone 1	n/a	0.299	86,621	25,900
C. opilio COBLZ	n/a	0.168	8,144,641	1,368,300
C. bairdi Zone 1	n/a	0.330	741,190	244,593
C. bairdi Zone 2	n/a	0.186	2,250,360	418,567

[1] Refer to § 679.2 for definitions of areas.
[2] Target trawl fishery categories are defined at § 679.21(b)(1)(ii)(B) and (e)(3)(iv).
[3] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.
[4] ''Other flatfish'' for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.
[5] Arrowtooth for PSC monitoring includes Kamchatka flounder.
[6] ''Other species'' for PSC monitoring includes skates, sculpins, sharks, squids, and octopuses.

AFA Catcher/Processor and Catcher Vessel Sideboard Directed Fishing Closures

Based on historical catch patterns, the Regional Administrator has determined that many of the AFA C/P and CV sideboard limits listed in Tables 24 and 25 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2018 and 2019 fishing years. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes the sideboard limits listed in Tables 24 and 25 as DFAs. Because many of these DFAs will be reached before the end of 2018, the Regional Administrator has determined, in accordance with § 679.20(d)(1)(iii), that NMFS is prohibiting directed fishing by listed AFA C/Ps for the species in the specified areas set out in Table 24, and prohibiting directed fishing by non-exempt AFA CVs for the species in the specified areas set out in Table 25.

TABLE 24—FINAL 2018 AND 2019 AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR SIDEBOARD DIRECTED FISHING CLOSURES [1]

[Amounts are in metric tons]

Species	Area	Gear types	2018 sideboard limit	2019 sideboard limit
Sablefish trawl	BS	trawl	10	14
	AI	trawl	0	0
Rock sole	BSAI	all	1,556	1,622
Greenland turbot	BS	all	30	30
	AI	all	1	1
Arrowtooth flounder	BSAI	all	23	24
Kamchatka flounder	BSAI	all	9	9
Alaska plaice	BSAI	all	14	14
Other flatfish [2]	BSAI	all	197	197
Flathead sole	BSAI	all	466	530
Pacific ocean perch	BS	all	20	20
	Eastern AI	all	161	174
	Central AI	all	7	7
	Western AI	all	32	33
Northern rockfish	BSAI	all	36	39
Shortraker rockfish	BSAI	all	3	3
Blackspotted/Rougheye rockfish	BS/EAI	all	1	1
	CAI/WAI	all	3	3
Other rockfish [3]	BS	all	8	8
	AI	all	15	15
Skates	BSAI	all	184	184
Sculpins	BSAI	all	34	34
Sharks	BSAI	all	1	1
Squids	BSAI	all	25	22
Octopuses	BSAI	all	2	2

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

[2] "Other flatfish" includes all flatfish species, except for halibut, Alaska plaice, flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.
[3] "Other rockfish" includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, northern rockfish, shortraker rockfish, and blackspotted/rougheye rockfish.

TABLE 25—FINAL 2018 AND 2019 AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES [1]

[Amounts are in metric tons]

Species	Area	Gear types	2018 sideboard limit	2019 sideboard limit
Pacific cod	BSAI	hook-and-line CV ≥60 feet LOA.	0	0
	BSAI	pot CV ≥60 feet LOA	9	8
	BSAI	hook-and-line or pot CV ≤60 feet LOA.	2	2
	BSAI	jig	0	0
Sablefish	BS	trawl	56	79
	AI	trawl	27	38
Atka mackerel	Eastern AI/BS	all	104	96
	Central AI	all	2	2
	Western AI	all	0	0
Greenland turbot	BS	all	281	281
	AI	all	3	3
Arrowtooth flounder	BSAI	all	799	821
Kamchatka flounder	BSAI	all	293	293
Alaska plaice	BSAI	all	501	609
Other flatfish [2]	BSAI	all	150	150
Flathead sole	BSAI	all	654	744
Rock sole	BSAI	all	1,434	1,495
Pacific ocean perch	BS	all	1008	977
	Eastern AI	all	62	67
	Central AI	all	17	17
	Western AI	all	0	0
Northern rockfish	BSAI	all	44	46
Shortraker rockfish	BSAI	all	1	1
Blackspotted/Rougheye rockfish	BS/EAI	all	0	0
	CAI/WAI	all	1	1
Other rockfish [3]	BS	all	1	1
	AI	all	5	5
Skates	BSAI	all	1,242	1,242
Sculpins	BSAI	all	230	230
Sharks	BSAI	all	10	10
Squids	BSAI	all	390	390
Octopuses	BSAI	all	14	11

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.
[2] "Other flatfish" includes all flatfish species, except for halibut, Alaska plaice, flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.
[3] "Other rockfish" includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, northern rockfish, shortraker rockfish, and blackspotted/rougheye rockfish.

Response to Comments

NMFS received no substantive comments during the public comment period for the proposed BSAI groundfish harvest specifications. No changes were made to the final rule in response to the comment letters received.

Classification

NMFS has determined that these final harvest specifications are consistent with the FMP and with the Magnuson-Stevens Act and other applicable laws.

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Order 12866.

NMFS prepared an EIS that covers this action (see **ADDRESSES**) and made it available to the public on January 12, 2007 (72 FR 1512). On February 13, 2007, NMFS issued the Record of Decision (ROD) for the EIS. In January 2018, NMFS prepared a Supplemental Information Report (SIR) for this action. Copies of the EIS, ROD, and SIR for this action are available from NMFS (see **ADDRESSES**). The EIS analyzes the environmental consequences of the groundfish harvest specifications and alternative harvest strategies on resources in the action area. The EIS found no significant environmental consequences of this action and its alternatives. The SIR evaluates the need to prepare a Supplemental EIS (SEIS) for the 2018 and 2019 groundfish harvest specifications.

An SEIS should be prepared if (1) the agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (2) significant new circumstances or information exist relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)(1)). After reviewing the information contained in the SIR and SAFE reports, the Regional Administrator has determined that (1) approval of the 2018 and 2019 harvest specifications, which were set according to the preferred harvest strategy in the EIS, does not constitute a substantial change in the action; and (2) there are no significant new circumstances or information relevant to environmental concerns and bearing on the action or its impacts. Additionally, the 2018 and 2019 harvest specifications will result in

environmental impacts within the scope of those analyzed and disclosed in the EIS. Therefore, supplemental National Environmental Policy Act documentation is not necessary to implement the 2018 and 2019 harvest specifications.

Section 604 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 604) requires that, when an agency promulgates a final rule under section 553 of Title 5 of the United States Code, after being required by that section, or any other law, to publish a general notice of proposed rulemaking, the agency shall prepare a final regulatory flexibility analysis (FRFA). The following constitutes the FRFA prepared in the final action.

The required contents of a FRFA, as described in section 604, are: (1) A statement of the need for, and objectives of, the rule; (2) a statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

A description of this action, its purpose, and its legal basis are included at the beginning of the preamble to this final rule and are not repeated here.

NMFS published the proposed rule on December 8, 2017 (82 FR 57906). NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) to accompany the proposed action, and included a summary in the proposed rule. The comment period closed on January 8, 2018. No comments were received on the IRFA or on the economic impacts of the rule more generally. The Chief Counsel for Advocacy of the Small Business Administration did not file any comments on the proposed rule.

The entities directly regulated by this action are those that harvest groundfish in the exclusive economic zone of the BSAI and in parallel fisheries within State waters. These include entities operating catcher vessels and catcher/processors within the action area and entities receiving direct allocations of groundfish.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual gross receipts not in excess of $11 million for all its affiliated operations worldwide.

The estimated number of directly regulated small entities in 2016 include approximately 119 catcher vessels, five catcher/processors, and six CDQ groups. Some of these vessels are members of AFA inshore pollock cooperatives, Gulf of Alaska rockfish cooperatives, or BSAI Crab Rationalization Program cooperatives, and, since under the RFA the aggregate gross receipts of all participating members of the cooperative must meet the ''under $11 million'' threshold, the cooperatives are considered to be large entities within the meaning of the RFA. Thus, the estimate of 119 catcher vessels may be an overstatement of the number of small entities. Average gross revenues were $690,000 for small hook-and-line vessels, $1.25 million for small pot vessels, and $3.44 million for small trawl vessels. The average gross revenue for catcher/processor hook-and-line vessels was $2.90 million. The revenue data for other catcher/processors are not reported, due to confidentiality considerations.

This action does not modify recordkeeping or reporting requirements.

The significant alternatives were those considered as alternative harvest strategies when the Council selected its preferred harvest strategy (Alternative 2) in December 2006. These included the following:

- *Alternative 1:* Set TAC to produce fishing mortality rates, *F,* that are equal to *maxFABC,* unless the sum of the TAC is constrained by the OY established in the fishery management plans. This is equivalent to setting TAC to produce harvest levels equal to the maximum permissible ABC, as constrained by OY. The term ''*maxFABC*'' refers to the maximum permissible value of *FABC* under Amendment 56 to the BSAI and Gulf of Alaska groundfish fishery management plans. Historically, the TAC has been set at or below the ABC; therefore, this alternative represents a likely upper limit for setting the TAC within the OY and ABC limits.
- *Alternative 3:* For species in Tiers 1, 2, and 3, set TAC to produce *F* equal to the most recent 5-year average actual *F.* For species in Tiers 4, 5, and 6, set TAC equal to the most recent 5-year average actual catch. For stocks with a high level of scientific information, TAC would be set to produce harvest levels equal to the most recent 5-year average actual fishing mortality rates. For stocks with insufficient scientific information, TAC would be set equal to the most recent 5-year average actual catch. This alternative recognizes that for some stocks, catches may fall well below ABC, and recent average *F* may provide a better indicator of actual *F* than *FABC* does.
- *Alternative 4:* First, set TAC for rockfish species in Tier 3 at *F* 75%; set TAC for rockfish species in Tier 5 at *F* = 0.5M; and set spatially explicit TAC for shortraker and rougheye rockfish in the BSAI. Second, taking the rockfish TAC as calculated above, reduce all other TAC by a proportion that does not vary across species, so that the sum of all TAC, including rockfish TAC, is equal to the lower bound of the area OY (1,400,000 mt in the BSAI). This alternative sets conservative and spatially explicit TAC for rockfish species that are long-lived and late to mature, and sets conservative TAC for the other groundfish species.
- *Alternative 5:* (No Action) Set TAC at zero.

Alternative 2 is the preferred alternative chosen by the Council: Set TAC that fall within the range of ABC recommended through the Council harvest specifications process and TACs recommended by the Council. Under this scenario, *F* is set equal to a constant fraction of *maxFABC.* The recommended fractions of *maxFABC* may vary among species or stocks, based on other considerations unique to each. This is the method for determining TAC that has been used in the past.

Alternatives 1, 3, 4, and 5 do not meet the objectives of this action, and

although Alternatives 1 and 3 may have a smaller adverse economic impact on small entities than the preferred alternative, Alternatives 4 and 5 likely would have a significant adverse economic impact on small entities. The Council rejected these alternatives as harvest strategies in 2006, and the Secretary of Commerce did so in 2007.

Alternative 1 would lead to TAC limits whose sum exceeds the fishery OY, which is set out in statute and the FMP. As shown in Table 1 and Table 2, the sum of ABCs in 2018 and 2019 would be 3,779,809 mt and 3,578,956 mt, respectively. Both of these are substantially in excess of the fishery OY for the BSAI. This result would be inconsistent with the objectives of this action, in that it would violate the Consolidated Appropriations Act of 2004, Public Law 108–199, Division B, section 803(c), and the FMP, which both set a 2 million mt maximum harvest for BSAI groundfish.

Alternative 3 selects harvest rates based on the most recent 5 years' worth of harvest rates (for species in Tiers 1 through 3) or based on the most recent 5 years' worth of harvests (for species in Tiers 4 through 6). This alternative is also inconsistent with the objectives of this action because it does not take into account the most recent biological information for this fishery. NMFS annually conducts at-sea stock surveys for different species, as well as statistical modeling, to estimate stock sizes and permissible harvest levels. Actual harvest rates or harvest amounts are a component of these estimates, but in and of themselves may not accurately portray stock sizes and conditions. Harvest rates are listed for each species category for each year in the SAFE report (see **ADDRESSES**).

Alternative 4 would lead to significantly lower harvests of all species to reduce TAC from the upper end of the OY range in the BSAI to its lower end of 1.4 million mt. This result would lead to significant reductions in harvests of species by small entities. While reductions of this size could be associated with offsetting price increases, the size of these increases is uncertain, and, assuming volume decreases would lead to price increases, it is unclear whether price increases would be sufficient to offset the volume decreases and to leave revenues unchanged for small entities. Thus, this action would have an adverse economic impact on small entities, compared to the preferred alternative.

Alternative 5, which sets all harvests equal to zero, may also address conservation issues, but would have a significant adverse economic impact on small entities.

Impacts on marine mammals resulting from fishing activities conducted under this rule are discussed in the EIS (see **ADDRESSES**).

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive the 30-day delay in effectiveness for this rule because delaying this rule is contrary to the public interest. The Plan Team review occurred in November 2017, and the Council considered and recommended the final harvest specifications in December 2017. Accordingly, NMFS' review could not begin until after the December 2017 Council meeting, and after the public had time to comment on the proposed action. If this rule's effectiveness is delayed, fisheries that might otherwise remain open under these rules may prematurely close based on the lower TACs established in the final 2017 and 2018 harvest specifications (82 FR 11826, February 27, 2017). If implemented immediately, this rule would allow these fisheries to continue fishing because some of the new TACs implemented by this rule are higher than the TACs under which they are currently fishing.

In addition, immediate effectiveness of this action is required to provide consistent management and conservation of fishery resources based on the best available scientific information. This is particularly pertinent for those species that have lower 2018 ABCs and TACs than those established in the 2017 and 2018 harvest specifications (82 FR 11826, February 27, 2017). If implemented immediately, this rule would ensure that NMFS can properly manage those fisheries for which this rule sets lower 2018 ABCs and TACs, which are based on the most recent biological information on the condition of stocks, rather than managing species under the higher TACs set in the previous year's harvest specifications.

Certain fisheries, such as those for pollock and Pacific cod, are intensive, fast-paced fisheries. Other fisheries, such as those for flatfish, rockfish, skates, sculpins, sharks, and octopuses, are critical as directed fisheries and as incidental catch in other fisheries. U.S. fishing vessels have demonstrated the capacity to catch the TAC allocations in these fisheries. Any delay in allocating the final TAC limits in these fisheries would cause confusion in the industry and potential economic harm through unnecessary discards, thus undermining the intent of this rule. Predicting which fisheries may close is impossible because these fisheries are affected by several factors that cannot be predicted in advance, including fishing effort, weather, movement of fishery stocks, and market price. Furthermore, the closure of one fishery has a cascading effect on other fisheries, for example by freeing up fishing vessels, which would allow them to move from closed fisheries to open ones and lead to an increase in the fishing capacity in those open fisheries, causing those open fisheries to close at an accelerated pace.

Additionally, in fisheries subject to declining sideboards, delaying this rule's effectiveness could allow some vessels to inadvertently reach or exceed their new sideboard limits. Because sideboards are intended to protect traditional fisheries in other sectors, allowing one sector to exceed its new sideboards by delaying this rule's effectiveness would effectively reduce the available catch for sectors without sideboard limits. Moreover, the new TAC and sideboard limits protect the fisheries from being overfished. Thus, the delay is contrary to the public interest in protecting traditional fisheries and fish stocks.

If the final harvest specifications are not effective by March 24, 2018, which is the start of the 2018 Pacific halibut season as specified by the IPHC, the hook-and-line sablefish fishery will not begin concurrently with the Pacific halibut IFQ season. Delayed effectiveness of this action would result in confusion for sablefish harvesters and economic harm from unnecessary discard of sablefish that are caught along with Pacific halibut, as both hook-and-line sablefish and Pacific halibut are managed under the same IFQ program. Immediate effectiveness of the final 2018 and 2019 harvest specifications will allow the sablefish IFQ fishery to begin concurrently with the Pacific halibut IFQ season.

Finally, immediate effectiveness also would provide the fishing industry the earliest possible opportunity to plan and conduct its fishing operations with respect to new information about TAC limits. Therefore, NMFS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3).

Small Entity Compliance Guide

This final rule is a plain language guide to assist small entities in complying with this final rule as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule's primary purpose is to announce the final 2018 and 2019 harvest specifications and prohibited species bycatch allowances for the groundfish fisheries of the BSAI. This

action is necessary to establish harvest limits and associated management measures for groundfish during the 2018 and 2019 fishing years and to accomplish the goals and objectives of the FMP. This action directly affects all fishermen who participate in the BSAI fisheries. The specific amounts of OFL, ABC, TAC, and PSC amounts are provided in tables to assist the reader. NMFS will announce closures of directed fishing in the **Federal Register** and information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

Authority: 16 U.S.C. 773 *et seq.;* 16 U.S.C. 1540(f); 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 3631 *et seq.;* Pub. L. 105–277; Pub. L. 106–31; Pub. L. 106–554; Pub. L. 108–199; Pub. L. 108–447; Pub. L. 109–241; Pub. L. 109–479.

Dated: February 21, 2018.

Samuel D. Rauch III,

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

[FR Doc. 2018–03918 Filed 2–26–18; 8:45 am]

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Proposed Rules

Federal Register
Vol. 83, No. 39
Tuesday, February 27, 2018

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

FEDERAL RESERVE SYSTEM

12 CFR Chapter II

[Docket No. OP–1597]

Internal Appeals Process for Material Supervisory Determinations and Policy Statement Regarding the Ombudsman for the Federal Reserve System

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed policy statement; request for comments.

SUMMARY: The Board of Governors of the Federal Reserve System (''Board'') is inviting comments on proposed amendments to its guidelines on an internal appeals process for institutions wishing to appeal an adverse material supervisory determination and to its policy regarding the Ombudsman for the Federal Reserve System.

DATES: Comments should be received April 30, 2018.

ADDRESSES: You may submit comments, identified by Docket No. OP–1597 by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Email: regs.comments@federalreserve.gov.* Include the docket number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments will be made available on the Board's website at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW), Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Jason A. Gonzalez, Special Counsel, (202) 452–3275, or Jay Schwarz, Senior Counsel, (202) 452–2970, Legal Division, Ryan Lordos, Deputy Associate Director, (202) 452–2961, Supervision & Regulation, or Suzanne Killian, Senior Associate Director, (202) 452–2090, or Carol Evans, Associate Director, (202) 452–2051, Division of Consumer and Community Affairs, for matters relating to the appeals process; and Margie Shanks, Ombudsman, (202) 452–3584, or Jay Schwarz, Senior Counsel, (202) 452–2970, Legal Division, for matters relating to the functions of the Ombudsman. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

The Board of Governors of the Federal Reserve System (''Board'') is committed to maintaining an effective independent, intra-agency appellate process to allow institutions to seek review of material supervisory determinations. The Board is also committed to maintaining an effective Ombudsman to serve as a resource for individuals and institutions that are affected by the Federal Reserve's regulatory and supervisory actions.

The Board first established guidelines for an appeals process in March 1995, when after a period of public notice and comment, the Board published final guidelines to implement Section 309 of the Riegle Community Development and Regulatory Improvement Act of 1994 (the ''Riegle Act''), 12 U.S.C. 4806, which governs the appeals requirements for Federal banking agencies. The existing guidelines provide that all institutions that are subject to Federal Reserve oversight, including bank holding companies, U.S. agencies and branches of foreign banks and Edge corporations, may appeal any material supervisory determination (60 FR 16470 (March 30, 1995)).

In general, the existing guidelines provide that any institution supervised by the Federal Reserve System (''Federal Reserve'') may file a written appeal of any material supervisory determination. Appeals will then be decided within a specified time frame by a review panel selected by the Reserve Bank, in consultation with Board staff, and comprised of persons who are not employed by the Reserve Bank and have not participated in, or reported to the persons who made the material supervisory determination under review. An institution is granted the further right to appeal an adverse decision by the review panel to the Reserve Bank President and ultimately to a member of the Board. The existing guidelines also have safeguards to protect institutions that file appeals from examiner retaliation.

The guidelines apply to any ''material supervisory determination,'' which includes any material matter relating to the examination or inspection process. The only matters excluded from this appeals process are those matters, such as the imposition of a prompt corrective action directive or a cease and desist order or other formal actions, for which an alternative, independent process of appeal exists. As noted in the existing guidelines, institutions are encouraged to express questions or concerns about supervisory determinations during the course of an inspection or examination, consistent with the longstanding Federal Reserve practice of resolving problems informally during the course of the inspection or examination process.

The Board's existing Ombudsman policy was adopted in August 1995. It specifies the responsibilities of the Ombudsman, which include serving as a point of contact for complaints regarding any System action, referring complaints to the appropriate person, and investigating and resolving complaints of retaliation.

II. Overview of Proposed Changes

Appeals Guidelines

Since 1995, the Board has had the opportunity to observe the operation of the appeals guidelines over a significant period of time and receive feedback from supervised institutions. Based on that experience and feedback, the Board is now proposing to amend its appellate guidelines in several ways. In particular, the proposed revisions are designed to improve and expedite the appeals process, particularly for institutions that are in troubled condition. In doing so, the proposed revisions attempt to strike

an equitable balance among accommodating the interests of the institutions the Federal Reserve supervises in a substantive review of material supervisory determinations, the institutions' interest in achieving a swift resolution of any material supervisory determination in dispute, and the interests of both an appealing institution and the Federal Reserve in the efficient use of limited resources.

The Board's current appeals process was designed with three levels of appeal in an attempt to ensure objectivity in the appeals process. However, experience has shown that objectivity can be ensured with a more streamlined and efficient process. With these goals in mind, the proposal reduces the levels of appeal from three to two and enhances independent review of the matter by providing that System and Board experts not affiliated with the affected Reserve Bank review the matter at both appeals levels.

In addition to removing one level of appeal, the proposed revisions address a timing conflict between the Prompt Corrective Action (''PCA'') framework under section 38 of the Federal Deposit Insurance Act and the Board's existing appeals process. PCA requires that, no later than 90 days after an insured depository institution becomes critically undercapitalized, the appropriate Federal banking agency must either appoint a receiver for the institution or take such other action that the Board determines, with the concurrence of the Federal Deposit Insurance Corporation (''FDIC''), would better achieve the purposes of PCA. Although the banking agency's decision to appoint a receiver for a critically undercapitalized institution is not appealable under the Riegle Act, some material supervisory determinations (such as reclassifications of loans) may cause an institution to become critically undercapitalized and, unless reversed, result in receivership.

The revised process would establish an accelerated process for appeals that relate to or cause an institution to become critically undercapitalized under the PCA framework to better assure that a review of an adverse material supervisory determination occurs within the PCA time frame of 90 days. The goal of this accelerated process is to provide a thorough, adequate, and independent review of the material supervisory determination that places the institution at risk of receivership. Notwithstanding the proposed changes, situations may arise that would prevent an appeal from being completed before PCA requires a receivership to be imposed. In these situations, the existence of an outstanding appeal would not prevent the Board from meeting its statutorily mandated obligation under PCA to appoint a receiver, in which case an appeal will become moot.

The revised process also establishes specific standards of review to be applied in the two levels of appeal. The panel that reviews the initial appeal must approach the determination being appealed as if no determination had previously been made. The initial review panel will consider a record that includes any relevant materials submitted by the appealing institution and Federal Reserve staff. Under this standard, the panel will have the discretion to rely on examination workpapers and other materials developed by Federal Reserve staff during an examination.

If the appealing institution continues to have concerns regarding the material supervisory determination following the initial review panel's decision, the appealing institution may request a subsequent final review conducted by a review panel comprised primarily of Board staff. The final review panel will consider whether the decision of the initial review panel is reasonable and supported by a preponderance of the evidence in the record, but will not seek to augment the record with new information. In order to maximize transparency, the decision of the final review panel will be made public.

The Board welcomes comment on all aspects of the revised guidelines, including, in particular, on (i) the standards of review that are proposed for the two review panels, (ii) the nature and composition of the review panels, (iii) the record that the panels may consider, and (iv) the timeline that is proposed to take PCA into account.

Ombudsman Policy

The Board is considering making changes to the Ombudsman policy in conjunction with the changes to the appeals guidelines. Currently, the Ombudsman is the initial recipient of all complaints pertaining to the supervisory process, which may include an appeal request. The proposed revisions would formalize this practice and allow the Ombudsman to attend hearings or deliberations relating to the appeal as an observer, if requested by the institution or Federal Reserve personnel. In addition, the proposed revisions specify that the Ombudsman's role is to be the decision-maker with respect to claims of retaliation. The proposal also emphasizes the Ombudsman's availability to facilitate the informal resolution of concerns that could ultimately lead to formal appeals, clarifies the Ombudsman's role in addressing complaints regarding appeals of consumer complaints, and provides for tracking of complaints made by regulated institutions.

The Board welcomes comment on all aspects of the Ombudsman policy.

The Appeals guidelines and Ombudsman policy for the Federal Reserve System are attached as Exhibit A and Exhibit B, respectively.

By order of the Board of Governors of the Federal Reserve System, February 21, 2018.

Ann E. Misback,

Secretary of the Board.

Exhibit A

GUIDELINES FOR APPEALS OF MATERIAL SUPERVISORY DETERMINATIONS

The Board is committed to maintaining an independent, intra-agency process to review appeals of material supervisory determinations that complies with Section 309 of the Riegle Community Development and Regulatory Improvement Act of 1994, 12 U.S.C. 4806.

The purpose of these guidelines is to establish a comprehensive appellate process for material supervisory determinations. In order to ensure that institutions will be granted the same appellant rights regardless of the Federal Reserve district in which they reside, appeals will be administered using procedures that are consistent with these guidelines. These guidelines include an accelerated review process to improve their alignment with the PCA framework under section 38 of the Federal Deposit Insurance Act.

A. In General

Any institution about which the Federal Reserve makes a material supervisory determination is eligible to utilize the appeals process. An eligible institution includes a state member bank, bank holding company and its nonbank subsidiaries, U.S. agency or branch of a foreign bank, Edge and agreement corporation, savings and loan holding company, third party electronic data processing servicer, systemically important nonbanking financial organization identified by the Financial Stability Oversight Council, and any other entity examined or inspected by the Federal Reserve.

An appeal under these guidelines may be made of any material supervisory determination. A ''material supervisory determination'' includes, but is not limited to, any material determination relating to examination or inspection composite ratings, material examination or inspection component ratings, the adequacy of loan loss reserves and/or capital, significant loan classification, accounting interpretation, and Community Reinvestment Act (including component ratings) and consumer compliance rating. The term does not include any supervisory determination for which an independent right of appeal exists. Excluded actions include PCA directives issued pursuant to section 38 of the Federal Deposit Insurance Act (the FDI Act), an action to impose administrative enforcement actions

under the FDI Act, the Home Owners' Loan Act of 1933, the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Bank Holding Company Act of 1956 (the BHC Act) or other applicable act, a capital directive, and an order related to approval or denial of a transaction issued pursuant to section 3 or 4 of the BHC Act. Prior to a material supervisory determination being made, it is expected that the supervised institution will have provided all available information it believes to be relevant to the examination staff to assist them in making the determination.

B. General Procedures for Appealing a Material Supervisory Determination

In general, the appeals process is an informal process that is not subject to the adjudicative provisions of the Administrative Procedures Act (5 U.S.C. 554–557). An appeal of a material supervisory determination shall be filed and considered pursuant to the following procedures:

(1) **Authorization to File**. Any appeal must be approved by the board of directors of the eligible institution, or in the case of a U.S. agency or branch of a foreign bank, the senior management or person(s) responsible for the bank's U.S. operations.

(2) **Timelines and Contents**. The institution must file the appeal in writing with the Board's Ombudsman within 30 calendar days of the date of the relevant written material supervisory determination, with a copy to the Officer in Charge of Supervision at the appropriate Reserve Bank. The appeal must include a clear and complete statement of all relevant facts and issues, as well as all arguments that the institution wishes to present, and must include all relevant and material documents that the institution wishes to be considered.

(3) **Distribution of Appeal**. After receipt of a request for an appeal, the Board's Ombudsman shall promptly notify the director of the appropriate division of the Board and the Board's General Counsel of the appeal.

(4) **Initial Review Panel**. Within ten calendar days of receipt of a timely appeal, the director of the appropriate division of the Board or an officer designated by the appropriate division director must appoint three Reserve Bank employees to form an initial review panel to consider the appeal and an attorney to advise the initial review panel in the exercise of its responsibilities. The members of the initial review panel and the appointed attorney must not have been substantively involved in any matter at issue; must not directly or indirectly report to any person(s) who made the material supervisory determination under review; must not be employed by the Reserve Bank that made the material supervisory determination under review; and must have relevant experience to contribute to the review of the material supervisory determination. An individual shall be considered to have been substantively involved in a material supervisory determination if the individual was personally consulted regarding the issue being determined and provided guidance regarding how it should be resolved. The initial review panel shall determine all procedural issues that are governed by the appeals guidelines.

(5) **Initial Review Meeting**. The initial review panel may, in its discretion, conduct an informal appeal meeting. If the panel decides to conduct such a meeting it shall notify the institution in writing of the date, time and place of the meeting, to be set no later than 21 calendar days after the date the appeal is received. The institution may appear at the appeal meeting personally or through counsel to make an oral presentation to the panel. Panel members may ask questions of any person participating in the meeting. The institution and the Reserve Bank may not cross examine persons participating in the meeting. A verbatim transcript of the meeting may be taken if the institution requests a transcript and agrees to pay all expenses, and if the initial review panel determines that a transcript would assist the panel in carrying out its responsibilities. The meeting provided under these guidelines is not governed by formal rules of evidence. No formal discovery is required or permitted. The initial review panel may make any rulings reasonably necessary to facilitate the effective and efficient operation of the meeting.

(6) **Record**. The record of the appeal shall at a minimum include the original decision being appealed, the materials submitted by the institution in connection with the appeal and the materials identified by Federal Reserve staff as relevant to the material supervisory determination being appealed, including workpapers. The initial review panel may, in its discretion, supplement the record in the manner described below. The entire record of the appeal, including the decision of the initial review panel and any meeting transcripts or material(s) submitted in connection with any subsequent final review, shall be considered confidential supervisory information of the Board.

(7) **Standard of Review Applied by Initial Review Panel**. The initial review panel shall conduct a review of the material supervisory determination on appeal. The panel must consider whether the Reserve Bank's material supervisory determination is consistent with the Board's policies, consistent with applicable laws and regulations, and supported by the record. In doing so, the panel shall make its own supervisory determination and shall not defer to the judgment of the Reserve Bank staff that made the material supervisory determination though it may rely on any examination workpapers developed by the Reserve Bank or materials submitted by the institution if it determines it is reasonable to do so. The panel may supplement the record described above by soliciting the views of outside parties, including staff from the Board, the Reserve Banks, and other supervisory agencies (for example, in cases of joint examinations or inspections), including the Federal Reserve staff who participated in making the material supervisory determination being appealed, prior to issuing a decision. The panel may, in its discretion, conduct additional fact-finding.

(8) **Notice of Decision**. Within 45 calendar days after the date the appeal is received, the initial review panel shall provide written notice of its decision to the board of directors of the institution. The notice of decision shall contain a statement of the basis for the initial review panel's decision to continue, terminate, or otherwise modify the material supervisory determination(s) at issue or to remand consideration of the material supervisory determination at issue to the examiners that made the determination to allow them to consider additional evidence presented in connection with the appeal. The notice of decision shall also indicate that the institution may request a final review as set forth in this subpart by filing a written request with the Ombudsman of the Board. The initial review panel may extend the period for issuing a decision by up to 30 calendar days if the panel determines that the record is incomplete and additional fact-finding is necessary for the panel to issue a decision.

(9) **Ombudsman Participation**. The Ombudsman may attend, as an observer, hearings or deliberations relating to the appeal. The Ombudsman will not have substantive involvement in or act as a decision-maker with respect to the appeal.

(10) **Use of Confidential Supervisory Information**. If the Reserve Bank or the Board have confidential supervisory information from another regulated institution that is pertinent to the appeal, they may elect to use that information, provided that the information is entered into the record for the appeal and provided to the appealing institution, subject to limitations on disclosure, including those imposed by the Board's applicable regulations,[1] and redaction of all information not relevant to the appeal.

(11) **Request for Final Review**. Within 14 calendar days after notice of decision by the initial review panel, the institution, with the consent of its board of directors, or in the case of a U.S. agency or branch of a foreign bank, the senior management person(s) responsible for the bank's U.S. operations, may appeal that decision to a final review panel by filing a written request for final review with the Ombudsman. The request for final review must state all the reasons, legal and factual, the institution disagrees with the initial review panel's decision.

(12) **Waiver of Final Review**. Failure to timely request final review in a manner consistent with these guidelines shall constitute a waiver of the opportunity for final review, and the decision of the initial review panel shall constitute a final and unappealable material supervisory determination.

(13) **Distribution of Final Review Request**. After receipt of a request for final review, the Board's Ombudsman shall promptly notify the director of the appropriate division of the Board and the Board's General Counsel of the request for final review.

(14) **Final Review Panel**. When an institution files a request for final review, the director of the appropriate division of the Board shall promptly appoint three individuals to form a final review panel to permit completion of the appeal within the applicable period. The final review panel

[1] See 12 CFR 261.20.

shall include at least two Board employees, at least one of whom must be an officer of the Board at the level of associate director or higher. The Board's General Counsel shall appoint an attorney to advise the final review panel in the exercise of its responsibilities. The members of the final review panel and the appointed attorney must not be employed by the Reserve Bank that made the material supervisory determination under review; must not have been members of the initial review panel; and must not have been personally consulted regarding the issue being determined and provided guidance regarding how it should be resolved, or directly or indirectly report to the person(s) who made the material supervisory determination under review. The final review panel shall determine all procedural issues regarding the final review.

(15) **Final Review Meeting**. The final review panel may determine in its discretion to have an informal appeal meeting at which a representative of the institution or counsel may appear personally to make an oral presentation to the panel. No facts may be introduced in this meeting that are not contained in the record upon which the initial review panel made its decision. In the event the panel decides to have a meeting with the appealing institution, panel members may ask questions of any person participating in the meeting. The institution may not cross examine persons participating in the meeting. A verbatim transcript of the meeting may be taken at the cost of the Board if the final review panel determines that a transcript would assist the panel in carrying out its responsibilities. The meeting provided under these guidelines is not governed by formal rules of evidence. No formal discovery is required or permitted. The final review panel may make any procedural rulings reasonably necessary to facilitate the effective and efficient operation of the meeting.

(16) **Scope of Final Review**. The scope of the final review shall be confined to the record upon which the initial review panel made its decision.

(17) **Standard of Review of Final Review**. The final review panel shall determine whether the decision of the initial review panel is reasonable. In reaching this determination, the panel should consider, among other things, whether the decision was based on a consideration of the relevant factors, whether there has been a clear error of judgment, and whether the decision is supported by a preponderance of the evidence. The final review panel may affirm the decision of the initial review panel even if it is possible to draw a contrary conclusion from the record presented on appeal.

(18) **Final Review Decision**. Within 21 calendar days of the filing of a request for final review, the director of the appropriate division of the Board shall provide written notice of the decision of the final review panel to the board of directors of the institution. The final review panel may continue, terminate, or otherwise modify the material supervisory determination(s) at issue or remand consideration of the material supervisory determination at issue to the examiners that made the determination to allow them to consider additional evidence presented in connection with the appeal. A copy of the decision will be provided to the director of the appropriate division of the Board and the Officer in Charge of Supervision at the appropriate Reserve Bank. A copy of the decision will be published as soon as practicable, and the published decision will be redacted to avoid disclosure of exempt information. In cases in which redaction is deemed insufficient to prevent improper disclosure, the published decision may be presented in summary form.

C. Expedited Procedures for Appealing a Material Supervisory Determination

When a material supervisory determination relates to or causes an institution to become critically undercapitalized, the review of any appeal of that supervisory determination will be processed on an expedited basis.

Notwithstanding any other provision in these guidelines, a matter processed under expedited review will be subject to the same policies that govern all appeals except that the initial review panel will issue a decision within 35 calendar days following the date the appeal is received (such period may be extended by up to an additional 7 calendar days if the initial review panel decides that such time is required to supplement the record and to consider any additional information received), the institution shall have 7 days to file an appeal of the initial review panel's decision, and the final review panel will issue a decision within 10 calendar days.

D. Effect of Appeal on Material Supervisory Determinations

A material supervisory determination shall remain in effect while under appeal and until such time as it is modified or overturned through the appeals process. An appeal does not prevent or suspend the Federal Reserve or any other appropriate agency from taking any supervisory or enforcement action–either formal or informal–it deems appropriate to discharge the agency's supervisory responsibilities. In such cases, the rights of appeal provided for in the statutes and regulations concerning those actions shall govern.

In addition, an appeal does not prevent or suspend the operation of the PCA framework under section 38 of the Federal Deposit Insurance Act, prevent or suspend an appropriate authority from appointing a receiver for the institution or otherwise causing the closure of an institution, or prevent or suspend an appropriate authority from taking any other action under the PCA framework. If the institution is placed into receivership while an appeal is outstanding, the appeal will be considered moot and will not be completed.

E. Safeguards Against Retaliation

Neither the Federal Reserve nor any employee of the Federal Reserve may retaliate against an institution or person based on the filing or outcome of an appeal under this guidance. In accordance with longstanding Federal Reserve practice, the appeals framework is intended to foster an environment where concerns and issues may be freely and openly discussed.

Each Reserve Bank shall provide institutions with notice of the Board's anti-retaliation policy in connection with each Federal Reserve led examination.

An institution that believes that it has suffered retaliation or any other form of unfair treatment is encouraged to contact the appropriate Reserve Bank, and may file a claim of retaliation with the Board's Ombudsman. The Ombudsman may attempt to resolve a claim of retaliation informally by engaging in discussions with the concerned institution and the appropriate Board or Reserve Bank staff.

Nothing in this guidance is intended to prevent the Ombudsman from initiating a factual inquiry into alleged retaliation at any time. The Ombudsman may initiate a factual inquiry into a claim of retaliation, at any time, by providing notice to the appropriate Board division director(s) and the appropriate Reserve Bank officer in charge of supervision. As part of the inquiry, the Ombudsman may collect and review documents, interview witnesses, and consult Board and Reserve Bank staff with subject matter expertise. The Ombudsman also may request that the appropriate division director authorize or assign such additional resources as necessary to assist the Ombudsman in fully reviewing the matter.

Upon the completion of a factual inquiry into a claim of retaliation, if the Ombudsman concludes that retaliation has occurred, the Ombudsman will forward the claim of retaliation, along with the Ombudsman's factual findings to the appropriate division director(s) of the Board. These officials will take appropriate action to resolve the matter. In addition, to prevent future retaliation for an appeal, the Ombudsman may recommend to the appropriate division director(s) that the next examination of the institution or review that may lead to a material supervisory determination exclude personnel involved in the claim of retaliation. The division director(s) will make the final decision as to whether any examination staff should be excluded.

The Board's Ombudsman will contact institutions within six months after a material supervisory determination appeal has been decided to inquire whether retaliation has occurred.

F. Availability of Procedures

The Federal Reserve, through the Board and Reserve Banks, shall make these guidelines readily available on its public website and to any member of the public who requests them.

Exhibit B

Ombudsman for the Federal Reserve System

Policy Statement

Section 309 of the Riegle Community Development and Regulatory Improvement Act of 1994, 12 U.S.C. 4806, requires each of the federal banking agencies to appoint an Ombudsman. Section 309 provides that the Ombudsman:

(1) is to act as a liaison between the agency and any affected person with respect to any problem such party may have in dealing with the agency resulting from the regulatory activities of the agency; and

(2) is to ensure that safeguards exist to encourage complainants to come forward and preserve confidentiality.

Mission of the Ombudsman. The Ombudsman is charged with performing three major functions: (1) serving as a facilitator and moderator for the fair and timely resolution of complaints related to the Federal Reserve System's regulatory activities; (2) reporting to the Board on issues that are likely to have a significant impact on the Federal Reserve System's missions, activities, or reputation that arise from the Ombudsman's review of complaints, such as patterns of issues that occur in multiple complaints; (3) receiving, reviewing, and deciding claims of retaliatory conduct by Federal Reserve System staff. The Ombudsman also serves as the initial recipient for an appeal of a material supervisory determination and plays a role in resolving appeals of some consumer complaints. In addition, the Ombudsman ensures that safeguards exist to encourage complainants to come forward and to protect confidentiality.

Serving as a Complaint Facilitator. The Ombudsman assists institutions with issues and questions related to Reserve Bank or Board regulatory activities. In doing so, the Ombudsman shall operate independently of the supervisory process to the extent necessary to ensure that appropriate safeguards exist to encourage complainants to come forward and preserve confidentiality.

In situations where the Board has not established a process for addressing a certain type of question or complaint, the Ombudsman is available to facilitate the resolution of the question or complaint. Although the Ombudsman does not have decision-making authority regarding any substantive matters, including supervisory determinations and regulatory action (other than for retaliation claims), the Ombudsman is available to assist institutions, and particularly community banks, in locating the correct System staff person to address or resolve such a question or complaint and may coordinate meetings and facilitate discussions between the institution and System staff, including senior officials, as necessary. In order to facilitate this process, the Ombudsman may investigate the situation in order to identify the relevant facts and circumstances. The Ombudsman may also participate in meetings or discussions related to the matter if requested by either the institution or System staff, and may require updates from System staff, as appropriate, until the matter is resolved. If the Ombudsman believes such a complaint has not been satisfactorily addressed, the Ombudsman may raise the matter with the appropriate Division Director or Board committee, as appropriate.

When an issue is brought to the attention of the Ombudsman for which the Board's rules or procedures provide an avenue of appeal or another appropriate forum for resolution, the Ombudsman will explain the process to the complaining party, and direct the party to the appropriate appeals process or forum for the complaint.[1] In addition, the Ombudsman is also available to facilitate informal discussions between a potential appellant and the appropriate Reserve Bank or Board staff in order to explore solutions before an appeal is filed. Such discussions do not stay or otherwise alter any of the deadlines under the Board's rules or procedures.

The Ombudsman will serve as the initial recipient for an appeal of a material supervisory determination and may attend, as an observer, hearings or deliberations relating to the appeal if requested by either the institution or System personnel. In any event, the Ombudsman will not have any substantive involvement in or act as a decision-maker with respect to the appeal.

Providing Feedback on Patterns of Issues. The Ombudsman is in a unique position to identify and report patterns of issues arising from complaints related to Reserve Bank or Board regulatory activities. The Ombudsman will track inquiries and complaints based on relevant characteristics, such as geographic location, scope, policy implications, and final disposition, to help identify any such trends, including trends that implicate differently sized institutions disproportionately. This tracking will be conducted in a manner designed to preserve confidentiality of the complainant to the maximum extent possible. As appropriate, the Ombudsman will report findings of patterns of issues to the appropriate Board committee or division director and Reserve Bank or Board staff. The Ombudsman will also report any issue stemming from a complaint that is likely to have a significant impact on the Federal Reserve System's mission, activities, or reputation.

Retaliation Claims by Supervised Persons. The Federal Reserve Board does not tolerate retaliation by System staff against a supervised institution or its employees (''supervised persons''). Retaliation is defined as any action or decision by Reserve Bank or Board staff that causes a supervised person to be treated differently or more harshly than other similarly situated institutions because the supervised person attempted to resolve a complaint by filing an appeal of a material supervisory determination or utilized any other Board mechanisms for resolving complaints. Retaliation includes, but is not limited to, delaying or denying action that might benefit a supervised person without a sound supervisory reason or subjecting a supervised institution to heightened examination standards without a sound supervisory reason.

The Ombudsman is authorized to receive, review, and determine the merits of complaints of retaliatory conduct by Reserve Bank or Board staff. The Ombudsman may attempt to resolve retaliation claims informally by engaging in discussions with the concerned supervised person and the appropriate Board or Reserve Bank staff. If a complaint cannot be resolved informally, the Ombudsman may initiate a full investigation into the underlying facts and circumstances.

To commence a factual investigation of a complaint of retaliatory conduct, the Ombudsman should provide written notice to the appropriate Board committee and division director and the appropriate Reserve Bank officer in charge of supervision. As part of the investigation, the Ombudsman may, among other things, collect and review documents, interview witnesses, and seek any other relevant information. The Ombudsman may also consult Board and Reserve Bank staff with subject matter expertise. Where necessary, the appropriate Board committee or division director may authorize or assign such additional resources as may be needed to assist the Ombudsman in fully reviewing the matter.

Upon completion of the factual investigation of a complaint of retaliatory conduct, the Ombudsman will decide whether a member of System staff retaliated, as defined above. The Ombudsman will report this determination to the appropriate Board committee or Governor and division director and the appropriate Reserve Bank officer in charge of supervision and may make recommendations for resolution of the matter to those parties. However, the Ombudsman shall not make recommendations regarding disciplinary action against a System staff member. The Ombudsman's determination regarding retaliation will be communicated in writing to the supervised person.

To further ensure that supervised persons are not subjected to retaliation, as defined above, the Ombudsman will contact a supervised institution within six months after an appeal has been decided to inquire whether retaliation occurred. Where possible, the Ombudsman will also contact the institution after the next examination following an appeal. In the event an institution complains of retaliation, the Ombudsman will initiate the process outlined above to informally review the matter or initiate a factual investigation.

Consumer Complaints and Appeals. Independent of the Ombudsman function, the Federal Reserve System operates a consumer complaint and inquiry program to assist members of the public who are experiencing problems with their financial institution. In accordance with this program, the Ombudsman will refer all consumer complaints to the Division of Consumer and Community Affairs (DCCA). DCCA will review the complaint to determine appropriate handling. If a new complaint is received, DCCA will refer the complaint to the Federal Reserve Consumer Help Center (FRCH) for processing. If the complainant requested an independent review of a previously filed complaint, the Ombudsman will refer the complaint to DCCA, who will perform the review and respond to the complainant. The Ombudsman will consult with DCCA during the appeal investigation, and in some instances, suggest additional

[1] The Board's rules provide existing mechanisms for resolutions of complaints in many instances, such as: material supervisory determinations pursuant to section 309(a) of the Act; review of actions delegated to the Reserve Banks or Board staff pursuant to 12 CFR part 265; prompt corrective action directives under section 38 of the Federal Deposit Insurance Act; denials or partial denials of Freedom of Information or Privacy Act requests; issuance of capital directives pursuant to 12 CFR 263.80–263.85; decisions with respect to applications; and matters within the jurisdiction of the Board's Inspector General or Federal or State investigatory or prosecutorial authorities.

actions, including further investigations that should be taken to ensure that the matter is fully and fairly addressed. When responding to the complainant, DCCA will also provide a final copy of the response letter to the Ombudsman.

If the Ombudsman receives a complaint regarding DCCA's review of an appeal, the Ombudsman will collect and review the complaint documents and seek any other relevant information. The Ombudsman may also consult Board and Reserve Bank staff to discuss the details of the previous complaint investigations. The Ombudsman is responsible for responding to the complainant with its determination. As appropriate, the Ombudsman will contact the appropriate Board division director and Reserve Bank staff with feedback or concerns.

Safeguards. These policies, processes, and practices are intended as safeguards to encourage complainants to come forward with issues or complaints related to the Federal Reserve System's regulatory activities.

To the extent possible, the Ombudsman will honor requests to keep confidential the identity of a complaining party. It must be recognized, however, that it may not be possible for the Ombudsman to resolve certain complaints, including complaints of retaliation, if the Ombudsman cannot disclose the identity of the complaining party to other members of Federal Reserve staff.

Procedures. A party may contact the Ombudsman at any time regarding concerns or issues resulting from the regulatory activities of the Board or the Reserve Banks by calling 1-800–337–0429, by sending a fax to 202–530–6208, by writing to the Office of the Ombudsman, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or by sending an email to *Ombudsman@frb.gov.*

[FR Doc. 2018–03907 Filed 2–26–18; 8:45 am]

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DEPARTMENT OF EDUCATION

34 CFR Part 300

RIN 1820–AB77

[Docket ID ED–2017–OSERS–0128]

Assistance to States for the Education of Children With Disabilities; Preschool Grants for Children With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: In order to ensure the Department's ''Equity in IDEA'' or ''significant disproportionality'' regulations effectively address significant disproportionality, the Department proposes to postpone the compliance date by two years, from July 1, 2018, to July 1, 2020. The Department also proposes to postpone the date for including children ages three through five in the analysis of significant disproportionality with respect to the identification of children as children with disabilities and as children with a particular impairment from July 1, 2020, to July 1, 2022.

DATES: We must receive your comments on or before May 14, 2018.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or email. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket is available on the site under the ''Help'' tab.
- *Postal Mail, Commercial Delivery, or Hand Delivery:* The Department strongly encourages commenters to submit their comments electronically. However, if you mail or deliver your comments in response to this request, address them to Johnny W. Collett, Assistant Secretary, Office of Special Education and Rehabilitation Services, U.S. Department of Education, 400 Maryland Avenue SW, Room 5107, Potomac Center Plaza, Washington, DC 20202–2500.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Kate Friday, U.S. Department of Education, 400 Maryland Avenue SW, Room 5104, Potomac Center Plaza, Washington, DC 20202–2500. Telephone: (202) 245–7605, or by email at: *Kate.Friday@ed.gov.*

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

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this notice of proposed rulemaking. We will consider comments on proposed delayed compliance dates only and will not consider comments on the text or substance of the final regulations. See **ADDRESSES** for instructions on how to submit comments.

During and after the comment period, you may inspect all public comments about this notice of proposed rulemaking by accessing *Regulations.gov.* You may also inspect the comments in person in Room 5104, 400 Maryland Avenue SW, Potomac Center Plaza, Washington, DC, between 8:30 a.m. and 4:00 p.m. Washington, DC time, Monday through Friday of each week, except Federal holidays. If you want to schedule time to inspect comments, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice of proposed rulemaking. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

On February 24, 2017, President Trump signed Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' which established a policy ''to alleviate unnecessary regulatory burdens'' on the American people. Section 3(a) of the Executive Order directed each Federal agency to establish a regulatory reform task force, the duty of which is to evaluate existing regulations and ''make recommendations to the agency head regarding their repeal, replacement, or modification.'' On June 22, 2017, therefore, the Department published a notice in the **Federal Register** (82 FR 28431) seeking input on regulations that may be appropriate for repeal, replacement, or modification.

As part of that regulatory review exercise, OSERS is reviewing the Assistance to States for the Education of Children With Disabilities; Preschool Grants for Children With Disabilities regulations (the ''Equity in IDEA'' or ''significant disproportionality'' regulations), published in the **Federal Register** on December 19, 2016 (81 FR 92376). We are, therefore, proposing to postpone the compliance by two years in order that the Department may review the regulation to ensure it effectively addresses significant disproportionality.

Statute: Section 618(d)(1) of IDEA (20 U.S.C. 1418(d)(1)) requires every State that receives IDEA Part B funds to

collect and examine data to determine if significant disproportionality based on race or ethnicity exists in the State or the LEAs of the State with respect to (a) the identification of children as children with disabilities; (b) the placement in particular educational settings of such children; and (c) the incident, duration, and type of disciplinary actions, including suspensions and expulsions. IDEA does not define ''significant disproportionality'' or instruct how data must be collected and examined.

Current Regulations: The current Equity in IDEA regulations effectively define ''significant disproportionality.'' Sections 300.646(b) and 300.647 establish a standard methodology States must use to determine whether significant disproportionality based on race and ethnicity is occurring in the State and in its local educational agencies (LEAs) with respect to the identification, placement, and discipline of children with disabilities.

In addition, if a State determines that there is significant disproportionality occurring in an LEA, section 618(d)(2)(B) of the Individuals with Disabilities Education Act (IDEA) and § 300.646(d) require the LEA to reserve 15 percent of its Part B funds to be used for comprehensive coordinated early intervening services (comprehensive CEIS). Section 300.646(d)(1)(ii) requires the LEA to identify and address the factors contributing to significant disproportionality as part of implementing comprehensive CEIS. Section 300.646(d)(2) expands the populations of children eligible for these services to include children, with and without disabilities, from age 3 through grade 12.

The significant disproportionality regulations became effective January 18, 2017, but the Department delayed the date for compliance. States are not required to begin complying until July 1, 2018, and are not required to include children ages three through five in their analyses of significant disproportionality with respect to the identification of children as children with disabilities and as children with a particular impairment until July 1, 2020.

Proposed Regulations: The Department proposes to postpone the compliance date for implementing the regulations to July 1, 2020 from July 1, 2018. The Department also proposes to postpone the compliance date for including children ages three through five in the significant disproportionality analysis to July 1, 2022, from July 1, 2020.

Reasons: As the Department noted in the Notice of Proposed Rulemaking (NPRM) proposing the significant disproportionality regulations and again in the final rule adopting them, the status quo for school districts across the country properly identifying children with disabilities is troubling. In 2012, American Indian and Alaska Native students were 60 percent more likely to be identified for an intellectual disability than children in other racial or ethnic groups, while black children were more than twice as likely as other groups to be so identified. Similarly, American Indian or Alaska Native students were 90 percent more likely, black students were 50 percent more likely, and Hispanic students were 40 percent more likely to be identified as having a learning disability. In addition, black children were more than twice as likely to be identified with an emotional disturbance. And yet, in SY 2012–13, only 28 States and the District of Columbia identified any LEAs with significant disproportionality, and of the 491 LEAs identified, 75 percent were located in only seven States. Of the States that identified LEAs with significant disproportionality, only the District of Columbia and four States identified significant disproportionality in all three categories of analysis—identification, placement, and in discipline. 81 FR 92380.

The Department is concerned, however, given the public comments it has received in response to its general solicitation in 2017 on regulatory reform, that the Equity in IDEA regulations may not appropriately address the problem of significant disproportionality. We therefore propose to postpone by two years the compliance dates for the regulations so that we may review all of the issues raised and determine how to better serve children with disabilities.

A number of commenters suggested, for example, that the Department lacks the statutory authority under IDEA to require States to use a standard methodology, pointing out as well that the Department's previous position, adopted in the 2006 regulations implementing the 2004 amendments to IDEA, was that States are in the best position to evaluate factors affecting determinations of significant disproportionality.

Similarly, one detailed comment expressed concern that the standard methodology improperly looks at group outcomes through statistical measures rather than focusing on what is at the foundation of IDEA, namely the needs of each individual child and on the appropriateness of individual identifications, placements, or discipline. Further, a number of commenters suggested that the standard methodology would provide incentives to LEAs to establish numerical quotas on the number of children who can be identified as children with disabilities, assigned to certain classroom placements, or disciplined in certain ways.

Finally, still other commenters suggested that the Department could not accurately assess the impact of the regulations given that it did not provide any standards by which it would assess the required ''reasonableness'' of State risk ratio thresholds and that calculations of significant disproportionality should be better aligned with State Performance Plan indicators, including the percent of districts that have a significant discrepancy, by race or ethnicity, in the rate of suspensions and expulsion for children with disabilities (Indicator 4B), and the percent of districts with disproportionate representation of racial and ethnic groups in special education and related services (Indicator 9) and in specific disability categories (Indicator 10) that is the result of inappropriate identification.

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

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

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

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

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

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

This proposed regulatory action is a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed these regulations under Executive Order

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

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

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

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

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

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

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this proposed regulatory action only upon a reasoned determination that its benefits justify its costs. Based on the analysis that follows, the Department believes that these regulations are consistent with the principles in Executive Order 13563.

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

In this regulatory impact analysis we discuss the need for regulatory action, alternatives considered, the potential costs and benefits, net budget impacts, assumptions, limitations, and data sources.

Need for These Regulations

As explained in the previous section, we are proposing this regulatory action in order to delay implementation of a regulation that we are concerned may not meet its fundamental purpose, namely to properly identify and address significant disproportionality among children with disabilities. We propose the delay as well to give the Department, the States, and the public additional time to study the questions involved and determine how to better serve children with disabilities.

Alternatives Considered

The Department considered proposing a delay of the compliance dates for different lengths of time and decided upon two years as an appropriate length, given a realistic measure of how long it takes the agency to develop, propose, and promulgate complex regulations. In the Department's experience, one year is too little time as a general matter and, for these regulations in particular, given the amount of work on this issue the Department has already done, three years is too long.

Analysis of Costs and Benefits

The Department has analyzed the costs of complying with the proposed regulatory action. While postponing the obligation to comply with the regulations would not place any new requirements on States, the delay in the compliance date would reduce costs over the 10 years relative to the baseline set out in the December 2016 final rule.

The Department estimates that this regulatory action would generate cost savings between $10.9 and $11.5 million, with a reduction in transfers of between $59.6 and $63.0 million. These savings are driven by two separate, but related factors: Fewer States implementing the regulations during the 2018–19 and 2019–20 school years and, as a result, the lower number of LEAs identified as having significant disproportionality in each of those years under the standard methodology.

In developing our estimates, the Department assumed that a small number of States, who may already be prepared, or nearly prepared, to implement the regulations on July 1, 2018 will continue to do so, regardless of any delay in the compliance date. We also assume that a subset of States will implement the regulations in the following school year (2019–20), with the remainder of States waiting until the 2020 compliance date to implement the regulations. We assume that 10 States would implement the revised regulations on July 1, 2018, five States would implement them as of July 1, 2019, and the remaining 40 would wait until July 1, 2020.

Further, the Department estimates that the number of LEAs identified with significant disproportionality in each year as a result of the revised regulations would be reduced due to the delay in implementation. Previously, the Department estimated that 400 new LEAs would be identified each year. We estimate that the delay in compliance date would result in only 80 additional LEAs being identified in the 2018–2019 school year (a reduction of 320) and only 100 additional LEAs identified in the 2019–20 school year (a reduction of 300). These estimates assume that the number of additional LEAs identified each year is roughly proportional to the number of States that implement the revised regulations.[1]

Executive Order 13771

Consistent with Executive Order 13771 (82 FR 9339, February 3, 2017), we have estimated that this proposed regulatory action will not impose any additional costs.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The U.S. Small Business Administration (SBA) Size Standards define ''small entities'' as for-profit or nonprofit institutions with total annual revenue below $7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 50,000. These proposed regulations would affect all LEAs, including the estimated 17,371 LEAs that meet the definition of small entities. However, we have determined that the proposed regulations would not have a significant economic impact on these small entities. As stated earlier, this proposed regulatory action imposes no new costs.

[1] This calculation of savings includes a change to the baseline in the December 2016 final rule due to an incorrect calculation in the 3 percent discount rate, shown in detail in the cost analysis spreadsheet posted in the docket with this document. This calculation of cost savings does not change any of the assumptions regarding wage rates, hours of burden, or number of personnel that were discussed in the final rule. The assumptions upon which the cost-benefit calculations in the final rule are based are being evaluated by the Department as part of the review of the final rule itself.

Paperwork Reduction Act of 1995

This regulatory action does not contain any information collection requirements.

Intergovernmental Review

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

This document provides early notification of the Department's specific plans and actions for this program.

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

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You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

List of Subjects in 34 CFR Part 300

Administrative practice and procedure, Education of individuals with disabilities, Elementary and secondary education, Equal educational opportunity, Grant programs—education, Privacy, Private schools, Reporting and recordkeeping requirements.

Dated: February 23, 2018.

Johnny W. Collett,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2018–04102 Filed 2–23–18; 4:15 pm]

BILLING CODE 4000–01–P

POSTAL SERVICE

39 CFR Part 111

Proposed Changes to Validations for Intelligent Mail Package Barcode

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service is proposing to revise the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®), to add new Intelligent Mail® package barcode (IMpb) validations for evaluating compliance with IMpb requirements for all mailers who enter commercial parcels.

DATES: Submit comments on or before March 29, 2018.

ADDRESSES: Mail or deliver written comments to the manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260–5015. If sending comments by email, include the name and address of the commenter and send to *ProductClassification@usps.gov,* with a subject line of ''Intelligent Mail Package Barcode Validations.'' Faxed comments are not accepted. You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review on Monday through Friday, 9 a.m.–4 p.m., by calling 202–268–2906.

FOR FURTHER INFORMATION CONTACT: Direct questions or comments to Juliaann Hess at *jsanders.hess@usps.gov* or (202) 268–7663.

SUPPLEMENTARY INFORMATION: The Postal Service is proposing to update IMpb requirements relative to Compliance Quality Validations for Thresholds, Address Quality, Shipping Services File Manifest Quality, and Barcode Quality. These proposed validations would allow the Postal Service to further improve service, tracking, visibility, and positive customer experiences along with better identifying noncompliant mailpieces.

Technical and in-depth IMpb guidance is available in Publication 199, *Intelligent Mail Package Barcode Implementation Guide for: Confirmation Services and Electronic Verification System Mailers,* which is conveniently located on the PostalPro website at *https://postalpro.usps.com.* This publication would be updated to reflect all adopted changes.

Background

On December 18, 2013, in a notice of final rulemaking (78 FR 76548–76560), the Postal Service announced that mailers who enter commercial parcels must adhere to the following: IMpb must be used on all commercial parcels; piece-level information must be submitted to the Postal Service via an approved electronic file format (except for mailers generating barcodes for use on return services products, such as MRS); and electronic files must include the complete destination delivery address and/or an 11-digit Delivery Point Validation (DPV®) ZIP Code® for all records, except for Parcel Return Service, a ZIP+4® Code is required to be encoded into the barcode for all returns products.

Since IMpb requirements were implemented, the Postal Service has made significant advances with its package strategy. Use of IMpbs continues to be the critical bridge between physical packages and the digital information required to enable world class service, tracking, visibility, and positive customer experiences. Barcode intelligence along with the corresponding digital data captured through in-transit processing and delivery scans are fundamental requirements in the shipping market. The data have enabled the Postal Service and its customers to enhance products, improve customer satisfaction, increase efficiencies, provide greater visibility, integrate with eCommerce and supply chain systems, enhance performance and analytics tools, and generate actionable business insights for better decisions.

In January 2015, the Postal Service required that all parcels with an IMpb be accompanied by the complete destination delivery address or an 11-digit ZIP Code (validated by the DPV System, or an approved equivalent) in the Shipping Services File or other approved electronic documentation. This information is critical to the Postal Service package strategy, the dynamic routing process that enable package distribution without scheme-trained employees, improving the customer's experience, and enhancing business insights and analytics.

In January 2016, the Postal Service began measuring the quality of mailer compliance for the newly introduced IMpb Compliance Quality Category with data validations to determine the IMpb Compliance Assessment criteria as follows: Address Quality, Manifest Quality, and Barcode Quality. Then, in July 2017, the Postal Service began assessing mailers with a $0.20 IMpb

Noncompliance Fee for commercial, competitive parcels (Priority Mail, Priority Mail Express, First-Class Package Service, Parcel Select and Parcel Select Lightweight) that did not meet the established thresholds for one or more IMpb Compliance Quality Categories. For customers using the Electronic Verification System (eVS®), the Postal Service assessed the fee based on the individual mail class or aggregate compliance performance, whichever results in the lowest financial impact to the customer. The fee is not assessed on packages when a price adjustment results in single-piece pricing.

As of January 21, 2018, addresses and products for Puerto Rico or that contain an Open & Distribute Service Type Code were eliminated from all Address Quality validations.

Proposal Overview

Intelligent Mail Package Barcode Quality Requirements

This section provides an overview of the IMpb Compliance Quality Validation and Threshold requirements that the Postal Service is proposing to revise. As indicated in the table that follows, on July 1, 2018, and February 1, 2019, the Postal Service would begin assessing quality using the newly proposed thresholds.

If commercial, competitive parcels consisting of Priority Mail, Priority Mail Express, First-Class Package Service, Parcel Select, and Parcel Select Lightweight exceed the compliance thresholds outlined below, a $0.20 IMpb Noncompliance Fee would be assessed for each piece. This fee would only be assessed on the number of pieces that fall below the threshold according to the following examples:

- *Example 1:* In the case of 100 pieces being shipped, if 98 pieces are in compliance, no pieces would be charged the $0.20 per-piece fee.
- *Example 2:* In the case of 100 pieces being shipped, if only 90 pieces are in compliance, 8 pieces would be assessed the $0.20 per-piece fee.

If the threshold for more than one category is not met, the fee is assessed based on the IMpb Compliance Quality threshold that yields the greatest number of noncompliant pieces. The fee is charged only once per noncompliant mailpiece and is only applicable to the following competitive parcels: Priority Mail, Priority Mail Express, First-Class Package Service, Parcel Select, and Parcel Select Lightweight.

INTELLIGENT MAIL PACKAGE BARCODE COMPLIANCE QUALITY CATEGORIES, VALIDATIONS AND THRESHOLDS

Compliance categories	Compliance codes	Validations	July 2018 thresholds	February 2019 thresholds
Address Quality: Checks for a timely address that validates to a unique 11 Digit DPV.	AQ	Must include a full, valid destination delivery address that has sufficient quality to yield an 11-digit ZIP Code that matches the delivery point in the file as follows: ▪ Valid secondary address information. ▪ Match between address to ZIP+4 Code. ▪ Includes street number. ▪ Valid primary street number. Customers using eVS must provide the address information prior to the Arrival at Unit (07) Event Scan and non-eVS customers at the time of mailing.	89	TBD
Manifest Quality (Shipping Services File): Checks for a timely Manifest File that passes 4 critical validation criteria.	MQ	Entry facility must match between scan and manifest ..... Valid PO of Account ZIP Code (Where account is held for payment). Valid Payment Account (Permit Number). Valid Method of Payment (Permit, Federal Agency, PC Postage, Smart Meter, Other Meter, or Stamps).	94	94
Barcode Quality: Checks the Barcode in the manifest that passes 2 critical validations.	BQ	Valid and Certified Mailer ID in the label that is in Program Registration/Online Enrollment. IMpb must be unique for 120 days.	98	98

Address Quality

The Postal Service proposes to update the threshold for the Address Quality IMpb requirements described in this section. If destination delivery address information is included in the Shipping Services File or Shipping Partner Event File, the address elements must be complete and have sufficient quality to yield an 11-digit ZIP Code that matches the delivery point. Address Quality measures the percentage of addresses that contain sufficient information to validate to the 11-digit DPV ZIP Code when matched against the Address Management System (AMS) database.

Destination delivery addresses would be compared against the AMS database for accuracy and the ability to be validated to the 11-digit DPV ZIP Code representing the finest depth of code for the delivery point (including secondary information such as the apartment or suite number). If the delivery address of a package or mailpiece does not result in an exact match, an Address Quality noncompliance indicator would be assigned for any of the following reasons:

- Invalid secondary address.
- No match between the address and the ZIP+4 Code.
- Missing street number.
- Invalid primary street number.

In addition, for eVS customers, an Address Quality noncompliance indicator would be assigned when the address information is not received before the Arrival at Post Office (07) scan event and when the address information is not present at the time of mailing.

In July 2018, the Address Quality threshold would remain at 89 percent. If mailpieces fail to meet the compliance threshold of 89 percent, customers would be assessed the IMpb Noncompliance Fee of $0.20 per piece for competitive parcels only. However, the Postal Service provides notice of its intent to collaborate with the mailing industry to increase the Address Quality threshold beginning on January 1, 2019, with mailpieces assessed on February 1, 2019.

Manifest Quality (Shipping Services File)

In accordance with this proposed rule, the Shipping Services File manifests must be received timely or each mailpiece on the file would be noncompliant. For customers who do not use eVS, the Shipping Services Files must be transmitted to the Postal Service prior to the physical entry of the mailing for acceptance. Customers who use eVS are required to transmit the Shipping Services File prior to the Arrival at Post Office (07) scan event unless the address information was provided via the Shipping Partner Event File prior to the Arrival at Post Office (07) scan event. If the address is provided in the Shipping Partner Event File before the Arrival at Post Office (07) scan event, the mailer must transmit the Shipping Services File prior to 23:59 on the date of mailing. Mailpieces that do not have a Shipping Services File record or have an untimely record would be noncompliant and receive a Manifest Quality validation noncompliance code.

Manifest Files would have to pass the following four validation criteria:

- *Entry Facility ZIP Code:* The entry facility ZIP Code in the Shipping Services File must match physical scan event at location.
- *Payment Account Number:* The USPS account number from which the mailing will be paid must be valid.
- *Method of Payment:* The approved payment method must be valid (permit imprint, postage meter, PC Postage, OMAS, franked mail, and stamps) for the mail being entered.
- *Post Office of Account:* The 5-digit ZIP Code of the Post Office issuing the permit number, meter license, or precancelled stamp must be valid and agree with the information on the postage statement.

Also, the Transaction ID (TID) is already required. However, when the TID is used in conjunction with the Payment Account Number, Method of Payment, and Post Office of Account, it enables the Postal Service to calculate IMpb compliance for each mailing at the postage-statement level for non-eVS customers. If any field is missing or inaccurate, a Manifest Quality IMpb Compliance Quality indicator would be assigned.

In addition, in July 2018, the Manifest Quality threshold would be increased from 91 percent to 94 percent. If mailpieces fail to meet the compliance threshold of 94 percent, customers would be assessed the IMpb Noncompliance Fee of $0.20 per piece for competitive parcels only.

Barcode Quality

Barcode Quality is essential to create the digital trail that adds intelligence and enables business insight from parcels traveling through the Postal Service network, which leads to innovation and growth. Therefore, when manifests are processed by the Postal Service, Barcode Quality would continue to be measured under the following standards:

- IMpb(s) must pass the Uniqueness and Mailer Identification validations without errors or warnings.
- The IMpb must be unique for 120 days from the date of the first event record posted to the Postal Service's database.
- The IMpb must include a valid Mailer Identification that is properly registered in the Postal Service's Customer Registration Online Enrollment System.
- IMpb(s) that fail the Uniqueness and Mailer Identification validations will be assigned a Barcode Quality noncompliance code and such pieces would be counted against the threshold.

In addition, in July 2018, the Barcode Quality threshold would be increased from 95 percent to 98 percent. If mailpieces fail to meet the compliance threshold of 98 percent, customers would be assessed the IMpb Noncompliance Fee of $0.20 per piece for competitive parcels only.

Public Participation

Although the Postal Service is exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. *See* 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

For the reasons stated in the preamble, the Postal Service proposes to amend 39 CFR part 111 as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

200 Commercial Letters, Flats, and Parcels Design Standards

* * * * *

204 Barcode Standards

* * * * *

2.0 Standards for Package and Extra Service Barcodes

2.1 Intelligent Mail Package Barcode

2.1.1 Definition

[Amend 204.2.1.1 by revising the third and fifth sentences to read as follows:]

* * * Intelligent Mail package barcodes must be used on all commercial parcels and on other mailpieces requesting extra services. * * * Electronic files must include a complete destination delivery address (which has sufficient quality to yield an 11-digit ZIP Code that matches the delivery point) and/or a delivery point validation (DPV) 11-digit Code for all records in the file. * * *

* * * * *

2.1.3 Barcode Data Fields

[Revise the final sentence of the introductory paragraph for 204.2.1.3 as follows:]

* * * Detailed specifications are provided in Publication 199 and available on PostalPro at *https://postalpro.usps.com:*

* * * * *

2.1.7 Electronic File

[Amend 204.2.1.7 by revising the introductory paragraph and item d as follows:]

All mailers generating Intelligent Mail package barcodes must transmit piece-level information to the USPS in an approved electronic file format (except for mailers generating barcodes for use on return services products, such as MRS). Specifications for electronic files are available in Publication 199 on PostalPro at *https://postalpro.usps.com.* Electronic files must include the following elements:

* * * * *

d. Version 1.6 (or subsequent versions) of the electronic Shipping Services manifest files including each destination delivery address or ZIP+4 Code. Shipping Services File manifests or other approved electronic documentation, must include the destination delivery address (that has sufficient quality to yield an 11-digit ZIP Code that matches the delivery

point) or delivery point validation (DPV) 11-digit ZIP Code for each record in the file.

[Amend 204.2.1.8 by revising the title and contents as follows:]

2.1.8 Compliance Quality Thresholds

All mailers who enter commercial parcels must meet the established thresholds for the IMpb Compliance Quality Categories outlined in Exhibit 2.1.8 to avoid an IMpb Noncompliance Fee. For details, see Publication 199 available on PostalPro at *http://postalpro.usps.com.*

EXHIBIT 2.1.8—IMPB COMPLIANCE QUALITY THRESHOLDS

Compliance categories	Compliance codes	Validations	Compliance thresholds
Address Quality: Checks for a timely address that validates to a unique 11 Digit DPV.	AQ	Must include a full, valid destination delivery address that has sufficient quality to yield an 11-digit ZIP Code that matches the delivery point in the file as follows: ▪ Valid secondary address information. ▪ Match between address to ZIP+4 Code. ▪ Includes street number. ▪ Valid primary street number. Customers using eVS must provide the address information prior to the Arrival at Unit (07) Event Scan and non-eVS customers at the time of mailing.	89
Manifest Quality (Shipping Services File): Checks for a timely Manifest File that passes 4 critical validation criteria.	MQ	Entry facility must match between scan and manifest. Valid PO of Account ZIP Code (Where account is held for payment). Valid Payment Account (Permit Number). Valid Method of Payment (Permit, Federal Agency, PC Postage, Smart Meter, Other Meter, or Stamps).	94
Barcode Quality: Checks the Barcode in the manifest that passes 2 critical validations.	BQ	Valid and Certified Mailer ID in the label that is in Program Registration/Online Enrollment. IMpb must be unique for 120 days.	98

[Amend 204.2.1. by adding new 204.2.1.9 as follows:]

2.1.9 Alternate Approval

Labels not meeting IMpb specifications or other label element standards, but are still able to demonstrate acceptable functionality within USPS processes, may be allowed using an alternative approval process authorized by the Vice President, Enterprise Analytics (See DMM 608.8.1 for address).

* * * * *

210 Commercial Mail Priority Mail Express

213 Prices and Eligibility

* * * * *

3.0 Basic Eligibility Standards for Priority Mail Express

* * * * *

3.2 IMpb Standards

[Revise 213.3.2 by modifying the last two sentences as follows:]

* * * Unless otherwise excepted, mailpieces not meeting the requirements for use of unique Intelligent Mail package barcodes or extra services barcodes as outlined in section 204.2.1.8 and Publication 199 will be assessed an IMpb noncompliance fee. For details, see the PostalPro website at *https://postalpro.usps.com/node/782.*

* * * * *

220 Commercial Mail Priority Mail

223 Prices and Eligibility

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3.0 Basic Eligibility Standards for Priority Mail

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3.2 IMpb Standards

[Revise 223.3.2 by modifying the last sentence as follows:]

* * * Unless otherwise excepted, mailpieces not meeting the requirements for use of unique Intelligent Mail package barcodes or extra services barcodes as outlined in section 204.2.1.8 and Publication 199 will be assessed an IMpb noncompliance fee. For details, see the PostalPro website at *https://postalpro.usps.com/node/782.*

* * * * *

250 Commercial Mail Parcel Select

253 Prices and Eligibility

* * * * *

3.0 Basic Eligibility Standards for Parcel Select Parcels

* * * * *

3.3 IMpb Standards

[Revise 253.3.3 by modifying the last sentence as follows:]

* * * Unless otherwise excepted, mailpieces not meeting the requirements for use of unique Intelligent Mail package barcodes or extra services barcodes as outlined in section 204.2.1.8 and Publication 199 will be assessed an IMpb noncompliance fee. For details, see the PostalPro website at *https://postalpro.usps.com/node/782.*

* * * * *

280 Commercial Mail First-Class Package Service—Commercial

283 Prices and Eligibility

* * * * *

3.0 Basic Eligibility Standards for First-Class Package Service—Commercial

* * * * *

3.4 IMpb Standards

[Revise 283.3.4 by modifying the last two sentences as follows:]

* * * Unless otherwise excepted, mailpieces not meeting the requirements for use of unique Intelligent Mail package barcodes or extra services barcodes as outlined in section 204.2.1.8 and Publication 199 will be assessed an IMpb noncompliance fee. For details, see the PostalPro website at *https://postalpro.usps.com/node/782.*

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600 Basic Standards For All Mailing Services

* * * * *

608 Postal Information and Resources

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8.0 USPS Contact Information

8.1 Postal Service

* * * * *

[Revise 608.8.1 by adding Enterprise Analytics in alphabetic order as follows:]

Enterprise Analytics, US Postal Service, 475 L'Enfant Plaza SW, Room 2100, Washington, DC 20260–2100.

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 and Publication 199 to reflect these changes, if our proposal is adopted.

Ruth B. Stevenson,

Attorney, Federal Compliance.

[FR Doc. 2018–03947 Filed 2–26–18; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2017–0620; FRL–9974–85—Region 9]

Approval and Promulgation of Implementation Plans; California; California Mobile Source Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a submittal by the State of California (''State'') to revise its State Implementation Plan (SIP). The submittal consists of State regulations establishing standards and other requirements relating to the control of emissions from certain new and in-use on-road and off-road vehicles and engines. The EPA is proposing to approve the SIP revision because the regulations meet the applicable requirements of the Clean Air Act. If finalized, approval of the regulations as part of the California SIP will make them federally enforceable.

DATES: Any comments must arrive by March 29, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2017–0620 at *http://www.regulations.gov,* or via email to John Ungvarsky, at *Ungvarsky.John@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: John Ungvarsky, EPA Region IX, (415) 972–3963, *ungvarsky.john@epa.gov.*

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

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I. Background

Under the Clean Air Act (CAA or ''Act''), the EPA establishes national ambient air quality standards (NAAQS) to protect public health and welfare. The EPA has established NAAQS for certain pervasive air pollutants including ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, lead and particulate matter. Under section 110(a)(1) of the CAA, states must submit plans that provide for the implementation, maintenance, and enforcement of the NAAQS within each state. Such plans are referred to as SIPs, and revisions to those plans are referred to as SIP revisions. Section 110(a)(2) of the CAA sets forth the content requirements for SIPs. Among the various requirements, SIPs must include enforceable emission limitations and other control measures, means, or techniques as may be necessary or appropriate to meet the applicable requirements of the CAA. *See* CAA section 110(a)(2)(a).

Emissions sources contributing to ambient air pollution levels can be divided into two basic categories: Stationary emissions sources and mobile emissions sources. As a general matter, the CAA assigns stationary source regulation and SIP development responsibilities to the states through title I of the Act and assigns mobile source regulation to the EPA through title II of the Act. In so doing, the CAA preempts various types of state regulation of mobile sources as set forth in section 209(a) (preemption of state emissions standards for new motor vehicles and engines), section 209(e) (preemption of state emissions standards for new and in-use off-road vehicles and engines),[1] and section 211(c)(4)(A) (preemption of state fuel requirements for motor vehicle emission control, *i.e.,* other than California's motor vehicle fuel requirements for motor vehicle emission control—*see* section 211(c)(4)(B)).

Under California law, the California Air Resources Board (CARB) is the State agency responsible for adopting and submitting the California SIP and SIP revisions. Over the years, CARB has submitted, and the EPA has approved, many county and regional air district rules regulating stationary source emissions as part of the California SIP. *See generally* 40 CFR 52.220(c). With respect to mobile sources not specifically preempted under the CAA, CARB has submitted, and the EPA has approved, certain specific State regulatory programs, such as the in-use, heavy-duty, diesel-fueled truck rule, various fuels regulations, and the vehicle inspection and maintenance program (I/M, also known as ''smog check''). *See, e.g.,* 77 FR 20308 (April 4, 2012) (in-use truck and bus regulation), 75 FR 26653 (May 12, 2010) (revisions to California on-road reformulated gasoline and diesel fuel regulations) and 75 FR 38023 (July 1, 2010) (revisions to California motor vehicle I/M program).

CARB and the air districts rely on these county, regional and State stationary and mobile source regulations to meet various CAA requirements and include the corresponding emissions reductions in the various regional air quality plans developed to attain and maintain the NAAQS. The EPA generally allows California to take credit for the corresponding emissions reductions relied upon in the various regional air quality plans because, among other reasons, the regulations are approved as part of the SIP and are thereby federally enforceable as required under CAA section 110(a)(2)(A).

[1] EPA regulations refer to ''nonroad'' vehicles and engines whereas California Air Resources Board (CARB) regulations refer to ''off-road'' vehicles and engines. These terms refer to the same types of vehicles and engines, and for the purposes of this action, we will be using CARB's chosen term, ''off-road,'' to refer to such vehicles and engines.

With respect to mobile sources that are specifically preempted under the CAA, CARB must request a waiver (for motor vehicles) or authorization (for off-road engines and equipment) in order to enforce standards relating to the control of emissions and accompanying enforcement procedures for these types of mobile sources. *See* CAA sections 209(b) (new motor vehicles) and 209(e)(2) (most categories of new and in-use off-road vehicles). Over the years, CARB has submitted many requests for waiver or authorization of its standards and other requirements relating to the control of emissions from new on-road and new and in-use off-road vehicles and engines, and the EPA has granted many such requests. Once the EPA grants the request for waiver or authorization, CARB may enforce the corresponding mobile source regulations, and until 2015, the EPA had approved California air quality plans that take credit for emissions reductions from such regulations, notwithstanding the fact that California had not submitted these particular regulations as part of the California SIP.

The EPA's longstanding practice of approving California plans that rely on emissions reductions from such ''waiver measures,'' notwithstanding the lack of approval as part of the SIP, was challenged in several petitions filed in the Ninth Circuit Court of Appeals. In a 2015 decision, the Ninth Circuit held in favor of the petitioners on this issue and concluded that CAA section 110(a)(2)(A) requires that all state and local control measures on which SIPs rely to attain the NAAQS be included in the SIP and thereby subject to enforcement by the EPA and members of the general public. *See Committee for a Better Arvin v EPA,* 786 F.3d 1169 (9th Cir. 2015).

In response to the decision in *Committee for a Better Arvin* v. *EPA,* CARB submitted SIP revisions on August 14, 2015, December 7, 2016, and June 15, 2017, consisting of State mobile source regulations that establish standards and other requirements for the control of emissions from various new on-road and new and in-use off-road vehicles and engines for which the EPA has issued waivers or authorizations and that are relied upon by California regional plans to attain and maintain the NAAQS. The EPA took final action on CARB's August 14, 2015, and December 7, 2016 submittals at 81 FR 39424 (June 16, 2016) and 82 FR 14446 (March 21, 2017), respectively. In today's action, the EPA is proposing action on CARB's June 15, 2017 SIP revision submittal.

II. The State's Submittal

A. What regulations did the State submit?

On June 15, 2017, CARB submitted a SIP revision that included a set of State mobile source regulations for which waivers or authorizations have been granted by the EPA under section 209 of the CAA since the previous related SIP revision submittal (*i.e.,* since December 7, 2016). The SIP revision consists of the regulations themselves and documentation of the public process conducted by CARB in approving the regulations as part of the California SIP. Table 1 below presents the contents of the SIP revision by mobile source category and provides, for each such category, a listing of the relevant sections of the California Code of Regulations (CCR) that establish standards and other requirements for control of emissions from new or in-use vehicles or engines; the corresponding date of CARB's hearing date or Executive Officer action through which the regulations or amendments were adopted; and the notice of decision in which the EPA granted a waiver or authorization for the given set of regulations.

TABLE 1—CARB SIP REVISION SUBMITTAL SUMMARY

Source category	Relevant sections of California Code of Regulations	Date of relevant CARB hearing date or Executive Officer action	EPA notice of decision
Commercial Harbor Craft (CHC)	17 CCR § 93118.5 (excluding (e)(1)), effective for State law purposes on July 20, 2011.	June 24, 2010	82 FR 6500 (January 19, 2017).
In-Use Diesel-Fueled Transport Refrigeration Units (TRUs).	13 CCR §§ 2477, 2477.1 through 2477.21, effective for State law purposes on October 15, 2012.	October 21, 2011	82 FR 6525 (January 19, 2017).
On-Road Heavy-Duty Diesel (HDD) Engines.	13 CCR § 1956.8, effective for State law purposes on December 22, 2011, and the document incorporated by reference (see table 2 below).	June 23, 2011	82 FR 4867 (January 17, 2017).
Off-Highway Recreational Vehicles (OHRVs).	13 CCR §§ 2416, 2417, 2418, 2419, 2419.1–2419.4, effective for State law purposes on April 1, 2015, and the document incorporated by reference (see table 2 below).	July 25, 2013	82 FR 6540 (January 19, 2017).

The regulations submitted by CARB as part of the overall SIP revision and listed in Table 1 incorporate by reference documents that establish test procedures, among other things. Table 2 lists the incorporated documents included in the SIP submittal.

TABLE 2—DOCUMENTS INCORPORATED BY REFERENCE IN CARB REGULATIONS LISTED IN TABLE 1 AND SUBMITTED AS PART OF SIP REVISION

On-Road Heavy-Duty Diesel Engines:
California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles, as last amended October 12, 2011.
Off-Highway Recreational Vehicles and Engines:
Test Procedure for Determining Evaporative Emissions from Off-Highway Recreational Vehicles (TP–933), dated November 5, 2014.

We note that CARB has expressly excluded 17 CCR § 93118.5(e)(1) from consideration as part of the SIP revision on the grounds that it is not preempted and thus not included in the EPA's authorization of the amended CHC regulations. The excluded provision requires use of low sulfur fuel by all commercial harbor craft within certain California waters with certain exceptions. This same provision was excluded from the SIP submittal of the original CHC regulations, which the EPA approved at 81 FR 39424 (June 16, 2016).

B. Are there other versions of these regulations?

Historically, as noted above, CARB regulations subject to the section 209 waiver or authorization process were not submitted to the EPA as a revision to the California SIP. However, in the wake of the Ninth Circuit's decision in *Committee for a Better Arvin* v. *EPA,* on August 14, 2015, CARB submitted a large set of mobile source regulations that had been issued waivers or authorizations to the EPA as a SIP revision. The EPA took final approval action on this first set of regulations on June 16, 2016 (81 FR 39424). CARB's initial set of regulations included regulations establishing standards and other requirements relating to the control of emissions from new on-road vehicles and engines, including certain requirements related to on-road HDD vehicle and engines, from new and in-use off-road vehicles and engines, including certain requirements related to CHC, TRUs, and OHRVs. On December 7, 2016, CARB submitted a second set of mobile source regulations, *i.e.,* those for which waivers or authorizations had been issued since August 2015, and the EPA approved them on March 21, 2017 (82 FR 14446). CARB's December 7, 2016 SIP revision submittal contained certain amended on-board diagnostic system regulations for new on-road vehicles and engines and certain amendments to the regulations affecting off-road large spark-ignition engines, small off-road engines, and off-road compression-ignition engines. CARB's June 15, 2017 SIP revision submittal represents the third set of mobile source regulations, which include regulations for which the EPA issued waivers or authorization since December 2016. This third set of regulations consists of amendments to the previously-approved regulations for on-road HDD engines, CHC, TRUs, and OHRVs.

C. What is the purpose of the submitted regulations?

California has experienced some of the most severe and most persistent air pollution problems in the country. Under the CAA, based on ambient data collected at numerous sites throughout the State, the EPA has designated areas within California as nonattainment areas for the ozone NAAQS and the particulate matter (PM) NAAQS, which includes both coarse and fine particulate (*i.e.,* PM_{10} and $PM_{2.5}$). *See,* generally, 40 CFR 81.305. Several areas in California that had been designated as nonattainment areas for the carbon monoxide NAAQS have been redesignated by the EPA as attainment areas because they have attained the standard and are subject to an approved maintenance plan demonstrating how they will maintain the carbon monoxide standard into the future.

Mobile source emissions constitute a significant portion of overall emissions of carbon monoxide, volatile organic compounds (VOC), oxides of nitrogen (NO_X), sulfur dioxide (SO_2) and PM in the various air quality planning areas within California, and thus, the purpose of CARB's mobile source regulations is to reduce these emissions and thereby reduce ambient concentrations to attain and maintain the NAAQS throughout California.[2] At elevated levels, ozone and PM harm human health and the environment by contributing to premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems.

D. What requirements do the regulations establish?

Table 3 below generally describes the amended regulations listed in table 1 above and summarizes some of the key emissions control requirements contained in the rules.

TABLE 3—GENERAL DESCRIPTION OF REQUIREMENTS ESTABLISHED IN THE MOBILE SOURCE REGULATIONS INCLUDED IN THE JUNE 15, 2017 SIP REVISION

Source category	Description of requirements in submitted regulations
Commercial Harbor Craft (CHC)	The 2011 amendments to the CHC regulations set forth a variety of in-use requirements, including extending the applicability of the CHC regulations to in-use crew and supply, barge and dredge vessels that are equipped with federal Tier 0 and Tier 1 propulsion and auxiliary marine engines that operate within 24 miles seaward of the California coastline; eliminate certain exemptions for CHC engines that had been registered in a different CARB program; allow EPA or CARB Tier 2 or higher tier certified off-road engines to be used as auxiliary or propulsion engines in both new and in-use CHC vessels; and clarify requirements and address certain issues that have arisen during CARB's implementation of the original CHC regulations. For more information, *see* 82 FR 6500 (January 19, 2017).
In-Use Diesel-Fueled Transport Refrigeration Units (TRU).	The 2011 amendments to the TRU regulations primarily provide owners of TRU engines with certain flexibilities; clarify recordkeeping requirements for certain types of TRU engines; establish requirements for businesses that arrange, hire, contract, or dispatch the transport of goods in TRU-equipped trucks, trailers, or containers; and address other issues that arose during the initial implementation of CARB's TRU regulation. For more information, *see* 82 FR 6525 (January 19, 2017).
On-Road Heavy-Duty Diesel (HDD) Engines.	The 2011 amendments to the HDD in-use compliance regulations establish a new PM measurement allowance consistent with amendments by the EPA to the corresponding federal program; and clarify an exemption for certain armored cars and workover rigs. For more information, *see* 82 FR 4867 (January 17, 2017).
Off-Highway Recreational Vehicles (OHRVs).	The 2014 amendments to the OHRV regulations establish a new evaporative emission standard of 1.0 gram per day for the complete OHRV fuel system which includes running losses (evaporative emissions generated during vehicle operation), hot soak (evaporative emissions generated directly after vehicle operation), and diurnal losses (evaporative emissions generated during long term storage); establish diurnal and fuel system leakage standards and associated test procedures for 2018 and subsequent model year OHRVs; and establish certain durability test procedures and other test procedure provisions for preconditioning evaporative emission control systems and components, running loss and hot soak preconditioning tests, and test procedures for the 72-hour and steady-state diurnal tests. The California OHRV category encompasses a wide variety of vehicles, including off-road motorcycles, all-terrain vehicles, off-road sport and utility vehicles, sand cars, and golf carts. For more information, *see* 82 FR 6540 (January 19, 2017).

[2] VOC and NO_X are precursors responsible for the formation of ozone, and NO_X and SO_2 are precursors for $PM_{2.5}$. SO_2 belongs to a family of compounds referred to as sulfur oxides. $PM_{2.5}$ precursors also include VOC and ammonia. *See* 40 CFR 51.1000.

III. EPA's Evaluation and Proposed Action

A. How is the EPA evaluating the regulations?

The EPA has evaluated the submitted regulations discussed above against the applicable procedural and substantive requirements of the CAA for SIPs and SIP revisions and has concluded that they meet all the applicable requirements. Generally, SIPs must include enforceable emission limitations and other control measures, means, or techniques, as well as schedules and timetables for compliance, as may be necessary to meet the requirements of the Act (*see* CAA section 110(a)(2)(A)); must provide necessary assurances that the state will have adequate personnel, funding, and authority under state law to carry out such SIP (and is not prohibited by any provision of federal or state law from carrying out such SIP) (*see* CAA section 110(a)(2)(E)); must be adopted by a state after reasonable notice and public hearing (*see* CAA section 110(l)); and must not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act (*see* CAA section 110(l)).[3]

B. Do the State's regulations meet CAA SIP evaluation criteria?

1. Did the state provide adequate public notification and comment periods?

Under CAA section 110(l), SIP revisions must be adopted by the state, and the state must provide for reasonable public notice and hearing prior to adoption. In 40 CFR 51.102(d), we specify that reasonable public notice in this context refers to at least 30 days.

All the submitted regulations have gone through extensive public comment processes including CARB's workshop and hearing processes prior to State adoption of each rule. Also, the EPA's waiver and authorization processes provide an opportunity for the public to submit written comment and to request public hearings to present information relevant to the EPA's consideration of CARB's request for waiver or authorization under section 209 of the CAA.

In addition, on June 19, 2015, CARB published a notice of public hearing to consider adoption and submittal of certain adopted regulations as a revision to the California SIP including those submitted by CARB on June 15, 2017. CARB held the public hearing on July 23, 2015. No written comments were submitted to CARB on the proposed SIP revision, and no public comments were made at the public hearing. CARB adopted the SIP revision at the July 23, 2015 Board Hearing (*see* Board Resolution 15–40) and submitted the relevant mobile source regulations to the EPA along with evidence of the public process conducted by CARB in adopting the SIP revision.[4] We conclude that CARB's June 15, 2017 SIP revision submittal meets the applicable procedural requirements for SIP revisions under the CAA section 110(l) and 40 CFR 51.102.

2. Does the state have adequate legal authority to implement the regulations?

CARB has been granted both general and specific authority under the California Health & Safety Code (H&SC) to adopt and implement these regulations. California H&SC sections 39600 (''Acts required'') and 39601 (''Adoption of regulation; Conformance to federal law'') confer on CARB the general authority and obligation to adopt regulations and measures necessary to execute CARB's powers and duties imposed by State law. California H&SC sections 43013(a) and 43018 provide broad authority to achieve the maximum feasible and cost-effective emission reductions from all mobile source categories. Regarding in-use motor vehicles, California H&SC sections 43600 and 43701(b), respectively, grant CARB authority to adopt emission standards and emission control equipment requirements.

The mobile source regulations that are the subject of today's action were submitted by CARB under CAA section 209 with a request for waiver or authorization and were granted such waiver or authorization by the EPA. Thus, the regulations we are proposing to approve today are not preempted under the CAA. For additional information regarding California's motor vehicle emission standards, please see the EPA's ''California Waivers and Authorizations'' web page at URL address: *http://www.epa.gov/otaq/cafr.htm.* This website also lists relevant **Federal Register** notices that have been issued by the EPA is response to California waiver and authorization requests.

In addition, the EPA is unaware of any non-CAA legal obstacle to CARB's enforcement of the regulations and thus we conclude that CARB has provided the necessary assurances that the State has adequate authority under State law to carry out the SIP revision (and is not prohibited by any provision of federal or State law from carrying out such SIP) and thereby meets the requirements of CAA section 110(a)(2)(E) with respect to legal authority.

3. Are the regulations enforceable as required under CAA section 110(a)(2)?

We have evaluated the enforceability of the amended mobile source regulations with respect to applicability and exemptions; standard of conduct and compliance dates; sunset provisions; discretionary provisions; and test methods, recordkeeping and reporting,[5] and have concluded for the reasons given below that the amended regulations would be enforceable for the purposes of CAA section 110(a)(2).

First, with respect to applicability, we find that the amended regulations are sufficiently clear as to which persons and which vehicles or engines are affected by the regulations. *See, e.g.,* 13 CCR sections 2416(a) and (b) (applicability and exemption provisions for OHRV evaporative emissions requirements), 13 CCR sections 2477.2 and 2477.3 (applicability and exemption provisions for in-use diesel-fueled TRUs), and 17 CCR sections 93118.5(b) and (c) (applicability and exemption provisions for commercial harbor craft).

Second, we find that the amended regulations are sufficiently specific so that the persons affected by the regulations are on notice as to what the requirements and related compliance dates are. For instance, see the evaporative emission standards and test procedures set forth for OHRVs in 13 CCR section 2418, the in-use compliance dates for TRUs in 13 CCR section 2477.5(b), and the engine emission requirements in 17 CCR sections 93118.5(e)(2)–(6).

Third, none of the amended regulations contain sunset provisions that automatically repeal the emissions limits by a given date or upon the occurrence of a particular event, such as

[3] CAA section 193, which prohibits any pre-1990 SIP control requirement relating to nonattainment pollutants in nonattainment areas from being modified unless the SIP is revised to insure equivalent or greater emission reductions of such air pollutants, does not apply to these regulations because they are new regulations or amend regulations previously approved in the California SIP in 2016, and thus, do not constitute an amendment to a pre-1990 SIP control requirement.

[4] In addition to CARB's June 15, 2017 submittal, prior submittals of relevant mobile source regulations were made on August 14, 2015 and December 7, 2016. The EPA took final actions on the 2015 and 2016 submittals on June 16, 2016 (81 FR 39424) and March 21, 2017 (82 FR 14446), respectively.

[5] These concepts are discussed in detail in an EPA memorandum from J. Craig Potter, EPA Assistant Administrator for Air and Radiation, *et al.,* titled ''Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency,'' dated September 23, 1987.

the change in the designation of an area from nonattainment to attainment.

Fourth, a number of the amended regulations contain provisions that allow for discretion on the part of CARB's Executive Officer. Such ''director's discretion'' provisions can undermine enforceability of a SIP regulation, and thus prevent full approval by the EPA. However, in the instances of ''director's discretion'' in the amended regulations, the discretion that can be exercised by the CARB Executive Officer is reasonably limited under the terms of the regulations. For instance, in 17 CCR 93118.5(e)(6)(E), the Executive Officer may grant a time-limited extension to the compliance date that would otherwise apply only for specific reasons and under limited circumstances as set forth in the regulation. With such constraints on discretion, the ''director's discretion'' contained in the amended regulations would not significantly undermine enforceability of the rules by citizens or the EPA.

Lastly, the amended regulations identify appropriate test methods and include adequate recordkeeping and reporting requirements sufficient to ensure compliance with the applicable requirements.

4. Do the regulations interfere with reasonable further progress and attainment or any other applicable requirement of the Act?

All the State's reasonable further progress (RFP), attainment, and maintenance plans rely to some extent on the emission reductions from CARB's mobile source program, including the emissions standards and other requirements for which the EPA has issued waivers or authorizations. CARB's mobile source program is reflected in the emissions estimates for mobile sources that are included in the emissions inventories that form the quantitative basis for the RFP, attainment, and maintenance demonstrations. Based on CARB estimates, the amended regulations evaluated herein would, considered together, reduce VOC, NO_X, and PM emissions by approximately 1,220 tons per year (tpy), 270 tpy, and 20 tpy, respectively, on a statewide basis in year 2023.[6] As such, the amended regulations would support the various RFP, attainment, and maintenance plans, and would not interfere with such requirements for the purposes of CAA section 110(l).

5. Will the state have adequate personnel and funding for the regulations?

In its SIP revision submittal dated August 14, 2015, CARB refers to the annual approval by the California Legislature of funding and staff resources for carrying out CAA-related responsibilities and notes that a large portion of CARB's budget has gone toward meeting CAA mandates.[7] CARB indicates that a majority of CARB's funding comes from dedicated fees collected from regulated emission sources and other sources such as vehicle registration fees and vehicles license plate fees and that these funds can only be used for air pollution control activities. *Id.* For the 2014–2015 budget cycle, CARB had over 700 positions and almost $500 million dedicated to the mobile source program developing and enforcing regulations. *Id.* Given the longstanding nature of CARB's mobile source program, and its documented effectiveness at achieving significant reductions from mobile sources, we find that CARB has provided necessary assurances that the State has adequate personnel and funding to carry out the amended mobile source regulations submitted for approval on June 15, 2017.

6. EPA's Evaluation Conclusion

Based on the above discussion, we believe these regulations are consistent with the relevant CAA requirements and with relevant EPA policies and guidance.

C. Proposed Action and Public Comment

Under section 110(k)(3) of the CAA, and for the reasons given above, we are proposing to approve a SIP revision submitted by CARB on June 15, 2017, that includes certain sections of titles 13 and 17 of the California Code of Regulations that establish standards and other requirements relating to the control of emissions from certain new and in-use on-road and off-road vehicles and engines. We are proposing to approve these regulations as part of the California SIP because we believe they fulfill all relevant CAA requirements. We will accept comments from the public on this proposal until March 29, 2018. If we finalize this action as proposed, the submitted regulations will be incorporated into the federally enforceable SIP for the State of California.

IV. Incorporation by Reference

In this action, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference of certain sections of titles 13 and 17 of the California Code of Regulations that establish standards and other requirements relating to the control of emissions from certain new on-road and new and in-use off-road vehicles and engines, as described in section II of this preamble. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

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

[6] The emissions estimates are based on emissions presented in the Initial Statement of Reasons (ISOR) published by CARB for each of the four individual regulatory actions considered herein. The relevant ISORs are included in the docket for this rulemaking.

[7] Letter from Richard W. Corey, Executive Officer, CARB, to Jared Blumenfeld, Regional Administrator, EPA Region IX, August 14, 2015.

Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

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

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

Dated: February 15, 2018.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 2018–03992 Filed 2–26–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2017–0077; FRL–9974–50—Region 6]

Approval and Promulgation of Implementation Plans; Texas; Approval of Texas Motor Vehicle Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve revisions submitted by the State of Texas that affect the Texas State Implementation Plan (SIP) concerning Texas' motor vehicle air pollution rules and retail gasoline dispensing labeling requirements for El Paso. The revisions are non-substantive in nature and do not affect implementation of federal requirements.

DATES: Written comments should be received on or before March 29, 2018.

ADDRESSES: Submit your comments, identified by EPA–R06–OAR–2017–0077, at *http://www.regulations.gov* or via email to *walser.john@epa.gov.* For additional information on how to submit comments see the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. John Walser, (214) 665–7128, *walser.john@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, the EPA is approving the State's SIP submittal as a direct rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action no further activity is contemplated. If the EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: February 22, 2018.

Anne Idsal,

Regional Administrator, Region 6.

[FR Doc. 2018–03973 Filed 2–26–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0006; FRL–9972–17]

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

AGENCY: Environmental Protection Agency (EPA).

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

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

DATES: Comments must be received on or before March 29, 2018.

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

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

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

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural

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

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

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

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

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

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

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

II. What action is the Agency taking?

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

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

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

Amended Tolerances

1. *PP 7F8552.* (EPA–HQ–OPP–2017–0234 Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419–18300, requests to amend the tolerance in 40 CFR part 180.565 for residues of the insecticide, thiamethoxam, {3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-N-nitro-4H-1,3,5-oxadiazin-4-imine} (CAS Reg. No. 153719–23–4) and its metabolite[N-(2-chloro-thiazol-5-ylmethyl)-N′-methyl-N′-nitro-guanidine on the grain, cereal, group 15, except barley at 0.02 parts per million (ppm) by establishing individual tolerances in or on buckwheat, grain at 0.9 ppm; corn, field grain at 0.02 ppm; oat, grain at 0.9 ppm; rice, grain at 6 ppm; rice, straw at 2 ppm; rye, grain at 0.9 ppm; sorghum, grain at 0.6; sorghum, grain forage at 0.9 ppm; sorghum, sweet, stalk at 0.7 ppm; triticale grain at 0.9 ppm; wheat, bran at 0.5 ppm; wheat, germ at 0.5 ppm; wheat, grain at 0.5 ppm. In addition, Syngenta requests to amend existing tolerances in 40 CFR 180.565 for residues of the insecticide, thiamethoxam, {3-[(2-chloro-5 thiazolyl)methyl]tetrahydro-5-methyl-N-nitro-4H–1,3,5-oxadiazin-4-imine} (CAS Reg. No. 153719–23–4) and its metabolite[N-(2-chloro-thiazol-5-ylmethyl)-N′-methyl-N′-nitro-guanidine as follows: Alfalfa, forage from 0.05 to 10 ppm; alfalfa, hay from 0.12 to 8 ppm; aspirated grain fractions from 2.0 to 2.5 ppm; barley, hay from 0.40 to 1.5 ppm; barley, grain from 0.4 to 0.9 ppm; barley, straw from 0.40 to 3 ppm; corn, field, forage from 0.10 to 0.6 ppm; corn, field, stover from 0.05 to 1.0 ppm; corn, pop, forage from 0.10 to 0.6 ppm; corn, pop, stover from 0.05 to 1.0 ppm; corn, sweet forage from 0.10 to 5 ppm; corn, sweet, kernel plus cob with husks removed from 0.02 to 0.03 ppm; corn, sweet, stover from 0.05 to 4 ppm; potato from 0.25 to 0.15 ppm; sorghum, grain, stover from 0.02 to 1.5 ppm; wheat, forage from 0.50 to 3 ppm; wheat, hay from 0.02 to 8 ppm; and wheat, straw from 0.02 to 6 ppm. The liquid chromatography with either UV or MS detections is used to measure and evaluate the chemical. Contact: RD.

2. *PP 7F8633.* (EPA–HQ–OPP–2017–0530). Bayer CropScience LP2, T.W. Alexander Dr., Research Triangle Park, NC 27709, requests to amend the tolerance in 40 CFR 180.555 for residues of the fungicide, trifloxystrobin, in or on grain, aspirated fractions at 15 ppm. Either gas chromatography with nitrogen-phosphorus detection, or liquid chromatography/mass spectrometry/mass spectrometry (LC/MS/MS) are used to measure and evaluate the chemical trifloxystrobin and the free form of its acid metabolite CGA–321113 ((E,E)-methoxyimino-[2-[1-(3-trifluoromethyl-phenyl)-ethylideneaminooxymethyl]-phenyl]acetic acid). Contact: RD.

New Tolerance Exemptions for Inerts (Except PIPS)

1. *PP IN–11023.* (EPA–HQ–OPP 2017–0666) Lewis & Harrison, LLC, 122 C Street NW, Suite 505, Washington, DC 20001, on behalf of BASF Corporation, 100 Park Avenue, Florham Park, NJ 07932 requests to establish an exemption from the requirement of a tolerance for residues of poly(oxy-1,2-ethanediyl), α-(1-oxoalkyl)-ω-methoxy-, where the alkyl chain contains a minimum of six and a maximum of 18

carbons and the oxyethylene content is 3–13 moles (CAS Reg. Nos. 53100–65–5, 194289–64–0- 34398–00–0, 9006–27–3, 32761–35–6, 53467–81–5, 518299–31–5, 34397–99–4) when used as a stabilizer and solubilizing agent in pesticide formulations applied to growing crops or raw agricultural commodities after harvest at a maximum concentration in pesticide formulation of 25% by weight. The petitioner believes no analytical method is needed because it is not required for the establishment of a tolerance exemption for inert ingredients. Contact: RD.

2. *PP IN–11059.* (EPA–HQ–OPP–2017–0574) Nutri Ag, Inc., 4740 N Interstate 35 E, Waxahachie, TX 75165 requests to establish an exemption from the requirement of a tolerance for residues of zinc oxide (CAS Reg. No. 1314–13–2) when used as an inert ingredient (stabilizer) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest under 40 CFR 180.910. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: RD.

New Tolerances for Non-Inerts

1. *PP 7E8584.* (EPA–HQ–OPP–2017–0505). Bayer CropScience, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, requests to establish a tolerance in 40 CFR part 180 for residues of spiromesifen; 2-oxo-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-4-yl 3,3-dimethylbutanoate, and its enol metabolite (4-hydroxy-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-2-one calculated as the stoichiometric equivalent of spiromesifen in or on the raw agricultural commodities Coffee bean, green at 0.20 parts per million (ppm); Coffee bean, roasted at 0.20 ppm; and Coffee, instant at 0.20 ppm. Spiromesifen residues are quantified in raw agricultural commodities by high pressure liquid chromatography/triple stage quadrupole mass spectrometry (LC/MS/MS) using the stable isotopically labeled analytes as internal standards. Contact: RD.

2. *PP 6F8533.* (EPA–HQ–OPP–2017–0235). Monsanto Company, 1300 I Street NW, Suite 450 East, Washington, DC 20005, requests to establish a tolerance in 40 CFR part 180 for residues of the herbicide acetochlor in or on Alfalfa, forage at 8 ppm, Alfalfa, hay at 20 ppm, Cattle, fat at 0.02 ppm, Cattle, kidney at 0.03 ppm, Cattle, meat at 0.02 ppm, Cattle, meat byproducts, except kidney at 0.02 ppm, Goat, fat at 0.02 ppm, Goat, kidney at 0.03 ppm, Goat, meat at 0.02 ppm, Goat, meat byproducts, except kidney at 0.02 ppm, Hog, kidney at 0.02 ppm, Horse, fat at 0.02 ppm, Horse, kidney at 0.03 ppm, Horse, meat at 0.02 ppm, Horse, meat byproducts, except kidney at 0.02 ppm, Milk at 0.02 ppm, Sheep, fat at 0.02 ppm, Sheep, kidney at 0.03 ppm, Sheep, meat at 0.02 ppm, Sheep, meat byproducts, except kidney at 0.02 ppm. The HPLC–OCED is used to measure and evaluate the chemical acetochlor. Contact: RD.

3. *PP 7F8552.* (EPA–HQ–OPP–2017–0234). Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419–18300, requests to establish a tolerance in 40 CFR part 180 for residues of the insecticide, thiamethoxam, {3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-N-nitro-4H-1,3,5-oxadiazin-4-imine} (CAS Reg. No. 153719–23–4) and its metabolite[N-(2-chloro-thiazol-5-ylmethyl)-N′-methyl-N′-nitro-guanidine, in or on Alfalfa, seed at 1 ppm; and sugarcane at 0.01 ppm. Contact: RD.

4. *PP 7F8595.* (EPA–HQ–OPP–2017–0530). Bayer CropScience LP2, T.W. Alexander Dr., Research Triangle Park, NC 27709, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide, trifloxystrobin, in or on Flax, seed at 0.4 ppm. Either gas chromatography with nitrogen-phosphorus detection, or liquid chromatography/mass spectrometry/mass spectrometry (LC/MS/MS) are used to measure and evaluate the chemical trifloxystrobin and the free form of its acid metabolite CGA–321113 ((E,E)-methoxyimino-[2-[1-(3-trifluoromethyl-phenyl)-ethylideneaminooxymethyl]-phenyl]acetic acid). Contact: RD.

5. *PP 7F8596.* (EPA–HQ–OPP–2017–0531). Bayer CropScience LP2, T.W. Alexander Dr., Research Triangle Park, NC 27709, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide, prothioconazole, in or on Crop Subgroup 20A (Rapeseed Subgroup) at 0.15 ppm. The LC/MS/MS analytical method is used to measure and evaluate the chemical prothioconazole, 2-[2-(1-chlorocylcopropyl)-3-(2-chlorophenyl)-2-hydroxypropyl]-1,2-dihydro-3H-1,2,4-triazole-3-thion, including its metabolites and degradates, in or on the commodities with tolerances. Compliance with the tolerance levels specified is to be determined by measuring only prothioconazole and its metabolite prothioconazole-desthio, or α-(1-chlorocyclopropyl)-α-[(2-chlorophenyl)methyl]-1H-1,2,4-triazole-1-ethanol, calculated as parent in or on the commodity. Contact: RD.

6. *PP 7F8614.* EPA–HQ–OPP–2017–0572. Makhteshim Agan of North America (d/b/a ADAMA, 3120 Highlands Blvd., Suite 100, Raleigh, NC 27604), requests to establish a tolerance in 40 CFR part 180 for residues of the nematicide, fluensulfone, including its metabolites and degradates, in or on the following commodities: Citrus dried pulp at 0.4 ppm; Crop Group 10–10, citrus fruit at 0.15 ppm; peanut at 0.15 ppm; peanut, hay at 8.0 ppm; and peanut, meal at 0.30 ppm. The LC–MS/MS is used to measure and evaluate the metabolite Butene Sulfonic Acid (M–3627). Contact: RD.

7. *PP 7F8615.* (EPA–HQ–OPP–2017–0665). Gowan Company, P.O. Box 5569, Yuma, AZ 85366, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide, zoxamide, in or on crop subgroup 8–10B (pepper/eggplant subgroup) at 0.9 ppm. The Rohm and Haas Company Method Number 34–99–85 is used to measure and evaluate the chemical zoxamide, 3, 5-dichloro-N-(3-chloro-1-ethyl-1-methyl-2-oxopropyl)-4-methylbenzamide. Contact: RD.

8. *PP 7F8624.* (EPA–HQ–OPP–2017–0616). BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide, metrafenone, in or on mushrooms at 0.5 ppm. The LC/MS/MS is used to measure and evaluate the chemical metrafenone (3-bromo-6-methoxy-2-methylphenyl)(2,3,4-trimethoxy-6-methylphenyl)methanone. Contact: RD.

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

Dated: January 16, 2018.

Delores Barber,

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

[FR Doc. 2018–03989 Filed 2–26–18; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 171128999–8169–01]

RIN 0648–XF872

Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List Chinook Salmon in the Upper Klamath-Trinity Rivers Basin as Threatened or Endangered Under the Endangered Species Act

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

Atmospheric Administration (NOAA), Department of Commerce.

ACTION: 90-Day petition finding, request for information, and initiation of status review.

SUMMARY: We, NMFS, announce a 90-day finding on a petition to list as threatened or endangered the Upper Klamath-Trinity Rivers (UKTR) Chinook salmon Evolutionarily Significant Unit (ESU) (*Oncorhynchus tshawytscha*) or, alternatively, create a new ESU to describe Klamath Spring Chinook salmon and list the new ESU as threatened or endangered under the Endangered Species Act (ESA). The petition also requests that we designate critical habitat concurrently with the listing. We find that the petition presents substantial scientific information indicating the petitioned actions may be warranted. We will conduct a status review of the Chinook salmon in the UKTR Basin to determine if the petitioned actions are warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information pertaining to this species from any interested party.

DATES: Scientific and commercial information pertinent to the petitioned action must be received by April 30, 2018.

ADDRESSES: You may submit comments on this document, identified by ''Upper Klamath-Trinity Rivers Chinook Petition (NOAA–NMFS–2018–0002),'' by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0002,* click the ''Comment Now'' icon, complete the required fields, and enter or attach your comments.
- *Mail or hand-delivery:* Protected Resources Division, West Coast Region, NMFS, 1201 NE Lloyd Blvd., Suite #1100, Portland, OR 97232. Attn: Gary Rule.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Electronic copies of the petition and other materials are available on the NMFS West Coast Region website at *www.westcoast.fisheries.noaa.gov*. Please direct other inquiries to Gary Rule, NMFS West Coast Region at *gary.rule@noaa.gov,* (503) 230–5424; or Maggie Miller, NMFS Office of Protected Resources at *margaret.h.miller@noaa.gov,* (301) 427–8457.

SUPPLEMENTARY INFORMATION:

Background

On November 2, 2017, the Secretary of Commerce received a petition from the Karuk Tribe and Salmon River Restoration Council (hereafter, the Petitioners) to list as threatened or endangered the UKTR Chinook salmon ESU or, alternatively, create and list a new ESU to describe Klamath Spring Chinook salmon. In their petition, the Petitioners used various phrases as well as ''Klamath Spring Chinook'' to describe the area in which they are requesting that we create a new ESU for spring-run Chinook salmon. Because their request is generally made in reference to the spring-run Chinook salmon component of the UKTR ESU of Chinook salmon, we will use the description of the currently defined ESU to describe the area in which the Petitioners are requesting that we create a new spring-run Chinook salmon ESU. We will hereinafter refer to that area as the UKTR Basin. We described all Klamath River Basin populations of Chinook salmon from the Trinity River and Klamath River upstream from the confluence of the Trinity River as the UKTR ESU, which includes both spring-run and fall-run fish (63 FR 11482; March 9, 1998). The Petitioners also request designation of critical habitat concurrently with the listing. Copies of the petition are available as described above (see **FOR FURTHER INFORMATION CONTACT**).

ESA Statutory, Regulatory, Policy Provisions, and Evaluation Framework

Section 4(b)(3)(A) of the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receipt of a petition to list a species as threatened or endangered, the Secretary of Commerce make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and to promptly publish such finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When it is found that substantial scientific or commercial information in a petition indicates the petitioned action may be warranted (a ''positive 90-day finding''), we are required to promptly commence a review of the status of the species concerned during which we will conduct a comprehensive review of the best available scientific and commercial information. In such cases, we conclude the review with a finding as to whether, in fact, the petitioned action is warranted within 12 months of receipt of the petition. Because the finding at the 12-month stage is based on a more thorough review of the available information, as compared to the narrow scope of review at the 90-day stage, a ''may be warranted'' finding does not prejudge the outcome of the status review.

Under the ESA, a listing determination may address a species, which is defined to also include subspecies and, for any vertebrate species, any distinct population segment (DPS) that interbreeds when mature (16 U.S.C. 1532(16)). In 1991, we issued the Policy on Applying the Definition of Species Under the Endangered Species Act to Pacific Salmon (ESU Policy; 56 FR 58612; November 20, 1991), which explains that a Pacific salmon population will be considered a DPS, and hence a ''species'' under the ESA, if it represents an ''evolutionarily significant unit'' of the biological species. The two criteria for delineating an ESU are: (1) It is substantially reproductively isolated from other conspecific populations, and (2) it represents an important component in the evolutionary legacy of the species. The ESU Policy was used to define the UKTR Chinook salmon ESU in 1998 (63 FR 11482; March 9, 1998), and we use it exclusively for defining distinct population segments of Pacific salmon. A joint NMFS–U.S. Fish and Wildlife Service (USFWS) (jointly, ''the Services'') policy clarifies the Services' interpretation of the phrase ''distinct population segment'' for the purposes of listing, delisting, and reclassifying a species under the ESA (DPS Policy; 61 FR 4722; February 7, 1996). In announcing this policy, the Services indicated that the ESU Policy for Pacific salmon was consistent with the DPS Policy and that NMFS would continue to use the ESU Policy for Pacific salmon.

A species, subspecies, DPS, or ESU is ''endangered'' if it is in danger of extinction throughout all or a significant portion of its range, and ''threatened'' if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA sections 3(6) and 3(20), respectively, 16 U.S.C. 1532(6) and (20)). Pursuant to the

ESA and our implementing regulations, we determine whether species are threatened or endangered based on any one or a combination of the following five ESA section 4(a)(1) factors: The present or threatened destruction, modification, or curtailment of habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms to address identified threats; or any other natural or manmade factors affecting the species' existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

ESA-implementing regulations issued jointly by NMFS and USFWS (50 CFR 424.14(h)(1)(i)) define substantial scientific or commercial information in the context of reviewing a petition to list, delist, or reclassify a species as credible scientific or commercial information in support of the petition's claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted. Conclusions drawn in the petition without the support of credible scientific or commercial information will not be considered ''substantial information.'' In reaching the initial (90-day) finding on the petition, we will consider the information described in sections 50 CFR 424.14(c), (d), and (g) (if applicable).

Our determination as to whether the petition provides substantial scientific or commercial information indicating that the petitioned action may be warranted will depend in part on the degree to which the petition includes the following types of information: (1) Information on current population status and trends and estimates of current population sizes and distributions, both in captivity and the wild, if available; (2) identification of the factors under section 4(a)(1) of the ESA that may affect the species and where these factors are acting upon the species; (3) whether and to what extent any or all of the factors alone or in combination identified in section 4(a)(1) of the ESA may cause the species to be an endangered species or threatened species (*i.e.,* the species is currently in danger of extinction or is likely to become so within the foreseeable future), and, if so, how high in magnitude and how imminent the threats to the species and its habitat are; (4) information on adequacy of regulatory protections and effectiveness of conservation activities by States as well as other parties, that have been initiated or that are ongoing, that may protect the species or its habitat; and (5) a complete, balanced representation of the relevant facts, including information that may contradict claims in the petition. See 50 CFR 424.14(d).

If the petitioner provides supplemental information before the initial finding is made and states that it is part of the petition, the new information, along with the previously submitted information, is treated as a new petition that supersedes the original petition, and the statutory timeframes will begin when such supplemental information is received. See 50 CFR 424.14(g).

We may also consider information readily available at the time the determination is made. We are not required to consider any supporting materials cited by the petitioner if the petitioner does not provide electronic or hard copies, to the extent permitted by U.S. copyright law, or appropriate excerpts or quotations from those materials (*e.g.,* publications, maps, reports, letters from authorities). See 50 CFR 424.14(c)(6).

The ''substantial scientific or commercial information'' standard must be applied in light of any prior reviews or findings we have made on the listing status of the species that is the subject of the petition. Where we have already conducted a finding on, or review of, the listing status of that species (whether in response to a petition or on our own initiative), we will evaluate any petition received thereafter seeking to list, delist, or reclassify that species to determine whether a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted despite the previous review or finding. Where the prior review resulted in a final agency action—such as a final listing determination, 90-day not-substantial finding, or 12-month not-warranted finding—a petitioned action will generally not be considered to present substantial scientific and commercial information indicating that the action may be warranted unless the petition provides new information or analyses not previously considered.

At the 90-day finding stage, we do not conduct additional research, and we do not solicit information from parties outside the agency to help us in evaluating the petition. We will accept the petitioners' sources and characterizations of the information presented if they appear to be based on accepted scientific principles, unless we have specific information in our files that indicates the petition's information is incorrect, unreliable, obsolete, or otherwise irrelevant to the requested action. Information that is susceptible to more than one interpretation or that is contradicted by other available information will not be dismissed at the 90-day finding stage, so long as it is reliable and a reasonable person conducting an impartial scientific review would conclude it supports the petitioners' assertions. In other words, conclusive information indicating the species may meet the ESA's requirements for listing is not required to make a positive 90-day finding. We will not conclude that a lack of specific information alone necessitates a negative 90-day finding if a reasonable person conducting an impartial scientific review would conclude that the unknown information itself suggests the species may be at risk of extinction presently or within the foreseeable future.

To make a 90-day finding on a petition to list a species, we evaluate whether the petition presents substantial scientific or commercial information indicating the subject species may be either threatened or endangered, as defined by the ESA. First, we evaluate whether the information presented in the petition, in light of the information readily available in our files, indicates that the petitioned entity constitutes a ''species'' eligible for listing under the ESA. Next, we evaluate whether the information indicates that the species faces an extinction risk such that listing, delisting, or reclassification may be warranted; this may be indicated in information expressly discussing the species' status and trends, or in information describing impacts and threats to the species. We evaluate any information on specific demographic factors pertinent to evaluating extinction risk for the species (*e.g.,* population abundance and trends, productivity, spatial structure, age structure, sex ratio, diversity, current and historical range, habitat integrity or fragmentation), and the potential contribution of identified demographic risks to extinction risk for the species. We then evaluate the potential links between these demographic risks and the causative impacts and threats identified in section 4(a)(1) of the ESA.

Information presented on impacts or threats should be specific to the species and should reasonably suggest that one or more of these factors may be operative threats that act or have acted on the species to the point that it may warrant protection under the ESA. Broad statements about generalized threats to the species, or identification of factors that could negatively impact a species, do not constitute substantial information indicating that listing may be warranted. We look for information

indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

UKTR Chinook Salmon ESU

We completed the first status review for UKTR Basin Chinook salmon in 1998 (Myers *et al.,* 1998). Myers *et al.* (1998) defined the UKTR Chinook salmon ESU as including all spring-run and fall-run populations from the Trinity River and Klamath River upstream from the confluence of the Trinity River. Based on the information in the status review, we determined that the UKTR Chinook salmon ESU was not at a significant risk of extinction, nor was it likely to become endangered in the foreseeable future, and therefore did not warrant listing under the ESA (63 FR 11482; March 9, 1998). On January 28, 2011, the Secretary of Commerce received a petition from the Center for Biological Diversity (CBD), Oregon Wild, Environmental Protection Information Center, and The Larch Company, to list UKTR Chinook salmon under the ESA and designate critical habitat. We made a positive 90-day finding, conducted a status review, and made a 12-month not warranted finding on the petitioned actions (77 FR 19597; April 2, 2012). In reaching our not warranted conclusion, we confirmed our earlier finding that spring-run and fall-run Chinook salmon in the UKTR Basin constitute a single ESU and, consistent with our earlier finding, concluded that the overall extinction risk of the ESU was considered to be low over the subsequent 100 years.

Evaluation of Petition and Information Readily Available in NMFS Files

The petition contains information and arguments in support of listing Chinook salmon under the two alternatives requested by the Petitioners. Under the first listing alternative, the Petitioners request that we list as threatened or endangered the UKTR Chinook salmon ESU, in contrast to our previous finding in 2012 that listing this ESU was not warranted (77 FR 19597; April 2, 2012). In support of their request, the Petitioners present information about recent trends in abundance of the spring-run component of the UKTR Chinook salmon ESU, arguing that those trends indicate that the ESU should be listed. The Petitioners state that the total number of naturally spawning spring-run Chinook salmon since 1990 has averaged 9,983 spawners (range: 2,133 to 35,827); however, in recent years, the abundance of spring-run Chinook has declined. In fact, three out of the six worst years on record were in the past decade, with 4,215 spawners in 2014, 2,638 in 2015, and 2,133 in 2016. The Petitioners note that 2017 was likely to be even lower and that this trend places the ESU at risk of extinction. In our previous not warranted finding (77 FR 19597; April 2, 2012) we found that recent abundance estimates were low relative to historical abundance estimates and that this was most evident in two of the three spring-run populations units evaluated. Specifically, the Biological Review Team (BRT) that was asked to review the status of the UKTR Chinook salmon in 2011 noted concerns about the low numbers of spawners within the spring-run populations and while they concluded that these low numbers did not pose an immediate risk of extinction to the ESU, they were concerned that appropriate habitat and conditions that allow for the expression of the spring-run life history were limited (Williams *et al.* 2011). Given the new information presented by the Petitioners, which show a continued decline in spring-run spawners since the 2011 review, we find that a reasonable person would conclude that low spawner abundance may be impacting overall genetic diversity of the ESU to the point where the petitioned action may be warranted, and that further evaluation is necessary.

The Petitioners also present information on the threats facing the spring-run component of the UKTR Chinook salmon ESU. The Petitioners argue that all five ESA section 4(a)(1) factors contribute to the need to list the species. However, we find that they have only provided support for two of the factors: Disease and the inadequacy of existing regulatory mechanisms. The Petitioners claim that recent observations indicate high rates of disease in juvenile Chinook salmon. In 2014, 81 percent of juvenile Chinook salmon sampled were infected with the lethal parasite *Ceratonova shasta.* In 2015, this percentage rose to 90 percent of sampled juvenile Chinook salmon. These high rates of infection were purportedly the result of poor water quality, low flows, and prolonged absence of flushing flows necessary to scour the river bed (Hillemeier *et al.* 2017). While we do not have additional information in our files on disease risks to Chinook salmon, we consider infection from *C. shasta* to pose a significant risk to coho salmon in the Klamath River basin (NMFS 2013). In the latest 5-year review of the threatened Southern Oregon/Northern California Coast Coho Salmon ESU, we found that severe infection of juvenile coho salmon by *C. shasta* may contribute to declining adult coho salmon returns in the Klamath basin. Risk of mortality from infection (referred to as ceratomyxosis) was greatest at higher temperatures, and given the drought conditions that have persisted for the last four years and associated high water temperatures, we concluded that the risk from ceratomyxosis has likely been higher in the last five years than in the previous five years (NMFS 2016). Based on the information from the Petitioners, infection and associated mortality from ceratomyxosis may also be a significant threat to Chinook salmon in the Klamath, particularly given these two species' similar life histories. Considering the information indicating a declining abundance of spring-run spawners, we find that a reasonable person would conclude that additional mortality of UKTR chinook salmon from disease indicates that the petitioned action may be warranted.

The Petitioners also claim that current hatchery practices and harvest management are inadequate, with current exploitation rates of the species leading to the observed decline in the ESU. In support of their argument, the petitioners claim that the majority of the naturally spawning Chinook salmon in the Trinity basin are of hatchery origin. The Petitioners state that the high proportion of hatchery fish further supports their argument about the low number of returning spring-run Chinook salmon. The Petitioners also provide information on the inadequacy of harvest management. The Petitioners describe how fisheries managers have expressed the need to manage spring-run Chinook salmon. In 2003, the Klamath Fisheries Management Council reported to the Pacific Fisheries Management Council that they intended to develop management recommendations aimed at the conservation of spring-run Chinook salmon while preserving meaningful harvest opportunities for both ocean and river fisheries. The Petitioners claim that harvest management objectives were never set. We also do not have any information in our files to show that current regulatory mechanisms adequately address the threats identified above for spring-run Chinook salmon. Therefore, we find that a reasonable person would conclude that the inadequacy of existing regulatory measures to address threats of overutilization or disease of the UKTR Chinook salmon ESU indicate that the petitioned action may be warranted.

Under the second recommended listing alternative, the Petitioners

present new genetic evidence to suggest the spring-run Chinook salmon populations in the UKTR Basin may qualify as a separate ESU from the fall-run populations and request this new ESU to be listed based on the threats identified above. Based on biological, genetic, and ecological information compiled and reviewed as part of the status review for Chinook salmon (Myers *et al.,* 1998), we included all spring-run and fall-run Chinook salmon populations in the Klamath River Basin upstream from the confluence of the Klamath and Trinity rivers in the UKTR Chinook salmon ESU (63 FR 11482; March 9, 1998). In our 2012 not warranted decision (77 FR 19597; April 2, 2012), we reconfirmed the configuration of the UKTR Chinook salmon ESU. In both cases, we found that spring-run and fall-run Chinook salmon populations in the UKTR Basin were genetically very similar and not reproductively isolated from each other. The Petitioners contend the findings from a recently published article on the evolutionary basis of premature migration in Pacific salmon (Prince *et al.* 2017) indicate that spring-run Chinook salmon in the UKTR Basin should be considered a separate ESU, and therefore eligible to be listed as threatened or endangered. Prince *et al.* (2017) suggest that their results indicate that premature migration (*e.g.* spring-run Chinook salmon) arose from a single evolutionary event within the species and, if lost, are not likely to re-evolve in time frames relevant to conservation planning. Therefore, the Petitioners contend that the new genetic information indicates that spring-run Chinook salmon in the UKTR Basin satisfy the criteria for a species to be considered an ESU because: (1) They are substantially reproductively isolated, and (2) they represent an important component in the evolutionary legacy of the species. We have reviewed the new genetic information and find that a reasonable person may conclude that spring-run Chinook salmon in the UKTR Basin would qualify as an ESU pursuant to our ESU Policy.

Petition Finding

After reviewing the information contained in the petition, as well as information readily available in our files, we conclude the petition presents substantial scientific information indicating the petitioned actions to list as threatened or endangered the UKTR Chinook salmon ESU or, alternatively, to create a new ESU to describe spring-run Chinook salmon in the UKTR Basin and list the new ESU as threatened or endangered may be warranted. Therefore, in accordance with section 4(b)(3)(A) of the ESA and NMFS' implementing regulations (50 CFR 424.14(h)(2)), we will commence a status review of the UKTR Chinook salmon ESU. During our status review, we will first consider the request to designate a new ESU to describe spring-run Chinook salmon in the UKTR Basin in light of our ESU Policy (56 FR 58612; November 20, 1991). If we determine that the spring-run component qualifies as a separate ESU, then we will evaluate its status to determine whether it is in danger of extinction or likely to become so within the foreseeable future throughout all or a significant portion of its range. Otherwise, we will evaluate the status of the existing UKTR Chinook salmon ESU to determine if it warrants listing. As required by section 4(b)(3)(B) of the ESA, we will publish a finding as to whether listing an ESU as endangered or threatened is warranted.

Information Solicited

To ensure that our status review is informed by the best available scientific and commercial information, we are opening a 60-day public comment period to solicit information on Chinook salmon in the UKTR Basin. We also solicited information on Chinook salmon in the UKTR Basin with our 90-day finding on the previous petition (76 FR 20302; April 12, 2011). Therefore, please do not re-submit information submitted in response to that previous finding. We request information from the public, concerned governmental agencies, Native American tribes, the scientific community, agricultural and forestry groups, conservation groups, fishing groups, industry, or any other interested parties concerning the current and/or historical status of Chinook salmon in the UKTR Basin. Specifically, we request information regarding: (1) Species abundance; (2) species productivity; (3) species distribution or population spatial structure; (4) patterns of phenotypic, genotypic, and life history diversity; (5) habitat conditions and associated limiting factors and threats; (6) ongoing or planned efforts to protect and restore the species and their habitats; (7) information on the adequacy of existing regulatory mechanisms, whether protections are being implemented, and whether they are proving effective in conserving the species; (8) data concerning the status and trends of identified limiting factors or threats; (9) information on targeted harvest (commercial and recreational) and bycatch of the species; (10) other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes; and (11) information concerning the impacts of environmental variability and climate change on survival, recruitment, distribution, and/or extinction risk.

We are also requesting information on areas that may qualify as critical habitat for Chinook salmon in the UKTR Basin. Please identify: Physical and biological features essential to the conservation of the species that may require special management considerations; areas occupied by the species containing those physical and biological features; and unoccupied areas essential for conservation of the species (16 U.S.C. 1533(a)(3)(A); 50 CFR 424.12).

We request that all information be accompanied by: (1) Supporting documentation such as maps, bibliographic references, or reprints of pertinent publications; and (2) the submitter's name, address, and any association, institution, or business that the person represents.

References Cited

The complete citations for the references used in this document can be obtained by contacting NMFS (See **FOR FURTHER INFORMATION CONTACT**) or on our web page at: *www.westcoast.fisheries.noaa.gov.*

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 21, 2018.

Samuel D. Rauch, III,

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

[FR Doc. 2018–03906 Filed 2–26–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 171026999–8049–01]

RIN 0648–BH36

Fisheries Off West Coast States; Highly Migratory Fisheries; Amendment 4 to Fishery Management Plan for West Coast Highly Migratory Species Fisheries; Revisions to the Biennial Management Cycle

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

ACTION: Proposed rule; request for comments.

SUMMARY: Based on a recommendation from the Pacific Fishery Management Council (Council) NMFS is proposing to revise regulations under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to implement Amendment 4 to the Fishery Management Plan for U.S. West Coast Highly Migratory Species (HMS FMP). The intent of Amendment 4 is to bring descriptions of the management context for HMS fisheries up to date, to better describe the Council's role in the process of making stock status determinations for highly migratory species (HMS), including the Council's evaluations of the best scientific information available (BSIA), and to change the schedule of the Council's three-meeting biennial management cycle for HMS stocks. Consistent with Amendment 4, this proposed rule would update and amend the descriptions of biennial management cycle activities in the regulations for the HMS FMP to allow the Council to shift the schedule of Council meetings for the consideration of HMS management actions from June, September, and November to September, November, and March. The changes proposed to biennial management cycle activities and the schedule are intended to better streamline international and domestic management processes for HMS. Amendment 4 and this proposed rule are administrative in nature and are not expected to affect activities authorized under the FMP or harvest levels of HMS.

DATES: Comments on the proposed rule and supporting documents must be submitted in writing by April 13, 2018. However, please note that comments regarding the decision to approve, disapprove, or partially approve Amendment 4 to the HMS FMP must be submitted by the end of the comment period for the Notice of Availability (NOA) for Amendment 4, which was published separately in the **Federal Register** on January 23, 2018 (see the NOA at 83 FR 3108).

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2017–0138, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0138,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to *Amber.Rhodes@noaa.gov,* NMFS West Coast Region Long Beach Office, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier ''NOAA–NMFS–2017–0138'' in the comments.

Instructions: Comments must be submitted by one of the above methods to ensure they are received, documented, and considered by NMFS. 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. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Copies of the proposed Amendment 4, Regulatory Impact Review (RIR) and other supporting documents are available via the Federal eRulemaking Portal: *http://www.regulations.gov,* docket NOAA–NMFS–2017–0138, or contact Amber Rhodes, NMFS West Coast Region, 562–980–3231, *Amber.Rhodes@noaa.gov* or Heidi Taylor, NMFS West Coast Region, 562–980–4039, *Heidi.Taylor@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Amber Rhodes, NMFS, 562–980–3231, *Amber.Rhodes@noaa.gov* or Heidi Taylor, NMFS, 562–980–4039, *Heidi.Taylor@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

During the Council's 2016 biennial management cycle meetings for HMS and considerations for recent revisions to agency guidelines for National Standard 1 (81 FR 71858, October 18, 2016), key differences became evident regarding the management of HMS stocks versus other Council-managed stocks for which management activities are largely or fully within the scope of Council jurisdiction. In contrast to assessments for other Council-managed stocks, which are conducted by NMFS, most HMS assessments are conducted by teams of regional fishery management organization (RFMO) scientific committees, which may include scientists from the United States and other participating nations in Pacific HMS fisheries or international scientists who work at RFMOs. Additionally, NMFS employs peer review processes to determine whether the output of international HMS assessments meet the BSIA standard. (See the August 16, 2016, notice of regional peer review processes, 81 FR 54561.) These peer review processes are consistent with BSIA determinations for most U.S.-targeted stocks subject to international agreements. Following these steps, NMFS uses assessment outputs that meet the BSIA standard to determine stock status by applying the status determination criteria (*i.e.,* maximum fishing mortality thresholds and minimum stock size thresholds) in the HMS FMP.

During its September 2017 meeting, the Council decided to submit Amendment 4 to the HMS FMP to NMFS for review. In a January 23, 2018, Notice of Availability (83 FR 3108), NMFS announced that the Council submitted Amendment 4 to the Secretary of Commerce for approval, and requested comments on Amendment 4. Amendment 4 intends to bring descriptions of the management context for HMS fisheries up to date and to shift the schedule for the Council's biennial management cycle. Finalization of this proposed rule to revise regulations at 50 CFR 660.709 is contingent upon approval of Amendment 4 and NMFS responses to comments received on this proposed rule.

Amendment 4 is intended to better align the Council's biennial management cycle for HMS with the timing of international stock assessments and stock status determinations. Most HMS are internationally assessed, and stock assessments for HMS, unlike assessments for domestically-managed stocks, are not routinely subject to the review of the Council's Scientific and Statistical Committee for purposes of determining BSIA. Therefore, the results from updated international assessments that have been determined to be BSIA may not be readily available to the Council during their June and September meetings for scoping, determining alternatives, and selecting preferred management recommendations to address the status of stocks deemed overfished or subject to overfishing. Thus, these decisions currently must occur on an ad hoc basis, sometimes resulting in inefficiencies and in difficulties in interpreting and applying outdated information. The changes to the current biennial management cycle included in Amendment 4 and implemented by this proposed rule would allow the Council to streamline domestic and international management activities, such as stock assessment and biological reference

point reviews, and to better align schedules to meet statutory timelines in section 304(e) and (i) of the MSA (16 U.S.C. 1854(e) and (i)) for making recommendations for domestic regulations and international measures when stocks are determined to be overfished or subject to overfishing. Additionally, this rule's proposed revisions to 50 CFR 660.709 would ensure that the meeting schedule is not codified in regulations, thus allowing the Council to make changes to the schedule for its meetings in the biennial management cycle, consistent with the HMS FMP, without needing to seek a change in the regulatory language. Allowing the Council to make this type of adjustment without seeking a regulatory change improves the efficiency with which future changes to the biennial management cycle can be implemented.

Proposed Regulations

This proposed rule would amend 50 CFR 660.709 to update the descriptions of biennial management cycle activities under the HMS FMP and shift the schedule of Council meetings from June, September, and November to September, November, and March by referring to the schedule specified in the HMS FMP. Thus, the proposed regulations remove the need to make future schedule changes to the Council's biennial management cycle through a rulemaking.

Classification

Pursuant to section 304 (b)(1)(A) of the MSA (16 U.S.C. 1854(b)(1)(A)), the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 4 to the HMS FMP, other provisions of the MSA, and other applicable laws, subject to further consideration after public comment.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. For Regulatory Flexibility Act (RFA) purposes only, NMFS has established a size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. However, this proposed rule to revise regulations at 50 CFR 660.709, consistent with Amendment 4 to the HMS FMP, is administrative in nature and will not directly affect the operations of any businesses, small or large, that are authorized to catch finfish under the HMS FMP. Because the proposed action does not include revisions to stock status determination criteria (*i.e.,* minimum stock size thresholds or maximum fishing mortality thresholds) used to determine whether management unit species of the HMS FMP are subject to overfishing or are overfished, the proposed action will not directly affect fishing activities authorized under the HMS FMP or the harvest levels of these fisheries. Therefore, there are no significant economic impacts on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required, and none has been prepared.

There are no new collection-of-information requirements associated with this action that are subject to the Paperwork Reduction Act; however, existing collection-of-information requirements associated with the HMS FMP still apply. These requirements have been approved by the Office of Management and Budget (OMB control numbers 0648–0204, 0648–0223, 0648–0361, 0648–0498). Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 22, 2018.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

Subpart K—Highly Migratory Fisheries

■ 1. The authority citation for part 660, subpart K, continues to read as follows:

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

■ 2. In § 660.709, remove paragraphs (a)(2) and (a)(3), redesignate paragraph (a)(4) as (a)(2), and revise paragraphs (a)(1) and (d) to read as follows:

§ 660.709 Annual specifications.

(a) *Procedure.* (1) Each year, the HMSMT will deliver a stock assessment and fishery evaluation report to the Council for all HMS with any necessary recommendations for harvest guidelines, quotas or other management measures to protect HMS, including updated maximum sustainable yield (MSY) and optimum yield (OY) estimates based on the best available science. The Council's Scientific and Statistical Committee may review the estimates and make a recommendation on their suitability for management. As described in the fishery management plan, the Council will periodically review these recommendations and decide whether to adopt updated numerical estimates of MSY and OY, which are then submitted as recommendations for NMFS to review as part of the management measures review process.

* * * * *

(d) Irrespective of the normal review process, the Council may propose management action to protect HMS at any time. The Council may adopt a management cycle different from the one described in the fishery management plan provided that such change is made by a majority vote of the Council and a 6-month notice of the change is given.

[FR Doc. 2018–03963 Filed 2–26–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 160908833–7999–01]

RIN 0648–BG34

Requirements of the Vessel Monitoring System Type-Approval; Reopening of Public Comment Period

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

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: The National Marine Fisheries Service is reopening the public comment period on the proposed rule on requirements of the Vessel

Monitoring System Type-Approval that published on December 5, 2017. The comment period ended on January 4, 2018. NMFS did not receive any comments on the original proposed rule and has decided to re-open the comment period for 30 days to provide additional opportunity for informed public comment.

DATES: The deadline for comments on the proposed rule published at 82 FR 57419 has been reopened from February 27, 2018 to March 29, 2018.

ADDRESSES: You may submit comments on the proposed rule, as published on December 5, 2017 (82 FR 57419), identified by ''NOAA–HQ–2017–0141'' by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-HQ-2017-0141,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Send written comments to Kelly Spalding, 1315 East West Highway, Room 3207, Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personally identifiable 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).

FOR FURTHER INFORMATION CONTACT: Kelly Spalding, Vessel Monitoring System Program Manager, Headquarters: 301–427–8269 or *Kelly.spalding@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On December 5, 2017, NMFS published in the **Federal Register** (82 FR 57419) a proposed rule on NMFS's proposed amendment to remove two sections of 50 CFR part 600, subpart Q, that require VMS type-approval holders (VMS vendors) to periodically renew their type-approvals. Currently, § 600.1512 of the VMS type approval regulations provides that type-approvals are valid for three years from the date on which NMFS publishes a notice in the **Federal Register** of the approval. Section 600.1513 requires that prior to the expiration of the three-year type-approval period, the VMS vendor must comply with the procedure set out for type-approval renewal. NMFS has found that the renewal process is unnecessary, has cost fishermen and approved VMS vendors additional time and expense, and has imposed unnecessary cost on the government and is therefore proposing to remove the renewal requirement from 50 CFR 600, Subpart Q. NMFS refers the reader to the December 5, 2017 proposed rule (82 FR 57419) for background information concerning the proposed rule as this notice does not repeat the information contained therein.

Public Comment Reopening

NMFS will re-open the comment period for 30 days to provide additional opportunity for informed public comment.

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

Dated: February 22, 2018.

Samuel D. Rauch III,

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

[FR Doc. 2018–03945 Filed 2–26–18; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 83, No. 39
Tuesday, February 27, 2018

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Request for Proposals: Multi-Family Housing Transfer and Prepayment Technical Assistance Grants

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: This Request for Proposal (RFP or Notice) announces an availability of funds and the timeframe to submit proposals for Multi-Family Housing (MFH) Transfer and Prepayment Technical Assistance (TA) grants. Section 771 of the Consolidated Appropriations Act, 2017 appropriated $1,000,000 to provide grants to qualified non-profit organizations and public housing authorities (PHA). Selected grantees will use the funds to provide financial and legal TA to the Rural Housing Service (RHS) MFH loan applicants to facilitate the acquisition of RHS Section 515 properties with maturing Rural Development (RD) mortgages, in areas at risk of losing affordable housing. Consistent with Section 771 and the pilot program initiated by RHS on March 1, 2017 (available at: *www.rd.usda.gov/files/RDUL-Nonprofit.pdf*), this RFP is soliciting proposals from qualified non-profit organizations and PHA to provide TA to MFH loan applicants who are qualified non-profit organizations and PHA with their acquisitions of Section 515 properties with maturing mortgages.

Work performed under these grants is expected to result in an increased submission of quality applications for transfers of Section 515 properties to eligible non-profit and PHA loan applicants as defined in RD regulations. Furthermore, it will result in the preservation and continued availability of decent, safe, and sanitary housing for eligible Rural Rental Housing (RRH) tenants and maximize the Government's ongoing return on the public's investment in rural areas.

The grant funds must be used to assist eligible loan applicants with specific transactions to acquire Section 515 projects with maturing mortgages under the pilot program. Grant funds are available for obligation through September 30, 2018.

DATES: February 27, 2018.

ADDRESSES: Complete proposals should be addressed to Mirna Reyes-Bible, Finance and Loan Analyst, Preservation and Direct Loan Division, STOP 0781 (Room 1243–S), USDA Rural Development, 1400 Independence Avenue SW, Washington, DC 20250–0781 and must be received by 5:00 p.m. Eastern Daylight Time March 29, 2018 (deadline).

You should contact a U.S. Department of Agriculture (USDA) Rural Development State Office if you have questions. You are encouraged to contact your State Office well in advance of the proposal deadline to ask any questions about the process. Contact information for State Offices can be found at *https://www.rd.usda.gov/contact-us/state-offices.*

Program guidance as well as application guidance may be obtained at: *https://www.rd.usda.gov/programs-services/multi-family-housing-direct-loans.*

Please review the *grants.gov* website at: *http://grants.gov/applicants/organization/registration.jsp* for instructions on the process of registering your organization as soon as possible to ensure you are able to meet the proposal deadline. Proposals received after the deadline will not be evaluated.

RHS will date and time stamp incoming proposals to evidence timely receipt and; upon request, will provide the responding entities with a written acknowledgement of receipt.

FOR FURTHER INFORMATION CONTACT: Mirna Reyes-Bible, Finance and Loan Analyst, Preservation and Direct Loan Division, STOP 0781 (Room 1243–S), USDA Rural Development, 1400 Independence Avenue SW, Washington, DC 20250–0781, telephone: (202) 720–1753 (this is not a toll free number), or via email: *mirna.reyesbible@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Overview Information

Federal Agency Name: Rural Housing Service.

Funding Opportunity Title: Request for Proposals: Multi-Family Housing Transfer and Prepayment Technical Assistance Grants.

Announcement Type: Initial Announcement.

Catalog of Federal Domestic Assistance: 10.447.

Dates: The deadline for receipt of all proposals in response to this RFP is 5:00 p.m., Eastern Daylight Time, on March 29, 2018.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act, the paperwork burden associated with this Notice has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0006.

Funding Opportunity Description

The TA grants authorized under this Notice are for the purpose of facilitating the transfer and preservation of existing RRH properties with maturing mortgages under Section 515 of the Housing Act of 1949, as amended. RHS regulations for the Section 515 program are published at 7 CFR part 3560. Proposals must demonstrate the responding entity's experience and expertise in all aspects of acquisition and rehabilitation of affordable MFH properties and their demonstrated capacity to provide advisory services in affordable housing. All responding entities must project the net Return on Investment (ROI) of the grant funds being requested to demonstrate the relative effectiveness and efficiency of grantee's proposed Statement of Work (SOW) for future Agency decisions and program revisions.

Responding entities may submit separate requests involving properties in multiple local areas. For the purpose of this Notice, responding entities may and are encouraged to submit a grant proposal for multiple local areas provided they are within the same region as described in this section. A responding entity may apply to more than one region; however, separate proposals must be submitted for each region. Entities interested in responding to this Notice must consult with the Rural Development State Director in the proposal's region to develop a list of

targeted local areas in their respective State Office jurisdictions. To effectively represent the geographic diversity of projects within the RD portfolio the Agency will consider and score all proposals on a regional basis. RHS intends to award at least one grant for each of the four geographic regions listed below.

North-East: CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VT, VI, WV
South: AL, AR, FL, GA, KY, LA, NC, OK, MS, PR, SC, TN, TX, VI
Mid-West: IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, WI
West: AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, WY, WP

I. Award Information

RHS will evaluate and score the grant applications according to the criteria set forth in this Notice. RHS will select grantees based on the scoring as well as the goal of achieving the highest number of different grantees, areas and loan applicants, and cost-efficiency. The maximum award within a region will be $250,000. The maximum total expenditure for all TA services, including administrative costs, per project is $40,000.

RHS has the authority under the Act to utilize up to 100 percent of the Section 771 appropriation for MFH TA grants. Funds not obligated to initial awardees by June 1, 2018, may be awarded to other non-profit and/or PHA applicants waiting for the TA grants based on scoring.

When selecting a grantee, RHS may request changes to the SOW (see Part III of this Notice). Grantees must execute a Grant Agreement that will, among other things, incorporate a SOW (see Part III of this Notice) agreed to by the RHS. If the selected grantee does not accept the terms of RHS and/or does not deliver an executed Grant Agreement to RHS within ten business days after receiving the Grant Agreement with the agreed upon SOW, RHS may choose to rescind the award and select another grantee without further notice.

II. Eligibility Information

Eligibility for grants under this Notice is limited to non-profit organizations and PHAs meeting the requirements specified in this Notice.

A. Expertise and Capacity

Eligible grantees must have the knowledge, ability, technical expertise, practical experience, and capacity necessary to develop and package Section 515 property transfer transactions. They must also be able to demonstrate the ability to provide TA to non-profits and/or PHAs to facilitate their acquisition of Section 515 properties, including, but not limited to, the submission of loan application packages. In addition, all eligible grantees must possess the ability to exercise leadership, organize work, and prioritize assignments to meet work demands in a timely and cost efficient manner. Eligible grantees will include a proposed SOW (see Section III of this Notice) which will be evaluated as part of any eligibility qualification and award determination.

B. Organization Status

Responding entities must document each of the following in their response:

1. Status as a non-profit and/or PHA.
2. Good standing within the State you are organized.
3. Legal authority to operate and deliver financial and legal TA under the applicable State law for the State(s) you propose to deliver the TA. Examples of acceptable documentation include but are not limited to bylaws, organizational charters, and statutes or regulations.
4. No current or unresolved default or violation of any other Federal, State or local grant or loan agreement(s).
5. Experience in providing TA for MFH affordable housing (describe in the SOW).
6. The requirements above will also apply to any entity performing services on behalf of the respondent.

III. SOW

Responding entities must submit a detailed SOW describing each of the following requirements:

1. An introduction/overview with a description of your plan to provide TA to non-profits and PHAs in the acquisition of Section 515 properties with maturing mortgages.
2. Explain your organization's capabilities to execute your plan, focusing on the elements described in Section II.A of this RFP.
3. Provide a timeline projection with when, how, and to whom you intend to provide the TA. Include a grant funds usage projection that corresponds with the timeline and illustrates administrative costs in dollars, and as a percentage of the TA services provided. Please see Section IV for more information regarding eligible costs.
4. Describe the types of TA you propose to provide for non-profits and/or PHAs to enable them to submit successful transfer applications to RHS.
5. Describe how you will access other funding sources for any needed development and/or construction, repair and rehabilitation of the MFH properties.
6. Describe which services you will provide directly and which you will provide through third parties.
7. Describe how you will identify potential sellers of properties to be acquired by non-profits and/or PHAs.
8. Explain your process to use grant funds to non-profits and/or PHAs for actual legal and financial soft cost expenditures.
9. Describe your direct and indirect administrative costs that would be associated with the administration of this grant.
10. Describe any other strength and/or capability not included above that you believe qualifies you to administer this grant.
11. Project the ROI of the requested grant funds to demonstrate the effectiveness and efficiency of your proposal. Describe the method being used to project an ROI, which must involve a detailed examination of outputs and outcomes.

IV. Eligible Purposes

Entities responding to this Notice are required to provide TA to non-profits and/or PHAs acquiring Section 515 projects with maturing mortgages for eligible expenses in any or all of the following areas: Assisting non-profits or PHAs locate potential Section 515 properties with maturing mortgages for transfer; providing TA in the transfer analysis, negotiation, underwriting, and application process; and working with the non-profit or PHA to identify other financial assistance and help secure funding from other sources for the purpose of leveraging those funds with RHS funds. Costs will be limited to those that are allowed under 2 CFR part 200. The provider will need to secure RHS' written approval for payment of any services not specifically listed below.

1. Eligible purposes may include soft costs such as legal costs, tax consultation fee, financial analysis, transaction structuring analysis and documentation of other transaction details such as Capital Needs Assessments (CNA), appraisals, and market surveys or other consultation, advisory and non-construction services the buyer may be required to provide as part of the application process. Build materials, labor and trades or any costs or expenditures otherwise typically included as any hard costs for actual construction, repairs, prepayment, interest or principal payments or reductions or *other costs not disclosed to and approved by the RHS National Office prior to being incurred will not be eligible for* payment with any of the grant funds awarded under this Notice.

2. Grant funds will not be used by the provider for TA activities that are not directly related to a specific transaction (such as outreach, conferences, provider personnel education/training, etc.).

3. Grant funds will not be used by the provider for TA activities for transactions in which they have any direct or indirect ownership interest (regardless of whether it is an interest as a current or prospective owner).

4. In addition, if selected for funding, the respondent will be required to revise their SOW to identify any changes in the geographic location of the targeted areas and will submit their revised SOW to the National Office for approval. Any revision must not lower the initial score used in selection. If a revision lowers the score, it will result in a review of the initial scores for all applications received in the region and the grant will be awarded to the responding entity in the same manner as previously prescribed in this Notice. When submitted for approval, the respondent must also submit a summary of their consultation with the RD State Directors. At grant closing, the revised SOW will be attached to, and become a part of, the Grant Agreement. Revision and consultation under this paragraph is not an eligible purpose.

V. Proposal and Submission Information

All proposals must be delivered in three identical binders organized as follows:

A. Summary

The proposal must include a summary page listing all of the following items. This information should be double-spaced between items and not be in narrative form:

A. Responding entity's name,

B. Responding entity's Taxpayer Identification Number,

C. Responding entity's address,

D. Responding entity's telephone number,

E. Name of responding entity's contact person, telephone number, and address,

F. Amount of grant requested,

G. The MFH TA grant region for which the proposal is submitted (*i.e.,* North-East, South, Mid-West, or West), and

H. Responding entity's Dun and Bradstreet Data Universal Numbering System (DUNS) number, registration in the Central Contractor Registration (CCR) database prior to submitting a proposal pursuant to 2 CFR 25.200(b), and other supporting information to substantiate their legal authority and good standing. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at (866) 705–5711 or via the internet at *http://www.dnb.com/.* Additional information concerning this requirement can be obtained on the *grants.gov* website at *http://www.grants.gov.* Similarly, respondents may register for the CCR at *https://uscontractingregistration.com* or by calling (877) 252–2700. In addition, the responding entity must maintain registration in the CCR database at all times during which it has an active Federal award or an application or plan under construction by the Agency. Similarly, all recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive compensation in accordance with 2 CFR part 170, so long as an entity respondent does not have an exception under 2 CFR 170.110(b), the grantee must have the necessary processes and systems in place to comply with the reporting requirements should the responding entity receive funding. See 2 CFR 170.200(b).

B. Felonies and Federal Tax Delinquencies

Awards made under this Notice are subject to Sections 745 and 746 of the Consolidated Appropriations Act, 2017 (Pub. L. 115–31) regarding corporate felony convictions and corporate Federal tax delinquencies. To comply with these provisions, all respondents must complete and include the proposed paragraph (A) of this representation, and all corporate respondents also must complete paragraphs (B) and (C) of this representation:

(1) The responding entity: _____ [insert name] has __ has not __ (check one) filed articles of incorporation in one of the fifty States, the District of Columbia, or the various territories of the United States including American Samoa, Federated States of Micronesia, Guam, Midway Islands, Northern Mariana Islands, Puerto Rico, Republic of Palau, Republic of the Marshall Islands or the U.S. Virgin Islands.

(2) Neither the responding entity nor any key principle or member of the controlling board, council, or governing body, _____ [insert name] has __ has not __ (check one) been convicted of a felony criminal violation under Federal or State law in the 24 months preceding the date of application. The entity has __ has not __ (check one) had any officer or agent of the respondent convicted of a felony criminal violation for actions taken on behalf of the respondent under Federal or State law in the 24 months preceding the date of the signature on the pre-application.

(3) The responding entity _____ [insert name] has __ does not have __ (check one) any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an Agreement with the authority responsible for collecting the tax liability.

C. Organizational and Financial Status

Proposals must include organizational status documents reflecting the criteria in Section II.B of this Notice, as well as financial statements to evidence the responding entity's status as a properly organized private or public non-profit or PHA and its financial ability to carry out the objectives of the grant program. If other entities will be working on behalf of the grantees, working agreements between the respondent and those entities must be submitted as part of the proposal and any associated cost must be included in the responding entity's budget.

Responding entities must also disclose all RHS projects in which the respondent and or its third-party affiliates have a direct or indirect ownership interest.

D. Organizational Expertise and Experience

Responding entities must provide a capabilities statement describing the respondent's qualifications under Section II.A to provide TA on Section 515 transfers and loan applications.

1. Narrative

The responding entity must include a narrative describing its knowledge, demonstrated ability, and practical experience in providing training and TA to MFH applicants of loans or grants for the development or rehabilitation of MFH, and the number of projects to which they have provided such assistance. This includes its knowledge and demonstrated ability in estimating development and construction costs of MFH and for obtaining the necessary permits and clearances.

The responding entity must also explain why the targeted areas are at risk for loss of affordable housing.

2. Specific MFH Experience

For purposes of demonstrating past MFH experience of responding entities, the Agency will consider experience with MFH programs beyond USDA MFH programs.

The responding entity must identify the types of TA they proposed to offer will be delivered to the potential purchasers. Proposals must identify types of MFH financial assistance (loans, grants, tax credits, leveraged funding, etc.) for which the responding entity has applied in the last 5 years, as well as the success ratio of those applications.

Proposals must also identify any applications of a third-party for MFH financial assistance where the responding entity assisted in the development and packaging of the application in the last 5 years, as well as the success ratio of those applications.

Proposals must identify third parties to whom the responding entity has provided TA on applications for financial assistance for the development, rehabilitation or transfer of MFH projects in the last 5 years.

Proposals must identify MFH projects for which the responding entity assisted in estimating transfer, development and rehabilitation/construction costs and obtaining permit and clearances in the last 5 years.

Proposals must identify specific MFH projects for which the responding entity has been able to leverage funding from two or more sources for transfer, rehabilitation, or development.

For the projects and applications above, information must be provided concerning the number of housing units, their size, their design, and the amount of grant and loan funds that were secured.

3. Key Personnel

Proposals must include the resumes of the Key Personnel that will perform the day-to-day administration of this grant. Describe each Key Personnel's ability to perform the proposal's activities, and past experience in successfully managing grants. Also include an organizational plan that includes a staffing chart complete with name, job title, salary, hours, timelines, and descriptions of employee duties to achieve the objectives of the grant program.

4. Agents

If the responding entity intends to have other entities working on its behalf, the narrative must identify those entities and address their ability to meet the stated eligibility requirements.

E. SOW

Proposals must include a detailed SOW (see Section III of this Notice). The ROI description and method of evaluation is an integral part of the SOW and is a critical component of the selection process and is required under the Government Performance and Results Act of 1993 (Pub. L. 103–62).

F. Scoring Criteria Worksheet

Proposals must include a separate one-page information sheet listing each of the ''Proposal Scoring Criteria'' contained in Section VI of this Notice, followed by the page numbers of all relevant material and documentation that is contained in the proposal that supports these criteria.

VI. Proposal Review Information

Only those respondents deemed to be qualified under Sections V.A, V.B and V.C of this Notice will be scored under this section. The review process designed for this RFP will evaluate the degree to which the proposal sets forth measurable realistic objectives that are consistent with this Notice and can be completed within realistic time frames consistent with the proposal and processing guidance established by RD transfer regulations. Proposals will only compete against other proposals within the same region previously identified in this Notice. Selection points will be awarded as follows:

A. Key Personnel

1. Key Personnel has successful verifiable experience performing the requirements of this RFP:

Less than 2 years: 0 points
2–5 years: 5 points
More than 5–8 years: 10 points
More than 8–12 years: 20 points
More than 12 years: 30 points

2. Key Personnel has successful verifiable experience managing grants through their lifecycle:

1 or less grants: 0 points
2–4 grants: 5 points
5–8 grants: 10 points
9–12 grants: 20 points
13 or more grants: 30 points

B. Target Areas

1. The more areas the proposal commits to targeting, the more points will be awarded. Points will be given based on the number of areas within a region that the responding entity has targeted:

5 or less targeted areas: 0 points
6 targeted areas: 5 points
7 targeted areas: 10 points
8 targeted areas: 15 points
9 or more targeted areas: 20 points

2. RHS wants the responding entity to cover as much of the grant region as possible and as supported by the respective RD State Office(s). For this reason, additional points will be awarded to grant proposals that target areas in more than two States within the same region. All responses to this Notice only compete within the regions previously identified. The grant proposal commits to targeting areas in the following number of States:

Less than 3 States: 0 points
3 or 4 States: 5 points
5 or 6 States: 10 points
7 or 8 States: 15 points
9 or more States: 20 points

C. Multifamily Housing Experience

1. The number of individually successful (approved, obligated or completed) multi-family loan or grant applications the responding entity has assisted in developing and packaging:

0–1 applications: 0 points
2–3 applications: 5 points
4–6 applications: 10 points
7–9 applications: 20 points
10 or more applications: 30 points

2. The number of clients seeking loans or grants for the development, rehabilitation, or transfer of multi-family projects to whom the respondent has provided training and TA.

0–1 clients: 0 points
2–3 clients: 5 points
4–6 clients: 10 points
7–9 clients: 15 points
10 or more clients: 20 points

3. The number of multi-family projects for which the respondent has assisted in estimating transfer, development and rehabilitation/construction costs and obtaining the necessary permits and clearances:

0 to 1 projects: 0 points
2 to 4 projects: 5 points
5 to 7 projects: 10 points
8 to 9 projects: 15 points
10 or more projects: 20 points

4. The number of times the responding entity has been able to leverage funding from two or more sources for the transfer, rehabilitation, or development of a multi-family project.

0 to 1 times: 0 points
2 to 4 times: 5 points
5 to 10 times: 10 points
11 to 15 times: 15 points
16 or more times: 20 points

D. Administrative Costs

Administrative costs as a percentage of grant funds used:

More than 20%: 0 points
15% or more but less 20%: 5 points
10% or more but less 15%: 15 points
5% or more but less 10%: 25 points
Less than 5%: 40 points

E. Additional Factors

In the event two or more proposals within a region are scored with an equal

amount of points, the Agency will make selections based on achieving the maximum number of areas, regions, grantees and loan applicants being served, as well as cost-efficiency.

All proposals received under this Notice and grantees will be screened for eligibility to participate in the grant program using Treasury's Do Not Pay Portal in compliance with the Improper Payments Elimination and Recovery Improvement Act.

RHS will notify all responding entities whether their proposal has been accepted or rejected and provide appeal rights under 7 CFR part 11, as appropriate.

Paperwork Reduction Act

The reporting requirements contained in this Notice have been approved by the OMB under Control Number 0575–0181.

Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, 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, familial/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:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410;

Fax: (202) 690–7442; or

Email: program.intake@usda.gov.

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

Dated: February 15, 2018.

Curtis M. Anderson,

Acting Administrator, Rural Housing Service.

[FR Doc. 2018–03900 Filed 2–26–18; 8:45 am]

BILLING CODE 3410–XV–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Maine Advisory Committee to the U.S. Commission on Civil 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 Maine Advisory Committee (Committee) will hold a meeting on Tuesday, February 27, 2018, at 1:00 p.m. EST for the purpose of preparing for its public meeting on voting rights issues in the state.

DATES: The meeting will be held on Tuesday, February 27, 2018, at 1:00 p.m. EST

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor, at *ero@usccr.gov* or 202–376–7533.

SUPPLEMENTARY INFORMATION:

Public Call Information: Dial: 1–888–724–9516, Conference ID: 315918.

Members of the public can listen to the discussion. This meeting is available to the public through the above listed toll free number. 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 1–800–877–8339 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 Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Ave., Suite 1150, Washington, DC 20425. They may also be faxed to the Commission at (202) 376–7548, or emailed to Evelyn Bohor at *ero@usccr.gov*. Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

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, Maine Advisory Committee link (*http://www.facadatabase.gov/committee/meetings.aspx?cid=252*). Persons interested in the work of this Committee are directed to the Commission's website, *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: Voting Rights in Maine

Public Comment

Future Plans and Actions

Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstance of this Committee doing work on the FY 2018 statutory enforcement report.

Dated: February 22, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–03910 Filed 2–26–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–825; A–351–847]

Stainless Steel Bar From Brazil; and Certain Carbon and Alloy Steel Cut-to-Length Plate From Brazil: Correction to the Opportunity To Request Administrative Review Notice

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

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2018, the Department published its opportunity to request administrative review of the antidumping duty orders and incorrectly listed the case number for stainless steel bar from Brazil and inadvertently listed the wrong period of review (POR) for certain carbon and alloy steel cut-to-length plate from Brazil. The correct case number for stainless steel bar from Brazil is A–351–825; and the correct POR for certain carbon and alloy steel cut-to-length plate from Brazil is September 22, 2016, through January 31, 2018.[1]

This notice serves as a correction notice.

Dated: January 21, 2018.

James Maeder,

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

[FR Doc. 2018–03920 Filed 2–26–18; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 83 FR 4639 (February 1, 2018).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–879, A–570–066]

Polytetrafluoroethylene Resin From India and the People's Republic of China: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations

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

DATES: Applicable February 27, 2018.

FOR FURTHER INFORMATION CONTACT: Mark Kennedy at (202) 482–7883 (India), and Thomas Schauer at (202) 482–0410 (the People's Republic of China (China)), AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On October 18, 2017, the Department of Commerce (Commerce) initiated less-than-fair-value (LTFV) investigations of imports of polytetrafluoroethylene (PTFE) resin from India and the People's Republic of China.[1] Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the preliminary results of these investigations is March 12, 2018.[2]

Postponement of Preliminary Determination

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in a LTFV investigation within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1)(A)(b)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) The petitione [3] makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On February 12, 2018, the petitioner submitted a timely request that Commerce postpone the preliminary determination in the LTFV investigation.[4] The petitioner stated that it requests postponement of the preliminary determinations of these investigations for the following reasons: the respondents selected for individual examination have requested and been granted extensions of time to file responses to the original questionnaire, which necessarily have delayed the filing of deficiency comments by the petitioner; and additionally, Commerce has only begun to issue supplemental questionnaires, and there will not be sufficient time for the petitioner to review and respond to these questionnaires prior to the current date of the preliminary determination.[5]

For the reasons stated above and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determination by 50 days (*i.e.,* 190 days after the date on which this investigation was initiated). As a result, Commerce will issue its preliminary determination no later than April 30, 2018. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination of this investigation will continue to be 75 days after the date of publication of the preliminary determination, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

[1] *See Polytetrafluoroethylene Resin from India and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations,* 82 FR 49587 (October 26, 2017) (*Initiation Notice*).

[2] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated January 23, 2018 (Tolling Memorandum). All deadlines in this segment of the proceeding have been extended by 3 days.

[3] The petitioner is The Chemours Company FC LLC.

[4] *See* Letters from the petitioner, ''Polytetrafluoroethylene (PTFE) Resin from India: Petitioner's Request to Postpone the Antidumping Investigation Preliminary Determination,'' dated February 12, 2018 and ''Polytetrafluoroethylene (PTFE) Resin from the People's Republic of China: Petitioner's Request to Postpone the Antidumping Investigation Preliminary Determination,'' dated February 12, 2018 (Requests for Postponement).

[5] *See* Requests for Postponement at 2.

Dated: February 20, 2018.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2018–03921 Filed 2–26–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–069, A–542–802, and A–549–835]

Rubber Bands From the People's Republic of China, Sri Lanka, and Thailand: Initiation of Less-Than-Fair-Value Investigations

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

DATES: Applicable February 20, 2018.

FOR FURTHER INFORMATION CONTACT: Paul Stolz at (202) 482–4474 and Stephanie Berger at (202) 482–2483 (the People's Republic of China (China)); Cindy Robinson at (202) 482–3797 (Sri Lanka); and Laurel LaCivita at (202) 482–4243 and Joseph Degreenia at (202) 482–6030 (Thailand); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On January 30, 2018, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) and countervailing duty (CVD) Petitions concerning imports of rubber bands from China, Sri Lanka, and Thailand filed in proper form on behalf of Alliance Rubber Co. (Alliance, the petitioner).[1] The petitioner is a domestic producer of rubber bands.[2]

On February 2 and February 12, 2018, Commerce requested supplemental information pertaining to certain areas of the AD Petitions.[3] The petitioner filed responses to these requests on February 8 and February 13, 2018.[4] On February 16, 2018, based on a telephone conversation between Commerce and counsel to the petitioner, the petitioner agreed to certain clarifications to the scope.[5]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of rubber bands from China, Sri Lanka, and Thailand are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing rubber bands in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigations that the petitioner is requesting.[6]

Periods of Investigation

Because the Petitions were filed on January 30, 2018, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the Sri Lanka and Thailand investigations is January 1, 2017, through December 31, 2017. Because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the POI for the China investigation is July 1, 2017, through December 31, 2017.

Scope of the Investigations

The products covered by these investigations are rubber bands from China, Sri Lanka, and Thailand. For a full description of the scope of these investigations, *see* the Appendix to this notice.

Comments on Scope of the Investigations

During our review of the Petitions, Commerce issued questions to, and received responses from, the petitioner pertaining to the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.[7] As a result of these exchanges, the scope of the Petitions was modified to clarify the description of merchandise covered by the Petitions. The description of the merchandise covered by this initiation, as described in the Appendix to this notice, reflects these clarifications.

As discussed in the preamble to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).[8] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,[9] all such factual information should be limited to

[1] *See* the petitioner's letter, ''Petition for Imposition of Antidumping and Countervailing Duties on Rubber Bands from Thailand, China and Sri Lanka,'' dated January 30, 2018 (the Petitions). For the purposes of the instant notice, all mentions of 'the Petitions,' herein, refer specifically to the AD Petitions.

[2] *See* Volume I of the Petitions, at 5–6.

[3] *See* Commerce's letters, ''Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Rubber Bands from the People's Republic of China, Sri Lanka, and Thailand: Supplemental Questions'' (General Issues Supplemental Questionnaire); ''Petition for the Imposition of Antidumping Duties on Imports of Rubber Bands from the People's Republic of China: Supplemental Questions'' (China AD Supplemental Questionnaire); ''Petition for the Imposition of Antidumping Duties on Imports of Rubber Bands from Sri Lanka: Supplemental Questions'' (Sri Lanka AD Supplemental Questionnaire); and ''Petition for the Imposition of Antidumping Duties on Imports of Rubber Bands from Thailand: Supplemental Questions'' (Thailand AD Supplemental Questionnaire). All four of these documents are dated February 2, 2018. *See also* Commerce's memoranda, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Rubber Bands from the People's Republic of China, Sri Lanka, and Thailand: Phone Call with Counsel to the Petitioner'' (Second General Issues Supplemental Questionnaire); ''Petition for the Imposition of Antidumping Duties on Rubber Bands from the People's Republic of China: Phone Call with Counsel to the Petitioner'' (China Second AD Supplemental Questionnaire); ''Petition for the Imposition of Antidumping Duties on Rubber Bands from the Sri Lanka: Phone Call with Counsel to the Petitioner'' (Sri Lanka Second AD Supplemental Questionnaire); and ''Petition for the Imposition of Antidumping Duties on Rubber Bands from Thailand: Phone Call with Counsel to the Petitioner'' (Thailand Second AD Supplemental Questionnaire). All four of these documents are dated February 12, 2018.

[4] *See* the petitioner's separate letters letters regarding General Issues, China, Sri Lanka and Thailand, each entitled, ''Petition for the Imposition of Antidumping and Countervailing Duties on Rubber Bands from Thailand, China and Sri Lanka—Responses to Supplemental Questionnaires'' (respectively, General Issues Supplement, Sri Lanka AD Supplement, China AD Supplement, and Thailand AD Supplement). All four of these documents are dated February 8, 2018. *See also* the petitioner's separate letters regarding General Issues, China, Sri Lanka, and Thailand, each entitled, ''Petition for the Imposition of Antidumping and Countervailing Duties on Rubber Bands from Thailand, China and Sri Lanka—Supplemental Responses to Supplemental Questionnaires: Responses of Petitioner Alliance Rubber Co. to Department of Commerce's February 12, 2018 General Issues Questionnaire'' (respectively, Second General Issues Supplement, Second China AD Supplement, Second Sri Lanka AD Supplement, and Second Thailand AD Supplement). All four of these documents are dated February 13, 2018.

[5] *See* memorandum, ''Phone Call with Counsel to the Petitioner Regarding Scope Clarification,'' dated February 16, 2018 (Scope Clarification Memorandum).

[6] *See* the ''Determination of Industry Support for the Petitions'' section, *infra.*

[7] *See* General Issues Supplemental Questionnaire, at 3–4 and Second General Issues Supplemental Questionnaire; *see also* General Issues Supplement at 4–6, and Second General Issues Supplement at 1; and Scope Clarification Memorandum.

[8] *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[9] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on March 12, 2018, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 22, 2018, which is 10 calendar days from the initial comments deadline.[10]

Commerce requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations, in accordance with the filing requirements, discussed immediately below.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).[11] An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics for AD Questionnaires

Commerce requests comments from interested parties regarding the appropriate physical characteristics of rubber bands to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to report the relevant costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics, and (2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe rubber bands, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on March 12, 2018. Any rebuttal comments must be filed by 5:00 p.m. ET on March 19, 2018. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the records of the China, Sri Lanka, and Thailand less-than-fair-value investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[12] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[13]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petitions).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the Petitions. Based on our analysis of the information submitted on the record, we have determined that rubber bands, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[14]

[10] *See* 19 CFR 351.303(b).

[11] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

[12] *See* section 771(10) of the Act.

[13] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[14] For a discussion of the domestic like product analysis, *see* Antidumping Duty Investigation Initiation Checklist: Rubber Bands from China (China AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Rubber Bands from the People's Republic of China, Sri Lanka, and Thailand (Attachment II); Antidumping

Continued

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the Appendix to this notice. To establish industry support, the petitioner provided its own net sales values of the domestic like product in 2017, and compared this to the estimated total sales values of the domestic like product for the entire domestic industry.[15] Because total industry production data for the domestic like product for 2017 are not reasonably available to the petitioner, and the petitioner has established that sales values and shipments are a reasonable proxy for production data,[16] we have relied on the data the petitioner provided for purposes of measuring industry support.[17]

Our review of the data provided in the Petitions, the General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.[18] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[19] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[20] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[21] Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and it has demonstrated sufficient industry support with respect to the AD investigations that it is requesting that Commerce initiate.[22]

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[23]

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports, reduced market share, underselling and price depression or suppression, lost sales and revenues, and a negative impact on the domestic industry's financial performance.[24] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[25]

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which Commerce based its decision to initiate AD investigations of imports of rubber bands from China, Sri Lanka, and Thailand. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the country-specific initiation checklists.

Export Price

For China, Sri Lanka, and Thailand, the petitioners based export price (EP) on pricing information or price quotes for rubber bands produced in, and exported from, those countries and sold or offered for sale in the United States.[26]

Where appropriate, the petitioner made deductions from U.S. price consistent with the terms of sale, as applicable.[27]

Normal Value

For Sri Lanka and Thailand, the petitioner was unable to obtain home market or third-country prices for rubber bands; therefore, the petitioner calculated normal value based on constructed value (CV) pursuant to section 773(a)(4) of the Act. *See* the section ''Normal Value Based on Constructed Value'' below.[28]

With respect to China, Commerce considers China to be an NME country.[29] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of the initiation of this investigation. Accordingly, NV in

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Duty Investigation Initiation Checklist: Rubber Bands from Sri Lanka (Sri Lanka AD Initiation Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Rubber Bands from Thailand (Thailand AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[15] *See* General Issues Supplement, at 8 and GEN–10S; *see also* Second General Issues Supplement, at 2–3.

[16] *See* Second General Issues Supplement, at 2–3.

[17] *Id.* For further discussion, *see* China AD Initiation Checklist, at Attachment II; Sri Lanka AD Initiation Checklist, at Attachment II; and Thailand AD Initiation Checklist, at Attachment II.

[18] *See* China AD Initiation Checklist, at Attachment II; Sri Lanka AD Initiation Checklist, at Attachment II; and Thailand AD Initiation Checklist, at Attachment II.

[19] *See* section 732(c)(4)(D) of the Act; *see also* China AD Initiation Checklist, at Attachment II; Sri Lanka AD Initiation Checklist, at Attachment II; and Thailand AD Initiation Checklist, at Attachment II.

[20] *See* China AD Initiation Checklist, at Attachment II; Sri Lanka AD Initiation Checklist, at Attachment II; and Thailand AD Initiation Checklist, at Attachment II.

[21] *Id.*

[22] *Id.*

[23] *See* General Issues Supplement, at 9 and Exhibit B.

[24] *See* Volume I of the Petitions, at 16–19, 25–47 and Exhibits GEN–3 through GEN–8, GEN–10 and GEN–12; *see also* General Issues Supplement, at 8–16 and Exhibits A, B, and GEN–10S; and Second General Issues Supplement, at 3 and Exhibit A.

[25] *See* China AD Initiation Checklist, at Attachment III, ''Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Rubber Bands from the People's Republic of China, Sri Lanka, and Thailand'' (Attachment III); *see also* Sri Lanka AD Initiation Checklist, at Attachment III; see also Thailand AD Initiation Checklist, at Attachment III.

[26] *See* China AD Initiation Checklist, Sri Lanka AD Initiation Checklist, and Thailand AD Initiation Checklist.

[27] *Id.*

[28] In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for these investigations, Commerce will request information necessary to calculate the CV and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. Commerce no longer requires a COP allegation to conduct this analysis.

[29] *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination,* 82 FR 50858, 50861 (November 2, 2017), and accompanying decision memorandum, *China's Status as a Non-Market Economy.*

China is appropriately based on factors of production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act.[30] In the course of this investigation, all parties, and the public, will have the opportunity to provide relevant information related to the granting of separate rates to individual exporters.

The petitioner claims that Thailand is an appropriate surrogate country for China because: (1) Commerce has evaluated the per capita gross domestic product (GDP) of Thailand in numerous cases and determined that Thailand is at the level of economic development comparable to China based on per-capita Gross National Income; (2) Thailand is a significant producer of comparable merchandise as well as a significant exporter of subject merchandise; and (3) the data for valuing FOPs, factory overhead, selling, general and administrative (SG&A) expenses and profit are publicly available, current, and reliable.[31] Based on the information provided by the petitioner, we believe it is appropriate to use Thailand as a surrogate country for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

Because information regarding the volume of inputs consumed by Chinese producers/exporters was not reasonably available, the petitioner relied on its actual consumption of direct materials, direct labor, energy, scrap offset, and packing for comparable rubber bands, adjusted for known differences in usage between the United States and China.[32] The petitioner valued the estimated FOPs using surrogate values from Thailand,[33] and used the average POI exchange rate to convert the data to U.S. dollars.[34]

Normal Value Based on Constructed Value

As noted above, for Sri Lanka and Thailand, the petitioner was unable to obtain home market or third-country prices for rubber bands; therefore, the petitioner based NV on CV pursuant to section 773(a)(4) of the Act. Pursuant to section 773(b)(3) of the Act, CV consists of the cost of manufacturing (COM); selling, general and administrative (SG&A) expenses; financial expenses; profit; and packing expenses.

For Sri Lanka, the petitioner calculated the COM based on its own input factors of production and usage rates for raw materials, energy, packing and scrap offset. The input factors of production were valued using publicly available data on costs specific to Sri Lanka, where available, and the petitioner's cost experience. For Sri Lanka, labor and energy costs were valued using publicly available sources from Sri Lanka and the petitioner's cost experience.[35] The petitioner calculated factory overhead, SG&A, financial expenses and profit based on the experience of a Sri Lankan producer of comparable merchandise.[36]

For Thailand, the petitioner calculated the COM based on its own input factors of production and usage rates for raw materials, labor, energy, packing, and a scrap offset.[37] The input factors of production were valued using publicly available data on costs specific to Thailand, during the proposed POI.[38] Specifically, the prices for raw material and packing inputs were based on publicly available import data for Thailand.[39] Labor and energy costs were valued using publicly available sources for Thailand.[40] The petitioner calculated factory overhead, SG&A, and profit for Thailand based on the experience of a Thai producer of rubber bands.[41]

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of rubber bands from China, Sri Lanka, and Thailand are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for rubber bands for each of the countries covered by this initiation are as follows: (1) China—27.27 percent; [42], (2) Sri Lanka—56.54 to 133.13 percent; [43], and (3) Thailand—28.92 to 78.36 percent.[44]

Initiation of Less-Than-Fair-Value Investigations

Based upon the examination of the Petitions, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of rubber bands from China, Sri Lanka, and Thailand are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD laws were made.[45] The 2015 law does not specify dates of application for those amendments. On August 6, 2015, Commerce published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.[46] The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to these AD investigations.[47]

Respondent Selection

In the Petitions, the petitioner named 12, four, and 22 producers/exporters, respectively, as accounting for the majority of exports of rubber bands products to the United States from China, Sri Lanka, and Thailand.[48] With regard to China, in accordance with our standard practice for respondent selection in cases involving NME countries, we intend to issue quantity and value (Q&V) questionnaires to each potential respondent and, if necessary, base respondent selection on the responses received. In addition, Commerce will post the Q&V questionnaire along with filing instructions on the Enforcement and Compliance website at *http://www.trade.gov/enforcement/news.asp.*

Exporters/producers of rubber bands from China that do not receive Q&V

[30] *See* China AD Initiation Checklist.

[31] *See* Volume III of Petitions, at 3.

[32] *Id.* at 1 and 4 and Exhibit AD–CH–2.

[33] *Id.* at Exhibit AD–CH–3; *see also* China AD Supplement, at Exhibit AD–CH–S3; and Second China AD Supplement, at Exhibit AD–CH–SS3.

[34] *Id.*

[35] *See* Sri Lanka AD Initiation Checklist.

[36] *Id.*

[37] *See* Thailand AD Initiation Checklist.

[38] *Id.*

[39] *Id.*

[40] *Id.*

[41] *Id.*

[42] *See* China AD Initiation Checklist.

[43] *See* Sri Lanka AD Initiation Checklist.

[44] *See* Thailand AD Initiation Checklist.

[45] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[46] *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015,* 80 FR 46793 (August 6, 2015).

[47] *Id.* at 46794–95. The 2015 amendments may be found at *https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl.*

[48] *See* Volume I of the Petitions, at Exhibit GEN–2. *See also* General Issues Supplement at 2–3.

questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy from the Enforcement and Compliance website. The Q&V response must be submitted by all exporters/producers from China no later than 5:00 p.m. E.T. on March 6, 2018, which is two weeks from the signature date of this notice. All Q&V responses must be filed electronically via ACCESS.

With regard to Sri Lanka and Thailand, following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States numbers listed with the scope in the Appendix, below. We also intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO on the record within five business days of publication of this **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted seven calendar days after the placement of the CBP data on the record of these investigations. Parties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for the initial comments. Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. ET by the dates noted above. We intend to make our decision regarding respondent selection within 20 days of publication of this notice.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.[49] The specific requirements for submitting a separate-rate application in the China investigation are outlined in detail in the application itself, which is available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html.* The separate-rate application will be due 30 days after publication of this initiation notice.[50] Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V response will not receive separate-rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

> {while} continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.[51]

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of China, Sri Lanka, and Thailand *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of rubber bands from China, Sri Lanka, and/or Thailand are materially injuring or threatening material injury to a U.S. industry.[52] A negative ITC determination for any country will result in the investigation being terminated with respect to that country.[53] Otherwise, the investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [54] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[55] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from

[49] *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at *http://enforcement.trade.gov/policy/bull05-1.pdf* (Policy Bulletin 05.1).

[50] Although in some past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that ''the Secretary may request any person to submit factual information at any time during a proceeding,'' this deadline is now 30 days.

[51] *See* Policy Bulletin 05.1 at 6 (emphasis added).

[52] *See* section 733(a) of the Act.

[53] *Id.*

[54] *See* 19 CFR 351.301(b).

[55] *See* 19 CFR 351.301(b)(2).

multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[56] Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.[57] Commerce intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

[56] *See* section 782(b) of the Act.

[57] *See Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: February 20, 2018.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigations

The products subject to these investigations are bands made of vulcanized rubber, with a flat length, as actually measured end-to-end by the band lying flat, no less than ½ inch and no greater than 10 inches; with a width, which measures the dimension perpendicular to the length, actually of at least 3/64 inch and no greater than 2 inches; and a wall thickness actually from 0.020 inch to 0.125 inch. Vulcanized rubber has been chemically processed into a more durable material by the addition of sulfur or other equivalent curatives or accelerators. Subject products are included regardless of color or inclusion of printed material on the rubber band's surface, including but not limited to, rubber bands with printing on them, such as a product name, advertising, or slogan, and printed material (*e.g.,* a tag) fastened to the rubber band by an adhesive or another temporary type of connection. The scope includes vulcanized rubber bands which are contained or otherwise exist in various forms and packages, such as, without limitation, vulcanized rubber bands included within a desk accessory set or other type of set or package, and vulcanized rubber band balls. The scope excludes products that consist of an elastomer loop and durable tag all-in-one, and bands that are being used at the time of import to fasten an imported product. Merchandise covered by these investigations is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 4016.99.3510. Merchandise covered by the scope may also enter under HTSUS subheading 4016.99.6050. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.

[FR Doc. 2018–03923 Filed 2–26–18; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–549–836, C–570–070, C–542–803]

Rubber Bands From Thailand, the People's Republic of China, and Sri Lanka: Initiation of Countervailing Duty Investigations

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

DATES: Applicable February 20, 2018.

FOR FURTHER INFORMATION CONTACT: Frances Veith at (202) 482–4295 or Shana Lee at (202) 482–6386 (Thailand), Kristen Johnson at (202) 482–4793 (China), and Patricia Tran at (202) 482–1503 (Sri Lanka), AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On January 30, 2018, the U.S. Department of Commerce (Commerce) received countervailing duty (CVD) petitions concerning imports of rubber bands from Thailand, the People's Republic of China (China), and Sri Lanka, filed in proper form on behalf of Alliance Rubber Co. (the petitioner).[1] The CVD Petitions were accompanied by antidumping duty (AD) petitions concerning imports of rubber bands from Thailand, China, and Sri Lanka. The petitioner is a domestic producer of rubber bands.[2]

On February 2, 2018, Commerce requested supplemental information pertaining to certain areas of the Petitions.[3] The petitioner filed responses to these requests on February 8, 2018, which included revised scope language.[4] On February 12, 2018, Commerce held a conference call with the petitioner to discuss the scope of the investigation, industry support, and injury.[5] The petitioner filed a response

[1] *See* Letter from the petitioner ''Petition for the Imposition of Antidumping and Countervailing Duties: Rubber Bands from Thailand, China and Sri Lanka,'' dated January 30, 2018 (Petitions).

[2] *Id.* at Volume I of the Petitions at 1.

[3] *See* Letter from Commerce to the petitioner, ''Petition for the Imposition of Countervailing Duties on Imports of Rubber Bands from Sri Lanka: Supplemental Questions,'' (Sri Lanka CVD Petition Supplemental Questionnaire); ''Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Rubber Bands from the People's Republic of China, Sri Lanka, and Thailand: Supplemental Questions,'' (General Issues Petition Supplemental Questionnaire); ''Petition for the Imposition of Countervailing Duties on Imports of Rubber Bands from the People's Republic of China (China): Supplemental Questions,'' (China CVD Petition Supplemental Questionnaire); ''Petition for the Imposition of Countervailing Duties on Imports of Rubber Bands from Thailand: Supplemental Questions,'' (Thailand CVD Petition Supplemental Questionnaire) dated February 2, 2018.

[4] *See* Letter from petitioner to Commerce, ''Petition for the Imposition of Antidumping and Countervailing Duties on Rubber Bands from Thailand, China and Sri Lanka—Responses to Supplemental Questionnaires,'' dated February 8, 2018 (General Issues Supplemental Response, Thailand CVD Petition Supplemental Response, China CVD Petition Supplemental Response, and Sri Lanka CVD Petition Supplemental Response).

[5] *See* Memorandum to the File, ''Petition for the Imposition of Antidumping and Countervailing Duties on Rubber Bands from the People's Republic

Continued

to address issues discussed on the conference call on February 13, 2018.[6] On February 16, 2018, based on a telephone conversation between Commerce and counsel to the petitioner, the petitioner made certain clarifications to the scope.[7]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Royal Thai Government (RTG), the Government of China (GOC), and the Government of Sri Lanka (GOSL) are providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of rubber bands in Thailand, China, and Sri Lanka, respectively, and imports of such products are materially injuring, or threatening material injury to, the domestic rubber bands industry in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support necessary for the initiation of the requested CVD investigation.[8]

Periods of Investigation

Because the Petitions were filed on January 30, 2018, the periods of investigation are January 1, 2017, through December 31, 2017.

Scope of the Investigations

The products covered by these investigations are rubber bands from Thailand, China, and Sri Lanka. For a full description of the scope of these investigations, *see* the ''Scope of the Investigation,'' in the Appendix to this notice.

Comments on Scope of the Investigations

During our review of the Petitions, Commerce issued questions to, and received responses from, the petitioner pertaining to the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the product for which the domestic industry is seeking relief.[9] Commerce also held a conference call with the petitioner regarding the scope language.[10] As a result of these exchanges, the scope of the Petitions was modified to clarify the description of merchandise covered by the Petitions.[11] The description of the merchandise covered by this initiation, as described in the Appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).[12] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information, all such factual information should be limited to public information.[13] To facilitate preparation of its questionnaires, Commerce requests all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on March 12, 2018 (20 calendar days from the signature date of this notice). Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 22, 2018 (10 calendar days from the initial comments deadline).[14]

Commerce requests that any factual information parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).[15] An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified representatives of the RTG, GOC, and GOSL of the receipt of the CVD Petitions, and provided them the opportunity for consultations with respect to the Petitions.[16] Commerce held consultations with the GOC on February 7, 2018,[17] the GOSL on February 14, 2018,[18] and the RTG on February 14, 2018.[19]

Determination of Industry Support for the Petitions

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the

of China, Sri Lanka, and Thailand,'' dated February 12, 2018 (Phone Memorandum).

[6] *See* Letter from petitioner to Commerce, ''Petition for the Imposition of Antidumping and Countervailing Duties on Rubber Bands from Thailand, China and Sri Lanka—Supplemental Responses to Supplemental Questionnaires,'' dated February 13, 2018 (Second General Issues Supplemental Response).

[7] *See* Memorandum to the File, ''Phone Call with Counsel to the Petitioner Regarding Scope Clarification,'' dated February 16, 2018 (Second Phone Memorandum).

[8] *See* ''Determination of Industry Support for the Petitions'' section, below.

[9] *See* General Issues Supplemental Response.

[10] *See* Phone Memorandum.

[11] *See* General Issues Supplemental Response at 6.

[12] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[13] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[14] *See* 19 CFR 351.303(b).

[15] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011). *See also Enforcement and Compliance: Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx,* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

[16] *See* Letter from Erin Begnal, Director, AD/CVD Operations, Office III, to the Royal Thai Embassy, ''Countervailing Duty Petition on Rubber Bands from Thailand: Invitation for Consultations to Discuss the Countervailing Duty Petition,'' dated January 31, 2018; Letter from Erin Begnal, Director, AD/CVD Operations, Office III, to the Embassy of the People's Republic of China, ''Countervailing Duty Petition on Rubber Bands from the People's Republic of China: Invitation for Consultations to Discuss the Countervailing Duty Petition,'' dated January 30, 2018; and Letter from Erin Begnal, Director, AD/CVD Operations, Office III, to the Embassy of Sri Lanka, ''Countervailing Duty Petition on Rubber Bands from Sri Lanka: Invitation for Consultations to Discuss the Countervailing Duty Petition,'' dated January 30, 2018.

[17] *See* Memorandum, ''Countervailing Duty Petitions on Cast Iron Soil Pipe and Rubber Bands from the People's Republic of China: Consultations with Officials of the Government of China,'' dated February 8, 2018.

[18] *See* Memorandum, ''Countervailing Duty Petition on Rubber Bands from Sri Lanka: Consultations with Officials of the Government of Sri Lanka,'' dated February 14, 2018.

[19] *See* Memorandum, ''Consultations with Government Officials from the Royal Thai Embassy,'' dated February 14, 2018.

domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers, as a whole, of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[20] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[21]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that rubber bands, as defined in the scope, constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product.[22]

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the Appendix to this notice. To establish industry support, the petitioner provided its own net sales values of the domestic like product in 2017, and compared this to the estimated total sales value of the domestic like product for the entire domestic industry.[23] Because total industry production data for the domestic like product for 2017 are not reasonably available to the petitioner, and the petitioner has established that sales values and shipments are a reasonably proxy for production data,[24] we have relied on the data the petitioner provided for purposes of measuring industry support.[25]

Our review of the data provided in the Petitions, the General Issues Supplemental Response, the Second General Issues Supplemental Response, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.[26] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[27] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[28] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[29] Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and it has demonstrated sufficient industry support with respect to the CVD investigations that it is requesting that Commerce initiate.[30]

Injury Test

Because China, Sri Lanka, and Thailand are ''Subsidies Agreement Countries'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from China, Sri Lanka, and Thailand materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S.

[20] *See* section 771(10) of the Act.

[21] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[22] For a discussion of the domestic like product analysis, *see* Countervailing Duty Investigation Initiation Checklist: Rubber Bands from China (China CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petition Covering Rubber Bands from the People's Republic of China, Sri Lanka, and Thailand (Attachment II); Countervailing Duty Investigation Initiation Checklist: Rubber Bands from Sri Lanka (Sri Lanka CVD Initiation Checklist), at Attachment II; and Countervailing Duty Investigation Initiation Checklist: Rubber Bands from Thailand (Thailand CVD Initiation Checklist), at Attachment II. These checklists are dated concurrently with, and hereby adopted by, this notice and on file electronically *via* ACCESS. Access to documents filed *via* ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[23] *See* General Issues Supplemental Response, at 8 and GEN–10S; *see also* Second General Issues Supplemental Response, at 2–3.

[24] *See* Second General Issues Supplemental Response, at 2–3.

[25] *Id.* For further discussion, *see* China CVD Initiation Checklist, at Attachment II; Sri Lanka CVD Initiation Checklist, at Attachment II; and Thailand CVD Initiation Checklist, at Attachment II.

[26] *See* China CVD Initiation Checklist, at Attachment II; Sri Lanka CVD Initiation Checklist, at Attachment II; and Thailand CVD Initiation Checklist, at Attachment II.

[27] *See* section 702(c)(4)(D) of the Act; *see also* China CVD Initiation Checklist, at Attachment II; Sri Lanka CVD Initiation Checklist, at Attachment II; and Thailand CVD Initiation Checklist, at Attachment II.

[28] *See* China CVD Initiation Checklist, at Attachment II; Sri Lanka CVD Initiation Checklist, at Attachment II; and Thailand CVD Initiation Checklist, at Attachment II.

[29] *Id.*

[30] *Id.*

industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[31] In CVD petitions, section 771(24)(B) of the Act provides that imports of subject merchandise from developing and least developed countries must exceed the negligibility threshold of four percent. The petitioner demonstrates that imports from Thailand and Sri Lanka, which have been designated as developing and least developed countries under sections 771(36)(A) and 771(36)(B) of the Act, respectively, exceed the negligibility threshold of four percent.[32]

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price depression or suppression; lost sales and revenues; and a negative impact on the domestic industry's financial performance.[33] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[34]

Initiation of CVD Investigations

Based on the examination of the Petitions, we find that they meet the requirements of section 702 of the Act. Therefore, we are initiating CVD investigations to determine whether imports of rubber bands from Thailand, China, and Sri Lanka benefit from countervailable subsidies conferred by the RTG, GOC, and GOSL, respectively. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 65 days after the date of this initiation.

Numerous amendments to the AD and CVD laws were made pursuant to the Trade Preferences Extension Act of 2015.[35] The amendments to sections 776 and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to these CVD investigations.[36]

Thailand

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on all of the 10 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* the Thai CVD Initiation Checklist. A public version of the initiation checklist for the Thai CVD investigation is available on ACCESS.

China

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on some or all aspects of the 16 alleged subsidy programs. For three of these 16 programs, we are partially initiating. Furthermore, we have determined that two of the alleged programs should be initiated as one program providing export loans from state-owned banks, reducing the 16 alleged programs into an initiation of 15 programs. For a full discussion of the basis for our decision to initiate on each program, *see* China CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Sri Lanka

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on all of the 20 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* the Sri Lanka CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Respondent Selection

The petitioner named 22 companies in Thailand,[37] 12 companies in China,[38] and four companies in Sri Lanka,[39] as producers/exporters of rubber bands. Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in these investigations. In the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of rubber bands from Thailand, China, and Sri Lanka during the POI under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the ''Scope of the Investigation,'' in the Appendix.

On February 14, 2018, Commerce released CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment regarding the CBP data and respondent selection must do so within three business days of the publication date of the notice of initiation of these CVD investigations.[40] Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Commerce's website at *http://enforcement.trade.gov/apo.*

Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the date noted above. We intend to finalize our decisions regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the RTG, GOC, and GOSL *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

[31] *See* General Issues Supplemental Response, at 9 and Exhibit B.

[32] *Id.*

[33] *See* Volume I of the Petition, at 16–19, 25–47 and Exhibits GEN–3 through GEN–8, GEN–10 and GEN–12; *see also* General Issues Supplemental Response, at 8–16 and Exhibits A, B, and GEN–10S; and Second General Issues Supplemental Response, at 3 and Exhibit A.

[34] *See* China CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petition Covering Rubber Bands from the People's Republic of China, Sri Lanka, and Thailand (Attachment III); Sri Lanka CVD Initiation Checklist, at Attachment III; and Thailand CVD Initiation Checklist, at Attachment III.

[35] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015). *See also Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015,* 80 FR 46793 (August 6, 2015) (*Applicability Notice*). The 2015 amendments may be found at *https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl.*

[36] *See Applicability Notice,* 80 FR at 46794–95.

[37] *See* Volume I of the Petition, at Exhibit GEN–2.

[38] *Id.*

[39] *Id.*

[40] *See* Memorandum to the File, ''Countervailing Duty Petition on Rubber Bands from the People's Republic of China: U.S. Customs Data for Respondent Selection,'' dated February 14, 2018; and ''Countervailing Duty Petition on Rubber Bands from Sri Lanka: U.S. Customs Data for Respondent Selection,'' dated February 14, 2018; and ''Rubber Bands from the Kingdom of Thailand Countervailing Duty Petition: Release of Customs Data from U.S. Customs and Border Protection,'' dated February 14, 2018.

ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of rubber bands from Thailand, China, and Sri Lanka are materially injuring, or threatening material injury to, a U.S. industry.[41] A negative ITC determination for any country will result in the investigation being terminated with respect to that country.[42] Otherwise, these investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). 19 CFR 351.301(b) requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [43] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[44] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[45] Parties must use the certification formats provided in 19 CFR 351.303(g).[46] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act and 19 CFR 351.203(c).

Dated: February 20, 2018.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigations

The products subject to these investigations are bands made of vulcanized rubber, with a flat length, as actually measured end-to-end by the band lying flat, no less than ½ inch and no greater than 10 inches; with a width, which measures the dimension perpendicular to the length, actually of at least 3/64 inch and no greater than 2 inches; and a wall thickness actually from 0.020 inch to 0.125 inch. Vulcanized rubber has been chemically processed into a more durable material by the addition of sulfur or other equivalent curatives or accelerators. Subject products are included regardless of color or inclusion of printed material on the rubber band's surface, including but not limited to, rubber bands with printing on them, such as a product name, advertising, or slogan, and printed material (*e.g.,* a tag) fastened to the rubber band by an adhesive or another temporary type of connection. The scope includes vulcanized rubber bands which are contained or otherwise exist in various forms and packages, such as, without limitation, vulcanized rubber bands included within a desk accessory set or other type of set or package, and vulcanized rubber band balls. The scope excludes products that consist of an elastomer loop and durable tag all-in-one, and bands that are being used at the time of import to fasten an imported product. Merchandise covered by these investigations is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 4016.99.3510. Merchandise covered by the scope may also enter under HTSUS subheading 4016.99.6050. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.

[FR Doc. 2018–03922 Filed 2–26–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Request for Applicants for Appointment to the United States-Mexico Energy Business Council

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In 2016, agencies of the Governments of the United States and Mexico established the U.S.-Mexico Energy Business Council (the ''Council''). This notice announces 10 membership opportunities for appointment as U.S. representatives to

[41] *See* section 703(a)(2) of the Act.

[42] *See* section 703(a)(1) of the Act.

[43] *See* 19 CFR 351.301(b).

[44] *See* 19 CFR 351.301(b)(2).

[45] *See* section 782(b) of the Act.

[46] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*''); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

the U.S. Section of the Council for a term beginning in June 2018 and ending in June 2020.

DATES: All applications must be received by the Office of North America by 5:00 p.m. Eastern Standard Time (EST) on April 30, 2018.

ADDRESSES: Please submit applications to Leslie Wilson, International Trade Specialist, Office of North America, U.S. Department of Commerce either by email at *Leslie.Wilson@trade.gov* (preferred method) or by mail to U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 30014, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Leslie Wilson, Office of North America, U.S. Department of Commerce, telephone: (202) 482–0704, email: *Leslie.Wilson@trade.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Department of Commerce, the U.S. Department of Energy, the Ministry of Economy of the United Mexican States, and the Ministry of Energy of the United Mexican States established the Council in March 2016. The objective of the Council is to bring together representatives of the respective energy industries of the United States and Mexico to discuss issues of mutual interest, particularly ways to strengthen the economic and commercial ties between energy industries in the two countries, and communicating actionable, non-binding recommendations to the U.S. and Mexican Governments.

For more information, please consult the Terms of Reference of the Council (copy and paste link into browser): *https://www.trade.gov/hled/documents/Signed%20US-MEX%20Energy%20Business%20Council%20Terms%20(May%202016%20-%20English).pdf.*

The Department of Commerce is seeking applicants for membership on the U.S. Section of the Council. Each applicant must be a senior representative (*e.g.,* Chief Executive Officer, Vice President, Regional Manager, Senior Director, or holder of a similar position) of a U.S.-owned or controlled individual company, trade association, or private sector organization that is incorporated in and has its main headquarters in the United States and whose activities include a focus on the manufacture, production, commercialization and/or trade in goods and services for the energy industry in Mexico. Each applicant must also be a U.S. citizen, or otherwise legally authorized to work in the United States, and be able to travel to Mexico or locations in the United States to attend Council meetings, as well as U.S. Section and Committee meetings. In addition, the applicant may not be a registered foreign agent under the Foreign Agents Registration Act of 1938, as amended.

Applications for membership in the U.S. Section by eligible individuals, including applications by current U.S. section members for reappointment, will be evaluated on the following criteria:

—A demonstrated commitment by the entity to be represented to the Mexican market, including as applicable either through exports or investment.
—A demonstrated strong interest in Mexico and its economic development.
—The ability to offer to the work of the Council a broad perspective and business experience specific to the energy industry.
—The ability to address cross-cutting issues that affect the entity's entire energy industry sub-sector.
—The ability to dedicate organizational resources to initiate and be responsible for activities in which the Council will be active.

U.S. Section members will also be selected on the basis of who is best qualified to carry out the objectives of the Council to:

—Promote increased two-way investment in the energy industry;
—Promote two-way trade in goods and services produced by and used in the energy industry, including the oil and gas, renewable energy, electricity, nuclear energy, and energy efficiency sub-sectors;
—Promote the development of binational value chains in the production of goods and services in the energy sector;
—Promote the development of modern energy infrastructure and bolster energy efficiency and security;
—Foster an enabling environment for the rapid development, deployment, and integration of new energy industry technologies—including clean renewable energy technologies—into the marketplace;
—Improve competitiveness through innovation and entrepreneurship in the energy industry, to include the promotion of technology exchanges and research partnerships; and
—Partner in skills development to create solutions in training and education to address evolving energy industry workforce needs.

In selecting members of the U.S. Section, the U.S. Government selection committee, composed of representatives from the Department of Commerce and the Department of Energy, will attempt to ensure that the Section represents a cross-section of small, medium-sized and large firms.

U.S. Section members will receive no compensation for their participation in Council-related activities. They shall not be considered as special government employees. Individual U.S. Section members will be responsible for all travel and related expenses associated with their participation in the Council, including attendance at Committee and Section meetings. Only appointed U.S. Section members may participate in Council meetings; substitutes and alternates may not be designated. U.S. Section members are expected to serve for two-year terms, but may be reappointed.

To apply for membership in the U.S. Section, please submit the following information as instructed in the **ADDRESS** and **DATES** captions above:

—Name(s) and title(s) of the applicant;
—Name and address of the headquarters of the entity that employs the applicant;
—Location of incorporation or establishment;
—Size of the represented entity, in terms of annual sales and number of employees;
—As applicable, the size of the entity's export trade, investment, and nature of operations or interest in Mexico; and
—A brief statement of why the applicant should be considered, including information about the applicant's ability to initiate and be responsible for activities in which the Council will be active.

All applicants will be notified of whether they have been selected once the application window closes and selection of U.S. Section members has been made.

Dated: February 21, 2018.

Geri Word,

Director for the Office of North America.

[FR Doc. 2018–03937 Filed 2–26–18; 8:45 am]

BILLING CODE 3510–HE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the

Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Economic Impacts of Hawaii Reef Diving and Snorkeling.

OMB Control Number: 0648–xxxx.

Form Number(s): None.

Type of Request: Regular (request for a new information collection).

Number of Respondents: 4,150.

Average Hours per Response: 10 minutes.

Burden Hours: 692.

Needs and Uses: This request is for a new collection of information.

The objective of the survey will be to understand divers' and snorkelers' expenditures associated with recreational coral reef diving activities in Hawaii. The survey will also collect information on divers' attitudes, preferences, and concerns about recreational diving and coral reefs health in Hawaii. We are conducting this survey to improve our understanding of divers' expenditure patterns and to estimate the economic impact of coral reef related spending. Results of the survey will be used to inform coastal resource management planning and establish a baseline for outreach and education. The expenditure survey is also expected to provide useful information for local economic and business interests. A similar survey (OMB Control No. 0648–0746) was implemented in south Florida and was successfully completed in November 2017.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: February 21, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–03878 Filed 2–26–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG028

Marine Mammals; File No. 21238

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Center for Whale Research (Responsible Party: Kenneth Balcomb III), 355 Smuggler's Cove Road, Friday Harbor, WA, 98250, has applied in due form for a permit to conduct research on marine mammals.

DATES: Written, telefaxed, or email comments must be received on or before March 29, 2018.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 21238 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan or Amy Hapeman, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant proposes to take 19 species of cetaceans and four species of pinnipeds primarily in the inland marine waters of Washington State, may also include territorial waters up to 200 miles offshore of Oregon, California, and Alaska. The ESA listed species include blue (*Balaenoptera musculus*), fin (*B. physalus*), (*Megaptera novaeangliae*), North Pacific right (*Eubalaena japonica*), sperm (*Physeter macrocephalus*), and Southern Resident killer (*Orcinus orca*) whales, and the Western stock of Steller sea lions (*Eumetopias jubatus*). The primary objective of the research is to monitor the population size, demographics, range, movement, social structure, health, and body condition of Southern resident killer whales, and secondarily, to monitor the population size and demographics of other marine mammals in the study area. Research activities would include manned and unmanned aerial surveys and vessel surveys for counts, photography, photo-identification, video recording, observation, passive acoustic recording, and opportunistic sampling of sloughed skin, feces, and predation remains. The permit would expire five years after the date of issuance.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register,** NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: February 21, 2018.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–03874 Filed 2–26–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and

Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Region Logbook and Activity Family of Forms.

OMB Control Number: 0648–0213.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 445.

Average Hours per Response: 35 minutes per active response and 5 minutes per inactive response for Catcher Vessel Longline and Pot Gear DFL; 18 minutes for active response and 5 minutes for inactive response for Catcher Vessel Trawl Gear DFL; 7 minutes for Mothership Check-in/Check-out Report; 50 minutes per active response and 5 minutes per inactive response for Catcher/processor Longline and Pot Gear DCPL; 5 minutes for Shoreside Processor Check-in/Check-out Report; 20 minutes for Product Transfer Report; 14 minutes for Vessel Activity Report.

Burden Hours: 15,654.

Needs and Uses: This request is for extension of a currently approved information collection.

The Magnuson-Stevens Fishery Conservation and Management Act 16 U.S.C. 1801 *et seq.* authorizes the North Pacific Fishery Management Council to prepare and amend fishery management plans for any fishery in waters under its jurisdiction. National Marine Fisheries Service, Alaska Region (NMFS) manages (1) the crab fisheries in the Exclusive Economic Zone waters off the coast of Alaska under the Fishery Management Plan for Bering Sea and Aleutian Islands Crab, (2) groundfish under the Fishery Management Plan for the Groundfish of the Bering Sea and Aleutian Islands Management Area, and (3) groundfish under the Fishery Management Plan for Groundfish of the Gulf of Alaska. The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut (*Hippoglossus stenolepis*) through regulations established under the authority of the Northern Pacific Halibut Act of 1982. The IPHC promulgates regulations governing the halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea.

Vessels required to have a Federal Fisheries Permit are issued free daily fishing logbooks (DFLs) for harvesters and daily cumulative production logbooks (DCPL) for processors to record groundfish, Crab Rationalization Program crab, Individual Fishing Quota (IFQ) halibut, IFQ sablefish, Western Alaska Community Development Quota Program halibut, and prohibited species catch information. Catcher vessels under 60 ft (18.3 m) length overall are not required to maintain DFLs. Multiple self-copy logsheets within each logbook are available for distribution to the harvester, processor, observer program, and NOAA Office for Law Enforcement. The longline or pot gear logbooks have an additional logsheet for submittal to the IPHC.

As electronic logbooks become available, paper logbooks are discontinued and removed from this collection. The forms and DFL and DCPL logsheets may be viewed on the NMFS Alaska Region Home Page at *https://alaskafisheries.noaa.gov/fisheries/rr-log.*

In addition to the logbooks, this collection includes the check-in/check-out reports for shoreside processors and motherships, the product transfer report, and the U.S. vessel activity report.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: Daily.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: February 21, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–03876 Filed 2–26–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Permits for Incidental Taking of Endangered or Threatened Species

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

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

DATES: Written comments must be submitted on or before April 30, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *pracomments@doc.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Celeste Stout, (301) 427–8436 or *Celeste.Stout@NOAA.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection.

The Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) imposed prohibitions against the taking of endangered species. In 1982, Congress revised the ESA to allow permits authorizing the taking of endangered species incidental to otherwise lawful activities. The corresponding regulations (50 CFR part 222.222) established procedures for persons to apply for such a permit. In addition, the regulations set forth specific reporting requirements for such permit holders.

The regulations contain three sets of information collections: (l) Applications for incidental take permits, (2) applications for certificates of inclusion, and (3) reporting requirements for permits issued. Certificates of inclusion are only required if a general permit is issued to a representative of a group of potential permit applicants, rather than requiring each entity to apply for and receive a permit.

The required information is used to evaluate the impacts of the proposed activity on endangered species, to make the determinations required by the ESA prior to issuing a permit, and to establish appropriate permit conditions.

When a species is listed as threatened, section 4(d) of the ESA requires the Secretary to issue whatever regulations are deemed necessary or advisable to provide for conservation of the species. In many cases those regulations reflect blanket application of the section 9 take prohibition. However, the National

Marine Fisheries Service (NMFS) recognizes certain exceptions to that prohibition, including habitat restoration actions taken in accord with approved state watershed action plans. While watershed plans are prepared for other purposes in coordination with or fulfillment of various state programs, a watershed group wishing to take advantage of the exception for restoration activities (rather than obtaining a section 10 permit) would have to submit the plan for NMFS review.

II. Method of Collection

Currently, most information is collected on paper, but in some instances, there is electronic access and capability.

III. Data

OMB Number: 0648–0230.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions, and state, local, or tribal government.

Estimated Number of Respondents: 48.

Estimated Time per Response: 80 hours for a permit application (including Habitat Conservation Plans), 40 minutes for transfer of an incidental take permit; 8 hours for a permit report, 30 minutes for a Certificate of Inclusion and 10 hours for a watershed plan.

Estimated Total Annual Burden Hours: 795.

Estimated Total Annual Cost to Public: $1,000 in recordkeeping/reporting costs.

IV. Request for Comments

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

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

Dated: February 21, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–03881 Filed 2–26–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG026

Marine Mammals; File No. 21966

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Mystic Aquarium, 55 Coogan Boulevard, Mystic, CT 06355 (Responsible Party: Katie Cubina), has applied in due form for a permit to collect, receive, import, and export marine mammal parts for scientific research.

DATES: Written, telefaxed, or email comments must be received on or before March 29, 2018.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 21966 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. 21966 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant proposes to collect, receive, import, and export biological samples from up to 5,000 pinnipeds and 5,000 cetaceans annually for scientific research. Receipt, import, and export is requested worldwide. The foreign and domestic sources of samples may include captive animals, subsistence harvests, other authorized researchers, animals that died incidental to legal commercial fisheries, and marine mammal strandings in foreign countries. The requested duration of the permit is 5 years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register,** NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: February 21, 2018.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–03875 Filed 2–26–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF957

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Cook Inlet Pipeline Cross Inlet Extension Project

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from Harvest Alaska, LLC (Harvest), a subsidiary of Hilcorp, for authorization to take marine mammals incidental to installing two pipelines in Cook Inlet. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than March 29, 2018.

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

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas* 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: Jaclyn Daly, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas.* 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.

NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as an impact resulting from the specified activity:

(1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) directly displacing subsistence users; or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and

(2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

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 is preparing an Environmental Assessment (EA) to consider the environmental impacts associated with the issuance of the proposed IHA. NMFS' EA will be made available at *www.nmfs.noaa.gov/pr/permits/incidental/oilgas.htm.* We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On May 16, 2017, NMFS received a request from Harvest Alaska (Harvest) for an IHA to take six species of marine mammals incidental to installing two pipelines as part of the Cook Inlet Extension Project, Cook Inlet, Alaska. Harvest submitted a revised application on October 20, 2017 and again on January 29, 2018 which NMFS determined was adequate and complete on January 30, 2018. Harvest's request is for take of small numbers of Cook Inlet beluga whales (*Delphinapterus leucas*), humpback whales, (*Megaptera novaeangliae*), killer whales (*Orcinus orca*), harbor porpoise (*Phocoena phocoena*), harbor seals (*Phoca vitulina*) and Steller sea lions (*Eumetopias jubatus*) by Level B harassment only. The IHA would be valid from April 15, 2018 through March 31, 2019. Neither Harvest nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

The proposed Cook Inlet Pipeline Cross Inlet Extension Project (CIPL Project) includes the installation of two new steel subsea pipelines in the waters of Cook Inlet. Work includes moving subsea obstacles out of the pipeline corridor, pulling two pipelines (one oil, one gas) into place on the seafloor, securing pipelines with sandbags, and connecting the pipelines to the existing Tyonek platform. The positioning and installation of the offshore pipeline would be accomplished using a variety

of pipe pulling, positioning, and securing methods supported by dive boats, tug boats, and/or barges and winches. Work would be limited to the pipeline corridor from Ladd Landing to the Tyonek Platform and could occur for up to 110 days. The installation of the subsea pipelines, specifically presence of and noise generated from work vessels has the potential to take marine mammals by harassment. Harvest requests authorization to take small numbers of six species of marine mammals incidental to the project.

Dates and Duration

The proposed project would take place for approximately 110 days from April 15 through October 31, 2018. Work would be staged with repositioning of obstacles (*e.g.,* boulders) lasting approximately 15 days, pipe pulling lasting approximately 11 days (weather permitting) and the remainder of the project, including equipment mobilization, pipeline securing, pipeline connection to the Tyonek platform, and demobilization constituting the remainder of the 110 day project.

Specific Geographic Region

Cook Inlet is a complex Gulf of Alaska estuary (as described in BOEM 2016) that covers roughly 7,700 square miles (mi^2; 20,000 square kilometers (km^2)), with approximately 840 miles (mi) (1,350 linear kilometer (km)) of coastline (Rugh *et al.,* 2000). Cook Inlet is generally divided into upper and lower regions by the East and West Forelands (see Figure 1–1). Northern Cook Inlet bifurcates into Knik Arm to the north and Turnagain Arm to the east. Overall, Cook Inlet is shallow, with an area-weighted mean depth of 148 feet (ft) (44.7 meters (m)). The physical oceanography of Cook Inlet is characterized by complex circulation with variability at tidal, seasonal, annual, and inter-annual timescales (Musgrave and Statscewich 2006). This region has the fourth largest tidal range in the world and as a result, extensive tidal mudflats that are exposed at low tides occur throughout Cook Inlet, especially in the upper reaches. These tides are also the driving force of surface circulation. Strong tidal currents drive the circulation in the greater Cook Inlet area with average velocities ranging from 1.5 to 3 m per second (3 to 6 knots).

The project area is located a few kilometers north of the village of Tyonek between Ladd Landing and the Tyonek Platform (see Figure 1–2 of Harvest's application). On April 11, 2011, NMFS designated two areas as critical habitat comprising 7,800 km^2 (3,016 mi^2) of marine habitat. The project area is within critical habitat area 2, which includes known fall and winter Cook Inlet beluga foraging and transiting areas (see Figure 4–1 in Harvest's application).

Detailed Description of Specific Activity

The project includes the installation of two new steel subsea pipelines in the waters of Cook Inlet: A 10-inch (in) nominal diameter gas pipeline (Tyonek W 10) between the Tyonek Platform and the Beluga Pipeline (BPL) Junction, and the 8-in nominal diameter oil pipeline (Tyonek W 8) between the existing Tyonek Platform and Ladd Landing (see Figure 1–1 in Harvest's application). The length of the Tyonek W 10 pipeline would be approximately 11.1 km (6.9 mi) with 2.3 km (1.4 mi) onshore and 8.9 km (5.5 mi) offshore in Cook Inlet waters. The Tyonek W 8 pipeline would be approximately 8.9 km (5.5 mi) in Cook Inlet waters. The purpose and need of the CIPL Project is to allow for the transportation of natural gas directly from the Tyonek Platform to the Beluga Pipeline (BPL) on the west side of Cook Inlet for use in the Southcentral natural gas system and to support future oil development at Tyonek Platform. At this time, Harvest would not connect the Tyonek 8 oil pipeline to the Tyonek platform or make the oil pipeline operational.

The proposed method of construction is to fabricate the pipelines in approximately 0.8 km (0.5 mi) segments onshore in the cleared pull area. Each pipeline section would be inspected and hydrotested, and coatings would be verified. Additional segments would be welded together, section splice welds inspected, and coatings applied to welds in the onshore fabrication area. The entire 0.8 km (0.5 mi) section would be pulled offshore following connection of each new segment, until the pipeline section is approximately half of the entire offshore length of the pipeline. This section would then be pulled into place where the 10-in line can be connected to Tyonek Platform. The 8-in line would be capped subsea adjacent to the platform for future connection to the platform. Thereafter, a second section would be constructed using the same technique as the first. It would be pulled into place where it can be connected to the first section using a subsea mechanical connection.

Pipeline segments/sections would be pulled from shore using a winch mounted on an anchored pull barge. The barge would be repositioned and anchored during slack tide, by two 120 ft tugs with a horsepower of 5,358 at 900 revolutions per minute (RPM). The barge will be secured by four anchors and repositioned during the slack tides. The pipe pull itself will take place through the tide periods to minimize cross currents and maximize control of pipeline routing. An additional winch onshore would maintain alignment of the pipeline during pulling and the winch on the pull barge would pull the pipeline from shore out to the platform. A dive boat would be used to pull the tag line to the main winch line. Both pipelines would be installed concurrently. Once a segment for one pipeline has been pulled, the corresponding segment for the other pipeline would be pulled, until the long sections for both pipelines have been constructed. A sonar survey (operating at or above 200 kilohertz (kHz)) would be used to confirm that the pipe is being installed in the correct position and location.

In the tidal transition zone, the pipeline would be exposed on the ground surface. The exposed pipelines would be buried through the tidal transition zone and each would be connected to its respective onshore pipeline and shutdown valve station. The proposed method for pipeline burial in the transition zone is by trenching adjacent to the pipeline using the open cut method, placing the pipeline in the trench, followed by direct burial of the pipeline to a depth of approximately 1.8 m (6 ft). Each pipeline would be buried in a separate trench. The trench from the cut in the bluff would be continued into the tidal zone area and would be dug from the beach side as far offshore as possible. The barge *Ninilchik* would then be anchored as close to the beach as possible and the trench continued for the required distance from shore to adequately protect the pipe from ice damage. This would be done from the barge with the crane equipped with a clam shell bucket or backhoe. Trenching in the tidal transition zone would take place during low tide to allow shore-based excavators maximum distance into the tidal zone. Work in the intertidal zone in waters less than 30-ft (9-m) deep work would occur for approximately 2–4 hours per slack tide over a 4- to 6-week period.

Further offshore, the barge, dive boat and divers would be used to install sand bags over the pipelines for anchoring and stabilization. Stabilization is expected to take about 10–11 days. Upon completion of pipeline stabilization activities, the dive boat would be used to install cathodic protection (anode sleds) along the pipelines. Sonar surveys would be

completed after installation to confirm that pipeline placement is correct. Sonar equipment would operate at frequencies above 200 kHz, outside the hearing sensitivity range of any marine mammals in the area, so would have no potential for take of marine mammals and is not addressed further in this document.

Once each 2.5-mi section of each pipeline have been pulled into place, divers would measure the specific distances between the sections. Steel spool sections with gaskets that would connect the two sections of each pipeline would be fabricated onshore; divers would use the spool sections to connect the pipeline segments underwater. The dive boat would be operating intermittently during the nine-day period needed to complete the underwater connections. The barge would be stationary, with tugs powered on and standing-by.

The subsea gas pipeline (Tyonek W10) would be connected to a new riser at the Tyonek Platform by new subsea connections. In addition to modifications to existing piping, a shutdown valve would be installed. An existing pipeline lateral (from platform to subsea flange) would be capped and abandoned in place; it would be available for future use. The connections would be fabricated onshore, transported to the platform on a workboat, and lowered to the seafloor. A dive boat, tug, and barge would facilitate the connection from new pipeline to the base of the new gas riser. The dive boat would be operating intermittently during the 9-day period needed to complete the underwater connections. A set of underwater tools may be used for a brief period to expose the location where the new subsea gas pipeline would be connected to the existing pipeline and prepare the pipeline for connection. These tools may include a hydraulic wrench, pneumatic grinder, and a hydraulic breaker and pressure washer (*i.e.,* Garner Denver Series Pressure Washer) for removing concrete from existing infrastructure. The use of these tools would only be required during one dive for a short duration (less than 30 minutes).

Prior to initiating pipeline pulling activities, obstacles along the pull path would be repositioned. A subsea sonar survey was conducted in Spring 2017 to identify any obstacles that could damage the pipe during installation or impede the pipe pulling activities. A number of items 1.5 me (5 ft) in diameter or greater were identified during the survey and would be relocated to a position that does not interfere with the pipeline route. A maximum of 50 obstacles (*e.g.,* boulders) would be moved away from the pipeline corridor using a barge-mounted crane or tug-mounted tow cable. During slack tide, divers would attach a 500–600 ft long pull cable to the obstacle. The cable would then be pulled by a tug or, for larger objects, rolled up on a winch on the barge. Because divers can only attach cables during slack tide, Harvest anticipates this work to take approximately 15 days.

In total, approximately 100–110 barge moves will be required intermittently over the 110-day period. There are four anchors for the barge and two anchors that will provide hold-back force for pulling pipe. Approximately four anchors will be set at each slack tide which occurs threetimes/day. Slack tide lasts approx. 1.5–2 hours. During slack tide, tugs will be moving anchors and repositioning the barge if possible depending on conditions and timing. Each anchor is 30,000 pounds with 15 ft of chain and 4,200 ft of wire cable. Tugs engines will be on 24-hours per day; however, they would be ''standing by'' during pipe pulling when engine vessel noise is minimal. Tugs cannot turn off engines when not working due to strong currents. Actual time estimated for tugs to be working is a maximum of 12 hours per day. Dive boats will be secured to the barge for the majority of time, which will not require engines to be on or engaged. During the project, a work boat would be onsite to support the barges (*e.g.,* supply equipment) and a crew boat would shuttle crew back and forth between the barge/vessels and the beach.

Harvest provided source levels for the various vessels that would be used for the project. They also estimated pipe pulling source levels may be similar to a bucket dredge if the pipe hits something on the seafloor resulting in a peak source level of 179 decibels (dB). We believe this to be a gross overestimate because Cook Inlet is comprised of silty, muddy substrates and Harvest would move obstacles prior to initiating pipe pulling. However, no pipe pulling acoustic data is available; therefore, we include the proposed source level here. We note that while any one of these individual sources operating alone would not necessarily be expected to result harassment of marine mammals, the overall cumulative elevation in noise from a combination of sources as well as the presence of equipment in what is typically a natural, undeveloped environment (see further discussion below) may result in take of marine mammals. Table 1 contains construction scenarios during the phased project and associated use duration.

TABLE 1—CONSTRUCTION SCENARIOS, ASSOCIATED EQUIPMENT AND ESTIMATED SOURCE LEVELS DURING THE 108-DAY CIPL PROJECT

Project component/scenario	Noise source	Approximate duration (days)	Approximate hours per day
Obstruction Removal and Pipeline pulling (subtidal)	Tug (120 ft) x 2	68	10–12
	Dive boat [1]	28	9
	Sonar boat [2]	9	12
	Work boat (120 ft) [1]	68	9
	Crew boat (48 ft) [1]	68	9
	Barge anchoring [3]		
Pipeline pulling (intertidal)	Tug x 2	16	10–12
	Barge anchoring	16	
	Crew boat		
Trenching (transition zone)	Tug x 2	10	12
	Backhoe/bucket dredge [4] (beach-based)	10	12
Mid-line Pipeline Tie-In Work	Tug x 2	7	10–12
	Dive boat	4	9
	Work boat	7	12
	Barge anchoring	7	6

TABLE 1—CONSTRUCTION SCENARIOS, ASSOCIATED EQUIPMENT AND ESTIMATED SOURCE LEVELS DURING THE 108-DAY CIPL PROJECT—Continued

Project component/scenario	Noise source	Approximate duration (days)	Approximate hours per day
Connections of Tyonek Platform	Tug x 2	7	10–12
	Work boat	7	8
	Dive boat	7	9
	Underwater tools (hydraulic wrench, pneumatic grinder, and pressure washer).	7	30 minutes
Total Duration [5]	Tug x 2	108	
	Dive boat	39	
	Sonar boat	9	
	Work/crew boat	108	

[1] The dive boat, crew boat, and work boat durations are shorter than tugs because they would be tied to the barge most of the time. Main engines would not be running while tied up, but a generator and compressors would be running to support diving operations.
[2] Sonar boat engine noise only. Sonar equipment would operate at frequencies over 200 kHz.
[3] Barge is equipped with four anchors.
[4] Backhoe and tug will be used approximately 2–4 hours per low/slack tide to complete transition zone installation.
[5] Total time does not include allowance of 6 weather days because vessels would not operating during those days.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SAR; *www.nmfs.noaa.gov/pr/sars/*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*www.nmfs.noaa.gov/pr/species/mammals/*).

Table 2 lists all species with expected potential for occurrence in Cook Inlet and summarizes information related to the population or stock, including regulatory status under the MMPA and the 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's 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's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Alaska SARs (Muto *et al.,* 2016). All values presented in Table 2 are the most recent available at the time of publication and are available in the 2016 SARs (Muto *et al.,* 2016) available online at: *www.nmfs.noaa.gov/pr/sars/draft.htm.*

TABLE 2—NEED A TITLE HERE

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Annual M/SI [4]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Eschrichtiidae						
Gray whale	*Eschrichtius robustus*	Eastern North Pacific	–;N	20,990 (0.05, 20125, 2011).	624	132
Family Balaenopteridae (rorquals)						
Fin whale	*Balaenoptera physalus*	Northeast Pacific Stock	E;Y	1,368 (1,368, 0.34, 2010)	UND	0.6
Minke whale	*Balaenoptera acutorostrata*	Gulf of Alaska	–;N	unk	N/A	0
Humpback whale	*Megaptera novaeangliae*	Central North Pacific	E;Y	10,103 (0.3, 7890, 2006)	83	24
Humpback whale	*Megaptera novaeangliae*	Western North Pacific	E;Y	1,107 (0.3, 865, 2006)	3	2.6
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae						
Beluga whale	*Delphinapterus leucas*	Cook Inlet	E;Y	312 (0.1, 287, 2014)	UND	0
Killer whale	*Orcinus orca*	Alaska Resident	–;N	2,347 (unk, 2,347, 2012)	24	1
Killer whale	*Orcinus orca*	Gulf of Alaska, Aleurian, Bering Sea Transient.	–;N	587 (unk, 587, 2012)	5.9	1

TABLE 2—NEED A TITLE HERE—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Annual M/SI [4]
Family Phocoenidae (porpoises)						
Harbor porpoise	*Phocoena phocoena*	Gulf of Alaska	–;Y	31,046 (0.214, N/A, 1998).	UND	72
Dall's porpoise	*Phocoenoides dalli*	Alaska	–;N	83,400 (0.097, N/A, 1993).	UND	38
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions)						
Steller sea lion	*Eumetopias jubatus*	Western U.S.	E;Y	50,983 (unk, 50,983, 2015).	306	236
Family Phocidae (earless seals)						
Harbor seal	*Phoca vitulina*	Cook Inlet/Shelikof Strait	–;N	27,386 (unk, 25,651, 2011).	770	234

[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] UND is an undetermined Potential Biological Removal (PBR).

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

All species that could potentially occur in the proposed survey areas are included in Table 2. However, the rarity of animals in the action and temporal and/or spatial occurrence of gray whales, fin whales, minke whales, and Dall's porpoise is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here. Dall's porpoise occur in Cook Inlet but primarily in the lower portions south of the Forelands. Dall's porpoise are considered rare in the action area. Fin whale sightings in Cook Inlet are rare. During the NMFS aerial beluga surveys from 2001 to 2014 a total of nine groups were reported; all of which occurred south Kachemak Bay which is located in Lower Cook Inlet approximately 100 miles southeast of the project area. Minke whales are also known to occur primarily in Lower Cook Inlet and are rare. From 1994 to 2012, only three minke whales were observed during the NMFS aerial surveys. In Lower Cook Inlet there have been several documented sightings of gray whales over the years; however, sighting in the Upper Inlet are rare. For reasons of rarity and distribution, we do not discuss these species further.

Beluga Whale

Beluga whales inhabiting Cook Inlet are one of five distinct stocks based on the following types of data: Distribution, population response, phenotype, and genotype (Muto *et al.,* 2016). During ice-free months, Cook Inlet beluga whales are typically concentrated near river mouths (Rugh *et al.,* 2010). The fall-winter-spring distribution of this stock is not fully determined; however, there is evidence that most whales in this population inhabit upper Cook Inlet year-round (Hansen and Hubbard 1999, Rugh *et al.,* 2004, Shelden *et al.,* 2015, Castellote *et al.,* 2016).

The Cook Inlet beluga whale stock was designated as depleted under the MMPA (65 FR 34590, 21 May 2000), and on 22 October 2008, NMFS listed Cook Inlet beluga whales as endangered under the ESA (73 FR 62919, 22 October 2008). Bi-annually, NMFS conducts aerial surveys to determine stock abundance. The most recent survey occurred in June 2016 with the next survey scheduled for June 2018. Aerial surveys during June documenting the early summer distribution and abundance of beluga whales in Cook Inlet were conducted by NMFS each year from 1993 to 2012 (Rugh *et al.,* 2000, 2005; Shelden *et al.,* 2013), after which NMFS began biennial surveys in 2014 (Shelden *et al.,* 2015b) (Fig. 2). The abundance estimate for beluga whales in Cook Inlet is based on counts by aerial observers and video analysis of whale groups Based on population data, there is a declining trend in abundance. From 1999 to 2014, the rate of decline was 1.3 percent (SE = 0.7%) per year, with a 97 percent probability that the growth rate is declining (*i.e.,* less than zero), while the 10-year trend (2004–2014) is −0.4 percent per year (with a 76 percent probability of declining) (Shelden *et al.,* 2015b). Threats that have the potential to impact this stock and its habitat include the following: Changes in prey availability due to natural environmental variability, ocean acidification, and commercial fisheries; climatic changes affecting habitat; predation by killer whales; contaminants; noise; ship strikes; waste management; urban runoff; construction projects; and physical habitat modifications that may occur as Cook Inlet becomes increasingly urbanized (Moore *et al.,* 2000, Lowry *et al.,* 2006, Hobbs *et al.,* 2015, NMFS, 2106a). Planned projects that may alter the physical habitat of Cook Inlet include; highway improvements; mine construction and operation; oil and gas exploration and development; and expansion and improvements to ports.

NMFS has tagged animals to identify daily patterns of movement. During summers from 1999 to 2002, satellite tags were attached to 18 beluga whales to determine their distribution through the fall and winter months (Hobbs *et al.,* 2005, Goetz *et al.,* 2012). Tags on four of these whales transmitted for only a few days and transmissions stopped in September for another whale (Shelden *et al.,* 2015a). Ten tags transmitted whale locations from September through November and, of those, three

transmitted into January, three into March, and one into late May (Hobbs *et al.,* 2005, Goetz *et al.,* 2012). All tagged beluga whales remained in Cook Inlet, primarily in Upper Inlet waters. Kernel-density probability distribution maps were generated from tag data and indicate habitat use of the area of the specified activity is low from spring through the fall as whales are concentrated higher in the inlet by the Susitna Delta, Beluaga River, and Knik and Turnigan Arm. These findings are also corroborated by the aerial survey data which documents very few sightings in the action area in June. NMFS also records sightings reported opportunistically. Six sightings near Tyonek are on record from April through October 2000 through 2014 with group size ranging from 3 to 14 animals (K. Shelden, pers. comm., January 25, 2018).

Subsistence harvest of beluga whales in Cook Inlet is historically important to one local village (Tyonek) and the Alaska Native subsistence hunter community in Anchorage. Following the significant decline in Cook Inlet beluga whale abundance estimates between 1994 and 1998, the Federal government took actions to conserve, protect, and prevent further declines in the abundance of these whales. In 1999 and 2000, Public Laws 106–31 and 106–553 established a moratorium on Cook Inlet beluga whale harvests except for subsistence hunts conducted under cooperative agreements between NMFS and affected Alaska Native organizations. A long-term harvest plan set allowable harvest levels for a 5-year period, based on the average abundance in the previous 5-year period and the growth rate during the previous 10-year period. A harvest is not allowed if the previous 5-year average abundance is less than 350 beluga whales. Due to population estimates below 350, no hunt has occurred since 2005 when two whales were taken under an interim harvest plan.

NMFS designated critical habitat for Cook Inlet beluga whales in 2011 (Figure A–1; NMFS 2011). In its critical habitat designation, NMFS identified two distinct areas (Areas 1 and 2) that are used by Cook Inlet beluga whales for different purposes at different times of year. Area 1 habitat is located in the northernmost region of Cook Inlet and consists of shallow tidal flats, river mouths, and estuarine areas, important for foraging and calving. Beluga whales concentrate in Area 1 during the spring and summer months for these purposes (Goetz *et al.,* 2012). Area 1 has the highest concentrations of beluga whales from spring through fall (approximately March through October), as well as the greatest potential for adverse impact from anthropogenic threats (FR 2009). Area 2 habitat was designated for the area's importance to fall and winter feeding, as well as transit. Area 2 includes the Cook Inlet waters south of Area 1 habitat, as well as Kachemak Bay and foraging areas along the western shore of Lower Cook Inlet (Hobbs *et al.,* 2005). Based on dive behavior and analysis of stomach contents from Cook Inlet belugas, it is assumed that Area 2 habitat is an active feeding area during fall and winter months when the spatial distribution and diversity of winter prey likely influence the wider beluga winter range (NMFS 2008b).

Spring and Summer Distribution—Cook Inlet beluga whales show ''obvious and repeated use of certain habitats,'' specifically through high concentrations in the Upper Cook Inlet (critical habitat Area 1) during spring and summer months (NMFS 2008a). From approximately April through September, Cook Inlet belugas are highly concentrated in Upper Cook Inlet, feeding mainly on gadids (Gadidae *spp.)* and anadromous fish, including eulachon and Pacific salmon. The eulachon and all five Pacific salmon species: Chinook, pink, coho, sockeye, and chum spawn in rivers throughout Cook Inlet. Eulachon is the earliest anadromous species toappear, arriving in Upper Cook Inlet in April with major spawning runs in the Susitna and Twentymile rivers in May and July (NMFS 2008). The arrival of the eulachon appears to draw Cook Inlet beluga whales to the northern regions of Cook Inlet where they concentrate to feed on the early spring run, sometimes feeding on the eulachon exclusively before salmon arrive in the Upper Inlet (Abookire and Piatt 2005; Litzow *et al.,* 2006).

Annual aerial surveys conducted in June from 1998 through 2008 covering all of Cook Inlet observed the beluga whales to be almost entirely absent from mid and lower portions of the inlet and the majority located between the Little Susitna River and Fire Island in the Upper Inlet (Rugh *et al.,* 2010). The greatest concentrations of individuals were observed in the mouth of the Susitna River and extending into the Knik Arm and toward Turnagain Arm. Only between two and 10 individuals were observed during the survey in the Lower Inlet, in Kachemak Bay. Those low sample size provides for statistical uncertainty; however, direct observations during aerial surveys provide strong evidence Cook Inlet belugas restrict their movements during spring and summer months to the extreme north of the inlet (*e.g.,* Rugh *et al.,* 2010).

The Alaska Department of Fish and Game (ADF&G) collected seasonal distribution data on Cook Inlet belugas using passive acoustic recorders deployed year-round at 13 locations in Cook Inlet from 2008 to 2013 (Castellote *et al.,* 2016). Each device was equipped with two types of recorders, an ecological acoustic recorder that monitored for low-frequency (0 to 12.5 kHz) social signals and a cetacean and porpoise detector for high-frequency (20 to 160 kHz) echolocation signals. During this study, a single recorder was deployed at Trading Bay. This device collected 9,734 acoustic effort hours (AEH) during the summer months (May to October) and 11,609 AEH during the winter months (November to April) over a 3-year period. Beluga detections were characterized by any echolocation, call, or whistle detected for any hour as a detection positive hour (DPH).

A recent acoustic study found a relatively constant pattern of variation in beluga whale presence between summer and winter months. During the summer, the percent of belugas detected positively per hour (% DPH) was highest in Upper Cook Inlet, primarily in Eagle Bay (12.4 percent), Little Susitna River (7.6 percent), and Beluga River (4.8 percent) and lowest in the Lower Inlet (less than 1 percent), which includes Trading Bay. During the winter, the highest percent DPH was at the Beluga River (6.0 percent), while Trading Bay had the second highest percent DPH during these same months (Castellote *et al.,* 2016). These findings agreed with the past aerial and telemetry data.

Fall and Winter Distribution-Beginning in October, beluga whales become less concentrated, increasing their range and dispersing into deeper waters of the upper and mid-region of Cook Inlet. In late summer and fall (August to October), Cook Inlet belugas use the streams on the west side of Cook Inlet from the Susitna River south to Chinitna Bay, sometimes moving up to 35 miles upstream to follow fish migrations (NMFS 2008a). Direct winter observation of beluga whales is less frequent than in summer; however, Hobbs *et al.* (2005) estimated the Cook Inlet beluga whale distribution during fall and winter months based on known locations of satellite-tagged beluga whales from 1999 through 2003 (National Marine Mammal Laboratory (NMML) 1999, 2000, 2001, 2002–2003). Estimated Cook Inlet beluga whale distributions from August through March indicate that individuals concentrate their range in the upper

region of Cook Inlet through September but have a much increased range from October to March, utilizing more areas of the inlet. The predicted winter range has a more southerly focal point than in summer, with the majority of time spent in the mid-region of the inlet beginning in December.

Although there are indications that belugas may travel to the extreme south of Cook Inlet, the available data show belugas remaining in the upper to mid-Inlet through the winter months. Most likely, the dispersal in late fall and winter results from belugas' need to forage for prey in bottom or mid-waters rather than at river mouths after the seasonal salmon runs have ceased. As salmon runs begin to decline for the year, Cook Inlet belugas change to a diet of fish found in nearshore bays, estuaries, and deeper waters, including cod (*Gadus morhua*), Pacific staghorn sculpin (*Leptocottus armatus*), flatfish such as starry flounder (*Platichthys stellatus*), and yellowfin sole (*Limanda aspera*) (Hobbs *et al.,* 2008).

If beluga whale are in the CIPL project area, they are not expected to linger during the proposed work period (April through October) but are expected to being moving north between the Beluga River (Susitna River delta) and the McArthur River (Trading Bay) or cross the inlet from the Beluga River to Point Possession/Chickaloon Bay, presumably looking for opportunities to feed on returning anadromous fish and outmigrating smolt (pers. comm., email from K. Shelden, October 13, 2017). The distance between the project site and dense concentrations of foraging marine mammals at the mouths of major spawning rivers in upper Cook Inlet is approximately 20 to 30 kms (12 to 18 mi) and over 50 km (31 mi) between the pipeline corridor and foraging areas in Knik and Turnagain Arms.

Harbor Seal

Harbor seals have been observed throughout Cook Inlet. During the winter, they are primarily aquatic, but through the summer months they spend more time hauled out onshore to rest, molt, and avoid predation. During the summer months, when not hauled out, harbor seals can be found foraging at the mouths of large rivers, primarily on the west side of the inlet (Boveng *et al.,* 2012). A multi-year study of seasonal movements and abundance of harbor seals in Cook Inlet was conducted between 2004 and 2007. This study involved multiple aerial surveys throughout the year, and the data indicated a stable population of harbor seals during the August molting period (Boveng *et al.,* 2012).

Steller Sea Lion

In 1990, the Steller sea lion was added to the list of ESA species (55 FR 49204). During the early 1990s, advances in genetic technology helped to identify two distinct population segments (DPS) of Steller sea lions within the North Pacific range. The eastern DPS of Steller sea lions ranges from California north to Cape Suckling, Alaska; the western DPS ranges from Cape Suckling west to Japan, including Cook Inlet. The population estimate of western DPS sea lions decreased by 40 percent in the 1990s. (Loughlin and York 2000). In 1997, the western DPS was reclassified as endangered under the ESA. Critical habitat was designated for Steller sea lions; however, it does not occur within Cook Inlet.

Steller sea lions do not show regular patterns of migration. Most adult Steller sea lions occupy rookeries during pupping and breeding season (late May to early July). No rookeries are known to exist in the upper or mid-areas of Cook Inlet, but several have been identified approximately 130 mi to the south, at the extreme southern tip of the Kenai Peninsula (NMFS 2008b). Steller sea lions have an extensive range during the winter months and often travel far out to sea and use deep waters in excess of 1,000 m (NMFS 2008b).

The western DPS of Steller Sea Lion occurs in Cook Inlet but ranges south of Anchor Point around the offshore islands and along the west coast of the Upper Inlet in several bays such as Chinitna and Iniskin (Rugh *et al.,* 2005a). Designated rookeries and haulout sites include those near the mouth of the Cook Inlet, which is well south of the Forelands and the Action Area. Critical habitat has not been designated in mid- to upper Cook Inlet and Steller sea lions are considered rare in upper Cook Inlet.

Harbor Porpoise

Harbor porpoises are ubiquitous throughout most of Alaska. Their range includes all nearshore areas from Southeast Alaska up to Point Barrow, including the Aleutian Islands (Gaskin 1984; Christman and Aerts 2015). The Alaska harbor porpoise population is separated into three stocks for management purposes. These include the Southeast Alaska stock, GOA stock, and the Bering Sea stock. Harbor porpoises in Cook Inlet are considered part of the GOA stock, most recently estimated at 25,987 (Hobbs and Waite 2010).

Harbor porpoises forage on much of the same prey as belugas; their relative high densities in the Lower Inlet may be due to greater availability of preferred prey and less competition with belugas (Shelden *et al.,* 2014). Although densities appear to be higher in the Lower Inlet, sightings in the Upper Inlet are not uncommon (Nemeth *et al.,* 2007).

Harbor porpoise sightings occur in all months of open water in the Upper Inlet but appear to peak in April to June and September to October. Small numbers of harbor porpoises have been consistently reported in the Upper Inlet between April and October, except recently higher numbers than typical have been observed. The highest monthly counts include 17 harbor porpoises reported for spring through fall 2006 by Prevel Ramos *et al.,* (2008), 14 for spring of 2007 by Brueggeman *et al.,* (2007a), 12 for fall of 2007 by Brueggeman *et al.,* (2008), and 129 for spring through fall in 2007 by Prevel Ramos *et al.,* (2008) between Granite Point and the Susitna River during 2006 and 2007; the reason for the recent spike in numbers (129) of harbor porpoises in the upper Cook Inlet is unclear and quite disparate with results of past surveys, suggesting it may be an anomaly. The spike occurred in July, which was followed by sightings of 79 harbor porpoise in August, 78 in September, and 59 in October in 2007. The number of porpoises counted more than once was unknown. Harbor porpoise may occur in large groups; however, this is more typical in the Lower Inlet and more commonly they occur in groups of one to three animals (Sheldon *et al.,* 2014).

Killer Whales

Killer whale distribution in Alaska ranges from the southern Chukchi Sea, west along the Aleutian Islands, and south to Southeast Alaska. As a species, killer whales have been divided into two separate genetically distinct groups; these are resident and transient ecotypes (Hoelzel and Dover 1991; Hoelzel *et al.,* 1998, 2002; Barrett-Lennard 2000). The resident ecotypes feed exclusively on fish, while the transient whales consume only marine mammals (Saulitis *et al.,* 2000).

Killer whales representing both ecotypes are known to occur in Cook Inlet. The subgroups include the Alaska Resident, GOA, Aleutian Islands, and Bering Sea Transient stocks. Recent population estimates of these ecotypes are 2,347 resident and 587 transient (Muto *et al.,* 2016). During the NMFS aerial beluga surveys from 2001 to 2014, a total of 15 groups (62 individuals) were observed; all sightings took place in the lower part of the inlet, south of Anchor River (Figure A–7). Shelden *et al.* (2003) compiled anecdotal reports of

killer whales and systematic surveys in Cook Inlet to determine effects of predations on beluga whales. Based on their findings, out of the 122 reported sightings, only 18 were in the Upper Inlet (Shelden *et al.,* 2003).

Humpback Whale

On October 11, 2016, NMFS revised the listing status of the humpback whale into 14 DPSs and the species-level endangered listing was removed (81 FR 62259). Now, 2DPSs are listed as endangered, 2DPSs are threatened, and the remaining 10 DPSs are no longer listed under the ESA. Three DPSs of humpback whales occur in waters off the coast of Alaska: The Western North Pacific DPS, listed as endangered under the ESA; the Mexico DPS, a threatened species; and the Hawaii DPS, which is no longer listed as endangered or threatened under the ESA. Humpback whales in the Gulf of Alaska are most likely to be from the Hawaii DPS (89 percent probability) (Wade *et al.,* 2016). Humpback whales that occur in Cook Inlet, albeit infrequently, are considered part of the Hawaii DPS.

The GOA is one of the summer feeding grounds humpback whales migrate to each year (Baker *et al.,* 1986). The GOA feeding area includes Prince William Sound to the Shumagin Islands, including Kodiak Island (Muto *et al.,* 2016). Three humpback whale DPSs make up the GOA feeding group; these are the Hawaii DPS (not listed), the Mexico DPS (Threatened), and the Western North Pacific DPS (Endangered) (Wade *et al.,* 2016).

Capture and recapture methods using more than 18,000 fluke identification photographs suggest a large percentage of the GOA feeding group is comprised of the Hawaii DPS. Data from the same study indicate that the Mexico DPS also contributes to the GOA feeding group; the study was also the first to show that some whales from the Western North Pacific stock migrate to the Aleutian Islands and could potentially be part of the GOA group (Barlow *et al.,* 2011).

In the summer, humpback whales are present regularly and feed outside of Cook Inlet, including Shelikof Strait, Kodiak Island bays, the Barren Islands, and the Kenai and Alaska peninsulas. However, there have been several projects in Cook Inlet that have observed humpback whales in Lower Cook Inlet during the summer. From 2001 to 2014, the NMFS aerial beluga survey of Cook Inlet recorded a total of 198 humpback sightings; the majority of which occurred south of Homer. In 2014 five humpback whale groups were observed on the east side of Cook Inlet during the surveys conducted as part of the Apache project (Lomac-MacNair *et al.,* 2014). Three of these sightings, including the mother-calf pair, were observed north of the Forelands but still well south of the Project Area.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2016) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 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 hearing 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;

Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz;

High-frequency cetaceans (porpoises, river dolphins, and members of the genera Kogia and Cephalorhynchus; including two members of the genus Lagenorhynchus, on the basis of recent echolocation data and genetic data): Generalized hearing is estimated to occur between approximately 275 Hz and 160 kHz;

- Pinnipeds in water; Phocidae (true seals): Generalized hearing is estimated to occur between approximately 50 Hz to 86 kHz;
- Pinnipeds in water; Otariidae (eared seals): Generalized hearing is estimated to occur between 60 Hz and 39 kHz.

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

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Six marine mammal species (four cetacean and two pinniped (one otariid and one phocid) species) have the reasonable potential to be taken by the proposed project. Of the cetacean species that may be present, one is classified as low-frequency cetaceans (*i.e.,* all mysticete species), two are classified as mid-frequency cetaceans (*i.e.,* all delphinid and ziphiid species and the sperm whale), and one is classified as high-frequency cetaceans (*i.e.,* harbor porpoise and Kogia spp.).

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 includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis and Determination'' section considers the content of this section, the ''Estimated Take 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.

The proposed project includes the use of various types of vessels (*e.g.,* tugs, dive boat, sonar boat), a large barge secured by four anchors, continuous types of work (*e.g.,* trenching, moving obstacles barge anchoring, use of a underwater tools) that, collectively, would emit consistent, low levels of noise into Cook Inlet for an extended period of time (110 days) in a concentrated area. Unlike projects that involve discrete noise sources with known potential to harass marine

mammals (*e.g.,* pile driving, seismic surveys), both the noise sources and impacts from the pipeline installation project are less well documented and, for reasons described below, may range from Level B harassment to exposure to noise that does not result in harassment. The various scenarios that may occur during this project extend from vessels in stand-by mode (tug engines on and maintaining position) to multiple vessels and operations occurring at once. Here, we make conservative assessments of the potential to harass marine mammals incidental to the project and, in the Estimated Take section, accordingly propose to authorize take, by Level B harassment.

The proposed project has the potential to harass marine mammals from exposure to noise and the physical presence of working vessels (*e.g.,* tugs pushing barges) other construction activities such as removing obstacles from the pipeline path, pulling pipelines, anchoring the barge, divers working underwater with noise-generating equipment, trenching, etc. In this case, NMFS considers potential harassment from the collective use of industrial vessels working in a concentrated area for an extended period of time and noise created when moving obstacles, pulling pipelines, trenching in the intertidal transition zone, and moving barges two to three times per day using two tugs. Essentially, the project area will become be a concentrated work area in an otherwise non-industrial, serene setting. In addition, the presence of the staging area on land and associated work close to shore may harass hauled-out harbor seals.

Auditory Effects

NMFS defines a noise-induced threshold shift (TS) as ''a change, usually an increase, in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level'' (NMFS, 2016). The amount of threshold shift is customarily expressed in dB (ANSI 1995, Yost 2007). A TS can be permanent (PTS) or temporary (TTS). As described in NMFS (2016), there are numerous factors to consider when examining the consequence of TS, including, but not limited to, the signal temporal pattern (*e.g.,* impulsive or non-impulsive), likelihood an individual would be exposed for a long enough duration or to a high enough level to induce a TS, the magnitude of the TS, time to recovery (seconds to minutes or hours to days), the frequency range of the exposure (*i.e.,* spectral content), the hearing and vocalization frequency range of the exposed species relative to the signal's frequency spectrum (*i.e.,* how animal uses sound within the frequency band of the signal; *e.g.,* Kastelein *et al.,* 2014), and the overlap between the animal and the source (*e.g.,* spatial, temporal, and spectral). When analyzing the auditory effects of noise exposure, it is often helpful to broadly categorize sound as either impulsive—noise with high peak sound pressure, short duration, fast rise-time, and broad frequency content—or non-impulsive. When considering auditory effects, vibratory pile driving is considered a non-impulsive source while impact pile driving is treated as an impulsive source.

Permanent Threshold Shift—NMFS defines PTS as a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2016). Available data from humans and other terrestrial mammals indicate that a 40 dB threshold shift approximates PTS onset (see NMFS 2016 for review).

Temporary Threshold Shift—NMFS defines TTS as a temporary, reversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2016). Based on data from cetacean TTS measurements (see Finneran 2014 for a review), a TTS of 6 dB is considered the minimum threshold shift clearly larger than any day-to-day or session-to-session variation in a subject's normal hearing ability (Schlundt *et al.,* 2000; Finneran *et al.,* 2000; Finneran *et al.,* 2002).

Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that takes place during a time when the animal is traveling through the open ocean, where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. We note that reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so we can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

Masking

Since many marine mammals rely on sound to find prey, moderate social interactions, and facilitate mating (Tyack, 2008), noise from anthropogenic sound sources can interfere with these functions, but only if the noise spectrum overlaps with the hearing sensitivity of the marine mammal (Southall *et al.,* 2007; Clark *et al.,* 2009; Hatch *et al.,* 2012). Chronic exposure to excessive, though not high-intensity, noise could cause masking at particular frequencies for marine mammals that utilize sound for vital biological functions (Clark *et al.,* 2009). Acoustic masking is when other noises such as from human sources interfere with animal detection of acoustic signals such as communication calls, echolocation sounds, and environmental sounds important to marine mammals. Therefore, under certain circumstances, marine mammals whose acoustical sensors or environment are being severely masked could also be impaired from maximizing their performance fitness in survival and reproduction.

Masking occurs in the frequency band that he animals utilize. Since noises generated from tugs pushing the barge, anchor handling, trenching, and pipe pulling are mostly concentrated at low frequency ranges, these activities likely have less effect on high frequency echolocation sounds by odontocetes (toothed whales). However, lower frequency man-made noises are more likely to affect detection of communication calls and other potentially important natural sounds such as surf and prey noise. It may also affect communication signals when they occur near the noise band and thus reduce the communication space of animals (*e.g.,* Clark *et al.,* 2009) and cause increased stress levels (*e.g.,* Holt *et al.,* 2009).

Unlike TS, masking, which can occur over large temporal and spatial scales, can potentially affect the species at population, community, or even ecosystem levels, as well as individual levels. Masking affects both senders and receivers of the signals and could have long-term chronic effects on marine mammal species and populations. Recent science suggests that low frequency ambient sound levels have increased by as much as 20 dB (more than 3 times in terms of sound pressure level) in the world's ocean from pre-industrial periods, and most of these increases are from distant shipping. All

anthropogenic noise sources, such as those from vessel traffic and cable-laying while operating anchor handling, contribute to the elevated ambient noise levels, thus increasing potential for or severity of masking.

Behavioral Disturbance

Finally, exposure of marine mammals to certain sounds could lead to behavioral disturbance (Richardson *et al.,* 1995), such as: Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where noise sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haulouts or rookeries).

The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.,* 2007). Currently NMFS uses a received level of 160 dB re 1 micro Pascal (μPa) root mean square (rms) to predict the onset of behavioral harassment from impulse noises (such as impact pile driving), and 120 dB re 1 μPa (rms) for continuous noises (such as operating dynamic positioning (DP) thrusters). No impulse noise within the hearing range of marine mammals is expected from the Quintillion subsea cable-laying operation. For the pipeline installation activities, only the 120 dB re 1 μPa (rms) threshold is considered because only continuous noise sources would be generated.

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be biologically significant if the change affects growth, survival, and/or reproduction, which depends on the severity, duration, and context of the effects. Disturbance may result in changing durations of surfacing and dives, number of blows per surfacing, moving direction and/or speed, reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding), visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping), avoidance of areas where sound sources are located, and/or flight responses. Pinnipeds may increase their haul-out time, possibly to avoid in-water disturbance (Thorson and Reyff 2006). These potential 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). 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).

In consideration of the range of potential effects (PTS to behavioral disturbance), we consider the potential exposure scenarios and context in which species would be exposed. Cook Inlet beluga whales are expected to present in low numbers during the work; therefore, they are likely to, at some point, be exposed to elevated noise fields in the vicinity of the project. However, beluga whales are expected to be transiting through the area (as described in the *Description of Marine Mammals* section); thereby limiting exposure duration as the majority of the beluga whale population is expected to concentrate farther north. Belugas are expected to be headed to, or later in the season, away from, the concentrated foraging areas near the Beluga River, Susitna Delta, and Knik and Turnigan Arms. Similarly, humpback whales, killer whales, harbor porpoise and Steller sea lions are not expected to remain in the area. Because of this and the relatively low level sources, the likelihood of PTS and TTS is discountable. Harbor seals; however, may linger or haul-out in the area but they are not known to do so in any large number or for extended periods of time (there are no known major haul-outs or rookeries in the project area). Here we find there is small potential for TTS but again, PTS is not likely due to the types of sources involved in the project.

Given most marine mammals are likely transiting through the area, exposure is expected to be brief but, in combination with the actual presence of working equipment, may result in animals shifting pathways around the work site (*e.g.,* avoidance), increasing speed or dive times, or cessation of vocalizations. A short-term, localized disturbance response is supported by data indicating belugas regularly pass by industrialized areas such as the Port of Anchorage; therefore, we do not expect any abandonment of the transiting route. We also anticipate some animals may elicit such mild reactions to the project that take does not occur. For example, during work down times (*e.g.,* while tugs may be operating engines in ''stand-by'' mode), the animals may be able to hear the work but any resulting reactions, if any, are not expected to rise to the level of take.

Estimated Take

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

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

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns and possibly low levels of TTS for individual marine mammals resulting from exposure to multiple working vessels and construction activities in a concentrated area. Based on the nature of the activity, Level A harassment is neither anticipated nor proposed to be authorized.

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

Described in the most basic way, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. Below, we describe these components in more detail and present the proposed take estimate.

Acoustic Thresholds

Using the best available science, NMFS uses acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably

expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2011). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

Harvest's proposed activity includes the use of multiple continuous sources and activities (*e.g.,* vessels, pipe pulling) and therefore the 120 dB re 1 μPa (rms) threshold is applicable. . As described above, we believe it is not any one of these single sources alone that is likely to harass marine mammals, but a combination of sources and the physical presence of the equipment. We use this cumulative assessment approach below to identify ensonsified areas and take estimates.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (NMFS, 2016b) 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). Harvest's proposed activity includes the use of non-impulsive (*e.g.,* tugs pushing a barge, pipe pulling) sources.

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,\ LF,24h}$: 183 dB	*Cell 2:* $L_{E,\ LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,\ MF,24h}$: 185 dB	*Cell 4:* $L_{E,\ MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,\ HF,24h}$: 155 dB	*Cell 6:* $L_{E,\ HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,\ PW,24h}$: 185 dB	*Cell 8:* $L_{E,\ PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,\ OW,24h}$: 203 dB	*Cell 10:* $L_{E,\ OW,24h}$: 219 dB.

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

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa^{2}s. 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 identifying the area ensonified above the acoustic thresholds.

When NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which will result in some degree of overestimate of Level A take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. Although vessels are mobile, we are considering them stationary for purposes of this project due to the confined area of work. For stationary sources, NMFS User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS. Inputs used in the User Spreadsheet, and the resulting isopleths are reported below.

The sources and activities involved with the proposed project are relatively low compared to other activities for which NMFS typically authorizes take (*e.g.,* seismic surveys, impact pile driving). However, these sources will be operating for extended periods and NMFS PTS thresholds now incorporate a time component. That time component is based on both the duration of the activity and the likely amount of time an animal would be exposed. To determine if there is potential for PTS from the proposed project, we considered operations may occur throughout the day and night and despite tugs being on stand-by for much of the time, a full day (24 hours) is the most conservative approach for estimating potential for PTS. Therefore, we used a source level of 170 dB measured at 1 m (estimated tug noise),

a practical spreading loss model (15logR), and the weighting factor adjustment (WFA) for vibratory pile driving as a proxy for vessels (2.5 kHz). The distances to PTS thresholds considering a 24 hour exposure duration is provided in Table 4. Based on these results, we do not anticipate the nature of the work has the potential to cause PTS in any marine mammal hearing group; therefore, we do not anticipate auditory injury (Level A harassment) will occur.

TABLE 4—DISTANCES TO NMFS PTS THRESHOLDS

Hearing group	Distance to PTS threshold (m)
Low-frequency cetaceans	22.6
Mid-frequency cetaceans	2.0
High-frequency cetaceans	33.4
Phocids	13.8
Otarids	1.0

Each construction phase (see Table 1 above) involves multiple pieces of equipment that provide physical and acoustic sources of disturbance. For this project, we anticipate the ensonified area to shift as the project progresses along the pipeline corridor. That is, at the onset of the project, work will be concentrated in the intertidal zone close to shore and, as work continues, moving offshore towards the Tyonek platform. We also anticipate that the sound field generated by the combination of several sources will expand and contract as various construction related activities are occurring. For example, pushing the barge may require tugs to use increased thruster power, which would likely result in greater distances to the 120 dB re 1 μPa threshold in comparison to general movement around the area. Therefore, calculating an ensonified area for the entire pipeline corridor would be a gross overestimate and we offer an alternative here.

Because we consider the potential for take from the combination of multiple sources (and not any given single source), we estimate the ensonified area to be a rectangle centered along the pipeline corridor which encompasses all in-water equipment and a buffer around the outside of the cluster of activities constituting the distance calculated to the 120 dB threshold from one tug (*i.e.,* 2,200 m). NMFS determined a tug source level (170 dB re: 1 μPa) for the duration of the project would be a reasonable step in identifying an ensonified zone since tugs would be consistently operating in some manner, and other sources of noise (*e.g.,* trenching, obstacle removal, underwater tools) are all expected to produce less noise. Anchor handling during barge relocation is also a source of noise during the project; however, we believe using the tug is most appropriate. NMFS is aware of anchor handling noise measurements made in the Arctic during a Shell Oil exploratory drilling program that produced a noise level of 143 dB re 1 μPa at 860 m (LGL *et al.,* 2014). However, that measurement was during deployment of 1 of 12 anchors in an anchor array system associated with a large drill rig and it would be overly conservative to adopt here.

Although vessels and equipment (*e.g.,* tugs, support vessels, barge) spacing would vary during the course of operations, a single layout must be assumed for modeling purposes. We assume the barge used for pipe pulling and supporting trenching and stabilization is placed in the middle of a group of vessels and directly in line with the pipeline corridor. The sonar and dive boats would also be concentrated along the pipeline corridor path. We conservatively assume tugs would be spaced approximately 0.5 km from the barge/pipeline corridor during stand-by mode and could be on opposite sides of the corridor. Also, vessels and equipment would shift from nearshore to offshore as the project progresses. For simplicity, we divided the pipeline corridor (8.9 km) in half for our ensonified area model because each pipe pulled would be approximately 4.45 km each. We then considered the estimated distance to the 120 dB threshold from the tug (2.2 km). We then doubled that distance and adjusted for a 0.5 km distance from the pipeline corridor to account for noise propagating on either side of a tug. We used those distances to calculate the area of the rectangle centered around the pipeline corridor (Area = length × width or A = 4.45 km × ((2.2 km + 0.5km) × 2) for a Level B ensonified area of 24.03 km^2. As the work continues, this area would gradually shift from nearshore to farther offshore, terminating at the Tyonek platform.

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.

There are six marine mammal species that have the potential to occur within the action area from April through October. The NMFS National Marine Mammal Laboratory (NMML) maintains a database of Cook Inlet marine mammal observations collected by NOAA and U.S. Coast Guard personnel, fisheries observers, fisheries personnel, ferry operators, tourists, or other private boat operators. NMFS also collects anecdotal accounts of marine mammal sightings and strandings in Alaska from fishing vessels, charter boat operators, aircraft pilots, NMFS enforcement officers, Federal and state scientists, environmental monitoring programs, and the general public. These data were used to inform take estimates.

Empirical estimates of beluga density in Cook Inlet are difficult to produce. One of the most robust is the Goetz *et al.* (2012) model based on beluga sighting data from NMFS aerial surveys from 1994 to 2008. The model incorporated several habitat quality covariates (*e.g.,* water depth, substrate, proximity to salmon streams, proximity to anthropogenic activity, etc.) and related the probability of a beluga sighting (presence/absence) and the group size to these covariates. The probability of beluga whale presence within the project area from April through September is 0.001 belugas per km^2. Moving into October and the winter, density is likely to increase; however, Harvest anticipates all work will be completed no later than September.

Harvest provided density estimates for all other species with likely occurrence in the action area in their IHA application; however, data used to generate those densities do not incorporate survey efforts beyond 2011. Therefore, we have developed new density estimates based on data collected during NMFS aerial surveys conducted from 2001 to 2016 (Rugh *et al.* 2005; Shelden *et al.* 2013, 2015, 2017). The numbers of animals observed over the 14 survey years were summed for each species. The percent area of survey effort for each year (range 25 to 40 percent) was used to calculate the area surveyed which was summed for all years (Rugh *et al.* 2005; Shelden *et al.* 2013, 2015, 2017). Density estimates were then derived by dividing the total number of each species sighted during the survey by the total area of survey coverage (Table 5).

TABLE 5—DENSITY ESTIMATES FOR MARINE MAMMALS POTENTIALLY PRESENT WITHIN THE ACTION AREA BASED ON COOK INLET-WIDE NMFS AERIAL SURVEYS 2001–2016

Species	No. of animals	Area (km^2)	Estimated density (number of animals/km^2)
CI beluga whale	.....	.....	[1] 0.0001
Humpback whale	204	87,123	0.0023
Killer whale	70	87,123	0.0008
Harbor porpoise	377	87,123	0.004
Harbor seal	23,912	87,123	0.2745
Steller sea lion	[2] 74.1	87,123	0.00085

[1] CI beluga whale density based on Goetz et al. (2012).
[2] Actual counts of Steller sea lions was 741; however, it is well documented this species almost exclusively inhabits the lower inlet south of the Fordlands with rare sightings in the northern inlet. Therefore, we adjusted the number of animals observed during the NMFS surveys (which cover the entire inlet) by 1/10 to account for this skewed concentration.

Take Calculation and Estimation

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

To calculate take, we first estimate an amount as a product of ensonified area, species density, and duration of the project (Take = density × ensonified area × project days). As an example, for beluga whales, the estimated take is calculated as 24.03 $km^2 \times 0.001 \times 108$ days for a total of 2.59 belugas.

However, for this and other species, we also consider anecdotal sightings with the project area, anticipated residency time, and group size. Table 6 provides our quantitative analysis of take considering density and group size.

TABLE 6—QUANTITATIVE ASSESSMENT OF PROPOSED TAKE, BY LEVEL B HARASSMENT

Species	Density	Calculated take [1]	Average group size	Proposed take (Level B)
CI beluga whale	0.001	2.59	8	[2] 29
Humpback whale	0.0023	5.07	1–2	5
Killer whale	0.0008	1.77	5	[3] 5
Harbor porpoise	0.004	8.83	[4] 1–3	8
Harbor seal	0.2745	605.67	[5] 1–10	606
Steller sea lion	0.00085	1.88	1–2	5

[1] Take = density × ensonifed area (24.03 km^2) × # of project days (108).
[2] Adjusted take is based on potential for one group of eight belugas per month or two groups of four animals per month.
[3] Adjusted take is based on one group of five animals or two to three groups of one to two animals during the project.
[4] Group size average from Sheldon *et al.,* 2014.
[5] Represents range of group sizes observed during a seismic survey in the middle Inlet from May 6 through September 30, 2012 (Lomac-MacNair *et al.,* 2012).

Cook Inlet beluga whales are expected to be transiting through the action area in group sizes ranging from 3 to 14 animals with an average of 8 animals/group. These groups sizes are based on NMFS aerial surveys and anecdotal reports near Tyonek from April through October (pers comm. K Sheldon, January 25, 2018). Therefore, Harvest requests take for up to 29 beluga whales in anticipation that one group of 8 animals may pass through the action area once permonth for the duration of the project (*i.e.,* 8 animals/group × 1 group/month × 3.6 months).

For other cetaceans, we also consider group size and find killer whales have the potential to travel through the project area in groups exceeding the take calculated based on density. Because sighting data indicates killer whales are not common in the Upper Inlet, we anticipate one group to pass through the project area. The harbor porpoise take calculation is great enough to encompass their small group size; therefore, the density calculation appears to be an adequate representation of the number of animals that may occur in the project area from April through September.

Harbor seals and Steller sea lions are expected to occur as solitary animals or in small groups and may linger in the action area more so than transiting cetaceans. Harbor seal takes estimates based on density reflect a likely occurrence and we are not proposing to adjust the calculation. However, Steller sea lion density calculations produce an estimated take of one animal during the entire project. While Steller sea lions are rare in the action area, this species may not be solitary and may also remain in the action area for multiple days. In 2009, a Steller sea lion was observed three times during Port of Anchorage construction (ICRC 2009). During seismic survey marine mammal monitoring, Steller sea lions were observed in groups of one to two animals during two of three years of monitoring (Lomac-MacNair 2013, 2015). Therefore, we are proposing to increase the amount of take to 5 Steller sea lions to account for up to two animals to be observed over the course of three days (*i.e.,* two animals exposed three times).

Effects of Specified Activities on Subsistence Uses of Marine Mammals

The availability of the affected marine mammal stocks or species for subsistence uses may be impacted by this activity. The subsistence uses that may be affected and the potential impacts of the activity on those uses are described below. Measures included in this IHA to reduce the impacts of the activity on subsistence uses are described in the Proposed Mitigation section. The information from this section and the Proposed Mitigation section is analyzed to determine whether the necessary findings may be

made in the Unmitigable Adverse Impact Analysis and Determination section.

The villages of Tyonek, Ninilchik, Anchor Point, and Kenai use the upper Cook Inlet area for subsistence activities. These villages regularly harvest harbor seals (Wolfe *et al.,* 2009). Based on subsistence harvest data, Kenai hunters harvested an about 13 harbor seals on average per year, between 1992 and 2008, while Tyonek hunters only harvested about 1 seal per year (Wolfe *et al.,* 2009). Traditionally Tyonek hunters harvest seals at the Susitna River mouth (located approximately 20 miles from the project area) incidental to salmon netting, or during boat-based moose hunting trips (Fall *et al.,* 1984). Alaska Natives are permitted to harvest Steller sea lions; however, this species is rare in mid- and upper Cook Inlet, as is reflected in the subsistence harvest data. For example, between 1992 and 2008, Kenai hunters reported only two sea lions harvested and none were reported by Tyonek hunters (Wolfe *et al.,* 2008). Sea lions are more common in lower Cook Inlet and are regularly harvested by villages well south of the project area, such as Seldovia, Port Graham, and Nanwalek.

Cook Inlet beluga subsistence harvest has been placed under a series of moratoriums beginning 1999. Only five beluga whales have been harvested since 1999. Future subsistence harvests are not planned until after the 5-year population average has grown to at least 350 whales. Based on the most recent population estimates, no beluga harvest will be authorized in 2018.

Harvest's proposed pipeline construction activities would not impact the availability of marine mammals for subsistence harvest in Cook Inlet due to the proximity of harvest locations to the project (for harbor seals) and the general lack of Steller sea lion harvest. Beluga subsistence harvest is currently under moratorium. Further, animals that are harassed from the project are expected to elicit behavioral changes that are short-term, mild, and localized.

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. 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, as well as subsistence uses. 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.

NMFS anticipates the project will create an acoustic footprint above baseline of approximately 24 km^2 around the concentration of vessels and operational activities. There is a discountable potential for marine mammals to incur PTS from the project as source levels are relatively low, non-impulsive, and animals would have to remain at very close distances for multiple hours, to accumulate acoustic energy at levels which could damage hearing. Therefore, we do not believe there is potential for Level A harassment and there is no designated shut-down/exclusion zone established for this project. However, Harvest will implement a number of mitigation measures designed to reduce the potential for and severity of Level B harassment and minimize the acoustic footprint of the project.

Harvest will establish a 2,200 m safety zone from the tugs on-site and employ a NMFS-approved protected species observer (PSO) to conduct marine mammal monitoring for the duration of the project. Prior to commencing activities for the day or if there is a 30-minute lapse in operational activities, the PSO will monitor the safety zone for marine mammals for 30 minutes. If no marine mammals are observed, operations may commence. If a marine mammal(s) is observed within the safety zone during the clearing, the PSO will continue to watch until either: (1) The animal(s) is outside of and on a path away from the safety zone; or (2) 15 minutes have elapsed if the species was a pinniped or cetacean other than a humpback whale, or 30 minutes for humpback whales. Once the PSO has determined one of those conditions are met, operations may commence.

Should a marine mammal be observed during pipe-pulling, the PSO will monitor and carefully record any reactions observed until the pipe is secure. No new operational activities would be started until the animal leaves the area. PSOs will also collect behavioral information on marine mammals beyond the safety zone.

Other measures to minimize the acoustic footprint of the project include: the dive boat, sonar boat, work boat, and crew boat will be tied to the barge or anchored with engines off when practicable; all vessel engines will be placed in idle when not working if they cannot be tied up to the barge or anchored with engines off; and all sonar equipment will operate at or above 200 kHz.

Finally, Harvest would abide by NMFS marine mammal viewing guidelines while operating vessels or land-based personnel (for hauled-out pinnipeds); including not actively approaching marine mammals within 100 yards and slowing vessels to the minimum speed necessary. NMFS Alaska Marine Mammal Viewing Guidelines may be found at *https://alaskafisheries.noaa.gov/pr/mm-viewing-guide.*

The proposed mitigation measures are designed to minimize Level B harassment by avoiding starting work while marine mammals are in the project area, lowering noise levels released into the environment through vessel operation protocol (*e.g.,* tying vessels to barges, operating sonar equipment outside of marine mammal hearing ranges) and following NMFS marine mammal viewing guidelines. There are no known marine mammal feeding areas, rookeries, or mating grounds in the project area that would otherwise potentially warrant increased mitigation measures for marine mammals or their habitat. The proposed project area is within beluga whale critical habitat; however, use of the habitat is higher in fall and winter when

the project would not occur nor would habitat be permanently impacted other than for the presence of the pipelines on the seafloor. Thus mitigation to address beluga whale critical habitat is not warranted. Finally, the proposed mitigation measures are practicable for the applicant to implement. Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

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

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

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

Harvest will abide by all monitoring and reporting measures contained within their Marine Mammal Monitoring and Mitigation Plan, dated January 28, 2018. A summary of those measures and additional requirements proposed by NMFS is provided below.

A NMFS-approved PSO will be on-watch daily during daylight hours for the duration of the project. Minimum requirements for a PSO include:

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

(b) Advanced education in biological science or related field (undergraduate degree or higher required);

(c) Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);

(d) Experience or training in the field identification of marine mammals, including the identification of behaviors;

(e) Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

(f) Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and

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

PSOs will be stationed aboard a vessel or the barge, work in shifts lasting no more than four hours without a minimum of a one hour break, and will not be on-watch for more than 12 hours within a 24-hour period.

To augment the vessel/barge based PSO monitoring efforts and to test operational capabilities for use during future projects, Harvest will conduct marine mammal monitoring around the project area using an unmanned aerial system (UAS) pending Federal Aviation Administration approval. The UAS pilot may be vessel or land-based and will maintain consistent contact with the PSO prior to and during monitoring efforts. UAS pilots and video feed monitors will be separate and distinct from PSO duties.

A draft marine mammal monitoring report would be submitted to NMFS within 90 days after the completion of pile driving and removal activities. It will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated marine mammal observation data sheets. Specifically, the report must include:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (*e.g.,* percent cover, visibility);
- Water conditions (*e.g.,* sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;
- Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- Locations of all marine mammal observations; and
- Other human activity in the area.

If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If NMFS submits comments, Harvest will submit a final report addressing NMFS comments within 30 days after receipt of comments.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as an injury, serious injury or mortality, Harvest would immediately cease the specified activities and report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator. The report would include the following information:

- Description of the incident;
- Environmental conditions (*e.g.,* Beaufort sea state, visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;

• Species identification or description of the animal(s) involved;
• Fate of the animal(s); and
• Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with Harvest to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Harvest would not be able to resume their activities until notified by NMFS via letter, email, or telephone.

In the event that Harvest discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition as described in the next paragraph), ADOT&PF would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinator. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with Harvest to determine whether modifications in the activities are appropriate.

In the event that Harvest discovers an injured or dead marine mammal and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Harvest would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinator, within 24 hours of the discovery. Harvest would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

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, our analysis applies to all the species listed in Table 9, given that NMFS expects the anticipated effects of the proposed survey to be similar in nature. Potential impacts to marine mammal habitat were discussed previously in this document (see *Potential Effects of the Specified Activity on Marine Mammals and their Habitat*). Marine mammal habitat may be impacted by elevated sound levels, but these impacts would be temporary. In addition to being temporary and short in overall duration, the acoustic footprint of the proposed survey is small relative to the overall distribution of the animals in the area and their use of the area. Feeding behavior is not likely to be significantly impacted, as no areas of biological significance for marine mammal feeding are known to exist in the survey area.

The proposed project would create an acoustic footprint around the project area for an extended period time (3.6 months) from April through September. Noise levels within the footprint would reach or exceed 120 dB rms. We anticipate the 120 dB footprint to be limited to 20km^2 around the cluster of vessels and equipment used to install the pipelines. The habitat within the footprint is not heavily used by marine mammals during the project time frame (*e.g.,* Critical Habitat Area 2 is designated for beluga fall and winter use) and marine mammals are not known to engage in critical behaviors associated with this portion of Cook Inlet (*e.g.,* no known breeding grounds, foraging habitat, etc.). Most animals will likely be transiting through the area; therefore, exposure would be brief. Animals may swim around the project area but we do not expect them to abandon any intended path. We also expect the number of animals exposed to be small relative to population sizes. Finally, Harvest will minimize potential exposure of marine mammals to elevated noise levels by not commencing operational activities if marine mammals are observed within the ensonified area.

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

• No mortality is anticipated or authorized;
• The project does not involve noise sources capable of inducing PTS;
• Exposure would likely be brief given transiting behavior of marine mammals in the action area;
• Marine mammal densities are low in the project area; therefore the number of marine mammals potentially taken is small to the population size; and
• Harvest would monitor for marine mammals daily and minimize exposure to operational activities.

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

Small Numbers

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

Table 7 provides the quantitative analysis informing our small numbers determination. For most species, the amount of take proposed represents less than 1 percent of the population. The percent of stock of harbor seals is slightly higher at 2.1 percent; however, we anticipate the amount of take would include some individuals taken multiple times. For beluga whales, the amount of take proposed represents 9.1 percent of the population.

TABLE 7—PERCENT OF STOCK PROPOSED TO BE TAKEN BY LEVEL B HARASSMENT

Species	Stock	Abundance (Nbest)	Proposed take (Level B)	% of population
Beluga whale	Cook Inlet	312	[2] 29	9.2
Humpback whale	Central North Pacific	10,103	5	0.0004
Killer whale	Alaska Resident	2,347	[3] 5	0.2
	Gulf of Alaska, Aleurian, Bering Sea Transient	587		0.8
Harbor porpoise	Gulf of Alaska	31,046	8	0.0002
Harbor seal	Cook Inlet/Shelikof Strait	27,386	606	2.2
Steller sea lion	Western U.S	50,983	5	0.0001

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

In order to issue an IHA, NMFS must find that the specified activity will not have an ''unmitigable adverse impact'' on the subsistence uses of the affected marine mammal species or stocks by Alaskan Natives. NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The village of Tyonek engages in subsistence harvests; however, these efforts are concentrated in areas such as the Susitna Delta where marine mammals are known to occur in greater abundance. Harbor seals are the only species taken by Alaska Natives that may also be harassed by the proposed project. However, any harassment to harbor seals is anticipated to be short-term, mild, and not result in any abandonment or behaviors that would make the animals unavailable to Alaska Natives.

Based on the description of the specified activity, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and the proposed mitigation and monitoring measures, NMFS has preliminarily determined that there will not be an unmitigable adverse impact on subsistence uses from Harvest's proposed activities.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with Alaska Regional Office, whenever we propose to authorize take for endangered or threatened species.

NMFS is proposing to authorize take of Cook Inlet beluga whales and Steller sea lions, which are listed under the ESA. The Permit and Conservation Division has requested initiation of Section 7 consultation with the Alaska Region for the issuance of this IHA. NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Harvest for take of marine mammals incidental to the CIPL project, Cook Inlet, from April 15, 2018 through April 14, 2019, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

Harvest Alaska (Harvest) is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1371(a)(5)(D)) to harass marine mammals incidental to the Cook Inlet Pipeline Cross Inlet Extension Project (CIPL Project) in Cook Inlet, Alaska, when adhering to the following terms and conditions.

This Incidental Harassment Authorization (IHA) is valid for a period of one year from the date of issuance.

This IHA is valid only for the installation of two pipelines from Ladd Landing to the Tyonek platform associated with the CIPL Project in Cook Inlet.

General Conditions

A copy of this IHA must be in the possession of the Harvest, its designees, and work crew personnel operating under the authority of this IHA.

The species authorized for taking are Cook Inlet beluga whales (*Delphinapterus leucas*), humpback whales, (*Megaptera novaeangliae*), killer whales (*Orcinus orca*), harbor porpoise (*Phocoena phocoena*), harbor seals (*Phoca vitulina*) and Steller sea lions (*Eumetopias jubatus*).

The taking, by Level B harassment only, is limited to the species listed in condition 3(b). See Table 6 for numbers of take authorized, by species.

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

Harvest shall conduct briefings between construction supervisors and crews, marine mammal monitoring team, and acoustical monitoring team, prior to the start of all in-water construction activities, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

Mitigation Measures

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

• Operational activities shall only be conducted no sooner than 30 minutes after sunrise and shall end no later than 30 minutes prior to sunset;

• Operational activities subject to these mitigation measures include obstacle removal, trenching, pipe pulling, and moving the barge (including pulling and deploying anchors);

• Prior to commencing operational activities, two NMFS-approved Protected Species Observers (PSOs) shall clear the area by observing the safety zone (extending approximately 2,200 m from any of the vessels) for 30 minutes; if no marine mammals are observed within those 30 minutes, activities may commence.

If a marine mammal(s) is observed within the safety zone during the clearing, the PSO shall continue to watch until the animal(s) is outside of and on a path away from the safety zone or 15 minutes have elapsed if the species was a pinniped or cetacean other than a humpback whale; for humpback whales the watch shall extend to 30 minutes. Once the PSO has cleared the area, operations may commence.

Should a marine mammal be observed during pipe-pulling, the PSO shall monitor and carefully record any reactions observed until the pipe is secure. No new operational activities would be started until the animal leaves the area. PSOs shall also collect behavioral information on marine mammals beyond the safety zone.

All vessel engines shall be placed in idle when not working.

All sonar equipment shall operate at or above 200 kHz.

Monitoring

The holder of this Authorization is required to conduct marine mammal and acoustic monitoring. Monitoring and reporting shall be conducted in accordance with Harvest's Marine Mammal Monitoring and Mitigation Plan, dated January 26, 2018.

A NMFS-approved PSO shall monitor for marine mammals during vessel use during daylight hours. The PSO shall be stationed on project vessels or the barge.

A PSO shall work in shifts lasting no longer than four hours with at least a one-hour break between shifts, and shall not perform duties as a PSO for more than 12 hours in a 24-hour period.

Qualified PSOs shall be trained biologists, with the following minimum qualifications:

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

Advanced education in biological science or related field (undergraduate degree or higher required);

Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);

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

Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

PSOs shall scan the safety zone 30 minutes prior to commencing work at the beginning of each day, and prior to re-starting work after any stoppage of 30 minutes or greater.

PSO shall scan The waters would continue to be scanned for at least 30 minutes after activities have been completed each day, and after each stoppage of 30 minutes or greater.

PSOs would scan the waters using binoculars, spotting scopes, and unaided visual observation;

PSO shall use NMFS-approved construction and sighting forms developed for this project as described in Appendix A of Harvest's IHA application.

Daily construction forms will be filled out by at least one PSO. Information for this sheet shall, at minimum, include the following: general start and end time each construction day; start and end time for each operational activity as defined above; a description of other in-water activities (*e.g.,* tugs idle, divers in water, etc.) and associated time frames, and any other human activity in the project area

Marine Mammal Sighting forms shall include the following information: Construction activities occurring during each observation period; weather parameters (*e.g.,* percent cover, visibility); water conditions (*e.g.,* sea state, tide state); species, numbers and if possible, sex and age class of marine mammals; description of any marine mammal behavior patterns, including bearing and direction of travel and distance from activity; distance from activities to marine mammals and distance from the marine mammals to the observation point; description of implementation of mitigation measures (*e.g.,* shutdown or delay); locations of all marine mammal observations.

Reporting

The holder of this Authorization is required to: Submit a draft report on all marine mammal monitoring conducted under the IHA within ninety calendar days of the completion of all pile driving and removal. If NMFS has comments on the draft report, ADOT&PF shall submit a final report to NMFS within thirty days following resolution of NMFS comments on the draft report. This report must contain the informational elements described below:

Detailed information about any implementation of shutdowns, including the distance of animals to pile driving and removal and description of specific actions that ensued and resulting behavior of the animal, if any.

Description of attempts to distinguish between the number of individual animals taken and the number of incidences of take, such as ability to track groups or individuals.

Reporting injured or dead marine mammals:

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as serious injury, or mortality, ADOT&PF shall immediately cease the specified activities and report the incident to the Office of Protected Resources (301–427–8401), NMFS, and the Alaska Region Stranding Coordinator (907–271–1332), NMFS. The report must include the following information:

• Time and date of the incident;

• Description of the incident;

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

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

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

• Fate of the animal(s); and

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

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

In the event that Harvest 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), Harvest shall immediately report the incident to the Office of Protected Resources, NMFS, and the Alaska Region Stranding Coordinator, NMFS.

The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Harvest to determine whether additional mitigation measures or modifications to the activities are appropriate.

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

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

Request for Public Comments

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

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

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

• The request for renewal must include the following:

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

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

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

Donna S. Wieting,

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

[FR Doc. 2018–03885 Filed 2–26–18; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before March 29, 2018.

ADDRESSES: Comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted to the Office of Information and Regulatory Affairs (OIA) in OMB within 30 days of this notice's publication by either of the following methods. Please identify the comments by ''OMB Control No. 3038–0066.''

• *By email addressed to: OIRAsubmissions@omb.eop.gov* or

• *By mail addressed to:* the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW, Washington, DC 20503.

A copy of all comments submitted to OIRA should be sent to the Commodity Futures Trading Commission (the ''Commission'') by any of the following methods. The copies sent to the Commission also should refer to ''OMB Control No. 3038–0066.''

• *The Agency's website, via its Comments Online process: http://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.

• *Mail:* Christopher J. Kirkpatrick, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

• *Hand Delivery/Courier:* Same as Mail above.

• *Federal eRulemaking Portal: http://www.regulations.gov/.* Follow the instructions for submitting comments.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures set forth in section 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem inappropriate for publication, such as obscene language. All submissions that have been redacted or

[1] 17 CFR 145.9

removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

A copy of the supporting statements for the collection of information discussed herein may be obtained by visiting *http://RegInfo.gov.*

FOR FURTHER INFORMATION CONTACT: Jocelyn Partridge, Special Counsel, Division of Clearing and Risk, (202) 418–5926, email: *jpartridge@cftc.gov.*

SUPPLEMENTARY INFORMATION:

Title: Financial Resource Requirements for Derivatives Clearing Organizations (OMB Control No. 3038–0066). This is a request for an extension of a currently approved information collection.

Abstract: This collection of information involves the financial resource reporting requirements set forth in section 39.11 of the Commission's regulations. Section 5b(c)(2) of the Commodity Exchange Act (''CEA'' or ''Act'')[2] sets forth certain core principles with which a derivatives clearing organization (''DCO'') must comply in order to become registered with the Commission and to maintain such registration. One of these core principles, core principle B, sets forth the financial resource requirements applicable to DCOs. Section 5b(c)(2) also requires DCOs to comply with the regulations promulgated by the Commission pursuant to section 8a(5) of the Act.[3] Section 39.11 of the Commission's regulations, which implements core principle B, includes the financial resource reporting requirements that are the subject of this information collection. The information collection is necessary for, and would be used by, the Commission to evaluate a DCO's compliance with the financial resource requirements for DCOs prescribed in the CEA, including core principle B, and the Commission's regulations.

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 number. On December 5, 2017, the Commission published in the **Federal Register** notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 82 FR 57430, December 5, 2017 (''60-Day Notice''). The Commission did not receive any comments. Accordingly, it has not altered the burden estimates set forth in the 60-Day Notice.

Burden Statement

As noted above, this information collection renewal involves the financial reporting requirement contained in section 39.11 of the Commission's regulations. Specifically, it involves the requirements that a DCO that is registered with the Commission report certain information regarding the DCO's financial resources, the value thereof, and the basis for these calculations that is necessary to assess the DCO's compliance with the financial resources requirements of the CEA and Commission regulations. The Commission has revised its estimate of the total annual burden hours for this collection to account for an increase in the number of respondents (from 14 to 17), but has maintained the original burden hour estimate of 10 hours per quarterly report as the reporting requirements have remain unchanged. The respondent burden for this information collection is estimated to be as follows:

- *Estimated Annual Number of Respondents:* 17.
- *Estimated Annual Number of Reports per Respondent:* 4.
- *Estimated Total Annual Number of Responses:* 68.
- *Estimated Average Number of Hours per Response:* 10.
- *Estimated Average Annual Burden Hours per Respondent:* 40.
- *Estimated Total Annual Burden Hours:* 680 hours.
- *Frequency of collection:* Quarterly and on occasion.
- *Type of Respondents:* derivatives clearing organizations.

There are no capital or start-up costs associated with this information collection, nor are there any operating or maintenance costs associated with this information collection.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: February 22, 2018.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2018–03950 Filed 2–26–18; 8:45 am]

BILLING CODE 6351–01–P

[2] 7 U.S.C. 7a–1(c)(2).

[3] Section 8a(5) of the CEA authorizes the Commission to promulgate such rules and regulations as, in the judgement of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of the CEA. 7 U.S.C. 12a(5).

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 18–1]

Britax Child Safety, Inc.; Complaints

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of a Complaint under the Consumer Product Safety Act.

SUMMARY: Under provisions of its Rules of Practice for Adjudicative Proceeding, the Consumer Product Safety Commission must publish in the **Federal Register** Complaints which it issues. Published below is a Complaint: In the matter of Britax Child Safety, Inc.[1]

SUPPLEMENTARY INFORMATION: The text of the Complaint appears below.

Dated: February 22, 2018.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

United States of America

Consumer Product Safety Commission

In the Matter of: Britax Child Safety, Inc. *Respondent.*

CPSC Docket No.: 18–1

COMPLAINT

Nature of the Proceedings

1. This is an administrative enforcement proceeding pursuant to Section 15 of the Consumer Product Safety Act (''CPSA''), as amended, 15 U.S.C. § 2064, for public notification and remedial action to protect the public from the substantial risks of injury presented by various models of single and double occupant B.O.B. jogging strollers designed with a dropout fork assembly and quick release mechanism (''Strollers''), which were imported and distributed by B.O.B. Trailers, Inc. (''B.O.B.'') and Britax Child Safety, Inc. (''Respondent'').

2. This proceeding is governed by the Rules of Practice for Adjudicative Proceedings before the Consumer Product Safety Commission (the ''Commission''), 16 C.F.R. Part 1025.

Jurisdiction

3. This proceeding is instituted pursuant to the authority contained in Sections 15(c), (d), and (f) of the CPSA, 15 U.S.C. § 2064(c), (d), and (f).

Parties

4. Complaint Counsel is the staff of the Division of Compliance within the Office of the General Counsel of the Commission (''Complaint Counsel''). The Commission is an independent federal regulatory agency

[1] The Commission voted 3–1 to authorize issuance of this Complaint. Commissioners Robert S. Adler, Marietta S. Robinson, and Elliot F. Kaye voted to authorize issuance of the Complaint. Acting Chairman Buerkle voted to not authorize issuance of the Complaint.

established pursuant to Section 4 of the CPSA, 15 U.S.C. § 2053.

5. Respondent is a South Carolina corporation with its principal place of business located at 4140 Pleasant Road, Fort Mill, South Carolina 29708.

6. Upon information and belief, Respondent acquired B.O.B. in October 2011. Prior to its acquisition by Respondent, B.O.B. was a ''manufacturer'' and ''distributor'' of a ''consumer product'' that is ''distribute[d] in commerce,'' as those terms are defined in Sections 3(a)(5), (7), (8), and (11) of the CPSA, 15 U.S.C. § 2052(a)(5), (7), (8), and (11).

7. B.O.B. was merged into Respondent in or around December 2011. Respondent assumed all assets and liabilities of B.O.B. and is the successor to B.O.B.

8. As successor to B.O.B., Respondent is responsible for any remedial action or other relief ordered by the Commission in this matter related to Strollers imported or distributed by B.O.B. or Respondent.

9. As an importer and distributor of the Strollers, Respondent is a ''manufacturer'' and ''distributor'' of a ''consumer product'' that is ''distribute[d] in commerce,'' as those terms are defined in Sections 3(a)(5), (7), (8), and (11) of the CPSA, 15 U.S.C. § 2052(a)(5), (7), (8), and (11).

The Consumer Product

10. The Strollers are various models of single and double occupant 3-wheeled B.O.B. jogging strollers designed with a dropout fork assembly and quick release (''QR'') mechanism.

11. Upon information and belief, the Strollers include the following models: Revolution, Sport Utility Stroller, Ironman, SUS Duallie, Ironman Duallie, Revolution SE, Revolution CE, Stroller Strides, Revolution SE Duallie, Stroller Strides Duallie, Revolution Pro, Revolution Pro Duallie, Revolution Flex, Revolution SE Plus, Revolution Flex Duallie, Revolution SE Duallie Plus, and Revolution SE Demo.

12. The Strollers are consumer products that were imported and distributed in U.S. commerce and offered for sale to consumers for their personal use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise.

13. Upon information and belief, the Strollers were manufactured by Fran Wheel Enterprise, Co., LTD in Shen Zhen City, Guang Dong, China.

14. Upon information and belief, B.O.B. designed the Strollers and imported and distributed an undetermined number of Strollers in U.S. commerce between 1997 and December 2011.

15. Upon information and belief, following B.O.B.'s merger into Respondent in or about December 2011, Respondent imported or distributed approximately 493,000 of the Strollers in U.S. commerce.

16. Upon information and belief, Respondent ceased importation of the Strollers in or about September 2015.

17. Upon information and belief, the Strollers were sold at mass retailers and independent stores nationwide for $400 to $650.

18. Upon information and belief, the Strollers are available for sale in second-hand markets.

19. Upon information and belief, the Strollers are designed with a dropout fork assembly that enables consumers to quickly detach and remove the wheel by engaging the QR lever. The QR lever is a device that supplies the clamping force required to hold the Stroller wheel securely in place.

20. Upon information and belief, the QR consists of two end nuts and springs on a skewer that is threaded through the center of the front wheel. An adjustment lever is attached to the end of the skewer.

21. Upon information and belief, the QR connects the front wheel to the front fork of the Stroller. The front fork consists of dropouts where the wheel is inserted and additional ridges that protrude from the fork ends to function as a secondary retention device.

22. A consumer who is assembling the Stroller for first use or who has detached the front wheel after using the Stroller must attach the front wheel and engage the QR correctly.

23. Upon information and belief, the same dropout assembly design is present on all Stroller models imported by B.O.B. and Respondent from 1997 through September 2015.

The Defect Present in the Strollers

24. The design of the Strollers allows a consumer to operate the Stroller without the front wheel being secured correctly.

25. The Strollers are defective because the QR can fail to secure the front wheel to the fork, allowing the front wheel to detach suddenly during use.

26. The design of the Strollers allows consumers to attach the front wheel and engage the QR in a manner that indicates that the wheel is secured to the fork, when it is not.

27. If the QR is not engaged correctly, the front wheel can separate from the front fork of the Stroller during use, leading to sudden detachment.

28. Visual inspection does not enable consumers to determine whether the QR is engaged correctly and the front wheel is secured.

29. A consumer can believe that the QR is engaged correctly and will only discover the failure when the wheel detaches from the front fork while the Stroller is in use and the Stroller stops suddenly and unexpectedly.

30. When the front wheel of the Stroller detaches suddenly during use, the fork can plant or dig into the ground, causing the Stroller to come to an abrupt stop and tip over.

31. When the front wheel of the Stroller detaches suddenly, child occupants and adults who are operating the Strollers may suffer serious injuries.

32. In numerous instances, the instructions accompanying the Strollers do not mitigate this risk.

33. Upon information and belief, the instructions accompanying the Strollers include but are not limited to the following statement: ''[t]he front wheel is correctly clamped in place by the force generated when the quick release lever is closed and the cam action pulls the lever housing against one dropout, and pulls the adjusting nut against the other dropout, clamping the hub between the dropouts.''

34. Upon information and belief, although Strollers sold after approximately June 2013 included a removable hang tag that addressed the hazard of an incorrectly adjusted QR, that warning is not available to consumers following first use.

35. Consumers may not read, may fail to follow, or may misunderstand the instructions on how to tighten the QR and secure the front wheel.

36. Despite following the instructions, consumers may nevertheless fail to correctly engage the QR lever.

The Substantial Risk of Injury Posed by the Strollers

37. Upon information and belief, consumers have sustained injuries, some of which required medical treatment and surgery, when the QR failed to secure the front wheel of the Stroller, causing it to detach suddenly during use.

38. Upon information and belief, children have been injured when the QR failed to secure the front wheel of the Stroller, causing it to detach suddenly during use, and have sustained injuries including a concussion, injuries to the head and face requiring stitches, dental injuries, contusions, and abrasions.

39. Upon information and belief, adults have been injured when the QR failed to secure the front wheel of the Stroller, causing it to detach suddenly during use, and have sustained injuries including a torn labrum, fractured bones and torn ligaments, contusions, and abrasions.

40. Upon information and belief, children and adults were injured because the defective design of the Strollers allowed the front wheel to detach suddenly while the Stroller was in use.

41. The defect present in the Strollers creates a substantial risk of injury to adults and children when the QR fails to secure the front wheel to the fork, allowing the front wheel to detach suddenly during use.

42. The design defect presents a substantial risk of injury, because injuries, including serious injuries as defined in 16 C.F.R. § 1115.6(c), are likely to occur and have occurred when the front wheel detaches.

Legal Authority Under the CPSA

43. Under the CPSA, the Commission may order a firm to provide notice to the public and take remedial action if the Commission determines that a product ''presents a substantial product hazard.'' 15 U.S.C. § 2064(c) and (d).

44. Under CPSA Section 15(a)(2), a ''substantial product hazard'' is ''a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial risk of injury to the public.'' 15 U.S.C. § 2064(a)(2).

45. A product may contain a design defect even if it is manufactured exactly in accordance with its design and specifications

if the design presents a risk of injury to the public. 16 C.F.R. § 1115.4.

46. A design defect may also be present if a risk of injury occurs as a result of the operation or use of the product, or the failure of the product to operate as intended. 16 C.F.R. § 1115.4.

Count I

The Strollers Are a Substantial Product Hazard Under Section 15(a)(2) of the CPSA, 15 U.S.C. § 2064(a)(2), Because They Contain a Product Defect That Creates a Substantial Risk of Injury to the Public

47. Paragraphs 1 through 46 are hereby realleged and incorporated by reference as if fully set forth herein.

48. The Strollers are a consumer product.

49. The Respondent and B.O.B. imported and distributed Strollers which contain a product defect because the QR can fail to secure the front wheel to the fork, allowing the front wheel to detach suddenly during use.

50. The defect creates a substantial risk of injury to the public because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise.

51. Therefore, because the Strollers are defective and create a substantial risk of injury, the Strollers present a substantial product hazard within the meaning of Section 15(a)(2) of the CPSA, 15 U.S.C. § 2064(a)(2).

Relief Sought

Wherefore, in the public interest, Complaint Counsel requests that the Commission:

A. Determine that the Strollers present a ''substantial product hazard'' within the meaning of Section 15(a)(2) of the CPSA, 15 U.S.C. § 2064(a)(2).

B. Determine that extensive and effective public notification under Section 15(c) of the CPSA, 15 U.S.C. § 2064(c), is required to adequately protect the public from the substantial product hazard presented by the Strollers, and order Respondents under Section 15(c) of the CPSA, 15 U.S.C. § 2064(c), to:

(1) Cease distribution of the Strollers;

(2) Notify all persons that transport, store, distribute, or otherwise handle the Strollers, or to whom such Strollers have been transported, sold, distributed or otherwise handled, to immediately cease distribution of the Strollers;

(3) Notify appropriate state and local public health officials;

(4) Give prompt public notice of the defect in the Strollers, including the incidents and injuries associated with the use of the Strollers, including posting clear and conspicuous notice on Respondent's website, and providing notice to any third party website on which Respondent has placed the Strollers for sale, and provide further announcements in languages other than English and on radio and television;

(5) Mail notice to each distributor or retailer of the Strollers; and

(6) Mail notice to every person to whom the Strollers were delivered or sold.

C. Determine that action under Section 15(d) of the CPSA, 15 U.S.C. § 2064(d), is in the public interest and additionally order Respondent to:

(1) Repair the defect in the Strollers;

(2) Replace the Strollers with a like or equivalent product which does not contain the defect;

(3) Refund the purchase price of the Stroller;

(4) Make no charge to consumers, and to reimburse consumers, for any reasonable and foreseeable expenses incurred in availing themselves of any remedy provided under any Commission Order issued in this matter, as provided by Section 15(e)(1) of the CPSA, 15 U.S.C. § 2064(e)(1);

(5) Reimburse retailers for expenses in connection with carrying out any Commission Order issued in this matter, including the costs of returns, refunds and/or replacements, as provided by Section 15(e)(2) of the CPSA, 15 U.S.C. § 2064(e)(2);

(6) Submit a plan satisfactory to the Commission, within ten (10) days of service of the Final Order, directing that actions specified in Paragraphs B(1) through (6), and C(1) through (5) above be taken in a timely manner;

(7) To submit monthly reports, in a format satisfactory to the Commission, documenting the progress of the corrective action program;

(8) For a period of five (5) years after issuance of the Final Order in this matter, to keep records of its actions taken to comply with Paragraphs B(1) through (6), C(1) through (5), above, and supply these records to the Commission for the purpose of monitoring compliance with the Final Order; and

(9) For a period of five (5) years after issuance of the Final Order in this matter, to notify the Commission at least sixty (60) days prior to any change in its business (such as incorporation, dissolution, assignment, sale, or petition for bankruptcy) that results in, or is intended to result in, the emergence of a successor corporation, going out of business, or any other change that might affect compliance obligations under a Final Order issued by the Commission in this matter.

D. Order that Respondent shall take other and further actions as the Commission deems necessary to protect the public health and safety and to comply with the CPSA.

ISSUED BY ORDER OF THE COMMISSION:

Dated this 16th day of February, 2018

By: Robert Kaye,
Assistant Executive Director.
Office of Compliance and Field Investigation (301) 504–6960.

Mary B. Murphy,
Assistant General Counsel.
Philip Z. Brown,
Trial Attorney.
Gregory M. Reyes,
Trial Attorney, Complaint Counsel.
Office of General Counsel, Division of Compliance, U.S. Consumer Product Safety Commission, Bethesda, MD 20814, *Tel: (301) 504–7809.*

CERTIFICATE OF SERVICE

I hereby certify that on February 16, 2018, I served the foregoing Complaint and List and Summary of Documentary Evidence upon all parties of record in these proceedings by mailing, certified mail and Federal Express, postage prepaid, a copy to each at their principal place of business, and e-mailing a courtesy copy to counsel, as follows:

Britax Child Safety, Inc.
4140 Pleasant Road
Fort Mill, SC 29708

Erika Z. Jones
Mayer Brown LLP
1999 K Street, NW
Washington, DC 20006
ejones@mayerbrown.com

Mary B. Murphy, *Complaint Counsel for U.S. Consumer Product Safety Commission.*

[FR Doc. 2018–03934 Filed 2–26–18; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2018–HQ–0003]

Proposed Collection; Comment Request

AGENCY: Department of Army, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Chief of Staff of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 30, 2018.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09B, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket

number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Department of the Army, Office of the Chief of Installation Management for the Department of the Army, Soldier & Family Readiness Division ATTN: Megan Coffey, Washington, DC 20310 or email to *Army.Survivors@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Army Survivor Advisory Working Group (SAWG); OMB #0702–XXXX.

Needs and Uses: The information collection requirement is necessary to obtain applications of individuals who may provide advice and recommendations regarding vital Total Army (Active Component, Army National Guard, and U.S. Army Reserve) Survivor quality of life issues. Advisors assess of how current Survivor programs and initiatives may affect the Survivor community.

Affected Public: Not-for-profit institutions.

Annual Burden Hours: 300.

Number of Respondents: 150.

Responses per Respondent: 1.

Annual Responses: 150.

Average Burden per Response: 2 hours.

Frequency: Annual.

Respondents will be surviving members of deceased Service members; members may be surviving spouses, parents, siblings, and dependents over the age of 18. SAWG members selected will be required to meet biannually for a four day period. Additionally, there will be monthly phone calls to SAWG issues with the members.

Dated: February 21, 2018.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–03903 Filed 2–26–18; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

DoD Board of Actuaries; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense (DoD).

ACTION: Federal Advisory Committee meeting notice.

SUMMARY: The Department of Defense announces that the following Federal Advisory Committee meeting of the DoD Board of Actuaries will take place. This meeting is open to the public.

DATES: Thursday, July 12, 2018, from 1:00 p.m. to 4:00 p.m. and Friday, July 13, 2018, from 10:00 a.m. to 1:00 p.m.

ADDRESSES: 4800 Mark Center Drive, Conference Room 3, Level B1, Alexandria, VA 22350.

FOR FURTHER INFORMATION CONTACT: Mrs. Kathleen Ludwig at the Defense Human Resources Activity, DoD Office of the Actuary, 4800 Mark Center Drive, STE 03E25, Alexandria, VA 22350–7000. Phone: 571–372–1993. Email: *Kathleen.A.Ludwig.civ@mail.mil.*

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b as amended), and 41 CFR 102–3.150.

Purpose of the meeting: The purpose of the meeting is for the Board to review DoD actuarial methods and assumptions to be used in the valuations of the Education Benefits Fund, the Military Retirement Fund, and the Voluntary Separation Incentive (VSI) Fund, in accordance with the provisions of Section 183, Section 2006, Chapter 74 (10 U.S.C. 1464 et. seq), and 10 U.S.C. 1175.

Agenda

Education Benefits Fund (July 12, 1:00 p.m.–4:00 p.m.)

1. Fund Overview
2. Briefing on Investment Experience
3. September 30, 2017, Valuation Proposed Economic Assumptions *
4. September 30, 2017, Valuation Proposed Methods and Assumptions—Reserve Programs *
5. September 30, 2016, Valuation Proposed Methods and Assumptions—Active Duty Programs *
6. Developments in Education Benefits

Military Retirement Fund/VSI Fund (July 13, 10:00 a.m.–1:00 p.m.)

1. Recent and Proposed Legislation
2. Briefing on Investment Experience
3. September 30, 2017, Valuation of the Military Retirement Fund *
4. Proposed Methods and Assumptions for September 30, 2018, Valuation of the Military Retirement Fund *
5. Proposed Methods and Assumptions for September 30, 2017, VSI Fund Valuation *

* Board approval required.

Public's accessibility to the meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. The Mark Center is an annex of the Pentagon. Those without a valid DoD Common Access Card must contact Kathleen Ludwig at 571–372–1993 no later than June 15, 2018. Attendees should secure their meeting reservations before this deadline to avoid any issues with building access. It is strongly recommended that attendees plan to arrive at the Mark Center at least 30 minutes prior to the start of the meeting.

Committee's Designated Federal Officer or Point of Contact: The Designated Federal Officer is Ms. Inger Pettygrove, 703–225–8803, *Inger.M.Pettygrove.civ@mail.mil.* Persons desiring to attend the DoD Board of Actuaries meeting or make an oral presentation or submit a written statement for consideration at the meeting must notify Kathleen Ludwig at 571–372–1993, or *Kathleen.A.Ludwig.civ@mail.mil,* by June 15, 2018. For further information contact Mrs. Ludwig at the Defense Human Resources Activity, DoD Office of the Actuary, 4800 Mark Center Drive, STE 03E25, Alexandria, VA 22350–8000.

Dated: February 22, 2018.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–03975 Filed 2–26–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the Ocean Research Advisory Panel (''the Panel'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Panel's charter is being renewed pursuant to 10 U.S.C. 7903 and in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(a). The Panel's charter and contact information for the Panel's Designated Federal Officer (DFO) can be found at *http://www.facadatabase.gov/.*

The Panel shall provide independent scientific advice and recommendations to the National Ocean Research Leadership Council (''the Council''). The Council operates as the National Ocean Council (NOC) as directed by Executive Order 13547. The NOC Deputy-level Committee (''the Committee'') has assumed the statutory responsibilities of the Council.

The Panel shall consist of not less than 10 and not more than 18 members representing the following: (a) One member who will represent the National Academy of Sciences. (b) One member who will represent the National Academy of Engineering. (c) One member who will represent the Institute of Medicine. (d) Members selected from among individuals who will represent the views on ocean industries, State Governments, academia, and such other views as the Chairs of the Committee consider appropriate. (e) Members selected from individuals who are eminent in the fields of marine science, marine policy, or related fields. All members of the Panel are appointed to provide advice on behalf of the Government on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official Panel-related travel and per diem, Panel members serve without compensation.

The public or interested organizations may submit written statements to the Panel membership about the Panel's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Panel. All written statements shall be submitted to the DFO for the Panel, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: February 21, 2018.

Aaron Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2018–03905 Filed 2–26–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

DoD Medicare-Eligible Retiree Health Care Board of Actuaries; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense (DoD).

ACTION: Federal Advisory Committee meeting notice.

SUMMARY: The Department of Defense announces that the following Federal Advisory Committee meeting of the DoD Medicare-Eligible Retiree Health Care Board of Actuaries will take place. This meeting is open to the public.

DATES: Friday, August 3, 2018, from 10:00 a.m. to 12:00 p.m.

ADDRESSES: 4800 Mark Center Drive, Conference Room 9, Level B1, Alexandria, VA 22350.

FOR FURTHER INFORMATION CONTACT: Mrs. Kathleen Ludwig at the Defense Human Resource Activity, DoD Office of the Actuary, 4800 Mark Center Drive, STE 03E25 Alexandria, VA 22350–8000. Phone: 571–372–1993. Email: *Kathleen.A.Ludwig.civ@mail.mil.*

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the meeting: The purpose of the meeting is to execute the provisions of 10 U.S.C. chapter 56 (10 U.S.C. 1114 et. seq). The Board shall review DoD actuarial methods and assumptions to be used in the valuation of benefits under DoD retiree health care programs for Medicare-eligible beneficiaries.

Agenda

1. Meeting Objective

a. Approve actuarial assumptions and methods needed for calculating:

(i) September 30, 2017 unfunded liability (UFL)

(ii) FY 2020 per capita full-time and part-time normal cost amounts

(iii) October 1, 2018, Treasury UFL amortization payment

b. Approve per capita full-time and part-time normal cost amounts for the October 1, 2018 (FY 2019) normal cost payments.

2. Trust Fund Update—Investment Experience

3. Medicare-Eligible Retiree Health Care Fund Update

4. September 30, 2016, Actuarial Valuation Results

5. September 30, 2017, Actuarial Valuation Proposals

6. Decisions

(i) Actuarial assumptions and methods needed for calculating items specified in agenda item 1.a

(ii) Per capita full-time and part-time normal cost amounts needed for calculating item specified in agenda item 1.b.

Public's accessibility to the meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165 and the availability of space, this meeting is open to the public. The Mark Center is an annex of the Pentagon. Those without a valid DoD Common Access Card must contact Kathleen Ludwig at 571–372–1993 no later than July 6, 2018. Attendees should secure their meeting reservations before this deadline to avoid any issues with building access. It is strongly recommended that attendees plan to arrive at the Mark Center at least 30 minutes prior to the start of the meeting.

Committee's Designated Federal Officer or Point of Contact: The Designated Federal Officer is Ms. Inger Pettygrove, 703–225–8803, *Inger.M.Pettygrove.civ@mail.mil.* Persons desiring to attend the DoD Medicare-Eligible Retiree Health Care Board of Actuaries meeting or make an oral presentation or submit a written statement for consideration at the meeting, must notify Kathleen Ludwig at 571–372–1993, or *Kathleen.A.Ludwig.civ@mail.mil,* by July 6, 2018. For further information contact Mrs. Ludwig at the Defense Human Resource Activity, DoD Office of the Actuary, 4800 Mark Center Drive, STE 03E25 Alexandria, VA 22350–8000.

Dated: February 22, 2018.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–03977 Filed 2–26–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2018–HQ–0004]

Proposed Collection; Comment Request

AGENCY: Department of the Navy, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Naval Criminal Investigative Service announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 30, 2018.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Chief Management Officer, Directorate of Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09B, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information. Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Naval Criminal Investigative Service Headquarters, Code 23B2, 27130 Telegraph Road, Quantico, VA, 22134 or email *CATCH@ncis.navy.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Catch Program; OMB Control Number 0703–XXXX.

Needs and Uses: The information collection requirement is necessary to assist with the identification of serial sexual assault offenders within the military services.

Affected Public: Individuals or Households.

Annual Burden Hours: 150.

Number of Respondents: 300.

Responses per Respondent: 1.

Annual Responses: 300.

Average Burden per Response: 30 minutes.

Frequency: On occasion.

Respondents are sexual assault victims who have elected to make a restricted or confidential report that precludes the initiation of a law enforcement investigation. The respondent has the option to provide information relevant to the crime via this program while keeping their identity confidential. The information provided by the respondent is reviewed by law enforcement officials, and if indicators of a possible multiple offender are identified, the respondent's advocate is contacted to determine whether or not the respondent would prefer a criminal investigation be initiated. All information collected from this program, to include the identity of a suspect, is not releasable and may not be used for any purpose unless the respondent agrees to make a formal report to law enforcement.

Dated: February 22, 2018.

Aaron Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2018–03965 Filed 2–26–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Integrated Composite Construction Systems, LLC

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Integrated Composite Construction Systems, LLC., a revocable, nonassignable, exclusive license to practice in the field of use of fabrication of silicone carbide nanoparticles and nanorods for use in high performance concrete, including but not limited to, in the United States, the Government-owned invention described in U.S. Patent No. 9,120,679: Silicon Carbide Synthesis, Navy Case No. 101,536.//U.S. Patent No. 9,051,186: Silicon carbide Synthesis from Agricultural Waste, Navy Case No. 101,536.//and any continuations, divisionals or re-issues thereof.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than March 14, 2018.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue SW, Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Amanda Horansky McKinney, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue SW, Washington, DC 20375–5320, telephone 202–767–1644. Due to U.S. Postal delays, please fax 202–404–7920, email: *techtran@research.nrl.navy.mil* or use courier delivery to expedite response.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: February 20, 2018.

E.K. Baldini,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2018–03932 Filed 2–26–18; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0159]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; National Blue Ribbon Schools Program

AGENCY: Office of Communications and Outreach (OCO), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before March 29, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0159. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 216–32, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Aba Kumi, 202–401–1767.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: National Blue Ribbon Schools Program.

OMB Control Number: 1860–0506.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 420.

Total Estimated Number of Annual Burden Hours: 16,800.

Abstract: Each year since 1982, the U.S. Department of Education's National Blue Ribbon Schools Program has sought out and celebrated great American schools; schools that are demonstrating that all students can achieve to high levels. The purpose of the Program is to honor public and private elementary, middle and high schools based on their overall academic excellence or their progress in closing achievement gaps among different groups of students. The Program is part of a larger U.S. Department of Education effort to identify and disseminate knowledge about best school leadership and teaching practices.

Dated: February 22, 2018.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–03914 Filed 2–26–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[EERE–2017–BT–DET–0046]

Final Determination Regarding Energy Efficiency Improvements in ANSI/ASHRAE/IES Standard 90.1–2016: Energy Standard for Buildings, Except Low-Rise Residential Buildings

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

ACTION: Notice of order.

SUMMARY: After receiving and reviewing public comments, the U.S. Department of Energy (DOE) issues this Order finalizing DOE's determination that the 2016 edition of the ANSI/ASHRAE/IES Standard 90.1: Energy Standard for Buildings, Except Low-Rise Residential Buildings improves overall energy efficiency in buildings subject to the code compared to the 2013 edition of Standard 90.1.

DATES: This Order applies as of February 27, 2018.

ADDRESSES: A copy of the final analysis is available at *https://www.energycodes.gov/development/determinations.*

FOR FURTHER INFORMATION CONTACT: Jeremiah Williams; U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, EE–5B, Washington, DC 20585; (202) 441–1288; *Jeremiah.Williams@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Title III of the Energy Conservation and Production Act, as amended (ECPA), establishes requirements for building energy conservation standards, administered by the DOE Building Energy Codes Program. (42 U.S.C. 6831 *et seq.*) Section 304(b), of ECPA, as amended, provides that whenever the ANSI/ASHRAE/IESNA Standard 90.1–1989 (Standard 90.1–1989 or 1989 edition), or any successor to that code, is revised, the Secretary of Energy (Secretary) must make a determination, not later than 12 months after such revision, whether the revised code would improve energy efficiency in commercial buildings required to meet the standard, and must publish notice of such determination in the **Federal Register**. (42 U.S.C. 6833(b)(2)(A)) If the Secretary makes an affirmative determination, within two years of the publication of the determination, each State is required to certify that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency with respect to the revised or successor code and include in its certification a demonstration that the provisions of its commercial building code, regarding energy efficiency, meet or exceed the revised Standard. (42 U.S.C. 6833(b)(2)(B)(i))

Standard 90.1–2016, the most recent edition, was published by ASHRAE in October 2016, triggering the statutorily-required DOE review process. The Standard is developed under ANSI-approved consensus procedures, and is under continuous maintenance by an ASHRAE Standing Standard Project Committee (commonly referenced as SSPC 90.1). ASHRAE has an established program for regular publication of addenda, or revisions, including procedures for timely, documented, consensus action on requested changes to the Standard. More information on the consensus process and ANSI/ASHRAE/IES Standard 90.1–2016 is available at: *https://www.ashrae.org/resources-publications/bookstore/standard-90-1.*

To meet the statutory requirement, DOE conducted a preliminary analysis to quantify the expected energy savings associated with Standard 90.1–2016 relative to the previous 2013 version. The preliminary analysis is available at: *https://www.regulations.gov/document?D=EERE-2014-BT-DET-0009-0001.*

Standard 90.1–2016 includes several paths for compliance in order to provide flexibility to users of the Standard. The prescriptive path, which is widely considered the most traditional, establishes criteria for energy-related characteristics of individual building components such as minimum insulation levels, maximum lighting power, and controls for lighting and HVAC&R systems. Some of those requirements are considered ''mandatory'', meaning that they must be met even when one of the other optional paths are utilized (*e.g.,* performance path). These other optional paths are further described below.

In addition to the prescriptive path, Standard 90.1 includes two optional whole building performance paths. The first, known as the *Energy Cost Budget* (ECB) method, provides flexibility in allowing a designer to ''trade-off'' compliance. This effectively allows a designer to not meet a given prescriptive requirement if the impact on energy cost is offset by exceeding other prescriptive requirements, as demonstrated through established energy modeling protocols. A building is deemed in compliance when the annual energy cost of the proposed design is no greater than the annual energy cost of the reference building design (baseline). In addition, Standard 90.1–2016 includes a second performance approach, Appendix G, the *Performance Rating Method.* In previous editions of Standard 90.1 (*i.e.,* prior to the current 2016 edition), Appendix G has been used to rate the performance of buildings that exceed the requirements of Standard 90.1 for ''beyond code'' programs, including the LEED Rating System, ASHRAE Standard 189.1, the International Green Construction Code (IgCC), and other above-code programs. Beginning with the 2016 edition of Standard 90.1, Appendix G also adds the capability to demonstrate minimum energy code compliance.

II. Public Participation and Error Correction

In a July 25, 2017, **Federal Register** notice, DOE requested public comments on the preliminary analysis. (82 FR 34513) DOE received four public comments, all of which DOE considered (*see* Appendix A to this Order.). In addition, a DOE review of the simulation analysis identified a mistake in how much outdoor ventilation air was being introduced in two prototypes. Correction of this mistake resulted in savings increasing from .6% to 4.9% in Large Office and an increase of less than 1% in Mid-rise Apartment. Overall savings from the standard increased from 6.7% to 6.8%. These corrections were incorporated into the final analysis document but did not impact the determination ruling. DOE has now issued the final analysis of the expected energy savings associated with Standard 90.1–2016 as compared to Standard 90.1–2013. The final analysis is available at: *https://www.energycodes.gov/development/determinations.*

III. Order

Based on the requirements of Section 304(b) of ECPA, as amended, and DOE's final analysis prepared after consideration of comments on the preliminary analysis and correction of the simulation analysis describe above, I have determined that the 2016 edition of the ANSI/ASHRAE/IES Standard 90.1: Energy Standard for Buildings, Except Low-Rise Residential Buildings would improve overall energy efficiency in buildings subject to the code compared to the 2013 edition of Standard 90.1.

Issued in Washington, DC, on February 15, 2018.

Kathleen B. Hogan,

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

Appendix A

DOE received comments on the preliminary analysis from the American Chemistry Council (ACC) Plastics Division, the ACC Foam Sheathing Committee, the Responsible Energy Codes Alliance (RECA), and the Edison Electric Institute (EEI). The comments are summarized below and are available at: *https://www.regulations.gov/docket?D=EERE-2014-BT-DET-0009.*

Addenda Scope

Comment: The ACC Plastics Division commented that DOE's analysis is too conservative because it fails to consider the impact of addenda only affecting existing buildings. ACC's Foam Sheathing Committee expressed the same concern. ACC recommended that DOE analyze provisions affecting existing buildings for consistency with statutory requirements and to provide critical guidance to states.

DOE response: DOE notes that only one addendum (addendum e) in the prescriptive and mandatory requirements was applicable to existing buildings only and, therefore, was excluded from the quantitative analysis. In addition, this addendum was determined to decrease energy use through the qualitative analysis, which was presented in the preliminary determination. The majority of addenda apply to new buildings and the impact of these addenda was captured in the analysis. The goal of the determination is to evaluate whether the latest edition of Standard 90.1 improves energy efficiency of buildings relative to the previous edition, and DOE believes that the current methodology is sufficient to make such a determination.

Comment: The Responsible Energy Codes Alliance (RECA) recommended that the magnitude of the impact of requirements for existing buildings in the Standard taken as a whole should be evaluated.

DOE response: The impact of individual addenda impacting existing buildings are considered as part of DOE's qualitative analysis. However, baseline conditions for existing building can vary significantly depending upon a wide variety of factors, including the age of the building, baseline systems and components, and past renovations. While these requirements are part of the Standard and do impact energy efficiency in commercial buildings, they cannot be adequately represented by the quantitative analysis.

Analyzing Compliance Paths

Comment: The ACC Plastics Division stated that DOE's analysis is too conservative because it fails to consider the impact of addenda affecting the performance paths for compliance in Standard 90.1.

DOE response: DOE notes that evaluating the prescriptive and mandatory requirements effectively captures the impact of all compliance paths within Standard 90.1–2016. The performance paths within Standard 90.1–2016 are intended to provide equivalent performance to the prescriptive path. As the energy efficiency stringency of the prescriptive path is increased, the performance path rules and targets are changed to mirror that increase. Using the prescriptive and mandatory requirements therefore effectively represents changes to the entire standard. Additionally, the purpose of the performance paths is to give designers and builders flexibility by allowing an almost unlimited number of trade-off combinations which will comply with the Standard. Analytically, it is not practical or possible to model all of these design combinations.

Comment: RECA also recommended that DOE make a separate determination for each of the compliance paths in Standard 90.1: Prescriptive path, Energy Cost Budget, and performance path.

DOE response: DOE believes that evaluating the prescriptive and mandatory requirements effectively captures the impact of all compliance paths within Standard 90.1–2016 and is satisfactory for the purpose of determining whether the new edition of Standard 90.1 will save energy in commercial buildings relative to the previous edition. The performance paths within Standard 90.1–2016 are intended to provide equivalent performance to the prescriptive path. As the energy efficiency stringency of the prescriptive path is increased, the performance path rules and targets are changed to mirror that increase. Thus evaluating the performance paths separately, even in simplified form, would provide no additional information. The performance paths provide designers and builders flexibility by allowing trade-offs between prescriptive requirements and makes the Standard easier to comply with—a benefit for states looking to adopt the new Standard.

Site vs. Source Energy

Comment: EEI's first comment on this topic was that DOE should only use site energy and energy cost results in its determination and that source energy results should not be used.

DOE response: DOE notes that EEI submitted a similar comment on the Notice of Preliminary Determination for Standards 90.1–2010 and 2013. DOE continues to believe that source energy estimates are of interest to many stakeholders and are important to the discussion of global resources and environmental issues. However, DOE realizes that site energy is the energy that typically appears on utility bills and that is seen by the consumer, and that energy cost (as shown on energy bills) is a metric also important to many consumers. It is for these reasons that DOE provides all three metrics—site energy, source energy, and energy cost—in its determinations.

Comment: EEI also stated that the value associated with source energy for electricity overstates losses and does not appropriately characterize the significant improvements in the overall efficiency of the electricity sector because: (1) DOE considered only commercial customers; (2) the U.S. Energy Information Administration (EIA) fossil fuel heat rate assigned to renewable energy is too high; (3) estimates of primary energy values should look forward not backward; and (4) estimates of primary energy values should account for regional differences in electricity generation and renewable portfolio standards.

DOE response: DOE notes that EEI submitted a similar comment on the Notice of Preliminary Determination for Standards 90.1–2010 and 2013. DOE continues to believe that its use of EIA data, conversion factors, and treatment of renewable energy is appropriate and remains consistent with past determinations and DOE's Appliance and Equipment Standards Program (AESP) analyses. While it is true that the site-to-source conversion factor used in this analysis is derived from EIA data for commercial sector energy use, analyzing the data from all sectors results in the same conversion factor. The determination methodology does not calculate the future impact of the new Standard, and thus DOE believes that using conversion factors from the year of publication of the Standard is appropriate. DOE notes that it makes analyses available for states on the future impact of energy codes, which are beneficial for determining the long-term benefits of new code adoption. Finally, the use of the conversion factor from 2016 in this analysis also mitigates the impact of using the fossil fuel equivalency approach to determine the conversion factor for electricity because the proportion of renewable sources in the overall fuel mix was very small in 2016.

[FR Doc. 2018–03931 Filed 2–26–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Energy Technology Laboratory

Notice of Intent To Grant a Partially Exclusive License

AGENCY: National Energy Technology Laboratory, Department of Energy.

ACTION: Notice of intent to grant a partially exclusive license.

SUMMARY: The National Energy Technology Laboratory (NETL) hereby gives notice that the Department of Energy (DOE) intends to grant a partially exclusive license to practice the invention described and claimed in U.S. Patent Application Number 15/782,315 and International Patent Application Number PCT/US2017/056421, ''Stable Immobilized Amine Sorbents for REE and Heavy Metal Recovery from Liquid Sources'' to PQ Corporation, having its principal place of business in Malvern, Pennsylvania. The invention is owned by the United States of America, as represented by DOE.

DATES: Written comments, objections, or nonexclusive license applications must be received at the **ADDRESS** listed no later than March 14, 2018. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Comments, applications for nonexclusive licenses, or objections relating to the prospective partially exclusive license should be submitted to Jessica Lamp, Technology Transfer Program Manager, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 10940, Pittsburgh, PA 15236–0940 or via facsimile to (412) 386–4183.

FOR FURTHER INFORMATION CONTACT: Jessica Lamp, Technology Transfer Program Manager, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 10940, Pittsburgh, PA 15236; Telephone (412) 386–7417; Email: *jessica.lamp@netl.doe.gov.*

SUPPLEMENTARY INFORMATION: Section 209(c) of title 35 of the United States Code gives DOE the authority to grant exclusive or partially exclusive licenses in Department-owned inventions where a determination is made, among other things, that the desired practical application of the invention has not been achieved, or is not likely to be achieved expeditiously, under a nonexclusive license. The statute and implementing regulations (37 CFR 404) require that the necessary determinations be made after public notice and opportunity for filing written comments and objections.

PQ Corporation, has applied for a partially exclusive license to practice the invention and has a plan for commercialization of the invention. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 15 days of publication of this notice, NETL's Technology Transfer Program Manager (contact information listed) receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to the invention, in which applicant states that it already has brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The proposed license would be partially exclusive, subject to a license and other rights retained by the United States, and subject to a negotiated royalty. The exclusive fields of use are: removal of rare earth elements from liquids, coal tailings, fly ash and acid mine drainage; removal of heavy metals, such as copper, lead and arsenic from liquids; and removal of barium and strontium from liquids. DOE will review all timely written responses to this notice, and will grant the license if, after expiration of the 15-day notice period, and after consideration of any written responses to this notice, a determination is made in accordance with 35 U.S.C. 209(c) that the license is in the public interest.

Dated: February 6, 2018.

Grace M. Bochenek,

Director, National Energy Technology Laboratory.

[FR Doc. 2018–03936 Filed 2–26–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Notice of Request for Information (RFI) on Expanding Hydropower and Pumped Storage's Contribution to Grid Resiliency and Reliability

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Request for information (RFI).

SUMMARY: The U.S. Department of Energy (DOE) Office of Energy Efficiency and Renewable Energy (EERE), Water Power Technologies Office (WPTO) seeks information from the public on understanding, accessing, and utilizing the full potential of the hydropower fleet, including pumped storage, to contribute to electric grid resiliency and reliability. The WPTO also seeks information about opportunities for the existing and potential pumped storage and hydropower fleet to expand its contribution to the grid in the future. This information will help WPTO develop a research portfolio that intends to lower system costs, bring insight to hydropower technology development and research investments, promote optimization of hydroelectric resources, and ultimately support a more secure and reliable electric power system. WPTO seeks concise feedback from all relevant stakeholders.

DATES: Responses to the RFI must be received no later than 5:00 p.m. (ET) on April 6, 2018.

ADDRESSES: Interested parties are to submit comments electronically to *WPTORFI@ee.doe.gov.* Include ''Hydropower RFI'' in the subject of the title. It is recommended that attachments with file sizes exceeding 25MB be compressed (*i.e.,* zipped) to ensure message delivery. Only electronic responses will be accepted. Please identify your answers by responding to a specific question or topic if possible. Respondents may answer as many or as few questions as they wish. The complete RFI document is located at *https://eere-exchange.energy.gov/.*

FOR FURTHER INFORMATION CONTACT: Questions may be addressed to Timothy Welch, Hydropower Program Manager, Water Power Technologies Office, by email at *Timothy.Welch@ee.doe.gov,* or by phone at 202–586–7055. Further instruction can be found in the RFI document posted on EERE Exchange.

SUPPLEMENTARY INFORMATION: Through this RFI, WPTO seeks input on new research to maximize the value of hydropower's contribution to grid resiliency and reliability today and into the future. This approach includes pumped storage and traditional hydropower, and covers both new technology design as well as modeling and analysis to assess the range of value streams hydropower provides in the current and future power grid. This information/strategy will help build targeted insight into economic, policy and technological barriers, inform future hydropower technology development, and improve the tools by which investment and operational decisions are made.

WPTO is looking for feedback from electric utilities, reliability oversight entities, regulatory commissions, electricity market operators, electric storage developers, hydropower owners and operators, federal hydropower asset managers and marketers, hydropower facility regulators, public and private financing institutions, environmental and recreational non-profits, industry associations, academia, research laboratories, government agencies, and other stakeholders on issues related to pumped storage hydropower and existing hydroelectric facilities. WPTO is specifically interested in understanding critical gaps in pumped storage and hydropower valuation data and analysis; and in barriers to expanding pumped storage and hydropower's value proposition that could be overcome through research investments. This is solely a request for information and not a Funding Opportunity Announcement (FOA). WPTO is not accepting applications at this time. The complete RFI document is located at *https://eere-exchange.energy.gov/.*

Confidential Business Information

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person that would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

Issued in Washington, DC, on February 21, 2018.

Hoyt Battey,

Acting Director, Water Power Technologies Office, Energy Efficiency and Renewable Energy.

[FR Doc. 2018–03938 Filed 2–26–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–1456–006; ER10–2959–013; ER11–3859–016; ER16–999–006; ER11–4634–006; ER10–2934–012; ER17–436–004; ER17–437–007; ER14–1699–006; ER10–2615–011; ER15–1457–006.

Applicants: Beaver Falls, L.L.C., Chambers Cogeneration, Limited Partnership, Dighton Power, LLC, Greenleaf Energy Unit 1 LLC, Hazleton Generation LLC, Logan Generating Company, L.P., Marcus Hook Energy, L.P., Marcus Hook 50, L.P., Milford Power, LLC, Plum Point Energy Associates, LLC, Syracuse, L.L.C.

Description: Notice of Change in Status of Beaver Falls, L.L.C., et al.

Filed Date: 2/20/18.

Accession Number: 20180220–5225.

Comments Due: 5 p.m. ET 3/13/18.

Docket Numbers: ER18–724–000.

Applicants: Grid Power Direct, LLC.

Description: Amendment to January 29, 2018 Grid Power Direct, LLC tariff filing (Transmittal Letter). Also submitted (Asset List).

Filed Date: 2/16/18.

Accession Number: 20180216–5232f: 20180216–5233.

Comments Due: 5 p.m. ET 3/9/18.

Docket Numbers: ER18–872–000.

Applicants: Mercuria Commodities Canada Corporation.

Description: § 205(d) Rate Filing: Seller Category change to be effective 4/17/2018.

Filed Date: 2/16/18.

Accession Number: 20180216–5188.

Comments Due: 5 p.m. ET 3/9/18.

Docket Numbers: ER18–873–000.

Applicants: Mercuria Energy America, Inc.

Description: § 205(d) Rate Filing: Seller Category Change to be effective 4/17/2018.

Filed Date: 2/16/18.

Accession Number: 20180216–5198.

Comments Due: 5 p.m. ET 3/9/18.

Docket Numbers: ER18–874–000.

Applicants: Noble Americas Gas & Power Corp.

Description: Tariff Cancellation: Cancellation of market-based rate tariff to be effective 2/19/2018.

Filed Date: 2/16/18.

Accession Number: 20180216–5211.

Comments Due: 5 p.m. ET 3/9/18.

Docket Numbers: ER18–875–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3380 NorthWestern Energy & Bryant, SD Wholesale Distrib to be effective 4/22/2018.

Filed Date: 2/20/18.

Accession Number: 20180220–5009.

Comments Due: 5 p.m. ET 3/13/18.

Docket Numbers: ER18–876–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3381 NorthWestern Energy & Groton, SD Wholesale Distrib to be effective 4/22/2018.

Filed Date: 2/20/18.

Accession Number: 20180220–5042.

Comments Due: 5 p.m. ET 3/13/18.

Docket Numbers: ER18–877–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA SA No. 4941; Queue No. AC2–162 to be effective 2/5/2018.

Filed Date: 2/20/18.

Accession Number: 20180220–5091.

Comments Due: 5 p.m. ET 3/13/18.

Docket Numbers: ER18–878–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3382 NorthWestern Energy & Langford, SD Wholesale Distrib to be effective 4/22/2018.

Filed Date: 2/20/18.

Accession Number: 20180220–5115.

Comments Due: 5 p.m. ET 3/13/18.

Docket Numbers: ER18–879–000.

Applicants: NorthWestern Corporation.

Description: Tariff Cancellation: Notice of Cancellation—PTP TSAs with Langford (SA 32–SD) and Bryant (SA 33–SD) to be effective 4/22/2018.

Filed Date: 2/20/18.

Accession Number: 20180220–5156.

Comments Due: 5 p.m. ET 3/13/18.

Docket Numbers: ER18–880–000.

Applicants: Plum Point Services Company, LLC.

Description: § 205(d) Rate Filing: Notice of Change in Status and Seller Category Tariff Revision to be effective 2/21/2018.

Filed Date: 2/20/18.

Accession Number: 20180220–5181.

Comments Due: 5 p.m. ET 3/13/18.

Docket Numbers: ER18–881–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2018–02–20 True-Up Filing pursuant to Order issued in Docket No. ER18–364 to be effective 12/6/2017.

Filed Date: 2/20/18.

Accession Number: 20180220–5182.

Comments Due: 5 p.m. ET 3/13/18.

Docket Numbers: ER18–882–000.

Applicants: Elk City Renewables II, LLC.

Description: Baseline eTariff Filing: Elk City Renewables II, LLC Application for Market-Based Rates to be effective 5/1/2018.

Filed Date: 2/20/18.

Accession Number: 20180220–5183.

Comments Due: 5 p.m. ET 3/13/18.

Docket Numbers: ER18–883–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: GIA & Distrib Serv Agmt Desert Water Agency Snow Creek Project, SA Nos. 993–994 to be effective 2/3/2018.

Filed Date: 2/20/18.

Accession Number: 20180220–5184.

Comments Due: 5 p.m. ET 3/13/18.

Docket Numbers: ER18–884–000.

Applicants: Bear Swamp Power Company LLC.

Description: § 205(d) Rate Filing: Bear Swamp Amendment Compliance Filing to be effective 2/20/2018.

Filed Date: 2/20/18.

Accession Number: 20180220–5249.

Comments Due: 5 p.m. ET 3/13/18.

Docket Numbers: ER18–885–000.

Applicants: Public Service Company of New Mexico.

Description: Initial rate filing: Transmission Construction and Interconnection Agreement with Lucky Corridor to be effective 1/29/2018.

Filed Date: 2/20/18.

Accession Number: 20180220–5250.

Comments Due: 5 p.m. ET 3/13/18.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH18–6–000.

Applicants: Starwood Energy Group Global, L.L.C.

Description: Starwood Energy Group Global, L.L.C. submits FERC 65–B Non-Material Change in Fact of Waiver Notification.

Filed Date: 2/20/18.

Accession Number: 20180220–5213.

Comments Due: 5 p.m. ET 3/13/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 20, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–03968 Filed 2–26–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC18–57–000.

Applicants: FPL Energy New Mexico Wind, LLC, New Mexico Wind, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act and Request for Expedited Action of FPL Energy New Mexico Wind, LLC, et al.

Filed Date: 2/20/18.

Accession Number: 20180220–5294.

Comments Due: 5 p.m. ET 3/13/18.

Docket Numbers: EC18–58–000.

Applicants: Desert Stateline LLC, SG2 Imperial Valley LLC, North Star Solar, LLC, Lost Hills Solar, LLC, Blackwell Solar, LLC, Kingbird Solar A, LLC, Kingbird Solar B, LLC, Solar Star California XIII, LLC, Parrey, LLC, Solar Star Colorado III, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act and Request for Expedited Action of Desert Stateline LLC, et. al.

Filed Date: 2/20/18.

Accession Number: 20180220–5326.

Comments Due: 5 p.m. ET 3/13/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2895–017; ER10–2917–017; ER10–2918–018; ER10–2920–017; ER10–2921–017; ER10–2922–017; ER10–2966–017; ER10–3167–009; ER11–2292–018;

ER11–2293–018; ER11–2294–016; ER11–2383–012; ER11–3941–015; ER11–3942–017; ER12–2447–016; ER13–1613–010; ER13–203–009; ER13–2143–010; ER14–1964–008; ER16–287–003; ER17–482–002.

Applicants: Bear Swamp Power Company LLC, BIF II Safe Harbor Holdings LLC, BIF III Holtwood LLC, Black Bear Development Holdings, LLC, Black Bear Hydro Partners, LLC, Black Bear SO, LLC, BREG Aggregator LLC, Brookfield Energy Marketing Inc., Brookfield Energy Marketing LP, Brookfield Energy Marketing US LLC, Brookfield Power Piney & Deep Creek LLC, Brookfield Renewable Energy Marketing US LLC, Brookfield Smoky Mountain Hydropower LLC, Brookfield White Pine Hydro LLC, Carr Street Generating Station, L.P., Erie Boulevard Hydropower, L.P., Granite Reliable Power, LLC, Great Lakes Hydro America, LLC, Hawks Nest Hydro LLC, Rumford Falls Hydro LLC, Safe Harbor Water Power Corporation.

Description: Supplement to June 30, 2017 Updated Market Power Analysis for the Northeast Region of the Brookfield Companies.

Filed Date: 2/20/18.

Accession Number: 20180220–5313.

Comments Due: 5 p.m. ET 3/13/18.

Docket Numbers: ER11–3417–013; ER10–2460–014; ER10–2461–015; ER10–2463–014; ER10–2466–015; ER10–2895–018; ER10–2917–018; ER10–2918–019; ER10–2920–018; ER10–2921–018; ER10–2922–018; ER10–2966–018; ER10–3167–010; ER10–3178–010; ER11–2201–018; ER11–2292–019; ER11–2293–019; ER11–2294–017; ER11–2383–013; ER11–3941–016; ER11–3942–018; ER11–4029–014; ER12–1311–014; ER12–161–018; ER12–2068–014; ER12–2447–017; ER12–645–019; ER12–682–015; ER13–1139–017; ER13–1346–009; ER13–1613–011; ER13–17–012; ER13–203–010; ER13–2143–011; ER14–1964–009; ER14–25–014; ER14–2630–010; ER16–287–004; ER17–482–003.

Applicants: Alta Wind VIII, LLC, Bear Swamp Power Company LLC, BIF II Safe Harbor Holdings LLC, BIF III Holtwood LLC, Black Bear Development Holdings, LLC, Black Bear Hydro Partners, LLC, Black Bear SO, LLC, BREG Aggregator LLC, Brookfield Energy Marketing Inc., Brookfield Energy Marketing LP, Brookfield Energy Marketing US LLC, Brookfield Power Piney & Deep Creek LLC, Brookfield Renewable Energy Marketing US, LLC, Brookfield Smoky Mountain Hydropower LLC, Brookfield White Pine Hydro LLC, Carr Street Generating Station, L.P., Erie Boulevard Hydropower, L.P., Granite Reliable Power, LLC, Great Lakes Hydro America, LLC, Hawks Nest Hydro LLC, Mesa Wind Power Corporation, Rumford Falls Hydro LLC, Safe Harbor Water Power Corporation, Windstar Energy, LLC, Bishop Hill Energy LLC, Blue Sky East, LLC, California Ridge Wind Energy LLC, Canandaigua Power Partners, LLC, Canandaigua Power Partners II, LLC, Erie Wind, LLC, Evergreen Wind Power, LLC, Evergreen Wind Power III, LLC, Imperial Valley Solar 1, LLC, Niagara Wind Power, LLC, Prairie Breeze Wind Energy LLC, Regulus Solar, LLC, Stetson Holdings, LLC, Stetson Wind II, LLC, Vermont Wind, LLC.

Description: Supplement to November 15, 2017 Notice of Change in Status of the Brookfield Companies and TerraForm Companies.

Filed Date: 2/20/18.

Accession Number: 20180220–5307.

Comments Due: 5 p.m. ET 3/13/18.

Docket Numbers: ER17–603–001.

Applicants: Bear Swamp Power Company LLC.

Description: Compliance Filing of Updated Market Power Analysis of Bear Swamp Power Company LLC.

Filed Date: 2/20/18.

Accession Number: 20180220–5312.

Comments Due: 5 p.m. ET 3/13/18.

Docket Numbers: ER18–770–001.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 3334R1 Substitute Associated Electric Cooperative NITSA NOA to be effective 1/1/2018.

Filed Date: 2/21/18.

Accession Number: 20180221–5023.

Comments Due: 5 p.m. ET 3/14/18.

Docket Numbers: ER18–886–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 4912; Queue No. NQ148 to be effective 1/19/2018.

Filed Date: 2/20/18.

Accession Number: 20180220–5283.

Comments Due: 5 p.m. ET 3/13/18.

Docket Numbers: ER18–887–000.

Applicants: Entergy Services, Inc.

Description: § 205(d) Rate Filing: Entergy Services, Inc. to be effective 1/1/2018.

Filed Date: 2/21/18.

Accession Number: 20180221–5000.

Comments Due: 5 p.m. ET 3/14/18.

Docket Numbers: ER18–888–000.

Applicants: CF Industries Nitrogen, LLC.

Description: Baseline eTariff Filing: CF Industries Nitrogen, LLC Rate Schedule No. 1 Filing to be effective 4/22/2018.

Filed Date: 2/21/18.

Accession Number: 20180221–5026.

Comments Due: 5 p.m. ET 3/14/18.

Docket Numbers: ER18–889–000.

Applicants: Entergy Louisiana, LLC.

Description: § 205(d) Rate Filing: ELL–CF Generator Interconnection Agreement to be effective 4/22/2018.

Filed Date: 2/21/18.

Accession Number: 20180221–5042.

Comments Due: 5 p.m. ET 3/14/18.

Docket Numbers: ER18–890–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: PGE Construction Agmt—Troutdale—James River to be effective 4/23/2018.

Filed Date: 2/21/18.

Accession Number: 20180221–5048.

Comments Due: 5 p.m. ET 3/14/18.

Docket Numbers: ER18–891–000.

Applicants: PSEG Energy Resources & Trade LLC.

Description: Tariff Cancellation: Sewaren 1—4 Cancellation to be effective 6/1/2018.

Filed Date: 2/21/18.

Accession Number: 20180221–5084.

Comments Due: 5 p.m. ET 3/14/18.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM18–10–000.

Applicants: Cooperative Energy.

Description: Application of Cooperative Energy to Terminate Mandatory Purchase Obligation from Qualifying Facilities with a Net Capacity Greater than 20 MW on a Service Territory-Wide Basis.

Filed Date: 2/21/18.

Accession Number: 20180221–5098.

Comments Due: 5 p.m. ET 3/21/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 21, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–03971 Filed 2–26–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–865–000]

Power 52 Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding Power 52 Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 12, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 20, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–03969 Filed 2–26–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's website 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	File date	Presenter or requester
Prohibited		
1. CP15–558–000	2–8–2018	Mass Mailing.[1]
2. P–2100–000	2–8–2018	Bert Manuel.
3. CP16–116–000, CP16–454–000, CP16–480–000	2–12–2018	Randolph Delay.
4. CP15–558–000	2–12–2018	Mass Mailing.[2]
5. CP15–558–000	2–13–2018	Mass Mailing.[3]
6. CP15–558–000	2–14–2018	Mass Mailing.[4]
7. CP15–558–000	2–15–2018	Mass Mailing.[5]
Exempt		
1. P–2660–029	2–7–2018	State of Maine Governor Paul R. LePage.
2. P–2660–029	2–8–2018	U.S. House Representative Bruce Poliquin.

Docket No.	File date	Presenter or requester
3. P–2100–000	2–12–2018	City of Oroville, California, Office of the City Council.
4. P–459–000	2–14–2018	U.S. Senator Roy Blunt.
5. CP16–10–000, CP15–554–000	2–14–2018	U.S. House Representatives.[6]
6. CP15–93–000	2–15–2018	U.S. Congress.[7]

[1] Two letters have been sent to FERC Commissioners and staff under this docket number.
[2] Four letters have been sent to FERC Commissioners and staff under this docket number.
[3] Seven letters have been sent to FERC Commissioners and staff under this docket number.
[4] Two letters have been sent to FERC Commissioners and staff under this docket number.
[5] Eights letters have been sent to FERC Commissioners and staff under this docket number.
[6] Representatives Robert C. "Bobby" Scott and A. Donald McEachin.
[7] Representative Frank Pallone, Jr. and Senator Maria Cantwell.

Dated: February 20, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–03970 Filed 2–26–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0007; FRL–9972–19]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before March 29, 2018.

ADDRESSES: Submit your comments, identified by the Docket Identification (ID) Number and the File Symbol of interest as show in the body of this document, by one of the following methods:

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

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

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

II. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

III. New Active Ingredients

1. *File Symbols:* 279–GAEI, 279–GAEO, and 279–GAET. *Docket ID number:* EPA–HQ–OPP–2017–0510. *Applicant:* FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104. *Active ingredient:* Pethoxamid. *Product type:* Herbicide. *Proposed uses:* Corn (field, sweet and pop); cotton; soybean; andresidential and commercial non-crop sites including turf, golf courses, sod farms, utility right-of-ways, roadsides, railways, industrial areas, and container and field grown ornamentals. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: December 19, 2017.

Delores Barber,

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

[FR Doc. 2018–03981 Filed 2–26–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0750; FRL–9973–08]

Registration Review Proposed Interim Decisions for Several Pesticides; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's proposed interim registration review decisions and opens a 60-day public comment period on the proposed interim decisions for the following pesticides: Quinoxyfen and sucrose.

DATES: Comments must be received on or before April 30, 2018.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number for the specific pesticide of interest provided in the Table in Unit IV, by one of the following methods:

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

FOR FURTHER INFORMATION CONTACT:

For pesticide specific information, contact: The Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

For general information on the registration review program, contact: Dana Friedman, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–8827; email address: *friedman.dana@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

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

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

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

II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed proposed interim decisions for all pesticides listed in the Table in Unit IV. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of the chemicals listed in the Table in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the Agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's proposed interim registration review decisions for the pesticides shown in the following table, and opens a 60-day public comment period on the proposed interim decisions.

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Quinoxyfen Case 7037	EPA–HQ–OPP–2013–0771	Katherine St. Clair, *stclair.katherine@epa.gov*, (703) 347–8778.
Sucrose Case 5117	EPA–HQ–OPP–2013–0751	Cody Kendrick, *kendrick.cody@epa.gov*, (703) 347–0468.

The registration review docket for a pesticide includes earlier documents related to the registration review case. For example, the review opened with a Preliminary Work Plan, for public comment. A Final Work Plan was placed in the docket following public comment on the Preliminary Work Plan.

The documents in the dockets describe EPA's rationales for conducting additional risk assessments for the registration review of the pesticides included in the table in Unit IV, as well as the Agency's subsequent risk findings and consideration of possible risk

mitigation measures. These proposed interim registration review decisions are supported by the rationales included in those documents. Following public comment, the Agency will issue interim or final registration review decisions for the pesticides listed in the table in Unit IV.

The registration review final rule at 40 CFR 155.58(a) provides for a minimum 60-day public comment period on all proposed interim registration review decisions. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the proposed interim decision. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the docket for the pesticides included in the Table in Unit IV. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and may provide a ''Response to Comments Memorandum'' in the docket. The interim registration review decision will explain the effect that any comments had on the interim decision and provide the Agency's response to significant comments.

Background on the registration review program is provided at: *http://www.epa.gov/pesticide-reevaluation.*

Authority: 7 U.S.C. 136 *et seq.*

Dated: January 26, 2018.

Yu-Ting Guilaran,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2018–03983 Filed 2–26–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0751; FRL–9973–09]

Interim Registration Review Decisions and Case Closures for Several Pesticides; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's interim registration review decision for the following chemicals: Aldicarb, aliphatic esters, atonik plant growth regulators, bromuconazole, carfentrazone-ethyl, cyclanilide, ethephon, flumiclorac-pentyl, hexazinone, hymexazol, menthol, mepiquat chloride/mepiquat pentaborate, metaflumizone, and propylene glycol/dipropylene glycol/triethylene glycol. It also announces the case closures for Oxazolidine-E (Case 5027 and Docket ID Number: EPA–HQ–OPP–2008–0404) and Bromohydroxyacetophenone (BHAP) (Case 3032, EPA–HQ–OPP–2009–0726), because the last U.S. registrations for these pesticides have been canceled.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the pesticide specific contact person listed under **FOR FURTHER INFORMATION CONTACT**: *For pesticide specific information, contact:* The Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

For general information on the registration review program, contact: Dana Friedman, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460–0001; telephone number: (703) 347–8827; email address: *friedman.dana@epa.gov.*

II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed interim decisions for all pesticides listed in the Table in Unit IV. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of the chemicals listed in the Table in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the Agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's interim registration review decisions for the pesticides shown in the following table. The interim registration review decisions are supported by rationales included in the docket established for each chemical.

TABLE—REGISTRATION REVIEW INTERIM DECISIONS BEING ISSUED

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Aldicarb Case 0140	EPA–HQ–OPP–2012–0161	Susan Bartow, *bartow.susan@epa.gov,* (703) 603–0065.
Aliphatic Esters Case 4005	EPA–HQ–OPP–2016–0084	Brian Kettl, *kettl.brian@epa.gov,* (703) 347–0535.
Atonik Plant Growth Regulators (Sodium 5-Nitroguaiacolate, Sodium o-Nitrophenolate, Sodium p-Nitrophenolate) Case 6067.	EPA–HQ–OPP–2008–0832	Chris Pfeifer, *pfeifer.chris@epa.gov,* (703) 308–0031.
Bromuconazole Case 7035	EPA–HQ–OPP–2015–0535	Thomas Harty, *harty.thomas@epa.gov,* 703–347–0338.

TABLE—REGISTRATION REVIEW INTERIM DECISIONS BEING ISSUED—Continued

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Carfentrazone-ethyl Case 7422	EPA–HQ–OPP–2010–0815	Jordan Page, *page.jordan@epa.gov,* (703) 347–0467.
Cyclanilide Case 7018	EPA–HQ–OPP–2011–0153	Leigh Rimmer, *rimmer.leigh@epa.gov,* (703) 347–0553.
Ethephon Case 0382	EPA–HQ–OPP–2010–0098	Mark Baldwin, *baldwin.mark@epa.gov,* (703) 308–0504.
Flumiclorac-pentyl Case 7232	EPA–HQ–OPP–2009–0084	Christian Bongard, *bongard.christian@epa.gov,* (703) 347–0337.
Hexazinone Case 0266	EPA–HQ–OPP–2009–0755	Bilin Basu, *basu.bilin@epa.gov,* (703) 347–0455.
Hymexazol Case 7016	EPA–HQ–OPP–2010–0127	Caitlin Newcamp, *newcamp.caitlin@epa.gov,* (703) 347–0325.
Menthol Case 4063	EPA–HQ–OPP–2009–0900	Chris Pfeifer, *pfeifer.chris@epa.gov,* (703) 308–0031.
Mepiquat chloride/Mepiquat pentaborate Case 2375.	EPA–HQ–OPP–2012–0083	Caitlin Newcamp, *newcamp.caitlin@epa.gov,* (703) 347–0325.
Metaflumizone Case 7446	EPA–HQ–OPP–2016–0417	Brittany Pruitt, *pruitt.brittany@epa.gov,* (703) 347–0289.
Propylene Glycol, Dipropylene Glycol and Triethylene Glycol Case Numbers 3126 and 3146.	EPA–HQ–OPP–2013–0218 EPA–HQ–OPP–2013–0219	Megan Snyderman, *snyderman.megan@epa.gov,* (703) 347–0671.

The proposed interim registration review decisions for the chemicals in the table above were posted to the docket and the public was invited to submit any comments or new information. EPA addressed the comments or information received during the 60-day comment period for the proposed interim decisions in the discussion for each pesticide listed in the table. Comments from the 60-day comment period that were received may or may not have affected the Agency's interim decision. Pursuant to 40 CFR 155.58(c), the registration review case docket for the chemicals listed in the Table will remain open until all actions required in the interim decision have been completed.

This document also announces the closures of the registration review cases for Oxazolidine-E (Case 5027, Docket ID EPA–HQ–OPP–2008–0404) and Bromohydroxyacetophenone (BHAP) (Case 3032, EPA–HQ–OPP–2009–0726) because all of the U.S. registrations for these pesticides have been canceled. Background on the registration review program is provided at: *http://www.epa.gov/pesticide-reevaluation.*

Authority: 7 U.S.C. 136 *et seq.*

Dated: February 7, 2018.

Yu-Ting Guilaran,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2018–03982 Filed 2–26–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2018–0004; FRL–9974–57–OECA]

Inquiry To Learn Whether Businesses Assert Business Confidentiality Claims Regarding Waste Import and Export

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comment.

SUMMARY: The Environmental Protection Agency (EPA) occasionally receives Freedom of Information Act (FOIA) requests for documentation received or issued by EPA or data contained in EPA database systems pertaining to the export and import of Resource Conservation and Recovery Act (RCRA) hazardous waste from/to the United States, the export of cathode ray tubes (CRTs), the export and import of spent lead acid batteries (SLABs) from the United States, and the export and import of RCRA universal waste from/to the United States. The purpose of this notice is to inform ''affected businesses'' about the documents or data sought by these types of FOIA requests in order to provide the businesses with the opportunity to assert claims that any of the information sought that pertains to them is entitled to treatment as confidential business information (CBI), and to send comments to EPA supporting their claims for such treatment. ''Affected businesses'' are businesses identified or referenced in the documents that were submitted to EPA by the submitting business which may have a right to assert a CBI claim concerning information that pertains to them and may do so in response to this notice. Certain businesses, however, do not meet the definition of ''affected business,'' and are not covered by today's notice. They consist of any business that actually submitted to EPA any document at issue pursuant to applicable RCRA regulatory requirements and did not assert a CBI claim as to information that pertains to that business in connection with the document at the time of its submission; they have waived their right to do so at a later time. This notice also serves to inform the public that based on the Confidentiality Determinations for Hazardous Waste Export and Import Documents, EPA–HQ–OLEM–2016–0492, published on December 26, 2017 (Confidentiality Rule), this is the last time EPA will be publishing the **Federal Register** Notice ''Inquiry to Learn Whether Businesses Assert Business Confidentiality Claims.'' Effective June 26, 2018, the Confidentiality Rule applies a confidentiality determination such that no person can assert confidential business information (CBI) claims for documents related to the export, import, and transit of hazardous waste, including those hazardous waste managed under the alternate standards, and excluded cathode ray tubes (CRTs). Therefore, publication of this **Federal Register** notice will no longer be needed since ''affected businesses'' will no longer be able to claim CBI on any documents on which they are listed.

DATES: Comments must be received on or before March 29, 2018. The period for submission of comments may be extended if, before the comments are due, you make a request for an extension of the comment period and it is approved by the EPA legal office. Except in extraordinary circumstances, the EPA legal office will not approve such an extension without the consent of any person whose request for release of the information under the FOIA is pending.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OECA–2018–0004, by one of the following methods:

- *Email: kreisler.eva@epa.gov.*
- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Address:* Eva Kreisler, International Compliance Assurance Division, Office of Federal Activities, Office of Enforcement and Compliance Assurance, Environmental Protection Agency, Mailcode: 2254A, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OECA–2018–0004. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. Instructions about how to submit comments claimed as CBI are given later in this notice.

The *http://www.regulations.gov* site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment. Please include your name and other contact information with any disk or CD–ROM you submit by mail. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the HQ EPA Docket Center, EPA/DC, EPA West, Room 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 docket for this notice is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Eva Kreisler, International Compliance Assurance Division, Office of Federal Activities, Office of Enforcement and Compliance Assurance, Environmental Protection Agency, Mailcode: 2254A, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (202) 564–8186; email address: *kreisler.eva@epa.gov.*

SUPPLEMENTARY INFORMATION: Today's notice relates to any documents or data in the following areas: (1) Export of Resource Conservation and Recovery Act (RCRA) hazardous waste, during calendar year 2017 or before, under 40 CFR part 262, subparts E and H; (2) import of RCRA hazardous waste, during calendar year 2017 or before, under 40 CFR part 262, subparts F and H; (3) transit of RCRA hazardous waste, during calendar year 2017 or before, under 40 CFR part 262, subpart H, through the United States and foreign countries; (4) export of cathode ray tubes, during calendar year 2017 or before, under 40 CFR part 261, subpart E; (5) export and import of non-crushed spent lead acid batteries with intact casings, during calendar year 2017 or before, under 40 CFR part 266 subpart G; (6) export and import of RCRA universal waste, during calendar year 2017 or before, under 40 CFR part 273, subparts B, C, D, and F; and (7) submissions from transporters, during calendar year 2017 or before, under 40 CFR part 263, or from treatment, storage or disposal facilities under 40 CFR parts 264 and 265, related to exports or imports of hazardous waste which occurred during calendar year 2017 or before, including receiving facility notices under 40 CFR 264.12(a)(1) and 265.12(a)(1) and import consent documentation under 40 CFR 264.71(a)3) and 265.71(a)(3).

I. General Information

EPA has previously published notices similar to this one in the **Federal Register**, the latest one being at 82 FR 6506, January 19, 2017, that address issues similar to those raised by today's notice. The Agency did not receive any comments on the previous notices. Since the publication of the January 19, 2017, **Federal Register** notice, the Agency has continued to receive FOIA requests for documents and data contained in EPA's database related to hazardous waste exports and imports and exports of excluded CRTs.

II. Issues Covered by This Notice

Specifically, EPA receives FOIA requests from time to time for documentation or data related to hazardous waste exports and imports that may identify or reference multiple parties, and that describe transactions involving the movement of specified materials in which the parties propose to participate or have participated. This notice informs ''affected businesses,'' [1] which could include, among others, ''transporters,'' [2] and ''receiving facilities'' or ''foreign receiving facilities,'' [3] of the requests for information in EPA database systems and/or contained in one or more of the following documents: (1) Documents related to the export of Resource Conservation and Recovery Act (RCRA) hazardous waste, during calendar year 2017 or before, under 40 CFR part 262, subparts E and H, including but not limited to the ''notification of intent to export,'' [4] ''manifests,'' [5] ''annual reports,'' [6] ''EPA acknowledgements of consent,'' [7] ''any subsequent communication withdrawing a prior consent or objection,'' [8] ''responses that neither consent nor object,'' ''exception reports,'' [9] ''transit notifications,'' [10] and ''renotifications''; [11] (2) documents related to the import of hazardous waste, during calendar year 2017 or before, under 40 CFR part 262, subparts F and H, including but not limited to notifications of intent to import hazardous waste into the U.S. from foreign countries; (3) documents related to the transit of hazardous waste, during calendar year 2017 or before, under 40 CFR part 262, subpart H, including notifications from U.S. exporters of intent to transit through foreign countries, or notifications from foreign countries of intent to transit through the

[1] The term ''affected business'' is defined at 40 CFR 2.201(d), and is set forth in this notice, below.

[2] The term ''transporter'' is defined at 40 CFR 260.10.

[3] The terms ''foreign receiving facility'' and ''receiving facility'' are defined, for different purposes, at 40 CFR 262.81.

[4] The term ''notification for export'' is described at 40 CFR 262.83(b), and for import at 40 CFR 262.84(b).

[5] The term ''manifest'' is defined at 40 CFR 260.10.

[6] The term ''annual reports'' is described at 40 CFR 262.83(g).

[7] The term ''EPA Acknowledgement of Consent'' is defined at 40 CFR 262.81.

[8] The requirement to forward to the exporter ''any subsequent communication withdrawing a prior consent or objection'' is found at 42 U.S.C. 6938(e)

[9] The term ''exception reports'' is described at 40 CFR 262.83(h).

[10] The term ''transit notifications'' is described at 40 CFR 262.83(b)(5).

[11] The term ''renotifications'' is described at 40 CFR 262.83(b)(4).

U.S.; (4) documents related to the export of cathode ray tubes (CRTs), during calendar year 2017 or before, under 40 CFR part 261, subpart E, including but not limited to notifications of intent to export CRTs; (5) documents related to the export or import of non-crushed spent lead acid batteries (SLABs) with intact casings, during calendar year 2017 or before, under 40 CFR part 266 subpart G, including but not limited to notifications of intent to export SLABs; (6) submissions from transporters under 40 CFR part 263, or from treatment, storage or disposal facilities under 40 CFR parts 264 and 265, related to exports or imports of hazardous waste which occurred during calendar year 2017 or before, including receiving facility notices under 40 CFR 264.12(a)(1) and 265.12(a)(1) and import consent documentation under 40 CFR 264.71(a)(3) and 265.71(a)(3); and (7) documents related to the export and import of RCRA ''universal waste'' [12] under 40 CFR part 273, subparts B, C, D, and F.

Certain businesses, however, do not meet the definition of ''affected business,'' and are not covered by today's notice. They consist of any business that actually submitted information responsive to a FOIA request, under the authority of 40 CFR parts 260 through 266 and 268, and did not assert a claim of business confidentiality covering any of that information at the time of submission. As set forth in the RCRA regulations at 40 CFR 260.2(b), ''if no such [business confidentiality] claim accompanies the information when it is received by EPA, it may be made available to the public without further notice to the person submitting it.'' Thus, for purposes of this notice and as a general matter under 40 CFR 260.2(b), a business that submitted to EPA the documents at issue, pursuant to applicable regulatory requirements, and that failed to assert a claim as to information that pertains to it at the time of submission, cannot later make a business confidentiality claim.[13] Nevertheless, other businesses identified or referenced in the same documents that were submitted to EPA by the submitting business may have a right to assert a CBI claim concerning information that pertains to them and may do so in response to this notice.

In addition, EPA may develop its own documents and organize into its database systems information that was originally contained in documents from submitting businesses relating to exports and imports of hazardous waste. If a submitting business fails to assert a CBI claim for the documents it submits to EPA at the time of submission, not only does it waive its right to claim CBI for those documents, but it also waives its right to claim CBI for information in EPA's documents or databases that is based on or derived from the documents that were originally submitted by that business.[14]

In accordance with 40 CFR 2.204(c) and (e), this notice inquires whether any affected business asserts a claim that any of the requested information constitutes CBI, and affords such business an opportunity to comment to EPA on the issue. This notice also informs affected businesses that, if a claim is made, EPA would determine under 40 CFR part 2, subpart B, whether any of the requested information is entitled to business confidential treatment.

1. Affected Businesses

EPA's FOIA regulations at 40 CFR 2.204(c)(1) require an EPA office that is responsible for responding to a FOIA request for the release of business information (''EPA office'') to determine which businesses, if any, are affected businesses. ''Affected business'' is defined at 40 CFR 2.201(d) as: With reference to an item of business information, a business which has asserted (and not waived or withdrawn) a business confidentiality claim covering the information, or a business which could be expected to make such a claim if it were aware that disclosure of the information to the public was proposed.

2. The Purposes of This Notice

This notice encompasses two distinct steps in the process of communication with affected businesses prior to EPA's making a final determination concerning the business confidentiality of the information at issue: The preliminary inquiry and the notice of opportunity to comment.

a. Inquiry To Learn Whether Affected Businesses (Other Than Those Businesses That Previously Asserted a CBI Claim) Assert Claims Covering Any of the Requested Information

Section 2.204(c)(2)(i) provides, in relevant part: If the examination conducted under paragraph (c)(1) of § 2.204 discloses the existence of any business which, although it has not asserted a claim, might be expected to assert a claim if it knew EPA proposed to disclose the information, the EPA office shall contact a responsible official of each such business to learn whether the business asserts a claim covering the information.

b. Notice of Opportunity To Submit Comments

Sections 2.204(d)(1)(i) and 2.204(e)(1) of Title 40 of the Code of Federal Regulations require that written notice be provided to businesses that have made claims of business confidentiality for any of the information at issue, stating that EPA is determining under 40 CFR part 2, subpart B, whether the information is entitled to business confidential treatment, and affording each business an opportunity to comment as to the reasons why it believes that the information deserves business confidential treatment.

3. The Use of Publication in the ***Federal Register***

Section 2.204(e)(1) of Title 40 of the Code of Federal Regulations requires that this type of notice be furnished by certified mail (return receipt requested), by personal delivery, or by other means which allows verification of the fact and date of receipt. EPA, however, has determined that in the present circumstances the use of a **Federal Register** notice is a practical and efficient way to contact affected businesses and to furnish the notice of opportunity to submit comments. The Agency's decision to follow this course was made in recognition of the administrative difficulty and impracticality of directly contacting potentially thousands of individual businesses.

4. Submission of Your Response in the English Language

All responses to this notice must be in the English language.

5. The Effect of Failure To Respond to This Notice

In accordance with 40 CFR 2.204(e)(1) and 2.205(d)(1), EPA will construe your failure to furnish timely comments in response to this notice as a waiver of your business's claim(s) of business

[12] The term ''universal waste'' is defined at 40 CFR 273.9.

[13] However, businesses having submitted information to EPA relating to the export and import of RCRA universal waste are not subject to 40 CFR 260.2(b) since they submitted information in accordance with 40 CFR part 273, and not parts 260 through 266 and 268, as set forth in 40 CFR 260.2(b). They are therefore affected businesses that could make a claim of CBI at the time of submission or in response to this notice.

[14] With the exception, noted above, of the submission of information relating to the export and import of RCRA universal waste.

confidentiality for any information in the types of documents identified in this notice.

6. What To Include in Your Comments

If you believe that any of the information contained in the types of documents which are described in this notice and which are currently, or may become, subject to FOIA requests, is entitled to business confidential treatment, please specify which portions of the information you consider business confidential. Information not specifically identified as subject to a business confidentiality claim may be disclosed to the requestor without further notice to you.

For each item or class of information that you identify as being subject to your claim, please answer the following questions, giving as much detail as possible:

1. For what period of time do you request that the information be maintained as business confidential? Note that as of June 26, 2018 the Confidentiality Rule takes effect applying confidentiality determinations such that no CBI claims may be asserted by any person with respect to any documents related to the export, import, and transit of hazardous waste and export of excluded CRTs.

2. Information submitted to EPA becomes stale over time. Why should the information you claim as business confidential be protected for the time period specified in your answer to question no. 1?

3. What measures have you taken to protect the information claimed as business confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered business confidential?

4. Is the information contained in any publicly available material such as the internet, publicly available data bases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?

5. Has any governmental body made a determination as to the business confidentiality of the information? If so, please attach a copy of the determination.

6. For each category of information claimed as business confidential, explain with specificity why and how release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?

7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If the business asserts that the information is voluntarily submitted information, please explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.

8. Any other issue you deem relevant.

Please note that you bear the burden of substantiating your business confidentiality claim. Conclusory allegations will be given little or no weight in the determination. If you wish to claim any of the information in your response as business confidential, you must mark the response ''BUSINESS CONFIDENTIAL'' or with a similar designation, and must bracket all text so claimed. Information so designated will be disclosed by EPA only to the extent allowed by, and by means of, the procedures set forth in, 40 CFR part 2, subpart B. If you fail to claim the information as business confidential, it may be made available to the requestor without further notice to you.

III. Publication of the Confidentiality Determinations for Hazardous Waste Export and Import Documents Final Rule and Its Effect on This Notice

The Confidentiality Determinations for Hazardous Waste Export and Import Documents Final Rule, EPA–HQ–OLEM–2016–0492, published on December 26, 2017 (''Confidentiality Rule'') and effective on June 26, 2018, finalizes the application of confidentiality determinations such that no CBI claims may be asserted by any person with respect to any documents related to the export, import, and transit of hazardous waste and export of excluded CRTs, including all documents listed in this Notice in section II, above. Therefore, further publications of this **Federal Register** Notice ''Inquiry to Learn Whether Businesses Assert Business Confidentiality Claims'' will no longer be needed, after today. Today's Notice is the last and final publication of this Notice.

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

1. *Submitting CBI.* Do not submit this information to EPA through *http://www.regulations.gov* or email. Please submit this information by mail to the address identified in the **ADDRESSES** section of today's notice for inclusion in the non-public CBI docket. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. Information so marked will not be disclosed except in accordance with the procedures set forth in 40 CFR part 2, subpart B. In addition to the submission of one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the notice by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Describe any assumptions and provide any technical information and/or data that you used.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Make sure to submit your comments by the comment period deadline identified.

Dated: February 12, 2018.

Robert Tomiak,

Director, Office of Federal Activities.

[FR Doc. 2018–03985 Filed 2–26–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0720; FRL–9973–07]

Registration Review; Draft Human Health and/or Ecological Risk Assessments for Several Pesticides; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's draft human health and ecological risk assessments for the registration review of acetamiprid, acibenzolar, ametryn, ammonia/ammonium sulfate, butralin, glyphosate, naphthenate salts, prometon,

pyrithiobac-sodium, and pymetrozine. It also announces the availability of EPA's draft human health risk assessment for the registration review of cypermethrin.

DATES: Comments must be received on or before April 30, 2018.

ADDRESSES: Submit your comments, to the docket identification (ID) number for the specific pesticide of interest provided in the Table in Unit IV, by one of the following methods:

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

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

FOR FURTHER INFORMATION CONTACT:

For pesticide specific information contact: The Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

For general questions on the registration review program, contact: Dana Friedman, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 308–8015; email address: *friedman.dana@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager identified in the Table in Unit IV.

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

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

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

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

II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed comprehensive draft human health and/or ecological risk assessments for all pesticides listed in the Table in Unit IV. After reviewing comments received during the public comment period, EPA may issue a revised risk assessment, explain any changes to the draft risk assessment, and respond to comments and may request public input on risk mitigation before completing a proposed registration review decision for the pesticides listed in the Table in Unit IV. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of the chemicals listed in the Table in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's human health and ecological risk assessments for the pesticides shown in the following table, and opens a 60-day public comment period on the risk assessments.

TABLE—DRAFT RISK ASSESSMENTS BEING MADE AVAILABLE FOR PUBLIC COMMENT

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Acetamiprid Case 7617	EPA–HQ–OPP–2012–0329	Margaret Hathaway, *hathaway.margaret@epa.gov* (703) 305–5076.
Acibenzolar Case 7031	EPA–HQ–OPP–2013–0755	Leigh Rimmer, *rimmer.leigh@epa.gov* (703) 347–0553.
Ametryn Case 2010	EPA–HQ–OPP–2013–0249	Christian Bongard, *bongard.christian@epa.gov* (703) 347–0337.

TABLE—DRAFT RISK ASSESSMENTS BEING MADE AVAILABLE FOR PUBLIC COMMENT—Continued

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Ammonia & Ammonium Sulfate Case No(s): 7440 & 5073.	EPA–HQ–OPP–2012–0684	Stephen Savage, *savage.stephen@epa.gov* (703) 347–0345.
Butralin Case 2075	EPA–HQ–OPP–2011–0720	Brittany Pruitt, *Pruitt.brittany@epa.gov* (703) 347–0289.
Cypermethrin Case 2130	EPA–HQ–OPP–2012–0167	Susan Bartow, *bartow.susan@epa.gov* (703) 603–0065.
Glyphosate Case 0178	EPA–HQ–OPP–2009–0361	*glyphosateRegReview@epa.gov* (703) 347–0292.
Naphthenate Salts Case 3099	EPA–HQ–OPP–2010–0455	Rachel Ricciardi, *ricciardi.rachel@epa.gov* (703) 347–0465.
Prometon Case 2545	EPA–HQ–OPP–2015–0290	Brittany Pruitt, *pruitt.brittany@epa.gov* (703) 347–0289.
Pymetrozine Case 7611	EPA–HQ–OPP–2013–0368	Marianne Mannix, *mannix.marianne@epa.gov* (703) 347–0275.
Pyrithiobac-soduim Case 7239	EPA–HQ–OPP–2011–0661	Linsey Walsh, *walsh.linsey@epa.gov* (703) 347–8030.

Pursuant to 40 CFR 155.53(c), EPA is providing an opportunity, through this notice of availability, for interested parties to provide comments and input concerning the Agency's draft human health and/or ecological risk assessments for the pesticides listed in the Table in Unit IV. For the pyrethroid cypermethrin (cypermethrin, zeta-cypermethrin, and alpha-cypermethrin), the ecological assessment for all of the pyrethroids was previously published for comment in the **Federal Register** in November 29, 2016 (81 FR 85952; FRL–9953–53); EPA is now publishing the single chemical human health risk assessment for cypermethrin. The Agency will consider all comments received during the public comment period and make changes, as appropriate, to a draft human health and/or ecological risk assessment. EPA may then issue a revised risk assessment, explain any changes to the draft risk assessment, and respond to comments.

Information submission requirements. Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

Authority: 7 U.S.C. 136 *et seq.*

Dated: January 26, 2018.

Yu-Ting Guilaran,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2018–03986 Filed 2–26–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2017–0759; FRL–9974–78–OAR]

Proposed Information Collection Request; Comment Request; Certification and Compliance Requirements for Medium- and Heavy-Duty Engines and Vehicles (Greenhouse Gases and Fuel Economy)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Certification and Compliance Requirements for Medium- and Heavy-Duty Engines and Vehicles (Greenhouse Gases and Fuel Economy),'' (EPA ICR Number 2394.06, OMB Control Number 2060–0048) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through April 30, 2018. 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.

DATES: Comments must be submitted on or before April 30, 2018.

ADDRESSES: Submit your comments, referencing the Docket ID No. EPA–HQ–OAR–2017–0759, online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Mr. Fakhri Hamady, US Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: 734–214–4330; and/or Ms. Nydia Y. Reyes-Morales, US Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Mail Code 6405A, Washington, DC 20460; telephone number: 202–343–9264; email address: *reyes-morales.nydia@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301

Constitution Ave., NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: For this ICR, EPA is seeking a revision with a three-year extension to an existing package. Title II of the Clean Air Act, (42 U.S.C. 7521 *et seq.;* CAA), charges the Environmental Protection Agency (EPA) with developing standards for compounds deemed 'pollutants' (as defined by the CAA itself) and with issuing certificates of conformity for those engines and motor vehicle designs that comply with applicable emission standards. Such a certificate must be issued before engines and vehicles may be legally introduced into commerce. The Supreme Court's decision in *Massachusetts* v. *Environmental Protection Agency,* 549 U.S. 497 (2007), extended that charge to greenhouse gases (GHGs) when it ruled that GHGs are in fact pollutants as defined in the CAA. Furthermore, 49 U.S.C. 32902 requires the National Highway Traffic Safety Administration (NHTSA), in consultation with the Department of Energy and the EPA, to prescribe each model year average fuel economy standards. Under 49 U.S.C. 32907, manufacturers are required to submit reports to both NHTSA and EPA demonstrating how they plan to comply with applicable average fuel economy standards.

Under this ICR, EPA, in collaboration with NHTSA, collects information necessary to discharge those obligations with regards to certain medium- and heavy-duty engines and vehicles [collectively referred to here as ''heavy-duty (HD) engines/vehicles'' for simplicity]. Specifically, EPA and NHTSDA (1) issue certificates of compliance with GHG emission requirements and fuel economy standards; and (2) verify compliance with regulatory provisions for manufacturers of HD engines, HD pickup trucks and vans, vocational vehicles and combination tractors.

To apply for a certificate of conformity, manufacturers submit descriptions of their planned production engines or vehicles, including detailed descriptions of emission control systems and test data. They also submit compliance plans and annual production reports and keep records.

To reduce the burden on affected manufacturers and enhance compliance flexibility, the CAA created the Averaging, Banking and Trading (AB&T). AB&T is a voluntary program that allows manufacturers to bank credits for groups of engines/vehicles that emit below the standard and use the credits for groups that emit above the standard. They may also trade banked credits with other manufacturers. AB&T participants are required to submit information regarding the calculation, actual generation and usage of credits.

The information and test results manufacturers submit is verified by EPA through confirmatory testing and by NHTSA through limited equipment testing and modeling runs; and used to ensure compliance. It is collected electronically by EPA's Diesel Engine Compliance Center (DECC), Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation; and stored in DECC's databases. The information may also be used by EPA's Office of Enforcement and Compliance Assurance and the Department of Justice for enforcement purposes.

Manufacturers may assert a claim of confidentiality over information provided to EPA. Confidentiality is granted in accordance with the Freedom of Information Act and EPA regulations at 40 CFR part 2. Non-confidential information may be disclosed on OTAQ's website or upon request under the Freedom of Information Act to trade associations, environmental groups, and the public.

Forms: None.

Respondents/affected entities: Manufacturers of heavy-duty (HD) engines, HD pickups and vans, vocational vehicles and combination tractors.

Respondent's obligation to respond: Regulated engine and vehicle manufacturers must respond to this collection if they wish to sell their products in the US, as prescribed by Section 206(a) of the CAA (42 U.S.C. 7521).

Estimated number of respondents: 49 (total).

Frequency of response: Annually or On Occasion, depending on the type of response.

Total estimated burden: 2,095 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $229,102 (per year), includes $55,012 in annualized capital or operation & maintenance costs.

Changes in Estimates: Preliminary estimates reflect a substantial decrease in the total estimated respondent burden compared with the ICR currently approved by OMB. This is mainly due to two factors:

(1) A net decrease in the total number of applications for certification submitted each year. While the number of respondents (manufacturers) has increased in comparison to the previous ICR, EPA had overestimated the number of HD engine/vehicle families each manufacturer would seek to certify; and

(2) Manufacturer's use of carry over data. Now that the program has been in place for a few years, manufacturers are able to ''carry over'' test data from one model year to the next. Manufacturers may carry over (resubmit) test results if no significant emission-related changes have been made to an engine or vehicle family. This considerably lowers the burden and expense of preparing and submitting certification applications.

Dated: February 15, 2018.

Byron J. Bunker,

Director, Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2018–03984 Filed 2–26–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–9974–21]

Access to Confidential Business Information by Science Applications International Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor Science Applications International Corporation (SAIC) of McLean, VA, to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data occurred on or about December 8, 2017.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Scott M. Sherlock, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8257; email address: *sherlock.scott@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2003–0004 is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the Agency taking?

Under EPA contract number GS00Q09BGD0048, order number GSQ0917BH0103, contractor SAIC of 1710 SAIC Drive, McLean, VA, is assisting the Office of Pollution Prevention and Toxics (OPPT) in developing, enhancing, maintaining, and operating a variety of EPA databases and applications. They are also assisting with the interfaces and linkages to other applications. Finally, they will access the confidential business environment for data review.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number GS00Q09BGD0048, order number GSQ0917BH0103, SAIC required access to sensitive but unclassified (SBU) information. The particular SBU that has been accessed is information identified as TSCA CBI. EPA has determined that SAIC will need access to TSCA CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. SAIC's personnel were given access to information claimed or determined to be CBI information submitted to EPA under all sections of TSCA.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA has provided SAIC access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract is taking place in accordance with EPA's *TSCA CBI Protection Manual.*

Access to TSCA data, including CBI, will continue until April 27, 2018. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

SAIC's personnel have signed nondisclosure agreements and have been briefed on specific security procedures for TSCA CBI.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: February 12, 2018.

Pamela Myrick,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2018–03988 Filed 2–26–18; 8:45 am]

BILLING CODE 6560–50–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 March 22, 2018.

A. Federal Reserve Bank of Boston (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204. Comments can also be sent electronically to *BOS.SRC.Applications.Comments@bos.frb.org:*

1. *New Hampshire Mutual Bancorp,* Concord, New Hampshire; to merge with Walpole Mutual Bancorp, Walpole, New Hampshire, and thereby acquire Savings Bank of Walpole, Walpole, New Hampshire.

In connection with the above transaction, Walpole Mutual Bancorp, Walpole, New Hampshire, has applied to become a mutual holding company by acquiring 100 percent of Savings Bank of Walpole, Walpole, New Hampshire in connection with the reorganization of Savings Bank of Walpole from mutual to stock form.

Board of Governors of the Federal Reserve System, February 22, 2018.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2018–03960 Filed 2–26–18; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Supplemental Evidence and Data Request on Home Mechanical Ventilators

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for supplemental evidence and data submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review of *Home Mechanical Ventilators,* which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Program. Access to published and unpublished pertinent scientific information will improve the quality of this review.

DATES: *Submission Deadline* on or before March 29, 2018.

ADDRESSES:

Email submissions: epc@ahrq.hhs.gov.

Print submissions:

Mailing Address: Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E53A, Rockville, MD 20857.

Shipping Address (FedEx, UPS, etc.): Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E77D, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jenae Benns, Center for Evidence and Practice and Improvement, (301) 427–1496.

Email: epc@ahrq.hhs.gov.

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Program to complete a review of the evidence for *Home Mechanical Ventilators.* AHRQ is conducting this systematic review pursuant to Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a).

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (*e.g.,* details of studies conducted). We are looking for studies that report on *Home Mechanical Ventilators,* including those that describe adverse events. The entire research protocol, including the key questions, is also available online at: *https://www.ahrq.gov/research/findings/ta/index.html.*

This is to notify the public that the EPC Program would find the following information on *Home Mechanical Ventilators* helpful:

- A list of completed studies that your organization has sponsored for this indication. In the list, please *indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.*
- *For completed studies that do not have results on ClinicalTrials.gov,* please provide a summary, including the following elements: Study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- *A list of ongoing studies that your organization has sponsored for this indication.* In the list, please provide the *ClinicalTrials.gov* trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.
- Description of whether the above studies constitute All Phase II and above clinical trials sponsored by your organization for this indication and an index outlining the relevant information in each submitted file.

Your contribution will be very beneficial to the EPC Program. Materials submitted must be publicly available or able to be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program website and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *https://www.effectivehealthcare.ahrq.gov/email-updates.*

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions.

The Key Questions

I. What are the patient characteristics and/or laboratory criteria and/or target level measurable improvements considered for the initiation and continuation of noninvasive positive pressure ventilation supplied by a Home Mechanical Ventilator (HMV), Bilevel Positive Airway Pressure device (BPAP), and Continuous Positive Airway Pressure device (CPAP) in the home through a noninvasive interface for the population of patients with chronic respiratory failure due to neuromuscular diseases, thoracic restrictive diseases, chronic obstructive pulmonary diseases (COPD), or other lung diseases (cystic fibrosis, bronchiectasis)?

A. What are the patient characteristics and/or laboratory criteria and/or target level measurable improvements (*e.g.* reduction in hypercapnia) considered for the initiation and continuation of noninvasive positive pressure mechanical ventilation supplied by a HMV through a noninvasive interface in the home?

B. What are the patient characteristics and/or laboratory criteria and/or target level measurable improvements (*e.g.* reduction in hypercapnia) considered for the initiation and continuation of noninvasive positive pressure ventilation supplied as a BPAP through a noninvasive interface in the home?

C. What are the patient characteristics and/or laboratory criteria and/or target level measurable improvements (*e.g.* reduction in hypercapnia) considered for the initiation and continuation of noninvasive positive pressure ventilation supplied as a CPAP through a noninvasive interface in the home?

II. In each of the above groups, what is the effect of HMV, a BPAP, or a CPAP use on patient outcomes, including mortality, hospitalization, admission/readmission to intensive care unit (ICU), need for intubation, outpatient visits, emergency room visits, disease exacerbations, quality of life (QoL), activities of daily living (ADL), dyspnea, sleep quality, exercise tolerance, and adverse events?

III. What are the equipment parameters that are used in each of the above groups?

A. What are the parameters of ventilator usage (*e.g.* mode as determined by trigger, control and cycling variables)?

B. What are the equipment parameters that are necessary to achieve desired outcomes (*e.g.* flow capabilities, settings, etc.)?

C. What are the parameters of prescribed patient usage (*e.g.* frequency of use, duration of use throughout the day, other)?

D. In each of the above populations, what are the parameters of patient compliance with the prescribed usage of the equipment?

IV. What respiratory services, other than the technical support of the use of the prescribed equipment, are being provided to the above patients in the home (*e.g.* patient education, ongoing smoking cessation, respiratory therapist led home care)?

V. What are the professional guidelines and statements which address KQ 1 to KQ 4?

PICOTS (Populations, Interventions, Comparators, Outcomes, Timing, Settings)

Population(s)

I. Adults 18 years and older with chronic respiratory failure due to:
- A. Neuromuscular diseases
- B. Thoracic restrictive diseases (including thoracic cage abnormalities and morbid obesity)
- C. Chronic obstructive pulmonary disease
- D. Other lung diseases (cystic fibrosis, bronchiectasis)

Interventions

I. Home mechanical ventilators (FDA-approved only) with or without pertinent ancillary in-home services (*e.g.* respiratory therapy in the home; pharmacy reconciliation; smoking cessation, etc.)
II. BPAP respiratory assist devices (FDA-approved only) w/or w/o pertinent ancillary in-home services
III. CPAP respiratory assist devices (FDA-approved only) w/or w/o pertinent ancillary in-home services

Comparators

I. Usual care (*i.e.* no mechanical ventilation/BPAP/CPAP)
II. Different type of noninvasive mechanical ventilation
III. Different modes of same equipment
IV. Other noninvasive ventilation

(Studies without a comparator treatment that evaluate the effect of a patient characteristic, laboratory criteria, ventilator parameter, or respiratory services on outcomes of interest will be included)

Outcomes

Patient-Centered Outcomes

I. Mortality
II. Hospitalization
III. Admission/readmission to intensive care unit (ICU)
IV. Need for intubation
V. Outpatient visits
VI. Emergency room visits
VII. Disease exacerbations
VIII. Quality of life (QoL)
IX. Activities of daily living (ADL)
X. Dyspnea
XI. Sleep quality
XII. Exercise tolerance
XIII. Adverse events

Timing

I. At least 1 month of treatment

Setting

I. Home
II. Assisted living residence

Publication Time

I. From 1995

Subgroup Analysis

I. Type of diseases
- A. Neuromuscular diseases
- B. Thoracic restrictive diseases
  - i. Thoracic cage abnormalities
  - ii. Morbid obesity
- C. COPD
- D. Other lung diseases (cystic fibrosis, bronchiectasis)

II. Length of treatment (1 month, 3 months, 6 months and longer)

Karen J. Migdail,

Chief of Staff.

[FR Doc. 2018–03927 Filed 2–26–18; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the National Advisory Council for Healthcare Research and Quality

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a meeting of the National Advisory Council for Healthcare Research and Quality.

DATES: The meeting will be held on Friday, March 16, 2018, from 11:00 a.m. to 1:00 p.m. (EST).

ADDRESSES: The meeting will be held virtually (via WebEx).

FOR FURTHER INFORMATION CONTACT: Jaime Zimmerman, Designated Management Official, at the Agency for Healthcare Research and Quality, 5600 Fishers Lane, Mail Stop 06E37A, Rockville, Maryland, 20857, (301) 427–1456. For press-related information, please contact Alison Hunt at (301) 427–1244 or at *Alison.Hunt@ahrq.hhs.gov.* Closed captioning will be provided during the WebEx. If another accommodation for a disability is needed, please contact the Food and Drug Administration (FDA) Office of Equal Employment Opportunity and Diversity Management on (301) 827–4840, no later than Friday, March 9, 2018.

SUPPLEMENTARY INFORMATION:

I. Purpose

The National Advisory Council for Healthcare Research and Quality is authorized by Section 941 of the Public Health Service Act, 42 U.S.C. 299c. In accordance with its statutory mandate, the Council is to advise the Secretary of the Department of Health and Human Services and the Director of AHRQ on matters related to AHRQ's conduct of its mission including providing guidance on (A) priorities for health care research, (B) the field of health care research including training needs and information dissemination on health care quality and (C) the role of the Agency in light of private sector activity and opportunities for public private partnerships. The Council is composed of members of the public, appointed by the Secretary, and Federal ex-officio members specified in the authorizing legislation.

II. Agenda

On Friday, March 16, 2018, the Council meeting will convene via WebEx at 11:00 a.m. (EST), with the call to order by the Council Chair and approval of previous Council summary notes. The agenda will include an update by the AHRQ Director and an update on the Healthcare Cost and Utilization Project (HCUP) new release of county level statistics on hospital stays for alcohol, opioids, and other drugs. The meeting is open to the public. For information regarding how to access the WebEx as well as other meeting details, please go to *https://www.ahrq.gov/news/events/nac/.*

Karen J. Migdail,

Chief of Staff.

[FR Doc. 2018–03926 Filed 2–26–18; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request; Correction

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice, correction.

SUMMARY: The Agency for Healthcare Research and Quality published a document in the **Federal Register** of February 16, 2018 concerning the current use of the AHRQ Quality Indicators (AHRQ QIs) for quality improvement efforts. This document contained an incorrect deadline date.

FOR FURTHER INFORMATION CONTACT: Carla Ladner at 301–427–1205 or *AHRQ_Fed_Register@ahrq.hhs.gov.*

Correction

In the **Federal Register** of February 16, 2018, in FR Doc 2018–03243, on page 2, line 1, correct the **DATES** caption to read:

DATES: Comments on this notice must be received by the deadline on or before March 20, 2018.

Dated: February 22, 2018.

Carla M. Ladner,

Correspondence Analyst/Federal Register Liaison—AHRQ.

[FR Doc. 2018–03964 Filed 2–26–18; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–R–267]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by April 30, 2018.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ___, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–R–267 Medicare Advantage Program and Supporting Regulations

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Medicare Advantage Program and Supporting Regulations; *Use:* Regulations under 42 CFR part 422 pertain to MA organizations, applicants to Medicare Advantage (MA) organizations (MAOs), and CMS. MAOs and potential MA organizations (applicants) use the information to comply with application requirements and MA contract requirements. CMS uses the information to approve contract applications, monitor compliance with contract requirements, make proper payment to MA organizations, determine compliance with the new prescription drug benefit requirements established by the MMA, and to ensure that correct information is disclosed to Medicare beneficiaries, both potential enrollees and enrollees.

This information collection request had been associated with a November 28, 2017 (82 FR 56336) proposed rule entitled, ''Contract Year 2019 Policy and Technical Changes to the Medicare Advantage, Medicare Cost Plan, Medicare Fee-for-Service, the Medicare Prescription Drug Benefit Programs, and the PACE Program.'' CMS had withdrawn that information collection request as the rule inadvertently excluded language specifying that we were proposing to reinstate the information collection. The purpose of this information collection request is to reinstate the collection through the regular, that is non-rulemaking, PRA process. In addition to seeking approval

for the entire information collection, we are also seeking approval for the provisions that were set out in the proposed rule. *Form Number:* CMS–R–267 (OMB control number: 0938–0753); *Frequency:* Yearly; *Affected Public:* Individuals or households and Business or other for-profits; *Number of Respondents:* 13,958,526; *Total Annual Responses:* 35,596,762; *Total Annual Hours:* 8,529,541. (For policy questions regarding this collection contact Russell Hendel at 410–786–0329.)

Dated: February 22, 2018.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2018–03972 Filed 2–26–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10536]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions; the accuracy of the estimated burden; ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by *March 29, 2018.*

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR* Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicaid Eligibility and Enrollment (EE) Implementation Advanced Planning Document (IAPD) Template; *Use:* To assess the appropriateness of states' requests for enhanced federal financial participation for expenditures related to Medicaid eligibility determination systems, we will review the submitted information and documentation to make an approval determination for the advanced planning document. *Form Number:* CMS–10536 (OMB control number: 0938–1268); *Frequency:* Yearly, once, and occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 168; *Total Annual Hours:* 2,688. (For policy questions regarding this collection contact Martin Rice at 410–786–2417.)

Dated: February 22, 2018.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2018–03966 Filed 2–26–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Generic Clearance for Financial Reports used in the Administration of Mandatory Grants.

OMB No.: 0970–New.

Description: OMB has granted permission for ACF to submit a request for a generic clearance to be used for the financial reports used in the administration of mandatory grants. This clearance supports the Departments initiative of *Generating Efficiencies through Streamlined Processes* by employing an abbreviated process.

If approved program offices will be at liberty to tailor a financial report to their specific needs rather than adhering to a standard form.

Respondents: States and Territories.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Mandatory Grant Financial Report	900	4	5	18,000

Estimated Total Annual Burden Hours:

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20201. Attention Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV.* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2018–03976 Filed 2–26–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–3203]

Wyeth Pharmaceuticals Inc. et al.; Withdrawal of Approval of 121 New Drug Applications and 161 Abbreviated New Drug Applications; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of June 21, 2017 (82 FR 28322). The document announced the withdrawal of approval of 121 new drug applications (NDAs) and 161 abbreviated new drug applications from multiple applicants, withdrawn as of July 21, 2017. The document indicated that FDA was withdrawing approval of NDA 204508, Clinolipid 20% (olive oil and soybean oil) USP, 16%/4%, after receiving a request from the NDA holder, Baxter Healthcare Corp. (Baxter), 32650 N Wilson Rd., Round Lake, IL 60073. Before the approval of NDA 204508 was withdrawn, Baxter informed FDA that it did not want the approval of this NDA withdrawn. Because Baxter timely requested that approval of this NDA not be withdrawn, the approval of NDA 204508 is still in effect.

FOR FURTHER INFORMATION CONTACT: Florine Purdie, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6366, Silver Spring, MD 20993–0002, 301–796–3601.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Wednesday, June 21, 2017, appearing on page 28322 in FR Doc. 2017–12908, the following correction is made:

On page 28329, in table 1, the entry for NDA 204508 is removed.

Dated: February 21, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–03925 Filed 2–26–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–0663]

Tissue Agnostic Therapies in Oncology: Regulatory Considerations for Orphan Drug Designation; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the following public workshop entitled ''Tissue Agnostic Therapies in Oncology: Regulatory Considerations for Orphan Drug Designation.'' The purpose of the public workshop is to discuss factors FDA should consider when evaluating drugs for orphan designation that treat a tissue agnostic disease or condition in oncology, and additional factors related to orphan exclusivity FDA should consider when approving a product with a tissue agnostic indication.

DATES: The public workshop will be held on May 9, 2018, from 9 a.m. to 5 p.m. The public workshop may be extended or may end early depending on the level of public participation. Submit either electronic or written comments on this public workshop by June 8, 2018. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public workshop will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503, Section A), Silver Spring, MD 20993–0002. Entrance for the public workshop participants (non-FDA employees) is through Building 1, where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

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 June 8, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of June 8, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are

solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–0663 for ''Tissue Agnostic Therapies in Oncology: Regulatory Considerations for Orphan Drug Designation; Public Workshop; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' 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: Nicole Wolanski, Office of Orphan Products Development, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5210, Silver Spring, MD 20933, 301–796–6570, *OOPDOrphanEvents@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The combination of government incentives, scientific advances, and the promise of commercial opportunity has fueled extraordinary investment in orphan drugs. Since the Orphan Drug Act was first passed in 1983, over 650 rare disease indications for drugs and biologics have been developed and approved for marketing. In fact, rare disease drug approvals have accounted for approximately 40 percent of the new molecular entities and therapeutic biologic products in the Center for Drug Evaluation and Research for the last several years.

Not only have we seen tremendous growth in the development of products for rare diseases, but the very landscape of rare disease product development is changing, with an increase in the development of targeted therapies, more interest in the development of biologics (including gene therapies), and tremendous growth in the oncology space. For example, in 2017 alone, FDA granted its first tissue agnostic approval (pembrolizumab for patients with unresectable or metastatic, microsatellite instability-high (MSI–H) or mismatch repair deficient (dMMR) solid tumors) and first tissue agnostic orphan drug designations (larotrectinib and entrectinib, each for the treatment of solid tumors with NTRK-fusion proteins). FDA also approved the first cell-based gene therapy, KYMRIAH, for use in treating a rare pediatric cancer.

As advancements in genomics and precision medicine continue, FDA has been taking these new developments into account as it considers what constitutes a ''disease or condition.'' For example, one question that has already arisen in oncology is whether a disease should be defined in a tissue/organ-specific or a tissue agnostic manner. Because the continued development of targeted therapies for molecularly defined groups has the potential to alter the landscape of orphan drug development, FDA is holding the public workshop to obtain input on the complex scientific and regulatory issues surrounding molecularly targeted drugs and biologics in oncology and the appropriate application of orphan drug incentives in that paradigm. This discussion will inform how the Agency can incorporate the latest science and drug development trends into the implementation of the Orphan Drug Act, all while continuing to reflect the goals intended by Congress.

II. Topics for Discussion at the Public Workshop

This public workshop will consist of both presentations and interactive panel discussions. The presentations will provide information to outline the goals of the workshop and help promote interactive discussions. Following the presentations, there will be a moderated discussion where speakers and additional panelists will be asked to provide their individual perspectives. The presentations and discussions will focus on several related topics. Topics will involve discussion of and seek input on factors FDA should consider when evaluating drugs for orphan designation that treat a tissue agnostic disease or condition in oncology and additional factors related to orphan exclusivity to consider when approving a product with a tissue agnostic indication. A detailed agenda will be posted on the following website in advance of the workshop: *https://www.fda.gov/NewsEvents/MeetingsConferencesWorkshops/ucm592778.htm.*

III. Participating in the Public Workshop

Registration: To register for the public workshop, please visit the following website by April 25, 2018: *https://*

www.fda.gov/NewsEvents/MeetingsConferencesWorkshops/ucm592778.htm. Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public workshop must register by April 25, 2018, 5 p.m. Eastern Time. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when their registration has been received. If time and space permit, onsite registration on the day of the public workshop will be provided beginning an hour prior to the start of the meeting.

If you need special accommodations due to a disability, please contact Nicole Wolanski, at 301–796–6570, or *OOPDOrphanEvents@fda.hhs.gov* no later than April 25, 2018.

An agenda for the workshop and any other background materials will be made available 5 days before the workshop at *https://www.fda.gov/NewsEvents/MeetingsConferencesWorkshops/ucm592778.htm.*

Streaming Webcast of the Public Workshop: For those unable to attend in person, FDA will provide a live webcast of the workshop. To register for the streaming webcast of the public workshop, please visit the following website by May 8, 2018: *https://www.fda.gov/NewsEvents/MeetingsConferencesWorkshops/ucm592778.htm.*

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of the public workshop is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (see **ADDRESSES**). A link to the transcript will also be available on the internet at *https://www.fda.gov/NewsEvents/MeetingsConferencesWorkshops/ucm592778.htm.*

Dated: February 22, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–03961 Filed 2–26–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Service Administration

Women's Preventive Services Guidelines

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: Applicable as of December 29, 2017, HRSA updated the HRSA-supported Women's Preventive Services Guidelines for purposes of health insurance coverage for preventive services that address health needs specific to women based on clinical recommendations from the Women's Preventive Services Initiative. This 2017 update adds two additional services—Screening for Diabetes Mellitus after Pregnancy and Screening for Urinary Incontinence—to the nine preventive services included in the 2016 update to the HRSA-supported Women's Preventive Services Guidelines. The nine services included in the 2016 update are as follows: Breast Cancer Screening for Average Risk Women, Breastfeeding Services and Supplies, Screening for Cervical Cancer, Contraception, Screening for Gestational Diabetes Mellitus, Screening for Human Immunodeficiency Virus Infection, Screening for Interpersonal and Domestic Violence, Counseling for Sexually Transmitted Infections, and Well-Woman Preventive Visits. This notice serves as an announcement of the decision to update the guidelines as listed below. Please see *https://www.hrsa.gov/womens-guidelines/index.html* for additional information.

FOR FURTHER INFORMATION CONTACT: Kimberly C. Sherman, Maternal and Child Health Bureau, HRSA at phone: (301) 443–0543; email: *wellwomancare@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The complete set of updated 2017 HRSA-supported Women's Preventive Services Guidelines includes those that were accepted by the Acting HRSA Administrator on December 20, 2016, as well as two new services, Screening for Diabetes Mellitus After Pregnancy and Screening for Urinary Incontinence. For a complete listing and detailed information about the December 20, 2016, updates, please see *https://www.federalregister.gov/documents/2016/12/27/2016-31129/updating-the-hrsa-supported-womens-preventive-services-guidelines.* In addition, the December 20, 2016, updates, including information related to coverage of contraceptive services and exemption for objecting organizations from requirements related to the provision of contraceptive services, can be found at *https://www.hrsa.gov/womens-guidelines-2016/index.html.* Information regarding the two new services that were accepted by the HRSA Administrator on December 29, 2017, is set out below:

1. Screening for Diabetes Mellitus After Pregnancy

The Women's Preventive Services Initiative recommends women with a history of gestational diabetes mellitus (GDM) who are not currently pregnant and who have not previously been diagnosed with type 2 diabetes mellitus should be screened for diabetes mellitus. Initial testing should ideally occur within the first year postpartum and can be conducted as early as 4–6 weeks postpartum.

Women with a negative initial postpartum screening test result should be rescreened at least every 3 years for a minimum of 10 years after pregnancy. For women with a positive postpartum screening test result, testing to confirm the diagnosis of diabetes is indicated regardless of the initial test (*e.g.,* oral glucose tolerance test, fasting plasma glucose, or hemoglobin A1c). Repeat testing is indicated in women who were screened with hemoglobin A1c in the first six months postpartum regardless of the result (see Implementation Considerations below).

2. Screening for Urinary Incontinence

The Women's Preventive Services Initiative recommends screening women for urinary incontinence annually. Screening should ideally assess whether women experience urinary incontinence and whether it impacts their activities and quality of life. The Women's Preventive Services Initiative recommends referring women for further evaluation and treatment if indicated.

HRSA-Supported Women's Preventive Services Guidelines

The HRSA-supported Women's Preventive Services Guidelines were originally established in 2011 based on recommendations from an HHS commissioned study by the Institute of Medicine, now known as the National

Academy of Medicine (NAM). Since then, there have been advancements in science and gaps identified in the existing guidelines, including a greater emphasis on practice-based clinical considerations. To address these, HRSA awarded a 5-year cooperative agreement in March 2016 to convene a coalition of clinician, academic and consumer-focused health professional organizations and conduct a scientifically rigorous review to develop recommendations for updated Women's Preventive Services Guidelines in accordance with the model created by the NAM *Clinical Practice Guidelines We Can Trust.* The American College of Obstetricians and Gynecologists was awarded the cooperative agreement and formed an expert panel called the Women's Preventive Services Initiative.

Under section 2713 of the Public Health Service Act, non-grandfathered group health plans and issuers of non-grandfathered group and individual health insurance coverage are required to cover specified preventive services without a copayment, coinsurance, deductible, or other cost sharing, including preventive care and screenings for women as provided for in comprehensive guidelines supported by HRSA for this purpose. Non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual coverage (generally, plans or policies created or sold after March 23, 2010, or older plans or policies that have been changed in certain ways since that date) are required to provide coverage without cost sharing for preventive services listed in the updated HRSA-supported guidelines (which include the nine preventive services set out in the 2016 update, as well as the two services added in this update) beginning with the first plan year (in the individual market, policy year) that begins on or after December 29, 2018.

Dated: February 20, 2018.

George Sigounas,

Administrator.

[FR Doc. 2018–03840 Filed 2–26–18; 8:45 am]

BILLING CODE 4165–15–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; PAR–16–366 Dual Purpose with Dual Benefit: Research in Biomedicine and Agriculture.

Date: March 21–22, 2018.

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: Tera Bounds, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–435–2306, *boundst@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict.

Date: March 21, 2018.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kate Fothergill, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3142, Bethesda, MD 20892, 301–435–2309, *fothergillke@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: The Biostatistical Methods and Research Design.

Date: March 21, 2018.

Time: 1:00 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 (Telephone Conference Call).

Contact Person: Ping Wu, Ph.D., Scientific Review Officer, HDM IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, Bethesda, MD 20892, 301–451–8428, *wup4@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: AIDS and Related Research.

Date: March 22, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW, Washington, DC 20037.

Contact Person: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Infectious Diseases and Microbiology.

Date: March 22–23, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th Street NW, Washington, DC 20001.

Contact Person: Tamara Lyn McNealy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, Bethesda, MD 20747, 301–827–2372, *tamara.mcnealy@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Cancer Health Disparities.

Date: March 22, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Janet M. Larkin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5142, MSC 7840, Bethesda, MD 20892, 301–806–2765, *larkinja@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Innovative Immunology.

Date: March 22, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Andrea Keane-Myers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, Bethesda, MD 20892, 301–435–1221, *andrea.keane-myers@nih.gov*.

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Discovery and Development of Therapeutics Study Section.

Date: March 22, 2018.

Time: 8:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW, Washington, DC 20037.

Contact Person: Shiv A. Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov*.

Name of Committee: AIDS and Related Research Integrated Review Group; NeuroAIDS and other End-Organ Diseases Study Section.

Date: March 22, 2018.

Time: 8:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW, Washington, DC 20037.

Contact Person: Eduardo A. Montalvo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1168, *montalve@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Undiagnosed Diseases Review.

Date: March 22–23, 2018.

Time: 8:00 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 (Virtual Meeting).

Contact Person: Katherine M. Malinda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, 301–435–0912, *Katherine_Malinda@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Non-HIV Diagnostics, Food Safety, Sterilization/Disinfection, and Bioremediation.

Date: March 22–23, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Rockville, MD 20852.

Contact Person: Gagan Pandya, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, RM 3200, MSC 7808, Bethesda, MD 20892, 301–435–1167, *pandyaga@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–16–262: Sustained Release of Antivirals for Treatment or Prevention of HIV.

Date: March 22, 2018.

Time: 8:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW, Washington, DC 20037.

Contact Person: Shiv A. Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov*.

Name of Committee: AIDS and Related Research Integrated Review Group; HIV/AIDS Vaccines Study Section.

Date: March 22, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Barna Dey, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, Bethesda, MD 20892, 301–435–0000, *bdey@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts and PAR: Biobehavioral Applications on Substance Abuse and Decision-Making.

Date: March 22, 2018.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, (301) 455–1761, *kellya2@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Translational Research in Pediatric and Obstetric Pharmacology and Therapeutics.

Date: March 22, 2018.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, MSC 7892, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; BRAIN Initiative: Targeted BRAIN Circuits Projects.

Date: March 22, 2018.

Time: 11:00 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: Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301–435–1242, *kgt@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurological Disorders.

Date: March 22, 2018.

Time: 1:00 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: Laurent Taupenot, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7850, Bethesda, MD 20892, 301–435–1203, *laurent.taupenot@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cellular and Molecular Immunology.

Date: March 22, 2018.

Time: 3:00 p.m. to 6:00 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: Tina McIntyre, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4202, MSC 7812, Bethesda, MD 20892, 301–594–6375, *mcintyrt@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR: Electronic Nicotine Delivery Systems (ENDS): Population, Clinical and Applied Prevention Research.

Date: March 22, 2018.

Time: 12:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Miriam Mintzer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, Bethesda, MD 20892, 301–523–0646, *mintzermz@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: February 21, 2018.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–03870 Filed 2–26–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Cancer Institute Board of Scientific Advisors.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will also be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov/*).

Name of Committee: National Cancer Institute Board of Scientific Advisors.

Date: March 20, 2018.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: Director's Report: Ongoing and New Business; RFA and RFP Concept Reviews; and Scientific Presentations.

Place: National Cancer Institute—Shady Grove, 9609 Medical Center Drive, Room TE406, Rockville, MD 20850.

Contact Person: Paulette S. Gray, Ph.D., Director, Division of Extramural Activities, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, 7th Floor, Rm. 7W444, Bethesda, MD 20892, 240–276–6340, *grayp@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NCI-Shady Grove campus. All visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/bsa/bsa.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 21, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–03871 Filed 2–26–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; 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 Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Rheumatic Diseases P30 Review Meeting.

Date: March 14–15, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Yin Liu, Ph.D., MD, Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 824, Bethesda, MD 20892, 301–451–4838, *liuy@mail.nih.gov.*

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; NIAMS Ancillary Studies Review Meeting.

Date: March 19, 2018.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Xincheng Zheng, MD, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 820, Bethesda, MD 20892, 301–451–4838, *xincheng.zheng@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: February 21, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–03872 Filed 2–26–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 Neurological Disorders and Stroke Special Emphasis Panel; Diversity Training Grant Review.

Date: March 19, 2018.

Time: 8:00 a.m. to 6:00 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: William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, 301–496–0660, *benzingw@mail.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; F32 Review.

Date: March 29, 2018.

Time: 11:00 a.m. to 12:30 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: Elizabeth Webber, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–1917, *webbere@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: February 21, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–03873 Filed 2–26–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Review: Understanding and Modifying Temporal Dynamics of Coordinated Neural Activity.
Date: March 9, 2018.
Time: 12:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Nicholas Gaiano, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892–7844, 301–435–1033, *gaianonr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Temporal Dynamics of Neural Activity.
Date: March 9, 2018.
Time: 12:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301–435–1242, *kgt@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Chemistry Fellowships.
Date: March 15–16, 2018.
Time: 10:00 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 (Virtual Meeting).
Contact Person: Mike Radtke, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, 301–435–1728, *radtkem@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Computational, Modeling, and Biodata Management.
Date: March 15–16, 2018.
Time: 10:30 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.
Contact Person: Allen Richon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7892, Bethesda, MD 20892, 301–379–9351, *allen.richon@nih.hhs.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and Related Research.
Date: March 15, 2018.
Time: 11:30 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 (Telephone Conference Call).
Contact Person: Jose H. Guerrier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Skeletal Muscle Function and Exercise Physiology.
Date: March 16, 2018.
Time: 10:30 a.m. to 2:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Rajiv Kumar, Ph.D., Chief, MOSS IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–17–474: Reducing Stigma to Improve HIV/AIDS Care.
Date: March 19, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Shalanda A. Bynum, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, Bethesda, MD 20892, 301–755–4355, *bynumsa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Health Disparities and Equity Promotion.
Date: March 19, 2018.
Time: 8:30 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: Jessica Bellinger, Ph.D., Scientific Review Administrator, Center for Scientific of Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, Bethesda, MD 20892, 301–827–4446, *bellingerjd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business Hematology.
Date: March 19–20, 2018.
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: Luis Espinoza, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, 301–435–0952, *espinozala@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Dermatology and Rheumatology.
Date: March 19, 2018.
Time: 1:00 p.m. to 4:30 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.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Cell Biology, Developmental Biology, and Bioengineering.
Date: March 20–21, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel Bethesda (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Alexander Gubin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7812, Bethesda, MD 20892, 301–435–2902, *gubina@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Intensive Longitudinal Analysis and Leveraging New Technologies To Understand Health Behaviors.
Date: March 20, 2018.
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.
Contact Person: Marc Boulay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, (301) 300–6541, *boulaymg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 16–121: Early-Stage Preclinical Validation of Therapeutic Leads for Diseases of Interest to the NIDDK.
Date: March 20, 2018.
Time: 11:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Antonello Pileggi, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, Bethesda, MD 20892–7892, (301) 402–6297, *pileggia@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; UDN Sequencing Core Review.
Date: March 20, 2018.
Time: 1:00 p.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: Cheryl M. Corsaro, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biobehavioral Regulation, Stress, and Sleep.

Date: March 20, 2018.

Time: 2:00 p.m. to 3:15 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: Wind Cowles, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, Bethesda, MD 20892, 301–437–7872, *cowleshw@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: February 21, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–03869 Filed 2–26–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention (CSAP) Drug Testing Advisory Board (DTAB) will meet in person and via web conference on March 20, 2018, from 10:00 a.m. to 3:00 p.m. EDT, and March 21, 2018 from 10:00 a.m. to 2:00 p.m. EDT.

The Board will meet in open session on March 20, 2018, from 10:00 a.m. to 1:00 p.m., to provide updates on the Mandatory Guidelines for Federal Workplace Drug Testing Programs, hear from our federal partners and early observations from the synthetic opioid testing implementation, review research data on a marijuana vaping study, and a brief update on the Medical Review Officer (MRO) Guidance Manual and 2018 MRO Guidance Manual Case Studies.

The board will meet in closed session on March 20, 2018, from 2:00 p.m. to 3:00 p.m. EDT and on March 21, 2018, from 10:00 a.m. to 2:00 p.m. EDT to discuss the proposed Mandatory Guidelines for Federal Workplace Drug Testing Programs (oral fluid), and the Mandatory Guidelines for Federal Workplace Drug Testing Programs (hair specimen). Therefore, these portions of the meeting are closed to the public as determined by the Assistant Secretary, SAMHSA, in accordance with 5 U.S.C. 552b(c)(4) and (9)(B), and 5 U.S.C. App. 2, Section 10(d).

Meeting registration information can be completed at *http://snacregister.samhsa.gov/MeetingList.aspx.* Web conference and call information will be sent after completing registration. Meeting information and a roster of DTAB members may be obtained by accessing the SAMHSA Advisory Committees website, *http://www.samhsa.gov/about-us/advisory-councils/drug-testing-advisory-board-dtab* or by contacting the Designated Federal Officer, CAPT Sean J. Belouin, USPHS.

Committee Name: Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Prevention Drug Testing Advisory Board.

Dates/Time/Type:

March 20, 2018, from 10:00 a.m. to 1:00 p.m., EDT: Open.

March 20, 2018, from 2:00 p.m. to 3:00 p.m., EDT: Closed.

March 21, 2018, from 10:00 a.m. to 2:00 p.m., EDT: Closed.

Place: Parklawn Building, Room 5A03, 5600 Fishers Lane, Rockville, Maryland 20857.

Contact: CAPT Sean J. Belouin, USPHS, Senior Pharmacology and Regulatory Policy Advisor, Division of Workplace Programs, 5600 Fishers Lane, Room 16N06D, Rockville, Maryland 20857, Telephone: (240) 276–2600, Email: *sean.belouin@samhsa.hhs.gov.*

Charles LoDico,

Chemist.

[FR Doc. 2018–03897 Filed 2–26–18; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2018–0139]

National Maritime Security Advisory Committee

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The National Maritime Security Advisory Committee will meet in Oakland, California, to review and discuss various issues relating to national maritime security. All meetings will be open to the public.

DATES:

Meetings. The Committee will meet on Tuesday, March 20, 2018, from 12 Noon to 5 p.m. and on Wednesday, March 21, 2018, from 8 a.m. to 1 p.m. These meetings may close early if all business is finished.

Comments and supporting documentation. To ensure your comments are reviewed by Committee members comment before the meetings, submit your written comments no later than March 12, 2018.

ADDRESSES: The meeting will be held the Port of Oakland conference room, 530 Water Street, Oakland, CA 94607. *http://www.portofoakland.com/.*

This meeting will be broadcast via a web enabled interactive online format and teleconference line. To participate via teleconference, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than March 12, 2018. Additionally, if you would like to participate in this meeting via the online web format, please log onto *https://share.dhs.gov/nmsac/* and follow the online instructions to register for this meeting. If you encounter technical difficulties, contact Mr. Ryan Owens at (202) 302–6565.

For information on facilities or services for individuals with disabilities, or to request special assistance at the meetings, contact the individual listed in **FOR FURTHER INFORMATION CONTACT** below as soon as possible.

Written comments must be submitted using the Federal eRulemaking Portal: *http://www.regulations.gov.* If you encounter technical difficulties, contact the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document.

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 March 12, 2018. 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–2018–0139]. Comments received will be posted without alteration at *http://www.regulations.gov* including any personal information provided. For more information about privacy and the docket, review the Privacy 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,* and use docket number ''USCG–2018–0139'' in the ''Search'' box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Owens, Alternate Designated Federal Officer of the National Maritime Security Advisory Committee, 2703 Martin Luther King Jr. Avenue SE, Stop 7581, Washington, DC 20593–7581; telephone 202–372–1108 or email *ryan.f.owens@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 Maritime Security Advisory Committee operates under the authority of 46 U.S.C. 70112.

The National Maritime Security Advisory Committee provides advice, consults with, and makes recommendations to the Secretary of Homeland Security, via the Commandant of the Coast Guard, on matters relating to national maritime security.

Agenda

Day 1

The Committee will meet to review, discuss and formulate recommendations on the following issues:

(1) Regulatory Reform Task. On August 24th the National Maritime Security Advisory Committee held a public meeting to discuss and begin work on a task to provide input to the U.S. Coast Guard in support of its Regulatory Reform effort (NMSAC Task T2017–01). Copies of this task statement are found in the August 24, 2017 entry under the Full Committee Meeting Minutes section of the National Maritime Security Advisory Committee's Homeport web page at *https://homeport.uscg.mil/missions/maritime-security/national-maritime-security-advisory-committee-(nmsac)/full-committee-meeting-minutes.*

The Committee will discuss the results of the Regulatory Reform working group and provide final recommendations to the U.S. Coast Guard.

(2) Extremely Hazardous Cargo Strategy. In July 2016, the U.S. Coast Guard tasked the Committee to work with the Chemical Transportation Advisory Committee to assist in the development of an Extremely Hazardous Cargo Strategy Implementation Plan. The Committee will discuss and receive an update from the Extremely Hazardous Cargo Working Group on their efforts.

(3) Public Comment period.

Day 2

The Committee will meet to review, discuss and formulate recommendations on the following issues:

(1) Member Report. The Committee members will each provide an update on the security developments in each of the respective member's representative segment.

(2) Cyber Security Update. Members will receive an update from the U.S. Coast Guard concerning the Release of the Cyber Security Navigation and Vessel Inspection Circular, the efforts of the U.S. Coast Guard to address and implement International Maritime Organization guidelines/resolutions for Cyber Security on Vessels, and an update on the current state of Cyber Security legislation.

(3) Public comment period.

Public comments or questions will be taken throughout the meeting as the Committee discusses the issues and prior to deliberations and voting. There will also be a public comment period at the end of each meeting.

Speakers are requested to limit their comments to 5 minutes. Please note that the public comment period may end before the period allotted, following the last call for comments. Contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above to register as a speaker.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/missions/maritime-security/national-maritime-security-advisory-committee-(nmsac)/full-committee-meeting-minutes* by March 16, 2018.

Dated: February 21, 2018.

Jennifer F. Williams,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2018–03912 Filed 2–26–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2018–0006; OMB No. 1660–0103]

Agency Information Collection Activities: Proposed Collection; Comment Request; Property Acquisition and Relocation for Open Space

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, 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 a reinstatement, with change, of a previously approved information collection for which approval has expired. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the property acquisition and relocation for open space process as part of the administration of FEMA's mitigation grant programs, post-award monitoring requirements and a direct grant to property owners for acquisition and demolition of severe repetitive loss structures.

DATES: Comments must be submitted on or before April 30, 2018.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2018–0006. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW, 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jennie Orenstein, Grants Policy Branch

Chief, FIMA, FEMA, (202) 212–4071. You may contact the Records Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Regulations implementing property acquisition and relocation for open space are codified at 44 CFR part 80. These regulations govern property acquisitions for the creation of open space under FEMA's three hazard mitigation assistance (HMA) grant programs: the Pre-Disaster Mitigation program (PDM) and Hazard Mitigation Grant Program (HMGP), which are authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. 5121–5207; and the Flood Mitigation Assistance Program (FMA) authorized under the National Flood Insurance Act (NFIA) of 1968, as amended, 42 U.S.C. 4001 *et seq.* Acquisition and relocation of property for open space use is one of the most common mitigation activities and is an eligible activity type authorized for Federal grant funds under PDM, HMGP, and FMA. These programs require all properties acquired with FEMA funds to be deed restricted and maintained as open space in perpetuity. This ensures that no future risks from hazards occur to life or structures on that property, and no future disaster assistance or insurance payments are made as a result of damages to that property.

This reinstatement, with change, of a previously approved information collection for which approval has expired is necessary to establish uniform requirements for State, Tribal and local implementation of acquisition activities, and to enforce open space maintenance and post-award monitoring requirements for properties acquired with FEMA mitigation grant funds. The original collection had one form. This collection includes seven additional forms to identify an applicant's identity and address close-out and post-award monitoring requirements and allow grants to be made directly to property owners. This collection consists of a total of eight forms.

First, the reinstatement updates the existing form in the collection, 086–0–31, *Statement of Voluntary Participation for Acquisition of Property for Purpose of Open Space,* to use appropriate terminology references found in 2 CFR part 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.

Second, the collection adds Declaration and Release (Declaración Y Autorización), 009–0–3 (English) and 009–0–4 (Spanish) (O.M.B. No. 1660–0002) to determine eligibility and verify an applicant's identity and to prevent a duplication of benefits. Third, Subrecipients are required to submit a completed copy of the Real Property Status Report, SF–429 (O.M.B. No. 4040–0016), with closeout documentation for all real property purchased with grant funds. Fourth, the collection adds forms to address post-award monitoring requirements. When the State, Tribe or local community, *i.e.,* the recipient or subrecipient, acquires the property from the property owner, they must regularly monitor and report to FEMA that the property is in compliance with the open space deed restrictions and grant terms. Every three years the subrecipient, through the recipient, must submit to FEMA a report certifying that the subrecipient has inspected the property within the month preceding the report and that the property continues to be maintained consistent with open space requirements. FEMA is updating the collection to include three two post-award monitoring forms (086–0–35a (Pages 10–11)), NFIP Repetitive Loss Update Worksheet (O.M.B No. 1660–0022), and SF–429, Real Property Status Report (O.M.B. No. 4040–0016).

Finally, this update allows FEMA to obtain information directly from property owners to enable FEMA to determine a property owner's eligibility for, and interest in, receiving a direct grant. Following the award, the information enables FEMA to monitor and enforce the grant terms to ensure the property is maintained consistent with the appropriate land use or open space deed restrictions. The NFIA, 42 U.S.C. 4104c, authorizes the Director of FEMA to carry out a mitigation assistance program (FMA) that provides financial assistance in the form of grants to States, Tribes, and communities, and in the form of direct grants to property owners, using amounts made available from the National Flood Insurance Fund for planning and carrying out mitigation activities designed to reduce flood damages to structures with flood insurance under 42 U.S.C. 4001 *et seq.* In addition to the FMA grants FEMA makes available to states and local governments, FEMA is exercising its statutory authority under 42 U.S.C. 4104c to provide direct grants to property owners for acquisition and demolition of severe repetitive loss structures to reduce future flood damages and flood insurance payments. These direct grants to property owners, entitled Severe Risk Property Acquisition (SRPA) grants, enable property owners to carry out mitigation activities, *i.e.,* acquisition, that reduce flood damage to individual structures for which two or more claim payments for losses have been made under National Flood Insurance Program (NFIP) coverage that equal or exceed the value of the insured structure.

With a SRPA grant, property owners have the option to retain their property after demolition or to voluntarily sell their property to a local government or qualifying organization. If the property owner retains the land after demolition, the property must be deed restricted and maintained consistent with sound land management practices. This ensures a reduction in flood damages on that property, limits future disaster assistance provided, and ideally, eliminates or decreases the insurance payments made as a result of damages to that property. If the property owner chooses to sell the property, the local government or qualifying organization must deed restrict the land in perpetuity for compatible uses of open space. To implement SRPA grants, FEMA needs to collect information associated with SRPA grants from property owners to process applications and ensure compliance with the terms and conditions of the grants and applicable law and regulations. FEMA is revising the collection to add three new forms for that purpose (086–0–31a, Intent to Participate, 086–0–31b, Notice of Voluntary Interest and Property Survey; 086–0–31c, Severe Risk Property Acquisition Mitigation Offer).

Collection of Information

Title: Property Acquisition and Relocation for Open Space.

Type of Information Collection: Reinstatement, with change, of a previously approved information collection for which approval has expired.

OMB Number: 1660–0103.

FEMA Forms: FEMA Form 086–0–31, Statement of Voluntary Participation for Acquisition of Property for Purpose of Open Space; 086–0–31a, Intent to Participate, 086–0–31b, Notice of Voluntary Interest and Property Survey; 086–0–31c, Severe Risk Property Acquisition Mitigation Offer; 009–0–3 (English) and 009–0–4 (Spanish), Declaration and Release, (O.M.B. No. 1660–0002); 086–0–35a (Pages 9–10), NFIP Repetitive Loss Update Worksheet (O.M.B No. 1660–0022); SF–429, Real Property Status Report (O.M.B. No. 4040–0016).

Abstract: FEMA, State, Tribal, local and individual recipients of FEMA mitigation grant programs will use the

information collected to meet the property acquisition requirements to implement acquisition activities under the terms of grant agreements for acquisition and relocation activities, ensure compliance with applicable law and regulations, and enforce the open space requirements for all properties acquired with FEMA mitigation grants.

Affected Public: State, local or Tribal Government; Individuals or Households.

Estimated Number of Respondents: 8,334.

Estimated Number of Responses: 10,655.

Estimated Total Annual Burden Hours: 13,020 hours.

Estimated Total Annual Respondent Cost: The estimated annual cost to respondents for the hour burden is $559,768.

Estimated Respondents' Operation and Maintenance Costs: There are no annual costs to respondents' operations and maintenance costs for technical services.

Estimated Respondents' Capital and Start-Up Costs: There is no annual start-up or capital costs.

Estimated Total Annual Cost to the Federal Government: The cost to the Federal Government is $991,514.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: February 21, 2018.

William H. Holzerland,

Senior Director for Information Management, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2018–03949 Filed 2–26–18; 8:45 am]

BILLING CODE 9111–47–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2008–0010]

Board of Visitors for the National Fire Academy

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee management; Notice of open Federal Advisory Committee meeting.

SUMMARY: The Board of Visitors for the National Fire Academy (Board) will meet via teleconference on March 16, 2018. The meeting will be open to the public.

DATES: The meeting will take place on Friday, March 16, 2018, 1:30 p.m. to 3:30 p.m. Eastern Daylight Time. Please note that the meeting may close early if the Board has completed its business.

ADDRESSES: Members of the public who wish to participate in the teleconference should contact Ruth MacPhail as listed in the **FOR FURTHER INFORMATION CONTACT** section by close of business March 9, 2018, to obtain the call-in number and access code. For information on services for individuals with disabilities or to request special assistance, contact Ruth MacPhail as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Board as listed in the **SUPPLEMENTARY INFORMATION** section. There will be a 10-minute comment period after each agenda item for registered speakers or comments must be submitted in writing no later than March 9, 2018. Comments must be identified by Docket ID FEMA–2008–0010 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: FEMA-RULES@fema.dhs.gov.* Include the docket number in the subject line of the message.
- *Mail/Hand Delivery:* Ruth MacPhail, 16825 South Seton Avenue, Emmitsburg, Maryland 21727, post-marked no later than March 9, 2018.

Instructions: All submissions received must include the words ''Federal Emergency Management Agency'' and the Docket ID for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the National Fire Academy Board of Visitors, go to *http://www.regulations.gov,* click on ''Advanced Search,'' then enter ''FEMA–2008–0010'' in the ''By Docket ID'' box, then select ''FEMA'' under ''By Agency,'' and then click ''Search.''

Registered speakers will be given no more than 2 minutes to speak. Please note that the public comment period may end before the time indicated, following the last call for comments. Contact Ruth MacPhail to register as a speaker.

FOR FURTHER INFORMATION CONTACT:

Alternate Designated Federal Officer: Tonya L. Hoover, telephone (301) 447–1117, email *Tonya.Hoover@fema.dhs.gov.*

Logistical Information: Ruth MacPhail, telephone (301) 447–1333 and email *Ruth.Macphail@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App.

Purpose of the Board

The purpose of the Board is to review annually the programs of the National Fire Academy (Academy) and advise the Administrator of the Federal Emergency Management Agency (FEMA), through the United States Fire Administrator, on the operation of the Academy and any improvements therein that the Board deems appropriate. In carrying out its responsibilities, the Board examines Academy programs to determine whether these programs further the basic missions that are approved by the Administrator of FEMA, examines the physical plant of the Academy to determine the adequacy of the Academy's facilities, and examines the funding levels for Academy programs. The Board submits a written annual report through the United States Fire Administrator to the Administrator of FEMA. The report provides detailed comments and recommendations regarding the operation of the Academy.

Agenda

1. The Board will receive updates on U.S. Fire Administration data, research, and response support initiatives.

2. The Board will receive updates on deferred maintenance and capital improvements on the National Emergency Training Center campus and budget planning.

3. The Board will deliberate and vote on recommendations on Academy program activities, including:

- Fire and Emergency Services Higher Education (FESHE) Recognition

Program update, a certification program acknowledging that a collegiate emergency services degree meets the minimum standards of excellence established by FESHE development committees and the Academy;

• The National Professional Development Summit to be held on June 13–16, 2018, an annual event which brings national training and education audiences together for their conference and support initiatives;

• The Managing Officer Program progress report including application selection results, a multiyear curriculum that introduces emerging emergency services leaders to personal and professional skills in change management, risk reduction, and adaptive leadership;

• The Executive Fire Officer (EFO) Program Symposium to be held April 6–8, 2018, an annual event for alumni which recognizes outstanding applied research completed by present EFO Program participants, recognizes recent EFO Program graduates, provides high-quality presentations offered by private and public sector representatives, facilitates networking between EFO Program graduates, promotes further dialog between EFO Program graduates and U.S. Fire Administrator and National Fire Academy faculty and staff;

• Curriculum development and revision updates for Academy courses;

• Discussion on the approval process for state-specific courses;

• Distance learning program update (mediated and self-study);

• State training delivery update;

• NFA Technology Workgroup Initiative, discuss initiating a forum to address current issues and initiate a plan for NFA's future technology needs;

• Staffing update.

4. The Board will receive activity reports on the National Fire Incident Reporting System Subcommittee, the Professional Development Initiative Subcommittee, and four EFO Program Review Subcommittees: Admissions, Curriculum, Delivery and Design, and Evaluations and Outcomes.

Meeting materials will be posted no later than March 9, 2018 at *https://www.usfa.fema.gov/training/nfa/about/bov.html.*

Dated: February 15, 2018.

Tonya L. Hoover,

Superintendent, National Fire Academy, United States Fire Administration, Federal Emergency Management Agency.

[FR Doc. 2018–03956 Filed 2–26–18; 8:45 am]

BILLING CODE 9111–45–P

DEPARTMENT OF HOMELAND SECURITY

National Initiative for Cybersecurity Careers and Studies Cybersecurity Training and Education Catalog Collection

AGENCY: National Protection and Programs Directorate (NPPD), Department of Homeland Security (DHS).

ACTION: 30-Day notice and request for comments; Revised Information Collection Request: 1670–0030.

SUMMARY: The DHS NPPD Office of Cybersecurity & Communications (CS&C), Cybersecurity Education & Awareness Office (CE&A), National Initiative for Cybersecurity Careers and Studies (NICCS) will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. NPPD previously published this ICR in the **Federal Register** on Monday, November 20, 2017 at 82 FR 55110 for a 60-day public comment period. No comments were received by NPPD. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until March 29, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to OMB Desk Officer, Department of Homeland Security and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.* All submissions must include the words ''Department of Homeland Security'' and the OMB Control Number 1670–0030.

Comments submitted in response to this notice may be made available to the public through relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Shannon Nguyen at 703–705–6246 or at *niccs@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION: The cyber-specific authorities to receive information support the Department's general authority to receive information from any federal or non-federal entity in support of the mission responsibilities of the Department. Section 201 of the Homeland Security Act of 2002 authorizes the Secretary ''[t]o access, receive, and analyze law enforcement information, intelligence information, and other information from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities, and to integrate such information, in support of the mission responsibilities of the Department.'' Sec. 201, Public Law 107–296; 6 U.S.C. 121(d)(1); see also 6 U.S.C. 121(d)(12). The following authorities also permit DHS to collect this information: Federal Information Security Management Act of 2002 (FISMA), 44 U.S.C. 3546; Presidential Policy Directive (PPD)–21, Critical Infrastructure Identification, Prioritization, and Protection (2003); and National Security Presidential Directive (NSPD)–54/Homeland Security Policy Directive (HSPD)–23, Cybersecurity Policy (2009).

The NICCS Portal is a national online resource for cybersecurity awareness, education, talent management, and professional development and training. NICCS Portal is an implementation tool for the National Initiative for Cybersecurity Education (NICE). Its mission is to provide comprehensive cybersecurity resources to the public.

To promote cybersecurity education, and to provide a comprehensive resource for the Nation, NICE developed the Cybersecurity Training and Education Catalog. The Cybersecurity Training and Education Catalog will be hosted on the NICCS Portal. Training course and certification information will be included in the Training/Workforce Development Catalog.

Any information received from the public in support of the NICCS Portal and Cybersecurity Training and Education Catalog is completely voluntary. Organizations and individuals who do not provide information can still utilize the NICCS Portal and Cybersecurity Training and Education Catalog without restriction or penalty. An organization or individual who wants their information removed from the NICCS Portal and/or Cybersecurity Training and Education

Catalog can email the NICCS Supervisory Office.

CE&A uses the collected information from the NICCS Cybersecurity Training Course Form and the NICCS Cybersecurity Certification Form and displays it on a publicly accessible website called the National Initiative for Cybersecurity Careers and Studies (NICCS) Portal (*http://niccs.us-cert.gov/*). Collected information from these two forms will be included in the Cybersecurity Training and Education Catalog that is hosted on the NICCS Portal.

The DHS CE&A NICCS Supervisory Office will use information collected from the NICCS Vendor Vetting Form to primarily manage communications with the training/workforce development providers; this collected information will not be shared with the public and is intended for internal use only. Additionally, this information will be used to validate training providers before uploading their training and certification information to the Training Catalog.

The DHS CE&A NICCS Supervisory Office will use information collected from the NICCS Mapping Tool Form to provide an end user with information of how their position or job title aligns to the new Cybersecurity Framework 1.1. This collected information will not be shared with the public and is intended for internal use only.

The information will be collected via fully electronic web forms or partially electronic via email. Collection will be coordinated between the public and DHS CE&A via email (*niccs@hq.dhs.gov*).

The revisions to the collection include: The addition of the NICCS Mapping Tool, the updates to the Training Course Form, Changing a form name from Vetting Criteria Form to Vendor Vetting Form, Course Certification Form has been updated to be collected via email as a CSV file.

OMB is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Title of Collection: National Initiative for Cybersecurity Careers and Studies Cybersecurity Training and Education Catalog Collection.

OMB Control Number: 1670–0030.

Frequency: Occassionally.

Affected Public: Educational Institutes (Privately Owned, and State/Local Government Owned).

Number of Respondents: 1,350 respondents.

Estimated Time per Respondent: 30 minutes.

Total Burden Hours: 1,688 annual burden hours.

Total Burden Cost: $0.

Total Recordkeeping Burden: $0.

David Epperson,

Chief Information Officer.

[FR Doc. 2018–03948 Filed 2–26–18; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0101]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Verification Request and Supplement

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until March 29, 2018. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number [1615–0101] in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on November 24, 2017, at 82 FR 55852, allowing for a 60-day public comment period. USCIS did receive one comment in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2008–0008 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Verification Request and Supplement.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–845; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Federal Government; State, local or Tribal Government.

In the verification process, a participating agency validates an applicant's immigration status by inputting identifying information into the Verification Information System (VIS), which executes immigration status queries against a range of data sources. If VIS returns an immigration status and the benefit-issuing agency does not find a material discrepancy with the response and the documents provided by the applicant, the verification process is complete. Then, the agency may use that immigration status information to determine whether to issue the benefit.

If VIS does not locate a record pertaining to the applicant during an electronic initial verification, a second step additional verification must be requested by the agency, so that a Status Verifier can manually check the records. If the Status Verifier cannot determine status during the second step additional verification, they will request the agency to submit a copy of the applicant's immigration document. The immigration document can be submitted using scan and upload or by attaching it to a Form G–845 and mailing it to the Status Verifier.

Applicants may check on the processing of additional verification through the SAVE Case Check web portal, hound at *http://www.uscis.gov/save/save-case-check.* SAVE Case Check permits applicants to use the SAVE verification numbers associated with their benefit applications or the immigration identification numbers and dates of birth provided to those benefit granting agencies to access this information.

In limited cases, agencies may query USCIS by filing Form G–845 by mail. Although the Form G–845 does not require it, if needed, certain agencies may also file the Form G–845 Supplement with the Form G–845, along with copies of immigration documents to receive additional information necessary to make their benefit determinations. These forms were developed to facilitate communication between all benefit-granting agencies and USCIS to ensure that basic information required to assess status verification requests is provided.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection G–845 Verification Request is 162,106 and the estimated hour burden per response is 0.083 hours; for the information collection VIS Query the estimated total number of respondents is 23,293,981 and the estimated hour burden per response is 0.083 hours; for the information collection G–845, Verification Request Supplement, the estimated total number of respondents is 7,122 and the estimated hour burden per response is 0.083 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 1,947,446 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $12,113,642.50.

Dated: February 15, 2018.

Samantha Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–03883 Filed 2–26–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0017]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Advance Permission To Enter as Nonimmigrant

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information or new collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until April 30, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0017 in the body of the letter, the agency name and Docket ID USCIS–2008–0009. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2008–0009;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter

USCIS–2008–0009 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Advance Permission to Enter as Nonimmigrant.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–192; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The data collected will be used by CBP and USCIS to determine whether the applicant is eligible to enter the United States temporarily under the provisions of section 212(d)(3), 212(d)(13), and 212(d)(14) of the INA. The respondents for this information collection are certain inadmissible nonimmigrant aliens who wish to apply for permission to enter the United States, applicants for T nonimmigrant status (victims of a severe form of trafficking in persons), and petitioners for U nonimmigrant status (victims of qualifying criminal activity).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–192 is 68,050 and the estimated hour burden per response is 1.5 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 102,075 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $16,672,250.

Dated: February 15, 2018.

Samantha Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–03880 Filed 2–26–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0020]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Petition for Amerasian, Widow(er), or Special Immigrant

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until March 29, 2018. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number 1615–0020 in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on October 11, 2017, at 82 FR 47235, allowing for a 60-day public comment period. USCIS did receive 1 comment in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0024 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Petition for Amerasian, Widow(er), or Special Immigrant.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–360; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The Form I–360 may be used by an Amerasian; a widow or widower; a battered or abused spouse or child of a U.S. citizen or lawful permanent resident; a battered or abused parent of a U.S. citizen son or daughter; or a special immigrant (religious worker, Panama Canal company employee, Canal Zone government employee, U.S. government employee in the Canal Zone; physician, international organization employee or family member, juvenile court dependent; armed forces member; Afghanistan or Iraq national who supported the U.S. Armed Forces as a translator; Iraq national who worked for the or on behalf of the U.S. Government in Iraq; or Afghan national who worked for or on behalf of the U.S. Government or the International Security Assistance Force [ISAF] in Afghanistan) who intend to establish their eligibility to immigrate to the United States. The data collected on this form is reviewed by U.S. Citizenship and Immigration Services (USCIS) to determine if the petitioner may be qualified to obtain the benefit. The data collected on this form will also be used to issue an employment authorization document upon approval of the petition for battered or abused spouses, children, and parents, if requested.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Petition for Amerasian, Widower, or Special Immigration (Form I–360); *Iraqi & Afghan Petitioners* is 2,874 and the estimated hour burden per response is 3.1 hours; the estimated total number of respondents for the information collection Petition for Amerasian, Widower, or Special Immigration (Form I–360); *Religious Workers* is 2,393 and the estimated hour burden per response is 2.35 hours; the estimated total number of respondents for the information collection Petition for Amerasian, Widower, or Special Immigration (Form I–360); *All Others* is 14,362 and the estimated hour burden per response is 2.1 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 44,693 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $2,404,430.

Dated: February 15, 2018.

Samantha Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–03882 Filed 2–26–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0015]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Immigrant Petition for Alien Workers

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until March 29, 2018. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number [1615–0015] in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on November 24, 2017 at 82 FR 55853, allowing for a 60-day public comment period. USCIS received one comment in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0018 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Immigrant Petition for Alien Workers.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–140; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for Profit. USCIS uses the information provided on Form I–140 to classify aliens under section 203(b)(1), 203(b)(2) or 203(b)(3) of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–140 is 225,637 and the estimated hour burden per response is 1.08 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 243,688 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $93,977,810.

Dated: February 15, 2018.

Samantha Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–03879 Filed 2–26–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6082–N–01]

Notice of Intent To Prepare an Environmental Impact Statement (EIS) for the Resilient Bridgeport: National Disaster Resilience and Rebuild by Design Projects in the City of Bridgeport, Connecticut

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The State of Connecticut, through the Department of Housing (DOH), is providing notice of its intent to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) for the Resilient Bridgeport: National Disaster Resilience and Rebuild By Design (RBD) Projects located in Bridgeport, CT. The proposed project was developed as part of Connecticut's application for assistance through the U.S. Department of Housing and Urban Development (HUD) under the RBD and National Disaster Resilience Competition (NDRC). RBD and NDRC's objectives through the competition are to support innovative resilience projects at a local level. This Notice of Intent to prepare an EIS represents the beginning of the public scoping process. Following the scoping meeting referenced below, a Draft EIS will be prepared and ultimately circulated for public comment.

DATES: Comments on the Draft Scope of Work to prepare a Draft EIS are requested by this notice and will be accepted until March 28, 2018. The scoping meeting will be held on March 14, 2018, from 6 until 9 p.m.

ADDRESSES: The scoping meeting will be held at the Arnold Bernhard Arts & Humanities Center (first floor), located at 84 Iranistan Avenue, Bridgeport, CT 06601. The Draft Scope of Work is available on *https://resilientbridgeport.com* or *http://www.ct.gov/doh/cwp/view.asp?a=4513&q=588726.*

FOR FURTHER INFORMATION CONTACT: Further information may be obtained by contacting David Kooris, Director of Resilience, Department of Housing, 505 Hudson Street, Hartford, Connecticut, 06106–7106, or via email at *David.Kooris@ct.gov.*

SUPPLEMENTARY INFORMATION: Comments on the Draft Scope of Work to prepare a Draft EIS are requested by this notice and will be accepted by the individual named in this notice under the **FOR FURTHER INFORMATION CONTACT**. Comments will also be accepted at the scoping meeting to be held on March 14, 2018, from 6 until 9 p.m. at the Arnold Bernhard Arts & Humanities Center (first floor), located at 84 Iranistan Avenue, Bridgeport, CT 06601. All comments received by March 28, 2018 will be considered prior to the acceptance, certification, and distribution of the Draft EIS by the Lead Agency (DOH). Commenters are also asked to submit any information related to reports or other environmental studies planned or completed in the project area, major issues that the Draft EIS should consider, and recommend mitigation measures and alternatives associated with the Proposed Action. Federal, State, or local agencies having jurisdiction by law, special expertise, or other special interest should report their interest and indicate their readiness to aid in the EIS effort as Cooperating, Participating, and Interested Agencies. Written requests of individuals and organizations to participate as Section 106 Consulting Parties under the National Historic Preservation Act may also be made to the individual named in this notice under the heading **FOR FURTHER INFORMATION CONTACT**.

The public and agencies will also be offered an opportunity to comment on the purpose and need, range of alternatives, level of detail, methodologies, and all elements of the Draft Scope of Work through public and agency outreach that will consist of: A public scoping meeting (described below), scheduled Community Advisory Committee and Technical Advisory Committee meetings, a public hearing on the Draft EIS; meetings with the applicable Cooperating, Participating, and Interested Agencies, and meetings with Section 106 Consulting Parties, including federally recognized Indian tribes. Once completed and released, the Draft EIS will be available for public and agency review and comment.

Following the public scoping process, a Draft EIS will be prepared that analyzes the Proposed Action. Once the Draft EIS is certified as complete, a notice will then be sent to appropriate government agencies, groups, and individuals known to have an involvement or interest in the Draft EIS and particularly in the environmental impact issues identified therein. A Notice of Availability of the Draft EIS will be published in local media outlets at that time in accordance with HUD and the Council on Environmental Quality (CEQ) regulations. Any person or agency interested in receiving notice and commenting on the Draft Scope of

Work should contact the individual named in this notice under the heading **FOR FURTHER INFORMATION CONTACT** no later than March 28, 2018.

Background

HUD gives notice that the State of Connecticut (the State), through the DOH, as the ''Responsible Entity,'' as that term is defined by 24 CFR 58.2(a)(7)(i), has assumed environmental responsibilities for the Resilient Bridgeport: National Disaster Resilience and Rebuild By Design Projects in accordance with 24 CFR 58.1(b)(1). DOH, as the Lead Agency in accordance with the requirements of NEPA, intends to prepare an EIS that will evaluate the environmental and social impacts of alternatives for the construction of flood risk reduction measures within the South End of Bridgeport, Connecticut. Such measures will be designed to reduce the impacts of flooding on the quality of the natural and built environment in the project area due to both sea level rise and storm hazards, including heavy rainfall events and intense coastal storm events. Bridgeport's South End suffers from flood damage from major tidal events and repetitive loss from flooding from rain events and power outages, resulting in a depressed economy, increasing vacancies and continued significant risk from future storm events.

The State is the Grantee of Community Development Block Grant National Disaster Resilience (CDBG–NDR) and RBD funds that have been appropriated under the Disaster Relief Appropriations Act, 2013 (Pub. L. 113–2, approved January 29, 2013) related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster that was declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (Stafford Act) in calendar years 2011, 2012, and 2013. Receipt of CDBG–NDR and RBD funding requires compliance with NEPA.

The proposed EIS will address the environmental review requirements of NEPA and the Connecticut Environmental Policy Act (CEPA) (CT Gen Stat § 22a, Chapter 439). This Notice of Intent to prepare an EIS is, therefore, being published in accordance with the CEQ regulations found at 40 CFR parts 1500–1508 and HUD regulations found at 24 CFR part 58 and is announcing that a public scoping process on the EIS is commencing.

The CT DOH, under the authority of HUD's regulations at 24 CFR part 58, and in cooperation with other Cooperating, Participating, and Interested Agencies, is proposing to prepare an EIS that will analyze the potential environmental and social effects of alternatives that are being proposed to improve coastal and social resiliency and reduce flood risk to the South End of Bridgeport.

Following the devastation of Hurricane Sandy, HUD launched Rebuild by Design, an innovative design competition that brought together interdisciplinary teams of researchers, designers, engineers, businesses, policy-makers and local groups to craft solutions that communities can implement to help minimize against future climate risks. The State of Connecticut was awarded $10 million in HUD CDBG–DR funding to continue planning for Resilient Bridgeport and construct a first pilot project. Building on the success of Rebuild by Design, in September 2014, HUD launched the $1 billion National Disaster Resilience Competition. The Connecticut application was the highest scoring in the competition and garnered $54 million in HUD CDBG–NDR funding to construct the Resilient Bridgeport pilot project as part of the State's broader *Connecticut Connections Coastal Resilience Plan.*

The proposed Resilient Bridgeport: NDR & RBD Projects represent the culmination of an integrated and thoughtful process coordinated by the State during Phase 1 and Phase 2 of the National Disaster Resilience Competition application and subsequent community participatory events. DOH consulted in depth with government agencies at municipal and state levels as well as resident stakeholders, small and large business owners, and professional experts. An outgrowth of the Phase 1 and 2 applications and consultations, the Connecticut State Agencies Fostering Resilience (SAFR) Council, is creating a roadmap for long-term resilience planning in coastal and riverine communities damaged during Hurricane Sandy, and working with State agencies to craft policies that equitably promote resilience across the entire State. The $52.5 million Resilient Bridgeport component provides a long-term, holistic approach to resilience, incorporating green and grey stormwater infrastructure improvements, a street raising and street improvements strategy to lift the surrounding development datum, and an integrated flood protection system consisting of an earthen berm and sea walls. This layered approach will protect a vulnerable and disenfranchised community while providing new economic development opportunities, improving mobility, and enhancing quality of life. The EIS will examine several alternatives aimed at achieving these objectives.

Purpose and Need of the Proposed Action

Located on a peninsula, surrounded by the Pequonnock River to the east and Long Island Sound to the south, the South End is one of the most vulnerable communities in Bridgeport, at risk of flooding from both coastal storm surge and regular rainfall events. The area includes Seaside Park, the University of Bridgeport, residences, some industrial buildings, and several energy providers (including both electricity generators and utilities). The area has a population of over 8,000 people including public housing residents and other vulnerable populations.

The peninsula is exposed to storm surge from coastal storms and the risk of such events is increasing due to Sea Level Rise. During Superstorm Sandy, the area experienced a storm surge of nearly 7 feet above normal high tide, inundating over 200 buildings (including affordable and public housing). With an additional 100 buildings located within the Federal Emergency Management Agency (FEMA) designated 100-year floodplain, these and other infrastructure assets remain vulnerable to future events. In addition to flooded streets and damaged residential properties, residents experienced a loss of electric power after Superstorm Sandy lasting for a period that ranged from a few hours to more than a week. Disruptions to regional supply chains and power interruptions caused serious complications for local industries. Ensuring the continuity of operations at the power district scale is critical to maintaining industrial and commercial functions in the city.

Over the next 50 years, sea levels are expected to rise significantly, which will further compound existing flooding risks in Bridgeport's South End. Much of the critical infrastructure in the area lies within the coastal floodplain, including electricity generation, transmission, and distribution facilities and low lying stormwater and wastewater pipes, and will face increasing risk as sea levels rise.

The low-lying geography of the area, in addition to the old age of the combined sewer and stormwater system, results in flooding from rainfall or tidal inundation on a regular basis. Improving the existing drainage system is important to minimize internal flooding and to manage stormwater in

both high and low-frequency storm events.

While proximate to its urban center, the South End area is isolated from the downtown by Interstate 95 and the Northeast Corridor and has been physically cut-off from help by emergency responders (fire, police, medical) and others due to flooding of streets (particularly low-lying underpasses under the highway and railroad) that has prevented vehicles from accessing the area during and after storm events. Repetitive flooding of local streets occurs in the valleys and low-lying areas due to both rainfall runoff and storm surge, making the streets impassable. Portions of the South End lack dry egress for residents, businesses and emergency vehicles when flooding occurs. Minimizing the flooding at roadways leading into and out of the South End is vital to resident egress and emergency evacuation.

The purpose of the Proposed Action is to create a more resilient South End community, support its long-term viability, and improve health and safety for the community's vulnerable populations. The principal targeted outcomes of the Proposed Action are:

- Lower the risk of acute and chronic flooding,
- Provide dry egress during emergencies, and
- Educate the public about flood risks and sea level rise.

The Proposed Action could deliver co-benefits to the community, potentially unlocking development or public realm opportunities, enhancing connectivity between the South End and Downtown Bridgeport, improving existing open space amenities, building up the resilience of local energy systems, and leveraging public investment in ongoing resiliency efforts through coordination with local stakeholders.

Project Alternatives

The EIS will discuss the alternatives that were considered for analysis, identify those that were eliminated from further consideration because they do not meet the stated purpose and need, and identify those that will be analyzed further. It is expected that project alternatives will continue to be developed and refined during the public scoping process, with input from the public, agencies, and other stakeholders. The EIS alternatives analysis will consist of a comparison of the impacts under each alternative pursuant to 24 CFR part 58, in addition to how well each alternative achieves the project's purpose and need. This process, which will be described in detail in the EIS, will lead to the designation of a Preferred Alternative. At this time, it is anticipated that the following alternatives will be analyzed.

1. No Action Alternative

The No Action Alternative represents the status quo or baseline conditions without implementation of any improvements associated with the Proposed Project. The No Action Alternative assumes that the redevelopment of the Marina Village site would progress as planned, Public Service Electric and Gas Company (PSE&G) and United Illuminating Company would continue any planned resiliency projects along the edge of Bridgeport Harbor, the mixed-use development at 60 Main Street would move forward, and a number of other projects would be implemented both within and near the proposed project areas through the 2022 analysis year.

2. Build Alternatives

In addition to the No Action Alternative, the EIS will examine multiple build alternatives. The Build Alternatives will have three parts—Flood Risk Reduction, a Resilience Hub, and Stormwater Improvements and Dry Egress (elements common to all build alternatives).

Flood Risk Reduction. The proposed project would include a combination of measures within eastern South End that would reduce the flood risk within the project area from future coastal surge and chronic rainfall events. The measures may include raised streets, floodwalls, landscaped berms, and both green and grey stormwater and internal drainage management strategies (*e.g.,* detention/retention features, drainage structures, and pump systems). This alternative, to the extent practical, would provide a FEMA Certifiable level of flood protection to a portion of the project area. Different routing alignments and different levels of flood protection are being considered, although all alignments would include elevating a section of University Avenue.

(1) *Integrated Alignment.* This alignment would be constructed in coordination with key area stakeholders and include raised streets, walls and berms that take into account plans for growth, development and risk reduction taking place within the eastern South End community.

(2) *Interior Alignment.* The interior alignment would identify a street or streets that could be raised to provide dry egress for future development, provide some reduction in risk from storm events and generate opportunities for storm water management that produce co-benefits for the community.

(3) *Edge Alignment.* This alignment would be constructed either in-water or along the outer edge of the community along the waterfront.

Resilience Hub. This project would fund a Resilience Hub to serve the South End community in its ongoing commitment to build a resilient Bridgeport. The site would serve as a hub for resilience activities, providing a central location for dissemination of information to the community and assisting the community in future recovery efforts. The Resilience Hub may serve a design center function or operate as a community center.

(1) Resilience Hub Alternative 1 would be a building dedicated to resilience and education. The building would be a space in all or a portion of an existing building or a new building.

(2) Resilience Hub Alternative 2 would be one or more open air sites integrated within the community that are dedicated to resilience and education. The sites would be located within the South End area, adjacent to existing community amenities.

Elements Common To Build Alternatives

All Flood Risk Reduction alignments would include elevating a section of University Avenue. In addition, all build alternatives would include the stormwater management project and extension of Johnson Street at the Marina Village site (identified as a pilot project during the RBD project). Prior to redevelopment of the western parcel (bound by Park Avenue, Iranistan Avenue, Ridge Avenue and South Avenue) an approximately 2.5-acre stormwater park would be constructed to accept water from upland streets and adjacent parcels and to retain, delay and improve the quality of the stormwater runoff. An extension of Johnson Street (between Columbia Street and Iranistan Avenue) would provide a raised egress corridor on the southern edge of the future mixed-income redevelopment to facilitate emergency access during an acute flooding event and improve east-west neighborhood connectivity. The redevelopment of the site is independent of the stormwater and raised egress improvements.

Need for the EIS

The Proposed Action described above has the potential to significantly affect the quality of the environment and an EIS will therefore be prepared in accordance with the requirements of NEPA and CEPA. Responses to this notice will be used to (1) determine

significant environmental issues; (2) assist in developing a range of alternatives to be considered; (3) identify issues that the EIS should address; and (4) identify agencies and other parties that will participate in the EIS process and the basis for their involvement.

Scoping

A joint NEPA/CEPA public scoping meeting on the Draft Scope of Work to prepare the Draft EIS will be held on March 14, 2018 at 6:00 until 9:00 p.m. at the Arnold Bernhard Arts & Humanities Center (first floor), located at 84 Iranistan Avenue, Bridgeport, CT 06601. As noted above, the Draft Scope of Work is available online at: *https://resilientbridgeport.com* or *http://www.ct.gov/doh/cwp/view.asp?a=4513&q=588726.* The public scoping meeting location will be accessible to the mobility-impaired. Interpreter services will be available for the hearing or visually impaired upon advance request. The EIS public scoping meeting will provide an opportunity for the public to learn more about the Proposed Action and provide input to the environmental review process. At the meeting, an overview of the Proposed Action and its alternatives will be presented, and members of the public will be invited to comment on the Draft Scope of Work, including the methodologies to be used in developing the environmental analyses in the EIS. Written comments and testimony concerning the Draft Scope of Work will be accepted at this meeting. In accordance with 40 CFR 1501.7, affected Federal, State, and local agencies, any affected Indian tribes, and other interested parties will be sent a scoping notice. In accordance with 24 CFR 58.59, the scoping meeting will be preceded by a notice of public meeting published in the local news media at least 15 days before the hearing date.

Probable Environmental Effects

The EIS will evaluate potential effects from the Proposed Action on: Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Environmental Justice; Open Space; Historic and Cultural Resources; Urban Design and Visual Resources; Natural Resources; Hazardous Materials; Water and Sewer Infrastructure; Transportation; Construction; and Cumulative Effects.

Dated: February 22, 2018.

Neal Rackleff,

Assistant Secretary for Community, Planning and Development.

[FR Doc. 2018–04042 Filed 2–23–18; 4:15 pm]

BILLING CODE 4210–67–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1380 (Final)]

Tapered Roller Bearings From Korea; Scheduling of the Final Phase of an Antidumping Duty Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–1380 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of certain tapered roller bearings from Korea, provided for in subheadings 8482.20, 8482.91, and 8482.99 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be sold at less-than-fair-value.

DATES: February 2, 2018.

FOR FURTHER INFORMATION CONTACT: Keysha Martinez (202–205–2136), 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 this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Scope.— For purposes of this investigation, Commerce has defined the subject merchandise as certain tapered roller bearings. The scope covers all tapered roller bearings with a nominal outside cup diameter of eight inches and under, regardless of type of steel used to produce the bearing, whether of inch or metric size, and whether the tapered roller bearing is a thrust bearing or not. Certain tapered roller bearings include: Finished cup and cone assemblies entering as a set, finished cone assemblies entering separately, and finished parts (cups, cones, and tapered rollers). Certain tapered roller bearings are sold individually as a set (cup and cone assembly), as a cone assembly, as a finished cup, or packaged as a kit with one or several tapered roller bearings, a seal, and grease. The scope of the investigation includes finished rollers and finished cones that have not been assembled with rollers and a cage. Certain tapered roller bearings can be a single row or multiple rows (*e.g.,* two- or four-row), and a cup can handle a single cone assembly or multiple cone assemblies.[1]

Background.—The final phase of this investigation is being scheduled, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), as a result of an affirmative preliminary determination by Commerce that imports of tapered roller bearings from Korea are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on June 28, 2017 by The Timken Company, North Canton, Ohio.

For further information concerning the conduct of this phase of the investigation, hearing procedures, 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 and C (19 CFR part 207).

Participation in the investigation and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

[1] For a complete description of Commerce's scope, see 83 FR 4901, February 2, 2018.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on May 21, 2018, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on June 5, 2018, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 30, 2018. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on June 4, 2018, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is May 29, 2018. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is June 12, 2018. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation, including statements of support or opposition to the petition, on or before June 12, 2018. On July 9, 2018, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 11, 2018, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's website at *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (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.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: February 21, 2018.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2018–03902 Filed 2–26–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–891 (Third Review)]

Foundry Coke From China; Cancellation of Hearing for Full Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: February 20, 2018.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines ((202) 205–3200), 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 (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: Effective October 20, 2017, the Commission established a schedule for the conduct of this review (82 FR 49660, October 26, 2017). Subsequently, counsel for the domestic interested parties filed a request for consideration of cancellation of the hearing. Counsel indicated a willingness to submit written testimony and responses to any Commission questions in lieu of an actual hearing. No other party has entered an appearance in this review. Consequently, the public hearing in connection with this review, scheduled to begin at 9:30 a.m. on Thursday, February 22, 2018, at the U.S. International Trade Commission Building, is cancelled. Parties to this review should respond to any written questions posed by the Commission in their posthearing briefs, which are due to be filed on March 1, 2018. For further information concerning this review see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: This review is 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: February 21, 2018.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2018–03860 Filed 2–26–18; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Medical CBRN Defense Consortium

Notice is hereby given that, on January 16, 2018, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Medical CBRN Defense Consortium (''MCDC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, WhiteSpace Enterprise Corporation, Inc., Fountain Hills, AZ; The Pennsylvania State University, University Park, PA; InBios International, Inc., Seattle, WA; Certera USA, Princeton, NJ; Actional Medical Technologies, Shingle Springs, CA; Microbiotix, Worcester, MA; Indiana Biosciences Research Institute, Indianapolis, IN; Humanetics Corporation, Edina, MN; Hawaii Biotech, Inc., Honolulu, HI; Wake Forest University Health Sciences, Winston-Salem, NC; CMC Pharmaceuticals, Inc., Cleveland, OH; Northern Arizona University, Flagstaff, AZ; The Charles Stark Draper Laboratories, Inc., Cambridge, MA; Guild Associates, Inc., Dublin, OH; and Atlantic Diving Supply, Inc. (ADS), Virginia Beach, VA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MCDC intends to file additional written notifications disclosing all changes in membership.

On November 13, 2015, MCDC 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 January 6, 2016 (81 FR 513).

The last notification was filed with the Department on October 13, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 6, 2017 (82 FR 57616).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2018–03978 Filed 2–26–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ODVA, Inc.

Notice is hereby given that, on January 29, 2018, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ODVA, Inc. (''ODVA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, TAKIKAWA ENGINNERING CO., LTD., Tokyo, JAPAN; Bionics Instrument Co. Ltd., Tokyo, JAPAN; YUCHANGTECH, Gyeonggi-do, SOUTH KOREA; flexlog GmbH, Karlsruhe, GERMANY; profichip GmbH, Herzogenaurach, GERMANY; Lanmark Controls Inc., Acton, MA; Flow Devices and Systems Inc., Yorba Linda, CA; PROCENTEC BV, Wateringen, THE NETHERLANDS; and Packet Power, LLC, Minneapolis, MN, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ODVA intends to file additional written notifications disclosing all changes in membership.

On June 21, 1995, ODVA 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 February 15, 1996 (61 FR 6039).

The last notification was filed with the Department on October 20, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 16, 2017 (82 FR 53526).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2018–03979 Filed 2–26–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Agency Information Collection Activities; Announcement of OMB Approvals

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Employee Benefits Security Administration (EBSA) announces that the Office of Management and Budget (OMB) has approved certain collections of information, listed in the Supplementary Information section below, following EBSA's submission of requests for such approvals under the Paperwork Reduction Act of 1995 (PRA). This notice describes the approved or re-approved information collections and provides their OMB control numbers and current expiration dates.

FOR FURTHER INFORMATION CONTACT: G. Christopher Cosby, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–5718, Washington, DC 20210. Telephone: (202) 693–8410; Fax: (202) 219–4745. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The PRA and its implementing regulations require Federal agencies to display OMB control numbers and inform respondents of their legal significance after OMB has approved an agency's information collections. In accordance with those requirements, EBSA hereby notifies the public that the following information collections have been re-approved by OMB following EBSA's submission of an information collection request (ICR) for extension of a prior approval:

- OMB Control No. 1210–0048, Suspension of Pension Benefits Pursuant to Regulations 29 CFR 2530.203–3. The expiration date for this information collection is December 31, 2020.
- OMB Control No. 1210–0061, Employee Retirement Income Security

Act Prohibited Transaction Class Exemption 1981–8, Investment of Plan Assets in Certain Types of Short-Term Investments. The expiration date for this information collection is December 31, 2020.

• OMB Control No. 1210–0063, Prohibited Transaction Class Exemption 1992–6: Sale of Individual Life Insurance or Annuity Contracts by a Plan. The expiration date for this information collection is May 31, 2020.

• OMB Control No. 1210–0076, Loans to Plan Participants and Beneficiaries Who Are Parties in Interest With Respect to The Plan Regulation. The expiration date for this information collection is May 31, 2020.

• OMB Control No. 1210–0094, Prohibited Transaction Class Exemption 1985–68 to Permit Employee Benefit Plans to Invest in Customer Notes of Employers. The expiration date for this information collection is May 31, 2020.

• OMB Control No. 1210–0098, Process for Expedited Approval of an Exemption for Prohibited Transaction, Prohibited Transaction Class Exemption 1996–62. The expiration date for this information collection is October 31, 2020.

• OMB Control No. 1210–0111, Prohibited Transaction Class Exemption 1998–54 Relating to Certain Employee Benefit Plan Foreign Exchange Transactions Executed Pursuant to Standing Instructions. The expiration date for this information collection is December 31, 2020.

• OMB Control No. 1210–0132, Default Investment Alternatives under Participant Directed Individual Account Plans. The expiration date for this information collection is June 30, 2020.

• OMB Control No. 1210–0138, Notice of Medical Necessity Criteria under the Mental Health Parity and Addiction Equity Act of 2008. The expiration date for this information collection is March 31, 2020.

• OMB Control No. 1210–0149, Notice of Employees of Coverage Options Under Fair Labor Standards Act Section 18B. The expiration date for this information collection is May 31, 2020.

EBSA hereby notifies the public that the following information collections have been approved by OMB following EBSA's submission of an information collection request (ICR) for a revision of a currently approved collection:

• OMB Control No. 1210–0053, Employee Benefit Plan Claims Procedure Under the Employee Retirement Income Security Act. The expiration date for this information collection is February 29, 2020.

• OMB Control No. 1210–0150, Coverage of Certain Preventative Services under the Affordable Care Act—Private Sector. The expiration date for this information collection is April 30, 2018.

The PRA provides that 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. Publication of this notice satisfies this requirement with respect to the above-listed information collections, as provided in 5 CFR 1320.5(b)(2)(C).

Joseph S. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. 2018–03165 Filed 2–26–18; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (18–010)]

NASA Advisory Council; Science Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Science Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Tuesday, March 20, 2018, 8:30 a.m.–5:00 p.m.; and Wednesday, March 21, 2018, 9:30 a.m.–12:45 p.m., Local Time.

ADDRESSES: NASA Headquarters, Program Review Center (PRC), Room 9H40, 300 E Street SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Henderson, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355, fax (202) 358–2779, or *khenderson@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. This meeting will also be available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the toll free number 1–888–592–9603 or toll number 1–312–470–7407, passcode 5588797, on both days, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/;* the meeting number is 995 104 591 and the password is SC@Mar2018 (case sensitive) for both days. The agenda for the meeting includes the following topics:

—Science Mission Directorate FY 2019 Budget Overview
—Research and Analysis Program
—Ad Hoc Task Force on Big Data Products

Attendees will be requested to sign a register and to comply with NASA Headquarters security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 days prior to the meeting: Full name; gender; date/place of birth; citizenship; passport information (number, country, telephone); visa information (number, type, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees that are U.S. citizens and Permanent Residents (green card holders) are requested to provide full name and citizenship status no less than 3 working days in advance. Information should be sent to Ms. KarShelia Henderson, via email at *khenderson@nasa.gov* or by fax at (202) 358–2779. It is imperative that the meeting be held on these dates to the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2018–03951 Filed 2–26–18; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Requests: 2019–2021 IMLS Peer Reviewer Nomination Forms

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and the Humanities.

ACTION: Notice, request for comments on this collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its

continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act. This pre-clearance consultation program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. By this notice, IMLS is soliciting comments concerning the IMLS Peer Reviewer Nomination Forms which are used by library and museum professionals to submit their interest and expertise to be considered for selection as an IMLS peer reviewer. A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before April 26, 2018. IMLS is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

ADDRESSES: Send comments to: Dr. Sandra Webb, Director of Grant Policy and Management, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Dr. Webb can be reached by Telephone: 202–653–4718 Fax: 202–653–4608, or by email at *swebb@imls.gov,* or by teletype (TTY/TDD) for persons with hearing difficulty at 202–653–4614.

FOR FURTHER INFORMATION CONTACT: Dr. Sandra Webb, Director of Grant Policy and Management, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Dr. Webb can be reached by Telephone: 202–653–4718, Fax: 202–653–4608, or by email at *swebb@imls.gov,* or by teletype (TTY/TDD) for persons with hearing difficulty at 202–653–4614.

SUPPLEMENTARY INFORMATION:

I. Background

The Institute of Museum and Library Services is the primary source of federal support for the nation's approximately 120,000 libraries and 35,000 museums and related organizations. Our mission is to inspire libraries and museums to advance innovation, lifelong learning, and cultural and civic engagement. Our grant making, policy development, and research help libraries and museums deliver valuable services that make it possible for communities and individuals to thrive. To learn more, visit *www.imls.gov.*

II. Current Actions

All proposals submitted for IMLS competitive awards are reviewed by library and museum professionals who know the needs of communities, can share promising practices, and are well versed in the issues and concerns of museums and libraries today. Peer reviewers dedicate their time and expertise to advance the highest professional practices in the field. The IMLS review process is well respected, and the success of our grant programs is largely due to the expertise of our reviewers. These Peer Reviewer Nomination forms, accessed through the IMLS website, allow library and museum professionals to indicate their interest and expertise to be considered for selection as an IMLS peer reviewer.

Agency: Institute of Museum and Library Services.

Title: Peer Reviewer Nomination Forms.

OMB Number: 3137–0099.

Frequency: Once per year.

Affected Public: Library and Museum applicants.

Number of Respondents: 1770.

Estimated Average Burden per Response: 30 minutes.

Estimated Total Annual Burden: 850 hours.

Total Annualized capital/startup costs: n/a.

Total Annual costs: $23,749.

Public Comments Invited: Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Dated: February 22, 2018.

Kim Miller,

Grants Management Specialist, Office of Chief Information Officer.

[FR Doc. 2018–03994 Filed 2–26–18; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Federal Advisory Committee on International Exhibitions (FACIE) Panel Meeting

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that 1 meeting of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference unless otherwise noted.

DATES: See the **SUPPLEMENTARY INFORMATION** section for individual meeting times and dates. All meetings are Eastern time and ending times are approximate:

ADDRESSES: National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Sherry P. Hale, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; *hales@arts.gov,* or call 202/682–5696.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of July 5, 2016, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of title 5, United States Code.

The upcoming meeting is: Federal Advisory Committee on International Exhibitions (FACIE) (review of applications): This meeting will be closed.

Date and time: March 22, 2018; 2:00 p.m. to 4:00 p.m.

Dated: February 21, 2018.

Sherry P. Hale,

Staff Assistant, National Endowment for the Arts.

[FR Doc. 2018–03913 Filed 2–26–18; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0031]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from January 30, 2018, to February 12, 2018. The last biweekly notice was published on February 13, 2018.

DATES: Comments must be filed by March 29, 2018. A request for a hearing must be filed by April 30, 2018.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

• *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0031. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* May Ma, Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Paula Blechman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2242, email: *Paula.Blechman@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0031, facility name, unit number(s), plant docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0031.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in DAMS) is provided the first time that it is mentioned in this document.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2018–0031, facility name, unit number(s), plant docket number, application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of

issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in

accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

DTE Electric Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: October 9, 2017. A publicly-available version is in ADAMS under Accession No. ML17283A248.

Description of amendment request: The amendment would revise Limiting Condition for Operation (LCO) 3.10.1, to expand its scope to include provisions for temperature excursions greater than 200 degrees Fahrenheit (°F) as a consequence of inservice leak and hydrostatic testing, and as a consequence of scram time testing initiated in conjunction with an inservice leak or hydrostatic test, while considering operational conditions to be in Mode 4. This change is consistent with NRC approved Technical Specification Task Force (TSTF) Improved Standard Technical Specification Change Traveler, TSTF–484, ''Use of TS 3.10.1 for Scram Time Testing Activities,'' Revision 0.

The NRC staff issued a Notice of Availability for TSTF–484 in the **Federal Register** on October 27, 2006 (71 FR 63050). The staff also issued a **Federal Register** notice on August 21, 2006 (71 FR 48561), that provided a model safety evaluation and a model no significant hazards consideration (NSHC) determination that licensees could reference in their plant-specific application. In its application dated October 9, 2017, the licensee affirmed the applicability of the model NSHC determination for Fermi 2.

Basis for proposed no NSHC determination: As required by 10 CFR 50.91(a), the licensee affirmed the applicability of the model NSHC, which is presented below:

Criterion 1: The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specifications currently allow for operation at greater than 200 °F while imposing MODE 4 requirements in addition to the secondary containment requirements required to be met. Extending the activities that can apply this allowance will not adversely impact the probability or consequences of an accident previously evaluated. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2: The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Technical Specifications currently allow for operation at greater than 200 °F while imposing MODE 4 requirements in addition to the secondary containment requirements required to be met. No new operational conditions beyond those currently allowed by LCO 3.10.1 are introduced. The changes do not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements or eliminate any existing requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions and current plant operating practice. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3: The proposed change does not involve a significant reduction in a margin of safety.

Technical Specifications currently allow for operation at greater than 200 °F while imposing MODE 4 requirements in addition to the secondary containment requirements required to be met. Extending the activities that can apply this allowance will not adversely impact any margin of safety. Allowing completion of inspections and testing and supporting completion of scram time testing initiated in conjunction with an inservice leak or hydrostatic test prior to power operation results in enhanced safe operations by eliminating unnecessary maneuvers to control reactor temperature and pressure. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the above analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jon P. Christinidis, DTE Energy, Expert Attorney—Regulatory, 688 WCB, One Energy Plaza, Detroit, MI 48226–1279.

NRC Branch Chief: David J. Wrona.

Duke Energy Carolinas, LLC, Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2 (CNS), York County, South Carolina

Date of amendment request: May 2, 2017, as supplemented by letters dated July 20 and November 21, 2017. Publicly-available versions are in ADAMS under Accession Nos. ML17122A116, ML17201Q132, and ML17325A588, respectively.

Description of amendment request: The amendments would modify CNS Technical Specifications (TSs) to extend the Completion Time (CT) of TS 3.8.1, ''AC [Alternating Current] Sources—Operating,'' Required Action B.6 (existing Required Action B.4, numbered as B.6) for an inoperable emergency diesel generator (DG) from 72 hours to 14 days. A conforming change is also proposed to extend the maximum CT of TS 3.8.1 Required Actions A.3 and B.4. To support this request, the licensee will add a supplemental power source (*i.e.,* two supplemental diesel generators (SDGs) per station) with the capability to power any emergency bus. The SDGs will have the capacity to bring the affected unit to cold shutdown. Additionally, the amendments would modify TS 3.8.1 to add new two limiting conditions for operation (LCOs), TS LCO 3.8.1.c and TS LCO 3.8.1.d, to ensure that at least one train of shared components has an operable emergency power supply.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change involves extending the TS CT for an inoperable DG at CNS [. . .]. The proposed change also involves adding a new Required Action to TSs to ensure that at least one train of shared components at CNS [. . .] has an operable emergency power supply whenever one DG is inoperable. The DGs at both stations are safety related components which provide a backup electrical power supply to the onsite emergency power distribution system. The proposed change does not affect the design of the DGs, the operational characteristics or function of the DGs, the interfaces between the DGs and other plant systems or the reliability of the DGs. The DGs are not accident initiators; the DGs are designed to mitigate the consequences of previously evaluated accidents including a loss of offsite power. Extending the CT for a single DG would not affect the previously evaluated accidents since the remaining DGs supporting the redundant engineered safety feature systems would continue to be available to perform the accident mitigation functions. Thus, allowing a DG to be inoperable for an additional 11 days for performance of maintenance or testing does not increase the probability of a previously evaluated accident.

Deterministic and probabilistic risk assessment techniques evaluated the effect of the proposed TS change to extend the CT for an inoperable DG on the availability of an electrical power supply to the plant emergency safeguards feature systems. These assessments concluded that the proposed CNS [. . .] TS change does not involve a significant increase in the risk of power supply unavailability.

There is a small incremental risk associated with continued operation for an additional 11 days with one DG inoperable; however, the calculated impact provides risk metrics consistent with the acceptance guidelines contained in Regulatory Guides 1.177 and 1.174. The remaining operable DGs and paths are adequate to supply electrical power to the onsite emergency power distribution system. A DG is required to operate only if both offsite power sources fail and there is an event which requires operation of the plant engineered safety features such as a design basis accident. The probability of a design basis accident occurring during this period is low.

The consequences of previously evaluated accidents will remain the same during the proposed 14 day CT as during the current CNS [. . .] 72 hour CT. The ability of the remaining TS required DGs to mitigate the consequences of an accident will not be affected since no additional failures are postulated while equipment is inoperable within the TS CT.

Regarding the proposed change to add Required Action to ensure that at least one train of shared components has an operable emergency power supply, there is no change to how or under what conditions offsite circuits or DGs are operated nor are there any changes to acceptable operating parameters. Power source operability requirements for shared components are being moved from the TS Bases to TS with the proposed change. The proposed change will ensure that at least one train of shared components has an operable emergency power supply whenever a DG is inoperable.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change involves extending the TS CT for an inoperable DG at CNS [. . .]. The proposed change also involves adding a new Required Action to TSs to ensure that at least one train of shared components at CNS [. . .] has an operable emergency power supply whenever one DG is inoperable.

The proposed change does not involve a change in the CNS [. . .] plant design, plant

configuration, system operation or procedures involved with the DGs. The proposed change allows a DG to be inoperable for additional time. Equipment will be operated in the same configuration and manner that is currently allowed and designed for. The functional demands on credited equipment is unchanged. There are no new failure modes or mechanisms created due to plant operation for an extended period to perform DG maintenance or testing. Extended operation with an inoperable DG does not involve any modification to the operational limits or physical design of plant systems. There are no new accident precursors generated due to the extended CT.

Regarding the proposed change to add Required Action to ensure that at least one train of shared components has an operable emergency power supply, there is no change to how or under what conditions offsite circuits or DGs are operated nor are there any changes to acceptable operating parameters. Power source operability requirements for shared components are being moved from the TS Bases to TS with the proposed change. The proposed change will ensure that at least one train of shared components has an operable emergency power supply whenever a DG is inoperable. This change does not alter the nature of events postulated in the Updated Final Safety Analysis Report nor does it introduce any unique precursor mechanisms.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

The proposed change involves extending the TS CT for an inoperable DG at CNS [. . .]. The proposed change also involves adding a new Required Action to TSs to ensure that at least one train of shared components at CNS [. . .] has an operable emergency power supply whenever one DG is inoperable.

Currently, if an inoperable DG is not restored to operable status within 72 hours at CNS [. . .], TS 3.8.1, requires the units to be in Mode 3 (*i.e.,* Hot Standby) within a CT of 6 hours, and to be in Mode 5 (*i.e.,* Cold Shutdown) within a CT of 36 hours. The proposed TS changes will allow steady state plant operation at 100 percent power for an additional 11 days for performance of DG planned reliability improvements and preventive and corrective maintenance.

Deterministic and probabilistic risk assessment techniques evaluated the effect of the proposed TS change to extend the CT for an inoperable DG on the availability of an electrical power supply to the plant emergency safeguards feature systems. These assessments concluded that the proposed CNS [. . .] TS change does not involve a significant increase in the risk of power supply unavailability.

The DGs continue to meet their design requirements; there is no reduction in capability or change in design configuration. The DG response to loss of offsite power, loss of coolant accident, station blackout or fire scenarios is not changed by this proposed amendment; there is no change to the DG operating parameters. In the extended CT, as in the existing CT, the remaining operable DGs and paths are adequate to supply electrical power to the onsite emergency power distribution system. The proposed change to extend the CT for an inoperable DG does not alter a design basis safety limit; therefore, it does not significantly reduce the margin of safety. The DGs will continue to operate per the existing design and regulatory requirements.

The proposed TS changes (*i.e.,* the inoperable DG CT extension request and proposed change to add Required Action to ensure that at least one train of shared components has an operable emergency power supply) do not alter the plant design nor do they change the assumptions contained in the safety analyses. The standby AC power system is designed with sufficient redundancy such that a DG may be removed from service for maintenance or testing. The remaining DGs are capable of carrying sufficient electrical loads to satisfy the Updated Final Safety Analysis Report requirements for accident mitigation or unit safe shutdown. The proposed change does not impact the redundancy or availability requirements of offsite power circuits or change the ability of the plant to cope with a station blackout. Therefore, based on the considerations given above, the proposed changes do not involve a significant reduction in the margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kate B. Nolan, Deputy General Counsel, Duke Energy Carolinas, LLC, 550 South Tryon Street—DEC45A, Charlotte, NC 28202–1802.

NRC Branch Chief: Michael T. Markley.

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2 (MNS), Mecklenburg County, North Carolina

Date of amendment request: May 2, 2017, as supplemented by letters dated July 20 and November 21, 2017. Publicly-available versions are in ADAMS under Accession Nos. ML17122A116, ML17201Q132, and ML17325A588, respectively.

Description of amendment request: The amendments would modify MNS Technical Specifications (TSs) to extend the Completion Time (CT) of TS 3.8.1, ''AC [Alternating Current] Sources—Operating,'' Required Action B.6 (existing Required Action B.4, numbered as B.6) for an inoperable emergency diesel generator (DG) from 72 hours to 14 days. A conforming change is also proposed to extend the maximum CT of TS 3.8.1 Required Actions A.3 and B.4. To support this request, the licensee will add a supplemental power source (*i.e.,* two supplemental diesel generators (SDGs) per station) with the capability to power any emergency bus. The SDGs will have the capacity to bring the affected unit to cold shutdown. Additionally, the amendments would modify TS 3.8.1 to add new two limiting conditions for operation (LCOs), TS LCO 3.8.1.c and TS LCO 3.8.1.d, to ensure that at least one train of shared components has an operable emergency power supply.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change involves extending the TS CT for an inoperable DG at [. . .] MNS. The proposed change also involves adding a new Required Action to TSs to ensure that at least one train of shared components at [. . .] MNS has an operable emergency power supply whenever one DG is inoperable. The DGs at both stations are safety related components which provide a backup electrical power supply to the onsite emergency power distribution system. The proposed change does not affect the design of the DGs, the operational characteristics or function of the DGs, the interfaces between the DGs and other plant systems or the reliability of the DGs. The DGs are not accident initiators; the DGs are designed to mitigate the consequences of previously evaluated accidents including a loss of offsite power. Extending the CT for a single DG would not affect the previously evaluated accidents since the remaining DGs supporting the redundant engineered safety feature systems would continue to be available to perform the accident mitigation functions. Thus, allowing a DG to be inoperable for an additional 11 days for performance of maintenance or testing does not increase the probability of a previously evaluated accident.

Deterministic and probabilistic risk assessment techniques evaluated the effect of the proposed TS change to extend the [completion time] CT for an inoperable DG on the availability of an electrical power supply to the plant emergency safeguards feature systems. These assessments concluded that the proposed [. . .] MNS TS change does not involve a significant increase in the risk of power supply unavailability.

There is a small incremental risk associated with continued operation for an additional 11 days with one DG inoperable; however, the calculated impact provides risk metrics consistent with the acceptance guidelines contained in Regulatory Guides 1.177 and 1.174.

The remaining operable DGs and paths are adequate to supply electrical power to the onsite emergency power distribution system. A DG is required to operate only if both offsite power sources fail and there is an event which requires operation of the plant engineered safety features such as a design basis accident. The probability of a design basis accident occurring during this period is low.

The consequences of previously evaluated accidents will remain the same during the proposed 14 day CT as during the current [. . .] MNS 72 hour CT. The ability of the remaining TS required DGs to mitigate the consequences of an accident will not be affected since no additional failures are postulated while equipment is inoperable within the TS CT.

Regarding the proposed change to add Required Action to ensure that at least one train of shared components has an operable emergency power supply, there is no change to how or under what conditions offsite circuits or DGs are operated nor are there any changes to acceptable operating parameters. Power source operability requirements for shared components are being moved from the TS Bases to TS with the proposed change. The proposed change will ensure that at least one train of shared components has an operable emergency power supply whenever a DG is inoperable.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change involves extending the TS CT for an inoperable DG at [. . .] MNS. The proposed change also involves adding a new Required Action to TSs to ensure that at least one train of shared components at [. . .] MNS has an operable emergency power supply whenever one DG is inoperable.

The proposed change does not involve a change in the [. . .] MNS plant design, plant configuration, system operation or procedures involved with the DGs. The proposed change allows a DG to be inoperable for additional time. Equipment will be operated in the same configuration and manner that is currently allowed and designed for. The functional demands on credited equipment is unchanged. There are no new failure modes or mechanisms created due to plant operation for an extended period to perform DG maintenance or testing. Extended operation with an inoperable DG does not involve any modification to the operational limits or physical design of plant systems. There are no new accident precursors generated due to the extended CT.

Regarding the proposed change to add Required Action to ensure that at least one train of shared components has an operable emergency power supply, there is no change to how or under what conditions offsite circuits or DGs are operated nor are there any changes to acceptable operating parameters. Power source operability requirements for shared components are being moved from the TS Bases to TS with the proposed change. The proposed change will ensure that at least one train of shared components has an operable emergency power supply whenever a DG is inoperable. This change does not alter the nature of events postulated in the Updated Final Safety Analysis Report nor does it introduce any unique precursor mechanisms.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

The proposed change involves extending the TS CT for an inoperable DG at [. . .] MNS. The proposed change also involves adding a new Required Action to TSs to ensure that at least one train of shared components at [. . .] MNS has an operable emergency power supply whenever one DG is inoperable.

Currently, if an inoperable DG is not restored to operable status within 72 hours at [. . .] MNS, TS 3.8.1, requires the units to be in Mode 3 (*i.e.,* Hot Standby) within a CT of 6 hours, and to be in Mode 5 (*i.e.,* Cold Shutdown) within a CT of 36 hours. The proposed TS changes will allow steady state plant operation at 100 percent power for an additional 11 days for performance of DG planned reliability improvements and preventive and corrective maintenance.

Deterministic and probabilistic risk assessment techniques evaluated the effect of the proposed TS change to extend the CT for an inoperable DG on the availability of an electrical power supply to the plant emergency safeguards feature systems. These assessments concluded that the proposed [. . .] MNS TS change does not involve a significant increase in the risk of power supply unavailability.

The DGs continue to meet their design requirements; there is no reduction in capability or change in design configuration. The DG response to loss of offsite power, loss of coolant accident, station blackout or fire scenarios is not changed by this proposed amendment; there is no change to the DG operating parameters. In the extended CT, as in the existing CT, the remaining operable DGs and paths are adequate to supply electrical power to the onsite emergency power distribution system. The proposed change to extend the CT for an inoperable DG does not alter a design basis safety limit; therefore, it does not significantly reduce the margin of safety. The DGs will continue to operate per the existing design and regulatory requirements.

The proposed TS changes (*i.e.,* the inoperable DG CT extension request and proposed change to add Required Action to ensure that at least one train of shared components has an operable emergency power supply) do not alter the plant design nor do they change the assumptions contained in the safety analyses. The standby AC power system is designed with sufficient redundancy such that a DG may be removed from service for maintenance or testing. The remaining DGs are capable of carrying sufficient electrical loads to satisfy the Updated Final Safety Analysis Report requirements for accident mitigation or unit safe shutdown. The proposed change does not impact the redundancy or availability requirements of offsite power circuits or change the ability of the plant to cope with a station blackout. Therefore, based on the considerations given above, the proposed changes do not involve a significant reduction in the margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kate B. Nolan, Deputy General Counsel, Duke Energy Carolinas, LLC, 550 South Tryon Street—DEC45A Charlotte, NC 28202–1802.

NRC Branch Chief: Michael T. Markley.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit 2 (ANO–2), Pope County, Arkansas

Date of amendment request: November 20, 2017. A publicly-available version is in ADAMS under Accession No. ML17326A387.

Description of amendment request: The amendment would revise the Technical Specifications (TSs) to replace the current pressure-temperature limits for heatup, cooldown, and the inservice leak hydrostatic tests for the reactor coolant system presented in TS 3.4.9 that expire at 32 Effective Full Power Years (EFPY) with limitations that extend out to 54 EFPY.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change will revise the pressure-temperature (P–T) limits for heatup, cooldown, and inservice leak hydrostatic test limitations for the Reactor Coolant System

(RCS) to a maximum of 54 Effective Full Power Years (EFPY) in accordance with 10 CFR 50, Appendix G. This is the end of the period of extended operation for the renewed ANO–2 operating License. The P–T limits were developed in accordance with the requirements of 10 CFR 50, Appendix G, utilizing the analytical methods and flaw acceptance criteria of Topical Report WCAP–14040, Revision 4, and American Society of Mechanical Engineers (ASME) Code, Section XI, Appendix G. These methods and criteria are the previously NRC approved standards for the preparation of P–T limits. Updating the P–T limits for additional EFPYs maintains the level of assurance that reactor coolant pressure boundary integrity will be maintained, as specified in 10 CFR 50, Appendix G.

The proposed changes do not adversely affect accident initiators or precursors, and do not alter the design assumptions, conditions, or configuration of the plant or the manner in which the plant is operated and maintained. The ability of structures, systems, and components to perform their intended safety functions is not altered or prevented by the proposed changes, and the assumptions used in determining the radiological consequences of previously evaluated accidents are not affected.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes implement methodologies that have been approved by the NRC (provided that any conditions/limitations are satisfied). The P–T limits will ensure the protection consistent with assuring the integrity of the reactor coolant pressure boundary as was previously evaluated. Reactor coolant pressure boundary integrity will continue to be maintained in accordance with 10 CFR 50, Appendix G, and the assumed accident performance of plant structures, systems and components will not be affected. These changes do not involve any physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed), and installed equipment is not being operated in a new or different manner. Thus, no new failure modes are introduced.

Therefore, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not affect the function of the reactor coolant pressure boundary or its response during plant transients. By calculating the P–T limits using NRC-approved methodology, adequate margins of safety relating to reactor coolant pressure boundary integrity are maintained. The proposed changes do not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. These changes will ensure that protective actions are initiated and the operability requirements for equipment assumed to operate for accident mitigation are not affected.

Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Anna Vinson Jones, Senior Counsel, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.

NRC Branch Chief: Robert J. Pascarelli.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit 2 (ANO–2), Pope County, Arkansas

Date of amendment request: December 14, 2017. A publicly-available version is in ADAMS under Accession No. ML17348A150.

Description of amendment request: The amendment would revise ANO–2 Technical Specification (TS) 3.3.3.6, ''Post-Accident Instrumentation,'' to ensure that both Category 1 and Type A Regulatory Guide (RG) 1.97, Revision 3, ''Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident,'' instrumentation is included in the specification (unless already addressed within another specification) and gains greater consistency with NUREG–1432, Revision 4, ''Standard Technical Specifications for Combustion Engineering Plants.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The PAM [Post-Accident Monitoring] instrumentation is not an initiator of any design basis accident or event and, therefore, the proposed change does not increase the probability of any accident previously evaluated. The proposed change ensures required instrumentation is included in and controlled by the station TSs and does not change the response of the plant to any accidents.

The proposed change does not adversely affect accident initiators or precursors, nor alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained. The removal and addition of specific instrumentation within ANO–2 TS 3.3.3.6 is consistent with the ANO–2 SAR [Safety Analysis Report], Table 7.5–3 RG 1.97 variables classified as Type A or Category 1 variables. Modifications to the TS Actions associated with inoperable instrumentation are consistent with the current ANO–2 licensing basis or act to improve consistency with NUREG 1432. The proposed change does not adversely affect the ability of structures, systems, and components (SSCs) to perform the associated intended safety function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed change does not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of any accident previously evaluated. Further, the proposed change does not increase the types and amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures.

Instrumentation that does not meet the RG 1.97 inclusion criteria as established in NUREG–1432 are removed from the TS; however, the instrumentation remains applicable to other RG 1.97 criteria and is maintained accordingly. Instrumentation added to the ANO–2 PAM TS does not change the manner in which the instrumentation is currently maintained since these instruments are currently designated as Type A and/or Category 1 variables in the ANO–2 SAR. However, including these instruments within the TSs will now require different mitigating actions during periods of inoperability, which may include a plant shutdown, establishment of alternate monitoring methods, and/or submittal of a special report to the NRC.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not result in a change in the manner in which the plant is operated during post-accident conditions and does not change the established mitigating actions associated with any necessary response to a DBA [design-basis accident]. The proposed change continues to ensure important instrumentation remains available to station operators such that currently established mitigating actions are not impacted. The change does not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed) or a change in the methods governing normal or post-accident plant operation. The change does not alter assumptions made in the safety analysis.

Therefore, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The safety analysis acceptance criteria and assumptions are not impacted by the proposed change. The proposed change will not result in plant operation in a configuration outside the design basis. The proposed change ensures appropriate PAM instrumentation is controlled by the station TSs and that specified remedial action will be taken when required instrumentation is inoperable. The proposed change continues to support the operator ability to monitor and control vital systems during post-accident conditions.

Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Anna Vinson Jones, Senior Counsel, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.

NRC Branch Chief: Robert J. Pascarelli.

Entergy Operations, Inc., System Energy Resources, Inc., Cooperative Energy, A Mississippi Electric Cooperative, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1 (GGNS), Claiborne County, Mississippi

Date of amendment request: November 3, 2017, as supplemented by letters dated December 6, 2017, and January 22, 2018. Publicly-available versions are in ADAMS under Accession Nos. ML17307A440, ML17340B025, and ML18022A598, respectively.

Description of amendment request: The amendment would revise the GGNS Updated Final Safety Analysis Report (UFSAR) to incorporate the Tornado Missile Risk Evaluator (TMRE) methodology contained in Nuclear Energy Institute (NEI) 17–02, Revision 1, ''Tornado Missile Risk (TMRE) Industry Guidance Document,'' September 2017 (ADAMS Accession No. ML17268A036). This methodology can only be applied to discovered conditions where tornado missile protection is not currently provided, and cannot be used to avoid providing tornado missile protection in the plant modification process.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below with NRC:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment is to incorporate the TMRE methodology into the GGNS UFSAR. The TMRE methodology is an alternative methodology for determining whether protection from tornado-generated missiles is required. The methodology can only be applied to discovered conditions where tornado missile protection was not provided, and cannot be used to avoid providing tornado missile protection in the plant modification process.

The proposed amendment does not involve an increase in the probability of an accident previously evaluated. The relevant accident previously evaluated is a Design Basis Tornado impacting the GGNS site. The probability of a Design Basis Tornado is driven by external factors and is not affected by the proposed amendment. There are no changes required to any of the previously evaluated accidents in the UFSAR.

The proposed amendment does not involve a significant increase in the consequences or a Design Basis Tornado. [The methodology as proposed does not alter any input assumptions or results of the accident analyses. Instead, it reflects a methodology to more realistically evaluate the probability of unacceptable consequences of a Design Basis Tornado. As such, there is no significant increase in the consequence of an accident previously evaluated. A similar consideration would apply in the event additional non-conforming conditions are discovered in the future.]

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment is to incorporate the TMRE methodology into the GGNS UFSAR. The TMRE methodology is an alternative methodology for determining whether protection from tornado-generated missiles is required. The methodology can only be applied to discovered conditions where tornado missile protection was not provided, and cannot be used to avoid providing tornado missile protection in the plant modification process.

The proposed amendment will involve no physical changes to the existing plant, so no new malfunctions could create the possibility of a new or different kind of accident. The proposed amendment makes no changes to conditions external to the plant that could create the possibility of a new or different kind of accident. The proposed change will not create the possibility of a new or different kind of accident due to new accident precursors, failure mechanisms, malfunctions, or accident initiators not considered in the design and licensing bases. The existing Updated Final Safety Analysis Report accident analysis will continue to meet requirements for the scope and type of accidents that require analysis.

Therefore, the proposed amendment will not create the possibility of a new or different kind of accident than those previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment is to incorporate the TMRE methodology into the GGNS UFSAR. The TMRE methodology is an alternative methodology for determining whether protection from tornado-generated missiles is required. The methodology can only be applied to discovered conditions where tornado missile protection was not provided, and cannot be used to avoid providing tornado missile protection in the plant modification process.

The change does not exceed or alter any controlling numerical value for a parameter established in the UFSAR or elsewhere in the GGNS licensing basis related to design basis or safety limits. The change does not impact any UFSAR Chapter 6 or 15 Safety Analyses, and those analyses remain valid. The change does not reduce diversity or redundancy as required by regulation or credited in the UFSAR. The change does not reduce defense-in-depth as described in the UFSAR.

Therefore, the changes associated with this license amendment request do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's modified analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William B. Glew, Associate General Counsel, Entergy Services, Inc., 440 Hamilton Avenue, White Plains, New York 10601.

NRC Branch Chief: Douglas A. Broaddus.

Florida Power & Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Nuclear Generating Unit Nos. 3 and 4, Miami-Dade County, Florida

Date of amendment request: December 21, 2017. A publicly-available version is in ADAMS under Accession No. ML17355A184.

Description of amendment request: The amendments would revise the Technical Specifications (TSs) pertaining to the Engineered Safety Features Actuation System instrumentation to resolve non-conservative actions associated with the containment ventilation isolation and the control room ventilation isolation functions. In addition, the amendments would revise the control room

ventilation isolation function to no longer credit containment radiation monitoring instrumentation, eliminate redundant radiation monitoring instrumentation requirements, eliminate select core alterations applicability requirements, relocate radiation monitoring and reactor coolant system leakage detection requirements within the TSs to align with their respective functions, and relocate the spent fuel pool area monitoring requirements to licensee-controlled documents.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The instrumentation associated with the proposed changes to the technical specifications (TS) is not an initiator of any accidents previously evaluated, so the probability of accidents previously evaluated is unaffected by the proposed changes. There is no change to any equipment response or accident scenario, with the exception of the Control Room isolation on Containment high-radiation instrumentation function which impose no additional challenges to fission product barrier integrity. The exception is supported by revised radiological analyses which demonstrate that the Control Room air intake radioactivity monitoring instrumentation provides timely automatic isolation of the Control Room ventilation system and thereby limits Control Room operator doses to within regulatory limits for any design basis accident. The proposed changes also eliminate limitations imposed on Containment and Control Room ventilation instrumentation during CORE ALTERATIONS since the applicable postulated accidents do not result in fuel cladding integrity damage. Hence, the capability of any TS-required SSC [structure, system, or component] to perform its specified safety function is not impacted by the proposed changes and the outcomes of accidents previously evaluated are unaffected. Therefore, the proposed changes do not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed changes. The changes do not challenge the integrity or performance of any safety-related systems. No plant equipment is installed or removed, and the changes do not alter the design, configuration, or method of operation of any plant SSC with the exception of the Control Room isolation on Containment high-radiation instrumentation function which is supported by revised accident analyses which demonstrate that the radiological consequences remain within applicable regulatory limits. The elimination of core alterations applicability requirements do not impact the outcome of any applicable postulated accident since none result in fuel cladding damage. No physical changes are made to the plant, so no new causal mechanisms are introduced. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The ability of any operable SSC to perform its designated safety function is unaffected by the proposed changes. The proposed change do not revise any safety limits or limiting safety system settings. The proposed changes revises safety analyses assumptions and the method of operating the plant with regard to the Control Room isolation on Containment high-radiation instrumentation function. The changes are supported by revised accident analyses which demonstrate that no adverse impact will result to either the plant operating margins or the reliability of equipment credited in the safety analyses. The existing margin in dose assessment currently afforded Control Room operators during any design basis accident is maintained. No other safety margins are impacted by the proposed changes. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William S. Blair, Managing Attorney—Nuclear, Florida Power & Light Company, 700 Universe Blvd. MS LAW/JB, Juno Beach, FL 33408–0420.

NRC Branch Chief: Undine Shoop.

NextEra Energy Duane Arnold, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: November 10, 2017. A publicly-available version is in ADAMS under Accession No. ML17318A240.

Description of amendment request: The proposed amendment revises Technical Specification (TS) 3.6.4.1, ''Secondary Containment,'' Surveillance Requirement (SR) 3.6.4.1.2. The SR is modified to acknowledge that secondary containment access openings may be open for entry and exit.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change addresses conditions during which the secondary containment SR is not met. The secondary containment is not an initiator of any accident previously evaluated. As a result, the probability of any accident previously evaluated is not increased. The consequences of an accident previously evaluated while utilizing the proposed changes are no different than the consequences of an accident while utilizing the existing four-hour Completion Time for an inoperable secondary containment. As a result, the consequences of an accident previously evaluated are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed change does not alter the protection system design, create new failure modes, or change any modes of operation. The proposed change does not involve a physical alteration of the plant; and no new or different kind of equipment will be installed. Consequently, there are no new initiators that could result in a new or different kind of accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change addresses conditions during which the secondary containment SR is not met. The allowance for both an inner and outer secondary containment door to be open simultaneously for entry and exit does not affect the safety function of the secondary containment as the doors are promptly closed after entry or exit, thereby restoring the secondary containment boundary.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William Blair, P. O. Box 14000, Juno Beach, FL 33408–0420.

NRC Branch Chief: David J. Wrona.

Northern States Power Company—Minnesota (NSPM), Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: December 19, 2017. A publicly-available version is in ADAMS under Accession No. ML17353A189.

Description of amendment request: The proposed amendment would adopt Technical Specifications Task Force (TSTF) traveler TSTF–425, ''Relocate Surveillance Frequencies to Licensee Control—RITSTF [Risk-Informed Technical Specifications Task Force Initiative 5b,'' Revision 3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change relocates the specified frequencies for periodic surveillance requirements to licensee control under a new SFCP [Surveillance Frequency Control Program]. Surveillance frequencies are not an initiator to any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. The systems and components required by the technical specifications for which the surveillance frequencies are relocated are still required to be operable, meet the acceptance criteria for the surveillance requirements, and be capable of performing any mitigation function assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

No new or different accidents result from utilizing the proposed change. The changes do not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions and current plant operating practice.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The design, operation, testing methods, and acceptance criteria for systems, structures, and components (SSCs), specified in applicable codes and standards (or alternatives approved for use by the NRC) will continue to be met as described in the plant licensing basis (including the final safety analysis report and bases to TS), since these are not affected by changes to the surveillance frequencies. Similarly, there is no impact to safety analysis acceptance criteria as described in the plant licensing basis. To evaluate a change in the relocated surveillance frequency, [NSPM] will perform a probabilistic risk evaluation using the guidance contained in NRC approved NEI 04–10, Rev. 1 in accordance with the TS SFCP. NEI 04–10, Rev. 1, methodology provides reasonable acceptance guidelines and methods for evaluating the risk increase of proposed changes to surveillance frequencies consistent with Regulatory Guide 1.177.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Branch Chief: David J. Wrona.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: November 30, 2017. A publicly-available version is in ADAMS under Accession No. ML17334B211.

Description of amendment request: The proposed changes include changes to the Updated Final Safety Analysis Report (UFSAR) in the form of departures from the incorporated plant-specific Design Control Document (DCD) Tier 2* and Tier 1 information and related changes to the VEGP Units 3 and 4 Combined License (COL) Appendix C information. Pursuant to the provisions of 10 CFR 52.63(b)(1), an exemption from the elements of the design as certified in 10 CFR part 52, Appendix D, design certification rule is also requested for the plant-specific Tier 1 material departures. This submittal requests approval of the license amendment, necessary to implement these changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), licensee has provided its analysis of the issue on no significant hazards consideration determination, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed consistency and editorial changes to COL Appendix C (and associated plant-specific Tier 1) and Tier 2 and Tier 2* information in the UFSAR do not involve a technical change, (*e.g.* there is no design parameter or requirement, calculation, analysis, function or qualification change). No structure, requirement, calculation, analysis, function or qualification change). No structure, system, or component (SSC) design or function would be affected. No design or safety analysis would be affected. The proposed changes do not affect any accident initiating event or component failure, thus the probabilities of the accidents previously evaluated are not affected. No function used to mitigate a radioactive material release and no radioactive material release source term is involved, thus the radiological releases in the accident analyses are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed consistency and editorial changes to COL Appendix C (and associated plant specific Tier 1) and Tier 2 and Tier 2* information in the UFSAR do not change the design or functionality of safety-related SSCs. The proposed change does not affect plant electrical systems, and does not affect the design function, support, design, or operation of mechanical and fluid systems. The proposed change does not result in a new failure mechanism or introduce any new accident precursors. No design function described in the UFSAR is affected by the proposed changes.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed consistency and editorial changes to COL Appendix C (and associated plant specific Tier 1) and Tier 2 and Tier 2* information in the UFSAR do not involve any change to the design as described in the COL. There would be no change to an existing design basis, design function, regulatory criterion, or analysis. No safety analysis or design basis acceptance limit/criterion is involved.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Jennifer Dixon-Herrity.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: February 1, 2018. A publicly-available version is in ADAMS under Accession No. ML18032A359.

Description of amendment request: The requested amendment proposes changes to relax the minimum gap requirement above grade between the nuclear island and the annex building/turbine building and removing the minimum gap requirement for the radwaste building from the Inspections, Tests, Analyses and Acceptance Criteria. Pursuant to the provisions of 10 CFR 52.63(b)(1), an exemption from elements of the design as certified in the 10 CFR part 52, Appendix D, design certification rule is also requested for the plant-specific Design Control Document Tier 1 material departures.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below with NRC staff edits in square brackets:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes are to relax the minimum gap requirement above grade between the nuclear island and the annex building/turbine building from a 4 inch gap to a 3 inch gap. The proposed changes modify and clarify the gap requirements between the nuclear island and the annex building/turbine building and radwaste building, respectively. The proposed change deletes the gap requirement for the radwaste building from the Inspections, Tests, Analyses and Acceptance Criteria (ITAAC) in (COL) [Combined License] Appendix C. The proposed changes do not affect the operation of any systems or equipment that may initiate a new or different kind of accident, or alter any structure, system or component (SSC) such that a new accident initiator or initiating sequence of events is created.

The changes do not impact the support, design, or operation of mechanical and fluid systems. The changes do not impact the support, design, or operation of any safety-related structures. There is no change to plant systems or the response of systems to postulated accident conditions. There is no change to the predicted radioactive releases due to normal operation or postulated accident conditions. The plant response to previously evaluated accidents or external events is not adversely affected, nor do the proposed changes create any new accident precursors.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes are to relax the minimum gap requirement above grade between the nuclear island and the annex building/turbine building from a 4 inch gap to a 3 inch gap. The proposed changes modify and clarify the gap requirements between the nuclear island and the annex building/turbine building and radwaste building, respectively. The proposed changes delete the gap requirement for the radwaste building from the ITAAC in COL Appendix C. The proposed changes do not affect the operation of any systems or equipment that may initiate a new or different kind of accident, or alter any SSC such that a new accident initiator or initiating sequence of events is created.

The proposed changes do not adversely affect the design function of the nuclear island and adjoining buildings' SSC design functions or methods of operation in a manner that results in a new failure mode, malfunction, or sequence of events that affect safety-related or non-safety-related equipment. This activity does not allow for a new fission product release path, result in a new fission product barrier failure mode, or create a new sequence of events that result in significant fuel cladding failures.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes maintain existing safety margin and provide adequate protection through continued application of the existing requirements in the UFSAR [Updated Final Safety Analysis Report]. The proposed changes satisfy the same design functions in accordance with the same codes and standards as stated in the UFSAR. These changes do not adversely affect any design code, function, design analysis, safety analysis input or result, or design/safety margin. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the proposed changes.

Because no safety analysis or design basis acceptance limit/criterion is challenged or exceeded by these changes, no significant margin of safety is reduced.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Jennifer Dixon-Herrity.

Southern Nuclear Operating Company, Inc., Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: January 31, 2018. A publicly-available version is in ADAMS under Accession No. ML18031B142.

Description of amendment request: The requested amendment proposes to include changes to Combined License (COL) Appendix A, Technical Specifications related to fuel management. Specifically, the requested amendment proposes improvements to the technical specifications for the Rod Position Indication, the Control Rod Drive Mechanism, Power Range Neutron Flux Channels and the Mechanical Shim Augmentation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes are to clarify proper operation and methodology associated with the DRPI [Digital Rod Position Indication], Control Rod Gripper Coils, instrumentation associated with Quadrant Power Tilt Ratio, or Control or Gray Rods. These changes do not affect the operation of this equipment and have no adverse impact on their design functions.

The changes do not involve an interface with any structure, system, or component (SSC) accident initiator or initiating sequence of events, and thus, the probabilities of the accidents evaluated in the plant-specific Updated Final Safety Analysis Report (UFSAR) are not affected. The proposed changes do not adversely affect any mitigation sequence or the predicted radiological releases due to postulated accident conditions, thus, the consequences of the accidents evaluated in the UFSAR are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes verify and maintain the capabilities of the DRPI, Control Rod Gripper Coils, instrumentation associated with Quadrant Power Tilt Ratio, and Control and Gray Rods to perform their design functions. The proposed changes do not affect the operation of any systems or equipment that may initiate a new or different kind of accident, or alter any SSC such that a new accident initiator or initiating sequence of events is created.

The proposed changes do not affect any other SSC design functions or methods of operation in a manner that results in a new failure mode, malfunction, or sequence of events that affect safety-related or nonsafety related equipment. Therefore, this activity does not allow for a new fission product release path, result in a new fission product barrier failure mode, or create a new sequence of events that result in significant fuel cladding failures. These changes are to clarify proper operation and methodology associated with this equipment and have no adverse impact on their design functions.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not affect existing safety margins. The proposed changes verify and maintain the capabilities of the DRPI, Control Rod Gripper Coils, instrumentation associated with Quadrant Power Tilt Ratio, and Control and Gray Rods to perform their design functions. Therefore, the proposed changes satisfy the same design functions in accordance with the same codes and standards as stated in the UFSAR. These changes do not affect any design code, function, design analysis, safety analysis input or result, or design/safety margin.

The proposed changes would not affect any safety-related design code, function, design analysis, safety analysis input or result, or existing design/safety margin. Because no safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the requested changes, no margin of safety is significantly reduced.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Jennifer Dixon-Herrity.

Susquehanna Nuclear, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: December 14, 2017. A publicly-available version is in ADAMS under Accession No. ML17348B097.

Description of amendment request: The amendments would revise Technical Specification (TS) 3.6.4.1, ''Secondary Containment,'' Surveillance Requirement (SR) 3.6.4.1.1. The SR would be revised to address conditions during which the secondary containment pressure may not meet the SR pressure requirements. The proposed changes are based on Technical Specifications Task Force (TSTF) Traveler TSTF–551, Revision 3, ''Revise Secondary Containment Surveillance Requirements.'' Also, the editorial note in SR 3.6.4.1.3 is removed because it is redundant to the SR itself and does not alter the requirement.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below, along with NRC edits in square brackets:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change addresses conditions during which the secondary containment SR is not met. The secondary containment is not an initiator of any accident previously evaluated. As a result, the probability of any accident previously evaluated is not increased. The consequences of an accident previously evaluated while utilizing the proposed changes are no different than the consequences of an accident while utilizing the existing four hour Completion Time for an inoperable secondary containment. In addition, the proposed Note for SR 3.6.4.1.1 provides an alternative means to ensure the secondary containment safety function is met. Additionally, the Note removed from SR 3.6.4.1.3 is editorial because it is redundant to the SR itself and does not alter the requirement. As a result, the consequences of an accident previously evaluated are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not alter the protection system design, create new failure modes, or change any modes of operation. The proposed change does not involve a physical alteration of the plant; and no new or different kind of equipment will be installed. Consequently, there are no new initiators that could result in a new or different kind of accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change addresses conditions during which the secondary containment SR is not met. Conditions in which the secondary containment vacuum is less than the required vacuum are acceptable provided the conditions do not affect the ability of the SGT [Standby Gas Treatment] System to establish the required secondary containment vacuum under post-accident conditions within the time assumed in the accident analysis. This condition is incorporated in the proposed change by requiring an analysis of actual environmental and secondary containment pressure conditions to confirm the capability of the SGT System is maintained within the assumptions of the accident analysis. Therefore, the safety function of the secondary containment is not affected.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Damon D. Obie, Associate General Counsel, Talen Energy Supply, LLC, 835 Hamilton St., Suite 150, Allentown, PA 18101.

NRC Branch Chief: James G. Danna.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant (SQN), Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: September 29, 2017. A publicly-available version is in ADAMS under Accession No. ML17272A940.

Description of amendment request: The amendments would make changes to the SQN Emergency Plan to extend staff augmentation times for Emergency Response Organization (ERO) functions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequence of an accident previously evaluated?

Response: No.

The proposed removal of maintenance personnel from shift and extension in staff augmentation times has no effect on normal plant operation or on any accident initiator or precursor and does not affect the function of plant structures, systems, or components (SCCs). The proposed changes do not alter or prevent the ability of the ERO to perform their intended functions to mitigate the consequences of an accident or event. The ability of the ERO to respond adequately to radiological emergencies has been demonstrated as acceptable through a staffing analysis as required by 10 CFR 50 Appendix E.IV.A.9.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not affect the accident analyses. The changes do not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed), a change in the method of plant operation, or new operator actions. The proposed changes do not introduce failure modes that could result in a new accident, and the changes do not alter assumptions made in the safety analysis. This proposed change removes maintenance personnel from shift and extends the staff augmentation response times in the SQN Emergency Plan, which are demonstrated as acceptable through a staffing analysis as required by 10 CFR 50 Appendix E.IV.A.9. The proposed changes do not alter or prevent the ability of the ERO to perform their intended functions to mitigate the consequences of an accident or event.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in margin of safety?

Response: No.

Margin of safety is associated with confidence in the ability of the fission product barriers (*i.e.,* fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the level of radiation dose to the public. The proposed change is associated with the SQN Emergency Plan staffing and does not affect operation of the plant or its response to transients or accidents. The change does not affect the Technical Specifications. The proposed changes do not involve a change in the method of plant operation, and no accident analyses are affected by the proposed changes. Safety analysis acceptance criteria are not affected by this proposed change. A staffing analysis and a functional analysis were performed for the proposed changes on the timeliness of performing major tasks for the functional areas of the SQN Emergency Plan. The analysis concluded that removal of maintenance personnel from shift and an extension in staff augmentation times would not significantly affect the ability to perform the required Emergency Plan tasks.

Therefore, the proposed changes are determined to not adversely affect the ability to meet 10 CFR 50.54(q)(2), the requirements of 10 CFR 50 Appendix E, and the emergency planning standards as described in 10 CFR 50.47(b).

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, 6A West Tower, Knoxville, TN 37902.

NRC Branch Chief: Undine Shoop.

III. Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Florida Power & Light Company, Docket Nos. 50–250, Turkey Point Nuclear Generating Unit No. 3, Miami-Dade County, Florida

Date of amendment request: December 18, 2017. A publicly-available version is in ADAMS under ML17353A492.

Brief description of amendment request: Revise the Technical Specifications to allow a one-time extension of the allowable outage time for the Unit 3 Containment Spray System from 72 hours to 14 days.

Date of publication of individual notice in ***Federal Register***: January 30, 2018 (83 FR 4285).

Expiration date of individual notice: March 1, 2018 (Public comments); April 2, 2018 (Hearing requests).

IV. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Duke Energy Carolinas, LLC, Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Duke Energy Carolinas, LLC, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Duke Energy Progress, LLC, Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake County, North Carolina

Duke Energy Progress, LLC, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: July 18, 2017, as supplemented by letter dated October 12, 2017.

Brief description of amendments: The amendments revised the technical specifications (TSs) based on Technical Specifications Task Force (TSTF) Traveler TSTF–529, ''Clarify Use and Application Rules.'' The changes revise and clarify the TS usage rules for completion times, limiting conditions for operation, and surveillance requirements.

Date of issuance: February 1, 2018.

Effective date: As of the date of issuance and shall be implemented within 120 days of issuance.

Amendment Nos.: 298 and 294, for the Catawba Nuclear Station Units 1 and 2; 307 and 286, for the McGuire Nuclear Station, Units 1 and 2; 407, 409, and 408, for the Oconee Nuclear Station, Units 1, 2, and 3; 162, for the Shearon Harris Nuclear Power Plant, Unit 1; and 256, for the H. B. Robinson Steam Electric Plant, Unit No. 2. A publicly-available version is in ADAMS under Accession No. ML17340A720; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF–35, NPF–52, NPF–9, NPF–17, DPR–38, DPR–47, DPR–55, NPF–63, and DPR–23: Amendments revised the Renewed Facility Operating Licenses and TSs.

Date of initial notice in ***Federal Register:*** August 29, 2017 (82 FR 41067). The supplemental letter dated October 12, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a safety evaluation dated February 1, 2018.

No significant hazards consideration comments received: No.

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2 (McGuire), Mecklenburg County, North Carolina

Date of amendment requests: December 19, 2016, as supplemented by letters dated May 25, 2017, and December 12, 2017.

Brief description of amendments: The amendments modified Technical Specification 5.5.2, ''Containment Leakage Rate Testing Program,'' by replacing the reference to Regulatory Guide 1.163, ''Performance-Based Containment Leak-Test Program,'' with a reference to Nuclear Energy Institute (NEI) Topical Report NEI 94–01, Revision 3–A, ''Industry Guideline for Implementing Performance-Based Option of 10 CFR part 50, Appendix J,'' dated July 2012 and the conditions and limitations specified in NEI 94–01, Revisions 2–A, ''Industry Guideline for Implementing Performance-Based Option of 10 CFR part 50, Appendix J,'' dated October 2008, as the implementation documents used by McGuire to implement the performance-based leakage testing program in accordance with Option B of 10 CFR part 50, Appendix J. The proposed change would also delete the listing of one-time exceptions previously granted to Integrated Leak Rate Test frequency.

Date of issuance: January 31, 2018.

Effective date: As of its date of issuance and shall be implemented within 120 days of issuance.

Amendment Nos.: 306 (Unit 1) and 285 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML18009A842; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** May 9, 2017 (82 FR 21557). The supplemental letters dated May 25 and December 12, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 31, 2018.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station (LSCS), Units 1 and 2, LaSalle County, Illinois

Date of amendment request: August 29, 2017, as supplemented by letter dated January 25, 2018.

Brief description of amendment: The amendments revised the LSCS technical specification (TS) 2.1.1, ''Reactor Core SLs [Safety Limits].'' Specifically, this change incorporates revised LSCS, Units 1 and 2, safety limits for minimum critical power ratio for two circulation loop minimum critical power ratio (MCPR) and single circulation loop MCPR values for Unit 1 and Unit 2 based on the results of the cycle-specific analyses performed by Global Nuclear Fuel (GNF) for LSCS Unit 1, Cycle 17, and LSCS Unit 2, Cycle 17.

Date of issuance: February 6, 2018.

Effective date: As of the date of issuance and shall be implemented as follows:

Unit 1: Prior to startup from the February 2018 refueling outage for Unit 1 (*i.e.,* L1R17) for operation starting in Cycle 18.

Unit 2: Prior to startup from the February 2018 refueling outage for Unit 1 (*i.e.,* L1R17). This will be a mid-Cycle 17 implementation for Unit 2.

Amendment No.: Unit 1–227; Unit 2–213. A publicly-available version is in ADAMS under Accession No. ML18008A123; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF–11 and NPF–18: The amendments revised the Renewed Facility Operating Licenses and TSs.

Date of initial notice in ***Federal Register:*** December 5, 2017 (82 FR 57482). The supplemental letter dated January 25, 2018, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 6, 2018.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: May 24, 2017, as supplemented by letter dated August 17, 2017.

Brief description of amendments: The amendments revised Surveillance Requirement 3.3.1.3 to change the thermal power at which the surveillance may be performed.

Date of issuance: February 7, 2018.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment Nos.: 194 (Unit 1) and 177 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML18012A068; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License No. NPF–68 and NPF–81: Amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** July 18, 2017 (82 FR 32883). The supplemental letter dated August 17, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 7, 2018.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant (SQN), Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: March 13, 2017, as supplemented by letter dated August 7, 2017.

Brief description of amendments: The amendments deleted the Note associated with Technical Specification (TS) Surveillance Requirement (SR) 3.8.1.17 to allow the performance of the SR in Modes 1 through 4.

Date of issuance: February 2, 2018.

Effective date: As of its date of issuance and shall be implemented no later than 60 days from the date of issuance.

Amendment Nos.: 340 (Unit 1) and 333 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML17296A133; documents related to these amendments are listed in the Safety Evaluation (SE) enclosed with the amendments.

Facility Operating License Nos. DPR–77 and DPR–79: The amendments revised the Renewed Facility Operating Licenses and TSs.

Date of initial notice in ***Federal Register:*** July 5, 2017 (82 FR 31102). The supplemental letter dated August 7, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in an SE dated February 2, 2018.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: January 20, 2017, as supplemented by letter dated September 7, 2017.

Brief description of amendments: The amendments revised the Technical Specification (TS) 3.5, ''Residual Heat Removal (RHR) System,'' requirements, as well as the TS 3.13, ''Component Cooling System,'' RHR support requirements for consistency with the design basis of the RHR system. In addition, an RHR surveillance requirement is added in TS Table 4.1–2A, ''Minimum Frequency for Equipment Tests,'' to test the RHR system in accordance with the inservice testing program, since a TS surveillance does not currently exist for this system.

Date of issuance: February 9, 2018.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 291 and 291. A publicly-available version is in ADAMS under Accession No. ML17326A225; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License No. DPR–32 and DPR–37: Amendments revised the Renewed Facility Operating Licenses and TSs.

Date of initial notice in ***Federal Register****:* March 14, 2017 (82 FR 13672). The supplemental letter dated September 7, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 9, 2018.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, on February 20, 2018.

For the Nuclear Regulatory Commission.

Kathryn M. Brock,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2018–03727 Filed 2–26–18; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Cancellation Notice—OPIC'S March 8, 2018 Annual Public Hearing

OPIC's Sunshine Act notice of its Annual Public Hearing was published in the **Federal Register** (Volume 83, Number 13, Page 2823) on January 19, 2018. No requests were received to provide testimony or submit written statements for the record; therefore, OPIC's Annual Public Hearing scheduled for 10 a.m., March 8, 2018 has been cancelled.

CONTACT PERSON FOR INFORMATION: Information on the hearing cancellation may be obtained from Catherine F.I. Andrade at (202) 336–8768, or via email at *Catherine.Andrade@opic.gov.*

Dated: February 22, 2018.

Catherine F.I. Andrade,

OPIC Corporate Secretary.

[FR Doc. 2018–04037 Filed 2–23–18; 11:15 am]

BILLING CODE 3210–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Cancellation Notice—OPIC February 28, 2018 Public Hearing

OPIC's Sunshine Act notice of its Public Hearing in Conjunction with each Board meeting was published in the **Federal Register** (Volume 83, Number 25, Page 5284) on Tuesday, February 6, 2018. No requests were received to provide testimony or submit written statements for the record; therefore, OPIC's public hearing scheduled for 2 p.m., February 28, 2018 in conjunction with OPIC's March 8, 2018 Board of Directors meeting has been cancelled.

CONTACT PERSON FOR INFORMATION: Information on the hearing cancellation may be obtained from Catherine F.I. Andrade at (202) 336–8768, or via email at *Catherine.Andrade@opic.gov.*

Dated: February 22, 2018.

Catherine F.I. Andrade,

OPIC Corporate Secretary.

[FR Doc. 2018–04038 Filed 2–23–18; 11:15 am]

BILLING CODE 3210–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82747; File No. SR–FINRA–2018–008]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Revise the General Securities Representative (Series 7) Examination

February 21, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 12, 2018, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as ''constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule'' under Section 19(b)(3)(A)(i) of the Act[3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing revisions to the content outline and selection specifications for the General Securities Representative (Series 7) examination as part of the restructuring of the representative-level examination program.[5] The proposed revisions also update the material to reflect changes to the laws, rules and regulations covered by the examination. In addition, FINRA is proposing to make changes to the format of the content outline. FINRA is not proposing any textual changes to the By-Laws, Schedules to the By-Laws or Rules of FINRA.

The revised Series 7 content outline is attached.[6] The revised Series 7 selection specifications have been submitted to the Commission under separate cover with a request for confidential treatment pursuant to SEA Rule 24b–2.[7]

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room. [sic]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 15A(g)(3) of the Act[8] authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. In accordance with that provision, FINRA has developed examinations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge, consistent with applicable registration requirements under FINRA rules. FINRA periodically reviews the content of the examinations to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

The SEC recently approved a proposed rule change to restructure the FINRA representative-level qualification examination program.[9] The rule change, which will become effective on October 1, 2018,[10] restructures the examination program into a new format whereby all new representative-level applicants will be required to take a general knowledge examination (the Securities Industry Essentials or SIE™) and a tailored, specialized knowledge examination (a revised representative-level qualification examination) for their particular registered role.

The restructured program eliminates duplicative testing of general securities knowledge on the current representative-level qualification examinations by moving such content into the SIE examination.[11] The SIE examination will test fundamental securities-related knowledge, including knowledge of basic products, the structure and function of the securities industry, the regulatory agencies and their functions and regulated and prohibited practices, whereas the revised representative-level qualification examinations will test knowledge relevant to day-to-day activities, responsibilities and job functions of representatives.[12]

As part of the restructuring process and in consultation with a committee of industry representatives, FINRA undertook a review of the General Securities Representative (Series 7) examination to remove the general securities knowledge currently covered on the examination and to create a tailored examination to test knowledge relevant to the day-to-day activities, responsibilities and job functions of a General Securities Representative. As a result of this review, FINRA also is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] FINRA also is proposing corresponding revisions to the Series 7 question bank. Based on instruction from SEC staff, FINRA is submitting this filing for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(1) thereunder, and is not filing the question bank. *See* Letter to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000. The question bank is available for SEC review.

[6] The Commission notes that the content outline is attached to the filing, not to this Notice.

[7] 17 CFR 240.24b–2.

[8] 15 U.S.C. 78*o*–3(g)(3).

[9] *See* Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR–FINRA–2017–007).

[10] *See Regulatory Notice* 17–30 (SEC Approves Consolidated FINRA Registration Rules, Restructured Representative-Level Qualification Examinations and Changes to Continuing Education Requirements) (October 2017).

[11] Each of the current representative-level examinations covers general securities knowledge, with the exception of the Research Analyst (Series 86 and 87) examinations.

[12] FINRA filed the SIE content outline with the SEC for immediate effectiveness. *See* Securities Exchange Act Release No. 82578 (January 24, 2018), 83 FR 4375 (January 30, 2018) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2018–002). In addition to the proposed rule change relating to the revised Series 7 examination, FINRA is filing with the Commission for immediate effectiveness the content outlines for the other revised representative-level qualification examinations.

proposing to revise the Series 7 content outline to reflect changes to the laws, rules and regulations covered by the examination. In addition, FINRA is proposing to make changes to the format of the Series 7 content outline.

Beginning on October 1, 2018, new applicants seeking to register as General Securities Representatives must pass the SIE examination and the revised General Securities Representative (Series 7) examination.

Current Content Outline

The current Series 7 content outline is divided into five major job functions that are performed by a General Securities Representative. The following are the five major job functions, denoted F1 through F5, with the associated number of questions:

F1: Seeks Business for the Broker-Dealer Through Customers and Potential Customers, 68 questions;

F2: Evaluates Customers' Other Security Holdings, Financial Situation and Needs, Financial Status, Tax Status, and Investment Objectives, 27 questions;

F3: Opens Accounts, Transfers Assets, and Maintains Appropriate Account Records, 27 questions;

F4: Provides Customers With Information on Investments and Makes Suitable Recommendations, 70 questions; and

F5: Obtains and Verifies Customer's Purchase and Sales Instructions, Enters Orders, and Follows Up, 58 questions.

Each function also includes specific tasks describing activities associated with performing that function. Further, the content outline includes a knowledge section describing the underlying knowledge required to perform the major job functions and associated tasks and a rule section listing the laws, rules and regulations related to the job functions, associated tasks and knowledge statements. There are cross-references within each section to the other applicable sections. The current content outline also includes a preface (*e.g.,* table of contents, details regarding the purpose of the examination and eligibility requirements), sample questions and reference materials.

Revised Content Outline

As noted above, FINRA is proposing to move the general securities knowledge currently covered on the Series 7 examination to the SIE examination. For example, FINRA Rule 3220 (Influencing or Rewarding Employees of Others) (the Gifts Rule) will now be tested on the SIE examination, rather than on the Series 7 examination. As a result, the revised Series 7 examination will test knowledge specific to the day-to-day activities, responsibilities and job functions of a General Securities Representative.

Further, FINRA is proposing to make changes to the major job functions that are performed by a General Securities Representative. The proposed change aligns the major job functions performed by a General Securities Representative with the major job functions performed by other sales representatives, including Investment Company and Variable Contracts Products Representatives, Direct Participation Programs Representatives and Private Securities Offerings Representatives. The following are the revised job functions, denoted Function 1 through Function 4, with the associated number of questions:

Function 1: Seeks Business for the Broker-Dealer From Customers and Potential Customers, 9 questions;

Function 2: Opens Accounts After Obtaining and Evaluating Customers' Financial Profile and Investment Objectives, 11 questions;

Function 3: Provides Customers With Information About Investments, Makes Suitable Recommendations, Transfers Assets and Maintains Appropriate Records, 91 questions; and

Function 4: Obtains and Verifies Customers' Purchase and Sales Instructions and Agreements; Processes, Completes, and Confirms Transactions, 14 questions.

FINRA also is proposing to adjust the number of questions assigned to each major job function to ensure that the overall examination better reflects the key tasks performed by a General Securities Representative. The questions on the revised Series 7 examination will place emphasis on tasks such as seeking business for the broker-dealer from customers and potential customers, opening customer accounts, providing customers with suitable recommendations and verifying customer agreements and transactions.

Further, FINRA is proposing to make changes to the specific tasks associated with performing each function. There are two tasks (1.1–1.2) associated with Function 1;[13] four tasks (2.1–2.4) associated with Function 2;[14] four tasks (3.1–3.4) associated with Function 3;[15] and four tasks (4.1—4.4) associated with Function 4.[16] For example, one such task (Task 1.1) is contacting current and potential customers in person and by telephone, mail and electronic means, developing promotional and advertising materials and seeking appropriate approvals to distribute marketing materials.[17] The content outline also lists the knowledge required to perform each revised function and associated tasks (*e.g.,* standards and required approvals of communications). In addition, where applicable, the content outline lists the laws, rules and regulations a candidate is expected to know to perform each revised function and associated tasks (*e.g.,* FINRA Rule 2111 (Suitability)).

FINRA also is proposing to revise the content outline to reflect changes to the laws, rules and regulations covered by the examination. Among other revisions, FINRA is proposing to revise the content outline to reflect the adoption of new FINRA rules (*e.g.,* FINRA Rule 2273 (Educational Communication Related to Recruitment Practices and Account Transfers)).

FINRA is proposing similar changes to the Series 7 selection specifications and question bank.

Finally, FINRA is proposing to make changes to the format of the content outline, including to the preface, sample questions and reference materials.[18] Among other changes, FINRA is proposing to: (1) Reduce the preface to one page of introductory information; (2) streamline details regarding the purpose of the examination; (3) move the application procedures to FINRA's website; and (4) explain that the passing score is established using a standard setting procedure, and that a statistical adjustment process known as equating is used in scoring the examination.[19]

As a result of the proposed changes, the number of scored questions on the Series 7 examination will be reduced from 250 questions to 125 questions.[20] Further, the test time, which is the amount of time candidates will have to complete the examination, will be reduced from six hours to three hours and 45 minutes. Currently, a score of 72 percent is required to pass the examination. FINRA will publish the

[13] *See* Exhibit 3a, Outline Pages 3–5. The outline is attached as Exhibit 3a to the 19b–4 form.

[14] *See* Exhibit 3a, Outline Pages 6–8.

[15] *See* Exhibit 3a, Outline Pages 9–16.

[16] *See* Exhibit 3a, Outline Pages 17–20.

[17] *See* Exhibit 3a, Outline Page 3.

[18] FINRA is proposing similar changes to the content outlines for other representative-level examinations.

[19] *See* Exhibit 3a, Outline Page 2.

[20] Consistent with FINRA's practice of including ''pretest'' questions on examinations, the Series 7 examination includes 10 additional, unidentified pretest questions that do not contribute towards the candidate's score. The pretest questions are designed to ensure that new examination questions meet acceptable testing standards prior to use for scoring purposes. Therefore, the Series 7 examination actually consists of 135 questions, 125 of which are scored. The 10 pretest questions are randomly distributed throughout the examination.

passing score of the revised Series 7 examination on its website, at *www.finra.org,* prior to its first administration.

Availability of Content Outline

The current Series 7 content outline is available on FINRA's website. The revised Series 7 content outline will replace the current content outline on FINRA's website, and it will be made available on the website on the date of this filing.

FINRA is filing the proposed rule change for immediate effectiveness. The implementation date will be October 1, 2018, to coincide with the implementation of the restructured representative-level examination program. FINRA will also announce the implementation date of the proposed rule change in a *Regulatory Notice.*

2. Statutory Basis

FINRA believes that the proposed revisions to the Series 7 examination program are consistent with the provisions of Section 15A(b)(6) of the Act,[21] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(g)(3) of the Act,[22] which authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. The proposed rule change will improve the examination program, without compromising the qualification standards, by removing the general knowledge content currently covered on the Series 7 examination, since that content will be covered in the co-requisite SIE examination. In addition, the proposed revisions will further the purposes of the Act by updating the examination program to reflect changes to the laws, rules and regulations covered by the examination.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The updated examination aligns with the functions and associated tasks currently performed by a General Securities Representative and tests knowledge of the most current laws, rules, regulations and skills relevant to those functions and associated tasks. As such, the proposed revisions would make the examination more effective. FINRA also provided a detailed economic impact assessment regarding the introduction of the SIE examination and the restructuring of the representative-level examinations as part of the proposed rule change to restructure the FINRA representative-level qualification examination program.[23]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[24] and paragraph (f)(1) of Rule 19b–4 thereunder.[25] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2018–008 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–FINRA–2018–008. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2018–008, and should be submitted on or before March 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–03886 Filed 2–26–18; 8:45 am]

BILLING CODE 8011–01–P

[21] 15 U.S.C. 78*o*–3(b)(6).

[22] 15 U.S.C. 78*o*–3(g)(3).

[23] *See* Securities Exchange Act Release No. 80371 (April 4, 2017), 82 FR 17336 (April 10, 2017) (Notice of Filing of File No. SR–FINRA–2017–007).

[24] 15 U.S.C. 78s(b)(3)(A).

[25] 17 CFR 240.19b–4(f)(1).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82750; File No. SR–FINRA–2018–004]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Revise the Investment Banking Representative (Series 79) Examination

February 21, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 9, 2018, Financial Industry Regulatory

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as ''constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule'' under Section 19(b)(3)(A)(i) of the Act [3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing revisions to the content outline and selection specifications for the Investment Banking Representative (Series 79) examination as part of the restructuring of the representative-level examination program.[5] The proposed revisions also update the material to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by an Investment Banking Representative. In addition, FINRA is proposing to make changes to the format of the content outline. FINRA is not proposing any textual changes to the By-Laws, Schedules to the By-Laws or Rules of FINRA.

The revised Series 79 content outline is attached.[6] The revised Series 79 selection specifications have been submitted to the Commission under separate cover with a request for confidential treatment pursuant to SEA Rule 24b–2.[7]

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room. [sic]

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] FINRA also is proposing corresponding revisions to the Series 79 question bank. Based on instruction from SEC staff, FINRA is submitting this filing for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(1) thereunder, and is not filing the question bank. *See* Letter to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000. The question bank is available for SEC review.

[6] The Commission notes that the content outline is attached to the filing, not to this Notice.

[7] 17 CFR 240.24b–2.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 15A(g)(3) of the Act [8] authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. In accordance with that provision, FINRA has developed examinations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge, consistent with applicable registration requirements under FINRA rules. FINRA periodically reviews the content of the examinations to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

The SEC recently approved a proposed rule change to restructure the FINRA representative-level qualification examination program.[9] The rule change, which will become effective on October 1, 2018,[10] restructures the examination program into a new format whereby all new representative-level applicants will be required to take a general knowledge examination (the Securities Industry Essentials or SIE™) and a tailored, specialized knowledge examination (a revised representative-level qualification examination) for their particular registered role.

The restructured program eliminates duplicative testing of general securities knowledge on the current representative-level qualification examinations by moving such content into the SIE examination.[11] The SIE examination will test fundamental securities-related knowledge, including knowledge of basic products, the structure and function of the securities industry, the regulatory agencies and their functions and regulated and prohibited practices, whereas the revised representative-level qualification examinations will test knowledge relevant to day-to-day activities, responsibilities and job functions of representatives.[12]

As part of the restructuring process and in consultation with a committee of industry representatives, FINRA undertook a review of the Investment Banking Representative (Series 79) examination to remove the general securities knowledge currently covered on the examination and to create a tailored examination to test knowledge relevant to the day-to-day activities, responsibilities and job functions of an Investment Banking Representative. As a result of this review, FINRA also is proposing to revise the Series 79 content outline to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by an Investment Banking Representative. The proposed change will align the organization of the Series 79 content outline with the organization of the content outlines of the other revised representative-level examinations.[13] In addition, FINRA is proposing to make other changes to the format of the Series 79 content outline.

Beginning on October 1, 2018, new applicants seeking to register as Investment Banking Representatives must pass the SIE examination and the revised Investment Banking Representative (Series 79) examination.

[8] 15 U.S.C. 78*o*–3(g)(3).

[9] *See* Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR–FINRA–2017–007).

[10] *See Regulatory Notice* 17–30 (SEC Approves Consolidated FINRA Registration Rules, Restructured Representative-Level Qualification Examinations and Changes to Continuing Education Requirements) (October 2017).

[11] Each of the current representative-level examinations covers general securities knowledge, with the exception of the Research Analyst (Series 86 and 87) examinations.

[12] FINRA filed the SIE content outline with the SEC for immediate effectiveness. *See* Securities Exchange Act Release No. 82578 (January 24, 2018), 83 FR 4375 (January 30, 2018) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2018–002). In addition to the proposed rule change relating to the revised Series 79 examination, FINRA will file with the Commission for immediate effectiveness the content outlines for the other revised representative-level qualification examinations.

[13] FINRA currently has organized several FINRA qualification examinations, such as the Securities Trader (Series 57) examination, based on the functions that are performed by the respective registered persons and the associated tasks. FINRA is proposing similar layouts for all of the representative-level examinations, including the Series 79 examination.

Current Content Outline

The current Series 79 content outline is divided into four sections. The following are the four sections, denoted Section 1 through Section 4, with the associated number of questions:

1. Collection, Analysis, and Evaluation of Data, 75 questions;

2. Underwriting/New Financing Transactions, Types of Offerings and Registration of Securities, 43 questions;

3. Mergers and Acquisitions, Tender Offers and Financial Restructuring Transactions, 34 questions; and

4. General Securities Industry Regulations, 23 questions.

In addition, each section includes references to the applicable laws, rules and regulations associated with that section. The current content outline also includes a preface (addressing, among other things, the purpose, administration and scoring of the examination), sample questions and reference materials.

Revised Content Outline

As noted above, FINRA is proposing to move the general securities knowledge currently covered on the Series 79 examination to the SIE examination. For example, FINRA Rule 3220 (Influencing or Rewarding Employees of Others) (the Gifts Rule) will now be tested on the SIE examination, rather than on the Series 79 examination. As a result, the revised Series 79 examination will test knowledge specific to the day-to-day activities, responsibilities and job functions of an Investment Banking Representative.

Further, FINRA is proposing to reorganize the content outline by dividing it into three major job functions that are performed by an Investment Banking Representative. The following are the three major job functions, denoted Function 1 through Function 3, with the associated number of questions:

Function 1: Collection, Analysis and Evaluation of Data, 37 questions;

Function 2: Underwriting and New Financing Transactions, Types of Offerings and Registration of Securities, 20 questions; and

Function 3: Mergers and Acquisitions, Tender Offers and Financial Restructuring Transactions, 18 questions.

FINRA also is proposing to adjust the number of questions assigned to each major job function to ensure that the overall examination better reflects the key tasks performed by an Investment Banking Representative. The questions on the revised Series 79 examination will place emphasis on tasks such as advising on or facilitating debt or equity offerings through a private placement or public offering, and advising or facilitating mergers and acquisitions, tender offers, financial restructurings and asset sales.

Each function also includes specific tasks describing activities associated with performing that function. There are three tasks (1.1–1.3) associated with Function 1;[14] six tasks (2.1–2.6) associated with Function 2;[15] and six tasks (3.1–3.6) associated with Function 3.[16] For example, one such task (Task 1.3) is conducting due diligence.[17] Further, the content outline lists the knowledge required to perform each function and associated tasks (*e.g.,* due diligence processes on both the buy- and sell-sides). In addition, where applicable, the content outline lists the laws, rules and regulations a candidate is expected to know to perform each function and associated tasks (*e.g.,* SEC Rule 135a).

FINRA also is proposing to revise the content outline to reflect changes to the laws, rules and regulations covered by the examination. Among other revisions, FINRA is proposing to revise the content outline to reflect the adoption of new FINRA rules (*e.g.,* FINRA Rule 5131 (New Issue Allocations and Distributions)).

FINRA is proposing similar changes to the Series 79 selection specifications and question bank.

Finally, FINRA is proposing to make other changes to the format of the content outline, including to the preface, sample questions and reference materials.[18] Among other changes, FINRA is proposing to: (1) Reduce the preface to one page of introductory information; (2) streamline details regarding the purpose of the examination; (3) move the application procedures to FINRA's website; and (4) explain that the passing score is established using a standard setting procedure, and that a statistical adjustment process known as equating is used in scoring the examination.[19]

As a result of the proposed changes, the number of scored questions on the Series 79 examination will be reduced from 175 questions to 75 questions.[20] Further, the test time, which is the amount of time candidates will have to complete the examination, will be reduced from five hours to two hours and 30 minutes. Currently, a score of 73 percent is required to pass the examination. FINRA will publish the passing score of the revised Series 79 examination on its website, at *www.finra.org,* prior to its first administration.

Availability of Content Outline

The current Series 79 content outline is available on FINRA's website. The revised Series 79 content outline will replace the current content outline on FINRA's website, and it will be made available on the website on the date of this filing.

FINRA is filing the proposed rule change for immediate effectiveness. The implementation date will be October 1, 2018, to coincide with the implementation of the restructured representative-level examination program. FINRA will also announce the implementation date of the proposed rule change in a *Regulatory Notice.*

2. Statutory Basis

FINRA believes that the proposed revisions to the Series 79 examination program are consistent with the provisions of Section 15A(b)(6) of the Act,[21] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(g)(3) of the Act,[22] which authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. The proposed rule change will improve the examination program, without compromising the qualification standards, by removing the general knowledge content currently covered on the Series 79 examination, since that content will be covered in the co-requisite SIE examination. In addition, the proposed revisions will further the purposes of the Act by updating the examination program to reflect changes to the laws, rules and regulations covered by the examination and to

[14] *See* Exhibit 3a, Outline Pages 3–6. The outline is attached as Exhibit 3a to the 19b–4 form.

[15] *See* Exhibit 3a, Outline Pages 7–11.

[16] *See* Exhibit 3a, Outline Pages 12–15.

[17] *See* Exhibit 3a, Outline Pages 5–6.

[18] FINRA is proposing similar changes to the content outlines for other representative-level examinations.

[19] *See* Exhibit 3a, Outline Page 2.

[20] Consistent with FINRA's practice of including ''pretest'' questions on examinations, the Series 79 examination includes 10 additional, unidentified pretest questions that do not contribute towards the candidate's score. The pretest questions are designed to ensure that new examination questions meet acceptable testing standards prior to use for scoring purposes. Therefore, the Series 79 examination actually consists of 85 questions, 75 of which are scored. The 10 pretest questions are randomly distributed throughout the examination.

[21] 15 U.S.C. 78*o*–3(b)(6).

[22] 15 U.S.C. 78*o*–3(g)(3).

incorporate the functions and associated tasks currently performed by an Investment Banking Representative.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The updated examination aligns with the functions and associated tasks currently performed by an Investment Banking Representative and tests knowledge of the most current laws, rules, regulations and skills relevant to those functions and associated tasks. As such, the proposed revisions would make the examination more effective. FINRA also provided a detailed economic impact assessment regarding the introduction of the SIE examination and the restructuring of the representative-level examinations as part of the proposed rule change to restructure the FINRA representative-level qualification examination program.[23]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[24] and paragraph (f)(1) of Rule 19b–4 thereunder.[25] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2018–004 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–FINRA–2018–004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2018–004 and should be submitted on or before March 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–03889 Filed 2–26–18; 8:45 am]

BILLING CODE 8011–01–P

[23] *See* Securities Exchange Act Release No. 80371 (April 4, 2017), 82 FR 17336 (April 10, 2017) (Notice of Filing of File No. SR–FINRA–2017–007).

[24] 15 U.S.C. 78s(b)(3)(A).

[25] 17 CFR 240.19b–4(f)(1).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82748; File No. SR–FINRA–2018–009]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Revise the Direct Participation Programs Representative (Series 22) Examination

February 21, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 12, 2018, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as ''constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule'' under Section 19(b)(3)(A)(i) of the Act[3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing revisions to the content outline and selection specifications for the Direct Participation Programs Representative (Series 22) examination as part of the restructuring of the representative-level examination program.[5] The proposed revisions also update the material to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by a Direct Participation Programs

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] FINRA also is proposing corresponding revisions to the Series 22 question bank. Based on instruction from SEC staff, FINRA is submitting this filing for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(1) thereunder, and is not filing the question bank. *See* Letter to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000. The question bank is available for SEC review.

Representative. In addition, FINRA is proposing to make changes to the format of the content outline. FINRA is not proposing any textual changes to the By-Laws, Schedules to the By-Laws or Rules of FINRA.

The revised Series 22 content outline is attached.[6] The revised Series 22 selection specifications have been submitted to the Commission under separate cover with a request for confidential treatment pursuant to SEA Rule 24b–2.[7]

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room. [sic]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 15A(g)(3) of the Act [8] authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. In accordance with that provision, FINRA has developed examinations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge, consistent with applicable registration requirements under FINRA rules. FINRA periodically reviews the content of the examinations to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

The SEC recently approved a proposed rule change to restructure the FINRA representative-level qualification examination program.[9] The rule change, which will become effective on October 1, 2018,[10] restructures the examination program into a new format whereby all new representative-level applicants will be required to take a general knowledge examination (the Securities Industry Essentials or SIE ™) and a tailored, specialized knowledge examination (a revised representative-level qualification examination) for their particular registered role.

The restructured program eliminates duplicative testing of general securities knowledge on the current representative-level qualification examinations by moving such content into the SIE examination.[11] The SIE examination will test fundamental securities-related knowledge, including knowledge of basic products, the structure and function of the securities industry, the regulatory agencies and their functions and regulated and prohibited practices, whereas the revised representative-level qualification examinations will test knowledge relevant to day-to-day activities, responsibilities and job functions of representatives.[12]

As part of the restructuring process and in consultation with a committee of industry representatives, FINRA undertook a review of the Direct Participation Programs Representative (Series 22) examination to remove the general securities knowledge currently covered on the examination and to create a tailored examination to test knowledge relevant to the day-to-day activities, responsibilities and job functions of a Direct Participation Programs Representative. As a result of this review, FINRA also is proposing to revise the Series 22 content outline to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by a Direct Participation Programs Representative. The proposed change will align the organization of the Series 22 content outline with the organization of the content outlines of the other revised representative-level examinations.[13] In addition, FINRA is proposing to make other changes to the format of the Series 22 content outline.

Beginning on October 1, 2018, new applicants seeking to register as Direct Participation Programs Representatives must pass the SIE examination and the revised Direct Participation Programs Representative (Series 22) examination.

Current Content Outline

The current Series 22 content outline is divided into six sections. The following are the six sections, denoted Section 1 through Section 6, with the associated number of questions:

1. Investment Entities for Direct Participation Programs, 12 questions;
2. Types of Direct Participation Programs, 11 questions;
3. Offering Practices Applicable to Direct Participation Programs, 14 questions;
4. Tax Issues Applicable to Direct Participation Programs, 20 questions;
5. Regulation of Direct Participation Programs, 32 questions; and
6. Factors to Consider in Evaluating Direct Participation Programs, 11 questions.

In addition, each section includes references to the applicable laws, rules and regulations associated with that section. The current content outline also includes a preface (addressing, among other things, the purpose, administration and scoring of the examination), sample questions and reference materials.

Revised Content Outline

As noted above, FINRA is proposing to move the general securities knowledge currently covered on the Series 22 examination to the SIE examination. For example, FINRA Rule 3220 (Influencing or Rewarding Employees of Others) (the Gifts Rule) will now be tested on the SIE examination, rather than on the Series 22 examination. As a result, the revised Series 22 examination will test knowledge specific to the day-to-day activities, responsibilities and job functions of a Direct Participation Programs Representative.

[6] The Commission notes that the content outline is attached to the filing, not to this Notice.

[7] 17 CFR 240.24b–2.

[8] 15 U.S.C. 78*o*–3(g)(3).

[9] *See* Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR–FINRA–2017–007).

[10] *See Regulatory Notice* 17–30 (SEC Approves Consolidated FINRA Registration Rules, Restructured Representative-Level Qualification Examinations and Changes to Continuing Education Requirements) (October 2017).

[11] Each of the current representative-level examinations covers general securities knowledge, with the exception of the Research Analyst (Series 86 and 87) examinations.

[12] FINRA filed the SIE content outline with the SEC for immediate effectiveness. *See* Securities Exchange Act Release No. 82578 (January 24, 2018), 83 FR 4375 (January 30, 2018) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2018–002). In addition to the proposed rule change relating to the revised Series 22 examination, FINRA is filing with the Commission for immediate effectiveness the content outlines for the other revised representative-level qualification examinations.

[13] FINRA currently has organized several FINRA qualification examinations, such as the Securities Trader (Series 57) examination, based on the functions that are performed by the respective registered persons and the associated tasks. FINRA is proposing similar layouts for all of the representative-level examinations, including the Series 22 examination.

Further, FINRA is proposing to reorganize the content outline by dividing it into four major job functions that are performed by a Direct Participation Programs Representative. The proposed change aligns the major job functions performed by a Direct Participation Programs Representative with the major job functions performed by other sales representatives, including Investment Company and Variable Contracts Products Representatives, General Securities Representatives and Private Securities Offerings Representatives. The following are the four major job functions, denoted Function 1 through Function 4, with the associated number of questions:

Function 1: Seeks Business for the Broker-Dealer from Customers and Potential Customers, 17 questions;

Function 2: Opens Accounts After Obtaining and Evaluating Customers' Financial Profile and Investment Objectives, 4 questions;

Function 3: Provides Customers with Information About Investments, Makes Suitable Recommendations, Transfers Assets and Maintains Appropriate Records, 27 questions; and

Function 4: Obtains and Verifies Customers' Purchase Instructions and Agreements; Processes, Completes and Confirms Transactions, 2 questions.

FINRA also is proposing to adjust the number of questions assigned to each major job function to ensure that the overall examination better reflects the key tasks performed by a Direct Participation Programs Representative. The questions on the revised Series 22 examination will place emphasis on tasks such as seeking business for the broker-dealer from customers and potential customers, opening customer accounts, providing customers with suitable recommendations and verifying customer agreements and transactions.

Each function also includes specific tasks describing activities associated with performing that function. There are two tasks (1.1—1.2) associated with Function 1;[14] four tasks (2.1—2.4) associated with Function 2; [15] four tasks (3.1—3.4) associated with Function 3; [16] and three tasks (4.1—4.3) associated with Function 4.[17] For example, one such task (Task 1.1) is contacting current and potential customers in person and by telephone, mail and electronic means, developing promotional and advertising materials and seeking appropriate approvals to distribute marketing materials.[18] The content outline also lists the knowledge required to perform each function and associated tasks (*e.g.,* standards and required approvals of communications). In addition, where applicable, the content outline lists the laws, rules and regulations a candidate is expected to know to perform each function and associated tasks (*e.g.,* FINRA Rule 2111 (Suitability)).

FINRA also is proposing to revise the content outline to reflect changes to the laws, rules and regulations covered by the examination. Among other revisions, FINRA is proposing to revise the content outline to reflect the adoption of new FINRA rules (*e.g.,* FINRA Rule 2273 (Educational Communication Related to Recruitment Practices and Account Transfers)).

FINRA is proposing similar changes to the Series 22 selection specifications and question bank.

Finally, FINRA is proposing to make other changes to the format of the content outline, including to the preface, sample questions and reference materials.[19] Among other changes, FINRA is proposing to: (1) Reduce the preface to one page of introductory information; (2) streamline details regarding the purpose of the examination; (3) move the application procedures to FINRA's website; and (4) explain that the passing score is established using a standard setting procedure, and that a statistical adjustment process known as equating is used in scoring the examination.[20]

As a result of the proposed changes, the number of scored questions on the Series 22 examination will be reduced from 100 questions to 50 questions.[21] Further, the test time, which is the amount of time candidates will have to complete the examination, will be reduced from two hours and 30 minutes to one hour and 30 minutes. Currently, a score of 70 percent is required to pass the examination. FINRA will publish the passing score of the revised Series 22 examination on its website, at *www.finra.org,* prior to its first administration.

Availability of Content Outline

The current Series 22 content outline is available on FINRA's website. The revised Series 22 content outline will replace the current content outline on FINRA's website, and it will be made available on the website on the date of this filing.

FINRA is filing the proposed rule change for immediate effectiveness. The implementation date will be October 1, 2018, to coincide with the implementation of the restructured representative-level examination program. FINRA will also announce the implementation date of the proposed rule change in a *Regulatory Notice*.

2. Statutory Basis

FINRA believes that the proposed revisions to the Series 22 examination program are consistent with the provisions of Section 15A(b)(6) of the Act,[22] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(g)(3) of the Act,[23] which authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. The proposed rule change will improve the examination program, without compromising the qualification standards, by removing the general knowledge content currently covered on the Series 22 examination, since that content will be covered in the co-requisite SIE examination. In addition, the proposed revisions will further the purposes of the Act by updating the examination program to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by a Direct Participation Programs Representative.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The updated examination aligns with the functions and associated tasks currently performed by a Direct Participation Programs Representative and tests knowledge of the most current laws,

[14] *See* Exhibit 3a, Outline Pages 3–4. The outline is attached as Exhibit 3a to the 19b–4 form.

[15] *See* Exhibit 3a, Outline Pages 5–6.

[16] *See* Exhibit 3a, Outline Pages 7–10.

[17] *See* Exhibit 3a, Outline Pages 11–12.

[18] *See* Exhibit 3a, Outline Page 3.

[19] FINRA is proposing similar changes to the content outlines for other representative-level examinations.

[20] *See* Exhibit 3a, Outline Page 2.

[21] Consistent with FINRA's practice of including ''pretest'' questions on examinations, the Series 22 examination includes five additional, unidentified pretest questions that do not contribute towards the candidate's score. The pretest questions are designed to ensure that new examination questions meet acceptable testing standards prior to use for scoring purposes. Therefore, the Series 22 examination actually consists of 55 questions, 50 of which are scored. The five pretest questions are randomly distributed throughout the examination.

[22] 15 U.S.C. 78*o*–3(b)(6).

[23] 15 U.S.C. 78*o*–3(g)(3).

rules, regulations and skills relevant to those functions and associated tasks. As such, the proposed revisions would make the examination more effective. FINRA also provided a detailed economic impact assessment regarding the introduction of the SIE examination and the restructuring of the representative-level examinations as part of the proposed rule change to restructure the FINRA representative-level qualification examination program.[24]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[25] and paragraph (f)(1) of Rule 19b–4 thereunder.[26] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2018–009 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–FINRA–2018–009. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2018–009, and should be submitted on or before March 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–03887 Filed 2–26–18; 8:45 am]

BILLING CODE 8011–01–P

[24] *See* Securities Exchange Act Release No. 80371 (April 4, 2017), 82 FR 17336 (April 10, 2017) (Notice of Filing of File No. SR–FINRA–2017–007).

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(1).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82757; File No. SR–NASDAQ–2017–128]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade the Shares of the Western Asset Total Return ETF

February 21, 2018.

On December 20, 2017, The Nasdaq Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the Western Asset Total Return ETF, a series of Legg Mason ETF Investment Trust under Nasdaq Rule 5735. The proposed rule change was published for comment in the **Federal Register** on January 9, 2018.[3] The Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is February 23, 2018. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates April 9, 2018, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File Number SR–NASDAQ–2017–128).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–03895 Filed 2–26–18; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 82439 (Jan. 3, 2018), 83 FR 1062.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82754; File No. SR–FINRA–2018–007]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Revise the Investment Company and Variable Contracts Products Representative (Series 6) Examination

February 21, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 12, 2018, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as ''constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule'' under Section 19(b)(3)(A)(i) of the Act[3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing revisions to the content outline and selection specifications for the Investment Company and Variable Contracts Products Representative (Series 6) examination as part of the restructuring of the representative-level examination program.[5] The proposed revisions also update the material to reflect changes to the laws, rules and regulations covered by the examination. In addition, FINRA is proposing to make changes to the format of the content outline. FINRA is not proposing any textual changes to the By-Laws, Schedules to the By-Laws or Rules of FINRA.

The revised Series 6 content outline is attached.[6] The revised Series 6 selection specifications have been submitted to the Commission under separate cover with a request for confidential treatment pursuant to SEA Rule 24b–2.[7]

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room. [sic]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 15A(g)(3) of the Act[8] authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. In accordance with that provision, FINRA has developed examinations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge, consistent with applicable registration requirements under FINRA rules. FINRA periodically reviews the content of the examinations to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

The SEC recently approved a proposed rule change to restructure the FINRA representative-level qualification examination program.[9] The rule change, which will become effective on October 1, 2018,[10] restructures the examination program into a new format whereby all new representative-level applicants will be required to take a general knowledge examination (the Securities Industry Essentials or SIE™) and a tailored, specialized knowledge examination (a revised representative-level qualification examination) for their particular registered role.

The restructured program eliminates duplicative testing of general securities knowledge on the current representative-level qualification examinations by moving such content into the SIE examination.[11] The SIE examination will test fundamental securities-related knowledge, including knowledge of basic products, the structure and function of the securities industry, the regulatory agencies and their functions and regulated and prohibited practices, whereas the revised representative-level qualification examinations will test knowledge relevant to day-to-day activities, responsibilities and job functions of representatives.[12]

As part of the restructuring process and in consultation with a committee of industry representatives, FINRA undertook a review of the Investment Company and Variable Contracts Products Representative (Series 6) examination to remove the general securities knowledge currently covered on the examination and to create a tailored examination to test knowledge relevant to the day-to-day activities, responsibilities and job functions of an Investment Company and Variable Contracts Products Representative. As a result of this review, FINRA also is proposing to revise the Series 6 content outline to reflect changes to the laws, rules and regulations covered by the examination. In addition, FINRA is proposing to make changes to the format of the Series 6 content outline.

Beginning on October 1, 2018, new applicants seeking to register as

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] FINRA also is proposing corresponding revisions to the Series 6 question bank. Based on instruction from SEC staff, FINRA is submitting this filing for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(1) thereunder, and is not filing the question bank. *See* Letter to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000. The question bank is available for SEC review.

[6] The Commission notes that the content outline is attached to the filing, not to this Notice.

[7] 17 CFR 240.24b–2.

[8] 15 U.S.C. 78*o*–3(g)(3).

[9] *See* Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR–FINRA–2017–007).

[10] *See Regulatory Notice* 17–30 (SEC Approves Consolidated FINRA Registration Rules, Restructured Representative-Level Qualification Examinations and Changes to Continuing Education Requirements) (October 2017).

[11] Each of the current representative-level examinations covers general securities knowledge, with the exception of the Research Analyst (Series 86 and 87) examinations.

[12] FINRA filed the SIE content outline with the SEC for immediate effectiveness. *See* Securities Exchange Act Release No. 82578 (January 24, 2018), 83 FR 4375 (January 30, 2018) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2018–002). In addition to the proposed rule change relating to the revised Series 6 examination, FINRA is filing with the Commission for immediate effectiveness the content outlines for the other revised representative-level qualification examinations.

Investment Company and Variable Contracts Products Representatives must pass the SIE examination and the revised Investment Company and Variable Contracts Products Representative (Series 6) examination.

Current Content Outline

The current Series 6 content outline is divided into four major job functions that are performed by an Investment Company and Variable Contracts Products Representative. The following are the four major job functions, denoted Function 1 through Function 4, with the associated number of questions:

Function 1: Regulatory fundamentals and business development, 22 questions;

Function 2: Evaluates customers' financial information, identifies investment objectives, provides information on investment products, and makes suitable recommendations, 47 questions;

Function 3: Opens, maintains, transfers and closes accounts and retains appropriate account records, 21 questions; and

Function 4: Obtains, verifies, and confirms customer purchase and sale instructions, 10 questions.

Each function also includes specific tasks describing activities associated with performing that function. There are four tasks (1.1–1.4) associated with Function 1; four tasks (2.1–2.4) associated with Function 2; three tasks (3.1–3.3) associated with Function 3; and two tasks (4.1–4.2) associated with Function 4. For example, one such task (Task 2.1) is to gather customers' financial and non-financial information to identify, analyze, and assess risk tolerance, investment experience and sophistication level. Further, the content outline lists the knowledge required to perform each function and associated tasks (*e.g.,* account authorizations and legal documents). In addition, where applicable, the content outline lists the laws, rules and regulations a candidate is expected to know to perform each function and associated tasks. These include applicable federal securities laws, as well as FINRA and other self-regulatory organization rules and regulations. The current content outline also includes a preface (*e.g.,* table of contents, details regarding the purpose of the examination and eligibility requirements), sample questions and reference materials.

Revised Content Outline

As noted above, FINRA is proposing to move the general securities knowledge currently covered on the Series 6 examination to the SIE examination. For example, FINRA Rule 3220 (Influencing or Rewarding Employees of Others) (the Gifts Rule) will now be tested on the SIE examination, rather than on the Series 6 examination. As a result, the revised Series 6 examination will test knowledge specific to the day-to-day activities, responsibilities and job functions of an Investment Company and Variable Contracts Products Representative.

Further, FINRA is proposing to make changes to the major job functions that are performed by an Investment Company and Variable Contracts Products Representative. The proposed change aligns the major job functions performed by an Investment Company and Variable Contracts Products Representative with the major job functions performed by other sales representatives, including General Securities Representatives, Direct Participation Programs Representatives and Private Securities Offerings Representatives. The following are the revised job functions, denoted Function 1 through Function 4, with the associated number of questions:

Function 1: Seeks Business for the Broker-Dealer from Customers and Potential Customers, 12 questions;

Function 2: Opens Accounts After Obtaining and Evaluating Customers' Financial Profile and Investment Objectives, 8 questions;

Function 3: Provides Customers with Information About Investments, Makes Suitable Recommendations, Transfers Assets and Maintains Appropriate Records, 25 questions; and

Function 4: Obtains and Verifies Customers' Purchase and Sales Instructions; Processes, Completes and Confirms Transactions, 5 questions.

FINRA also is proposing to adjust the number of questions assigned to each major job function to ensure that the overall examination better reflects the key tasks performed by an Investment Company and Variable Contracts Products Representative. The questions on the revised Series 6 examination will place emphasis on tasks such as seeking business for the broker-dealer from customers and potential customers, opening customer accounts, providing customers with suitable recommendations and verifying customer agreements and transactions.

Further, FINRA is proposing to make changes to the specific tasks associated with performing each function. There are two tasks (1.1–1.2) associated with Function 1;[13] four tasks (2.1–2.4) associated with Function 2;[14] four tasks (3.1–3.4) associated with Function 3;[15] and three tasks (4.1–4.3) associated with Function 4.[16] For example, one such task (Task 1.1) is contacting current and potential customers in person and by telephone, mail and electronic means, developing promotional and advertising materials and seeking appropriate approvals to distribute marketing materials.[17] The content outline also lists the knowledge required to perform each revised function and associated tasks (*e.g.,* standards and required approvals of communications). In addition, where applicable, the content outline lists the laws, rules and regulations a candidate is expected to know to perform each revised function and associated tasks (*e.g.,* FINRA Rule 2111 (Suitability)).

FINRA also is proposing to revise the content outline to reflect changes to the laws, rules and regulations covered by the examination. Among other revisions, FINRA is proposing to revise the content outline to reflect the adoption of new FINRA rules (*e.g.,* FINRA Rule 2273 (Educational Communication Related to Recruitment Practices and Account Transfers)).

FINRA is proposing similar changes to the Series 6 selection specifications and question bank.

Finally, FINRA is proposing to make changes to the format of the content outline, including to the preface, sample questions and reference materials.[18] Among other changes, FINRA is proposing to: (1) Reduce the preface to one page of introductory information; (2) streamline details regarding the purpose of the examination; (3) move the application procedures to FINRA's website; and (4) explain that the passing score is established using a standard setting procedure, and that a statistical adjustment process known as equating is used in scoring the examination.[19]

As a result of the proposed changes, the number of scored questions on the Series 6 examination will be reduced from 100 questions to 50 questions.[20]

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[13] *See* Exhibit 3a, Outline Pages 3–4. The outline is attached as Exhibit 3a to the 19b–4 form.

[14] *See* Exhibit 3a, Outline Pages 5–6.

[15] *See* Exhibit 3a, Outline Pages 7–10.

[16] *See* Exhibit 3a, Outline Pages 11–12.

[17] *See* Exhibit 3a, Outline Page 3.

[18] FINRA is proposing similar changes to the content outlines for other representative-level examinations.

[19] *See* Exhibit 3a, Outline Page 2.

[20] Consistent with FINRA's practice of including ''pretest'' questions on examinations, the Series 6 examination includes five additional, unidentified pretest questions that do not contribute towards the candidate's score. The pretest questions are designed to ensure that new examination questions

Further, the test time, which is the amount of time candidates will have to complete the examination, will be reduced from two hours and 15 minutes to one hour and 30 minutes. Currently, a score of 70 percent is required to pass the examination. FINRA will publish the passing score of the revised Series 6 examination on its website, at *www.finra.org,* prior to its first administration.

Availability of Content Outline

The current Series 6 content outline is available on FINRA's website. The revised Series 6 content outline will replace the current content outline on FINRA's website, and it will be made available on the website on the date of this filing.

FINRA is filing the proposed rule change for immediate effectiveness. The implementation date will be October 1, 2018, to coincide with the implementation of the restructured representative-level examination program. FINRA will also announce the implementation date of the proposed rule change in a *Regulatory Notice.*

2. Statutory Basis

FINRA believes that the proposed revisions to the Series 6 examination program are consistent with the provisions of Section 15A(b)(6) of the Act,[21] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(g)(3) of the Act,[22] which authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. The proposed rule change will improve the examination program, without compromising the qualification standards, by removing the general knowledge content currently covered on the Series 6 examination, since that content will be covered in the co-requisite SIE examination. In addition, the proposed revisions will further the purposes of the Act by updating the examination program to reflect changes to the laws, rules and regulations covered by the examination.

meet acceptable testing standards prior to use for scoring purposes. Therefore, the Series 6 examination actually consists of 55 questions, 50 of which are scored. The five pretest questions are randomly distributed throughout the examination.

[21] 15 U.S.C. 78*o*–3(b)(6).

[22] 15 U.S.C. 78*o*–3(g)(3).

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The updated examination aligns with the functions and associated tasks currently performed by an Investment Company and Variable Contracts Products Representative and tests knowledge of the most current laws, rules, regulations and skills relevant to those functions and associated tasks. As such, the proposed revisions would make the examination more effective. FINRA also provided a detailed economic impact assessment regarding the introduction of the SIE examination and the restructuring of the representative-level examinations as part of the proposed rule change to restructure the FINRA representative-level qualification examination program.[23]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [24] and paragraph (f)(1) of Rule 19b–4 thereunder.[25] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[23] *See* Securities Exchange Act Release No. 80371 (April 4, 2017), 82 FR 17336 (April 10, 2017) (Notice of Filing of File No. SR–FINRA–2017–007).

[24] 15 U.S.C. 78s(b)(3)(A).

[25] 17 CFR 240.19b–4(f)(1).

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2018–007 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–FINRA–2018–007. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2018–007 and should be submitted on or before March 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–03893 Filed 2–26–18; 8:45 am]

BILLING CODE 8011–01–P

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82752; File No. SR–FINRA–2018–006]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Revise the Operations Professional (Series 99) Examination

February 21, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 9, 2018, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as ''constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule'' under Section 19(b)(3)(A)(i) of the Act[3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing revisions to the content outline and selection specifications for the Operations Professional (Series 99) examination as part of the restructuring of the representative-level examination program.[5] The proposed revisions also update the material to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by an Operations Professional. In addition, FINRA is proposing to make changes to the format of the content outline. FINRA is not proposing any textual changes to the By-Laws, Schedules to the By-Laws or Rules of FINRA.

The revised Series 99 content outline is attached.[6] The revised Series 99 selection specifications have been submitted to the Commission under separate cover with a request for confidential treatment pursuant to SEA Rule 24b–2.[7]

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room. [sic]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 15A(g)(3) of the Act[8] authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. In accordance with that provision, FINRA has developed examinations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge, consistent with applicable registration requirements under FINRA rules. FINRA periodically reviews the content of the examinations to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

The SEC recently approved a proposed rule change to restructure the FINRA representative-level qualification examination program.[9] The rule change, which will become effective on October 1, 2018,[10] restructures the examination program into a new format whereby all new representative-level applicants will be required to take a general knowledge examination (the Securities Industry Essentials or SIE™) and a tailored, specialized knowledge examination (a revised representative-level qualification examination) for their particular registered role.

The restructured program eliminates duplicative testing of general securities knowledge on the current representative-level qualification examinations by moving such content into the SIE examination.[11] The SIE examination will test fundamental securities-related knowledge, including knowledge of basic products, the structure and function of the securities industry, the regulatory agencies and their functions and regulated and prohibited practices, whereas the revised representative-level qualification examinations will test knowledge relevant to day-to-day activities, responsibilities and job functions of representatives.[12]

As part of the restructuring process and in consultation with a committee of industry representatives, FINRA undertook a review of the Operations Professional (Series 99) examination to remove the general securities knowledge currently covered on the examination and to create a tailored examination to test knowledge relevant to the day-to-day activities, responsibilities and job functions of an Operations Professional. As a result of this review, FINRA also is proposing to revise the Series 99 content outline to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by an Operations Professional. The proposed change will align the organization of the Series 99 content outline with the organization of the content outlines of the other revised

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] FINRA also is proposing corresponding revisions to the Series 79 question bank. Based on instruction from SEC staff, FINRA is submitting this filing for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(1) thereunder, and is not filing the question bank. *See* Letter to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000. The question bank is available for SEC review.

[6] The Commission notes that the content outline is attached to the filing, not to this Notice.

[7] 17 CFR 240.24b–2.

[8] 15 U.S.C. 78*o*–3(g)(3).

[9] *See* Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR–FINRA–2017–007).

[10] *See Regulatory Notice* 17–30 (SEC Approves Consolidated FINRA Registration Rules, Restructured Representative-Level Qualification Examinations and Changes to Continuing Education Requirements) (October 2017).

[11] Each of the current representative-level examinations covers general securities knowledge, with the exception of the Research Analyst (Series 86 and 87) examinations.

[12] FINRA filed the SIE content outline with the SEC for immediate effectiveness. *See* Securities Exchange Act Release No. 82578 (January 24, 2018), 83 FR 4375 (January 30, 2018) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2018–002). In addition to the proposed rule change relating to the revised Series 79 examination, FINRA will file with the Commission for immediate effectiveness the content outlines for the other revised representative-level qualification examinations.

representative-level examinations.[13] In addition, FINRA is proposing to make other changes to the format of the Series 99 content outline.

Beginning on October 1, 2018, new applicants seeking to register as Operations Professionals must pass the SIE examination and the revised Operations Professional (Series 99) examination.

Current Content Outline

The current Series 99 content outline is divided into three sections. The following are the three sections, denoted Section 1 through Section 3, with the associated number of questions:

Section 1: Basic Knowledge Associated With the Securities Industry, 32 questions;

Section 2: Basic Knowledge Associated With Broker-Dealer Operations, 48 questions; and

Section 3: Professional Conduct and Ethical Considerations, 20 questions.

In addition, each section includes references to the applicable laws, rules and regulations associated with that section. The current content outline also includes a preface (addressing, among other things, the purpose, administration and scoring of the examination), sample questions and reference materials.

Revised Content Outline

As noted above, FINRA is proposing to move the general securities knowledge currently covered on the Series 99 examination to the SIE examination. For example, FINRA Rule 3220 (Influencing or Rewarding Employees of Others) (the Gifts Rule) will now be tested on the SIE examination, rather than on the Series 99 examination. As a result, the revised Series 99 examination will test knowledge specific to the day-to-day activities, responsibilities and job functions of an Operations Professional.

Further, FINRA is proposing to reorganize the content outline by dividing it into two major job functions that are performed by an Operations Professional. The following are the two major job functions, denoted Function 1 and Function 2, with the associated number of questions:

Function 1: Knowledge Associated With the Securities Industry and Broker-Dealer Operations, 35 questions; and

Function 2: Professional Conduct and Ethical Considerations, 15 questions.

FINRA also is proposing to adjust the number of questions assigned to each major job function to ensure that the overall examination better reflects the key tasks performed by an Operations Professional. The questions on the revised Series 99 examination will place emphasis on tasks such as broker-dealer operations.

Each function also includes specific tasks describing activities associated with performing that function. There are nine tasks (1.1–1.9) associated with Function 1[14] and four tasks (2.1–2.4) associated with Function 2.[15] For example, one such task (Task 1.1) is opening and maintaining accounts.[16] Further, the content outline lists the knowledge required to perform each function and associated tasks (*e.g.,* types of retail, institutional and prime brokerage customer accounts). In addition, where applicable, the content outline lists the laws, rules and regulations a candidate is expected to know to perform each function and associated tasks (*e.g.,* SEA Rule 15c3–3 (Customer Protection—Reserves and Custody of Securities)).

FINRA also is proposing to revise the content outline to reflect changes to the laws, rules and regulations covered by the examination. Among other revisions, FINRA is proposing to revise the content outline to reflect the adoption of rules in the consolidated FINRA rulebook (*e.g.,* FINRA Rule 3120 (Supervisory Control System) replaces NASD Rule 3012 (Supervisory Control System)).[17]

FINRA is proposing similar changes to the Series 99 selection specifications and question bank.

Finally, FINRA is proposing to make other changes to the format of the content outline, including to the preface, sample questions and reference materials.[18] Among other changes, FINRA is proposing to: (1) Reduce the preface to one page of introductory information; (2) streamline details regarding the purpose of the examination; (3) move the application procedures to FINRA's website; and (4) explain that the passing score is established using a standard setting procedure, and that a statistical adjustment process known as equating is used in scoring the examination.[19]

As a result of the proposed changes, the number of scored questions on the Series 99 examination will be reduced from 100 questions to 50 questions.[20] Further, the test time, which is the amount of time candidates will have to complete the examination, will be reduced from two hours and 30 minutes to one hour and 30 minutes. Currently, a score of 68 percent is required to pass the examination. FINRA will publish the passing score of the revised Series 99 examination on its website, at *www.finra.org,* prior to its first administration.

Availability of Content Outline

The current Series 99 content outline is available on FINRA's website. The revised Series 99 content outline will replace the current content outline on FINRA's website, and it will be made available on the website on the date of this filing.

FINRA is filing the proposed rule change for immediate effectiveness. The implementation date will be October 1, 2018, to coincide with the implementation of the restructured representative-level examination program. FINRA will also announce the implementation date of the proposed rule change in a *Regulatory Notice*.

2. Statutory Basis

FINRA believes that the proposed revisions to the Series 99 examination program are consistent with the provisions of Section 15A(b)(6) of the Act,[21] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(g)(3) of the Act,[22] which authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. The proposed rule change will improve the examination program, without compromising the qualification standards, by removing the general

[13] FINRA currently has organized several FINRA qualification examinations, such as the Securities Trader (Series 57) examination, based on the functions that are performed by the respective registered persons and the associated tasks. FINRA is proposing similar layouts for all of the representative-level examinations, including the Series 79 examination.

[14] *See* Exhibit 3a, Outline Pages 3–7. The outline is attached as Exhibit 3a to the 19b–4 form.

[15] *See* Exhibit 3a, Outline Pages 8–9.

[16] *See* Exhibit 3a, Outline Page 3.

[17] *See* Rule Conversion Chart, available at *http://www.finra.org/industry/finra-rule-consolidation.*

[18] FINRA is proposing similar changes to the content outlines for other representative-level examinations.

[19] *See* Exhibit 3a, Outline Pages 2.

[20] Consistent with FINRA's practice of including ''pretest'' questions on examinations, the Series 99 examination includes five additional, unidentified pretest questions that do not contribute towards the candidate's score. The pretest questions are designed to ensure that new examination questions meet acceptable testing standards prior to use for scoring purposes. Therefore, the Series 99 examination actually consists of 55 questions, 50 of which are scored. The five pretest questions are randomly distributed throughout the examination.

[21] 15 U.S.C. 78*o*–3(b)(6).

[22] 15 U.S.C. 78*o*–3(g)(3).

knowledge content currently covered on the Series 99 examination, since that content will be covered in the co-requisite SIE examination. In addition, the proposed revisions will further the purposes of the Act by updating the examination program to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by an Operations Professional.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The updated examination aligns with the functions and associated tasks currently performed by an Operations Professional and tests knowledge of the most current laws, rules, regulations and skills relevant to those functions and associated tasks. As such, the proposed revisions would make the examination more effective. FINRA also provided a detailed economic impact assessment regarding the introduction of the SIE examination and the restructuring of the representative-level examinations as part of the proposed rule change to restructure the FINRA representative-level qualification examination program.[23]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [24] and paragraph (f)(1) of Rule 19b–4 thereunder.[25] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2018–006 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–FINRA–2018–006. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2018–006 and should be submitted on or before March 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–03891 Filed 2–26–18; 8:45 am]

BILLING CODE 8011–01–P

[23] *See* Securities Exchange Act Release No. 80371 (April 4, 2017), 82 FR 17336 (April 10, 2017) (Notice of Filing of File No. SR–FINRA–2017–007).

[24] 15 U.S.C. 78s(b)(3)(A).

[25] 17 CFR 240.19b–4(f)(1).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82756; File No. SR–PEARL–2018–02]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing of a Proposed Rule Change To Adopt Rules Relating to Trading in Index Options

February 21, 2018.

Pursuant to the provisions of 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 February 8, 2018, MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt rules relating to trading in index options.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL's principal office, 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 is proposing to adopt new rules and amend existing rules to allow the Exchange to list and trade options on indices. The proposed rules include listing and maintenance criteria for options on underlying indices, rules on dissemination of index values, position and exercise limits for index options, exemptions from the limits, and terms of index options contracts. All of the proposed rules and changes to existing Exchange rules are based on existing rules of other options exchanges.[3] The proposed rules are intended to expand the Exchange's capability to introduce and trade both existing and new and innovative index products on the MIAX PEARL System.[4]

Because the rules related to trading options on indices are product specific in many areas, the Exchange will need to file additional proposed rule changes with the Securities and Exchange Commission (''SEC'' or ''Commission'') when the Exchange identifies specific products.[5] For purposes of this proposed rule change, certain rules indicate that they apply to ''Specified'' indices. Proposed MIAX PEARL Rules 1800, 1801(n), 1804(a), 1807(a), 1809, and 1811 all contain provisions that are dependent upon the Exchange identifying specific index products in the rule. Accordingly, MIAX PEARL Rule 1800 states that where the rules in Chapter XVIII indicate that particular indices or requirements with respect to particular indices will be ''Specified,'' MIAX PEARL's rules will be amended when MIAX Options[6] files a proposed rule change with the Commission pursuant to Section 19 of the Act[7] and Rule 19b–4[8] thereunder to specify such indices or requirements.

MIAX PEARL proposes to adopt new Chapter XVIII to the Exchange's rules, which incorporate by reference Chapter XVIII of rules of the Exchange's affiliate, MIAX Options.[9] In addition, MIAX PEARL proposes to amend Exchange Rule 504, Trading Halts. The Exchange notes that MIAX Options filed a substantially similar proposed rule change to adopt rules relating to trading index options (the ''MIAX Options Rule Filing''), which was approved by the Commission on September 27, 2017.[10] The Exchange also notes that the MIAX Options Rule Filing proposed rule amendments to MIAX Options Rule 308, Exemptions from Position Limits; MIAX Options Rule 313, Other Restrictions on Options Transactions and Exercises; and MIAX Options Rule 700, Exercise of Option Contracts, all of which have already been incorporated by reference into MIAX PEARL's rules, and thus are already applicable to MIAX PEARL members.[11] Each of the proposed rules to be incorporated by reference are discussed in detail below, but the text of the proposed rule change as set forth in Exhibit 5 of this rule filing specifies that the rules contained in MIAX Options Chapter XVIII are hereby incorporated by reference into these MIAX PEARL Rules, and are thus MIAX PEARL Rules and thereby applicable to MIAX PEARL Members.

Specifically, the rule provides: ''[t]he rules contained in MIAX Options Exchange Chapter XVIII, as such rules may be in effect from time to time (the ''Chapter XVIII Rules''), are hereby incorporated by reference into this MIAX PEARL Chapter XVIII, and are thus MIAX PEARL Rules and thereby applicable to MIAX PEARL Members. MIAX PEARL Members shall comply with the Chapter XVIII Rules as though such rules were fully-set forth herein. All defined terms, including any variations thereof, contained in Chapter XVIII Rules shall be read to refer to the MIAX PEARL related meaning of such term. Solely by way of example, and not in limitation or in exhaustion: The defined term ''Exchange'' in Chapter XVIII Rules shall be read to refer to MIAX PEARL; the defined term ''Rule'' in the Chapter XVIII Rules shall be read to refer to the MIAX PEARL Rule; and the defined term ''Member'' in the Chapter XVIII Rules shall be read to refer to the MIAX PEARL Member. Any reference to MIAX Options Rule 506(d) will be construed to reference corresponding MIAX PEARL Rule 506(e).''

Proposed Index Rules

The Exchange is proposing to adopt Chapter XVIII, Index Options, in the MIAX PEARL Rules. Proposed Rule 1800, Application of Index Rules, states that the Rules in proposed Chapter XVIII are applicable only to index options (options on indices of securities as defined below). The Rules in current Chapters I through XVII are also applicable to the options provided for in proposed Chapter XVIII, unless such current Rules are specifically replaced or are supplemented by Rules in Chapter XVIII. Where the Rules in Chapter XVIII indicate that particular indices or requirements with respect to particular indices will be ''Specified,'' the Exchange shall file a proposed rule change with the Commission to specify such indices or requirements.[12]

Definitions

Proposed MIAX PEARL Rule 1801, Definitions, contains the necessary definitions for index options trading.[13] Specifically, the following definitions will apply to index options on MIAX PEARL:

(a) The term ''aggregate exercise price'' means the exercise price of the options contract times the index multiplier.

(b) The term ''American-style index option'' means an option on an industry or market index that can be exercised on any business day prior to expiration, including the business day of expiration in the case of an option contract expiring on a business day.

(c) The term ''A.M.-settled index option'' means an index options contract for which the current index value at expiration shall be determined as provided in Rule 1809(a)(5).[14]

[3] *See* Miami International Securities Exchange, LLC (''MIAX Options'') Rules, Chapter XVIII, Index Options; Nasdaq ISE, (''Nasdaq ISE'') Rules, Chapter 20, Index Rules; Nasdaq PHLX (''Phlx'') Rules 1000A–1108A; and Cboe Options Exchange (''Cboe'') Rules, Chapter XXIV, Index Options.

[4] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[5] The Exchange proposes to separately file a request for an exemption from the rule filing requirements of Section 19(b) of the Act for changes to MIAX PEARL Chapter XVIII to the extent such rules are effected solely by virtue of a change to MIAX Options Chapter XVIII, including when MIAX Options identifies specific new products to list.

[6] *See id.*

[7] 15 U.S.C. 78s.

[8] 17 CFR 240.19b–4.

[9] The Exchange notes that it is not amending MIAX PEARL Rule 503, Openings on the Exchange, because unlike MIAX Options Rule 503, MIAX PEARL Rule 503 does not distinguish between equity and index options. In addition, the Exchange notes that it is not amending MIAX PEARL Rule 603, Obligations of Market Makers, because unlike MIAX Options, MIAX PEARL does not use bid/ask differentials on the Exchange. Additionally, the Exchange is not amending MIAX PEARL Rule 527, Exchange Liability, because the amendment to the corresponding MIAX Options Rule was duplicative and the Exchange anticipates deleting the duplicative rule text in the future.

[10] *See* Securities Exchange Act Release No. 81739 (September 27, 2017), 82 FR 46111 (October 3, 2017) (SR–MIAX–2017–39) (''Approval Order'').

[11] *Id.*

[12] *See supra* note 5.

[13] The proposed Rule is based on Nasdaq ISE Rule 2001.

[14] The last day of trading for A.M.-settled index options shall be the business day preceding the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, the business day preceding the last day of trading in the underlying securities prior to the expiration date. The current index value at the expiration of an A.M.-settled index option shall be

Continued

(d) The term ''call'' means an options contract under which the holder of the option has the right, in accordance with the terms of the option, to purchase from the Clearing Corporation the current index value times the index multiplier.

(e) The term ''current index value'' with respect to a particular index options contract means the level of the underlying index reported by the reporting authority for the index, or any multiple or fraction of such reported level specified by the Exchange. The current index value with respect to a reduced-value long term options contract is one-tenth of the current index value of the related index option. The ''closing index value'' shall be the last index value reported on a business day.

(f) The term ''exercise price'' means the specified price per unit at which the current index value may be purchased or sold upon the exercise of the option.

(g) The term ''European-style index option'' means an option on an industry or market index that can be exercised only on the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, the last business day prior to the day it expires.

(h) The term ''Foreign Currency Index'' means an index designed to track the performance of a basket of currencies, as provided in the table in Rule 1805A.

(i) The term ''index multiplier'' means the amount specified in the contract by which the current index value is to be multiplied to arrive at the value required to be delivered to the holder of a call or by the holder of a put upon valid exercise of the contract.

(j) The terms ''industry index'' and ''narrow-based index'' mean an index designed to be representative of a particular industry or a group of related industries or an index whose constituents are all headquartered within a single country.

(k) The term ''market index'' and ''broad-based index'' mean an index designed to be representative of a stock market as a whole or of a range of companies in unrelated industries.

(l) The term ''put'' means an options contract under which the holder of the option has the right, in accordance with the terms and provisions of the option, to sell to the Clearing Corporation the current index value times the index multiplier.

(m) The term ''Quarterly Options Series'' means, for the purposes of Chapter XVIII, a series in an index options class that is approved for listing and trading on the Exchange in which the series is opened for trading on any business day and that expires at the close of business on the last business day of a calendar quarter.

(n) The term ''reporting authority'' with respect to a particular index means the institution or reporting service designated by the Exchange as the official source for (1) calculating the level of the index from the reported prices of the underlying securities that are the basis of the index and (2) reporting such level. The reporting authority for each index approved for options trading on the Exchange shall be Specified (as provided in Rule 1800) in a table in Interpretations and Policies .01 to Rule 1801.

(o) The term ''Short Term Option Series'' means, for the purposes of Chapter XVIII, a series in an index option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Thursday or Friday that is a business day and that expires on the Friday of the following business week that is a business day. If a Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Friday.

(p) The term ''underlying security'' or ''underlying securities'' with respect to an index options contract means any of the securities that are the basis for the calculation of the index.

Listing Standards

Proposed Rule 1802, Designation of an Index, contains the general listing standards for index options. Proposed Rule 1802(a) provides that the component securities of an index underlying an index option contract need not meet the requirements of Rule 402.[15] Except as set forth in subparagraph (b) and (d) (as described below), the listing of a class of index options requires the filing of a proposed rule change to be approved by the Commission.

Proposed Rule 1802(b) describes the initial listing standards for a narrow-based index to be traded on the Exchange. The term ''narrow based index'' means an index designed to be representative of a particular industry or a group of related industries or an index whose constituents are all headquartered within a single country. Pursuant to proposed Rule 1802(b), the Exchange may trade options on a narrow-based index pursuant to Rule 19b–4(e) of the Act,[16] if each of the following conditions is satisfied:

(1) The options are designated as A.M.-settled index options;

(2) The index is capitalization-weighted, price-weighted, equal dollar-weighted, or modified capitalization-weighted, and consists of 10 or more component securities;

(3) Each component security has a market capitalization of at least $75 million, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than ten percent (10%) of the weight of the index, the market capitalization is at least $50 million;

(4) Trading volume of each component security has been at least 1,000,000 shares for each of the last six months, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than ten percent (10%) of the weight of the index, trading volume has been at least 500,000 shares for each of the last six months;

(5) In a capitalization-weighted index or a modified capitalization-weighted index, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least thirty percent (30%) of the total number of component securities in the index each have had an average monthly trading volume of at least 2,000,000 shares over the past six months;

(6) No single component security represents more than thirty percent (30%) of the weight of the index, and the five highest weighted component securities in the index do not in the aggregate account for more than fifty percent (50%) (sixty five percent (65%) for an index consisting of fewer than

determined, for all purposes under these Rules and the Rules of the Clearing Corporation, on the last day of trading in the underlying securities prior to expiration, by reference to the reported level of such index as derived from first reported sale (opening) prices of the underlying securities on such day, except that: (i) In the event that the primary market for an underlying security does not open for trading on that day, the price of that security shall be determined, for the purposes of calculating the current index value at expiration, as set forth in Rule 1808(g), unless the current index value at expiration is fixed in accordance with the Rules and By-Laws of the Clearing Corporation; and (ii) in the event that the primary market for an underlying security is open for trading on that day, but that particular security does not open for trading on that day, the price of that security, for the purposes of calculating the current index value at expiration, shall be the last reported sale price of the security. *See* proposed Rule 1809(a)(5).

[15] Exchange Rule 402, Criteria for Underlying Securities, sets forth the criteria that must be met by underlying equity securities with respect to which put or call option contracts are approved for listing and trading on the Exchange.

[16] 17 CFR 242.19b–4(e).

twenty five (25) component securities) of the weight of the index;

(7) Component securities that account for at least ninety percent (90%) of the weight of the index and at least eighty percent (80%) of the total number of component securities in the index satisfy the requirements of Rule 402 applicable to individual underlying securities;

(8) Each component security must be an ''NMS stock'' as defined in Rule 600 of Regulation NMS under the Act; [17]

(9) Non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than twenty percent (20%) of the weight of the index;

(10) The current index value is widely disseminated at least once every fifteen (15) seconds by the Options Price Reporting Authority (''OPRA''), the Consolidated Tape Association (''CTA''), the Nasdaq Index Dissemination Service (''NIDS''), or one or more major market data vendors during the time options on the index are traded on the Exchange;

(11) An equal dollar-weighted index will be rebalanced at least once every calendar quarter; and

(12) If an underlying index is maintained by a broker-dealer, the index is calculated by a third party who is not a broker-dealer, and the broker-dealer has erected an information barrier around its personnel who have access to information concerning changes in and adjustments to the index.

The above initial listing standards are the same as the initial listing standards currently in place on other exchanges.[18]

In addition to the initial listing standards, certain maintenance listing standards, listed below, apply to each class of index options originally listed pursuant to proposed Rule 1802(b).

Specifically, proposed Rule 1802(c) provides that the requirements stated in proposed Rules 1802(b)(1), (3), (6), (7), (8), (9), (10), (11) and (12) (set forth above) must continue to be satisfied, provided that the requirements stated in proposed Rule 1802(b)(6) below (relating to broad-based indices) must be satisfied only as of the first day of January and July in each year.

In addition to maintaining the initial criteria in the proposed sub-paragraphs listed above, proposed Rule1802(c) states that, in order for an index to remain listed on the Exchange:

(1) The total number of component securities in the index may not increase or decrease by more than 33 ⅓ percent from the number of component securities in the index at the time of its initial listing, and in no event may be less than nine component securities;

(2) Trading volume of each component security in the index must be at least 500,000 shares for each of the last six months, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than ten percent (10%) of the weight of the index, trading volume must be at least 400,000 shares for each of the last six (6) months; and

(3) In a capitalization-weighted index or a modified capitalization-weighted index, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least thirty percent (30%) of the total number of stocks in the index each have had an average monthly trading volume of at least 1,000,000 shares over the past six months. In the event a class of index options listed on the Exchange fails to satisfy the maintenance listing standards set forth herein, the Exchange shall not open for trading any additional series of options of that class unless such failure is determined by the Exchange not to be significant and the SEC concurs in that determination, or unless the continued listing of that class of index options has been approved by the SEC under Section 19(b) (2) of the Act.[19]

These maintenance listing standards are the same as the maintenance standards currently in place on other exchanges.[20]

Proposed Rule 1802(d) states that the Exchange may trade options on a broad-based index [21] if each of the following conditions is satisfied:

(1) The index is broad-based, as defined in Rule 1801(k);

(2) Options on the index are designated as A.M.-settled;

(3) The index is capitalization-weighted, modified capitalization-weighted, price-weighted, or equal dollar-weighted;

(4) The index consists of 50 or more component securities;

(5) Component securities that account for at least ninety-five percent (95%) of the weight of the index have a market capitalization of at least $75 million, except that component securities that account for at least sixty-five percent (65%) of the weight of the index have a market capitalization of at least $100 million;

(6) Component securities that account for at least eighty percent (80%) of the weight of the index satisfy the requirements of Rule 402 applicable to individual underlying securities;

(7) Each component security that accounts for at least one percent (1%) of the weight of the index has an average daily trading volume of at least 90,000 shares during the last six month period;

(8) No single component security accounts for more than ten percent (10%) of the weight of the index, and the five highest weighted component securities in the index do not, in the aggregate, account for more than thirty-three percent (33%) of the weight of the index;

(9) Each component security must be an ''NMS stock'' as defined in Rule 600 of Regulation NMS under the Act; [22]

(10) Non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not, in the aggregate, represent more than twenty percent (20%) of the weight of the index;

(11) The current index value is widely disseminated at least once every fifteen (15) seconds by the Options Price Reporting Authority (''OPRA''), the Consolidated Tape Association (''CTA''), the Nasdaq Index Dissemination Service (''NIDS''), or one or more major market data vendors during the time options on the index are traded on the Exchange;

(12) The Exchange reasonably believes it has adequate system capacity to support the trading of options on the index, based on a calculation of the Exchange's current ISCA allocation and the number of new messages per second expected to be generated by options on such index;

(13) An equal dollar-weighted index is rebalanced at least once every calendar quarter;

(14) If an index is maintained by a broker-dealer, the index is calculated by a third-party who is not a broker-dealer, and the broker-dealer has erected an informational barrier around its personnel who have access to information concerning changes in, and adjustments to, the index; and

(15) The Exchange has written surveillance procedures in place with

[17] 17 CFR 242.11Aa3–1.

[18] *See, e.g.,* Miami International Securities Exchange (''MIAX Options'') Rule 1802(b); Nasdaq ISE, (''Nasdaq ISE'') Rule 2002(b); Nasdaq PHLX (''Phlx'') Rule 1009A(b); and Cboe Options Exchange, Inc. (''Cboe'') Rule 24.2(b).

[19] 15 U.S.C. 78s(b)(2).

[20] *See, e.g.,* MIAX Options Rule 1802(c); Nasdaq ISE Rule 2002(c); Nasdaq Phlx Rule 1009A(c); and Cboe Rule 24.2(c).

[21] The term ''market index'' and ''broad-based index'' mean an index designed to be representative of a stock market as a whole or of a range of companies in unrelated industries. *See* proposed Rule 1801(k).

[22] 17 CFR 242.600.

respect to surveillance of trading of options on the index.

These initial listing standards are the same as the initial listing standards for broad-based indices currently in place on other exchanges.[23]

Proposed Rule 1802(e) sets forth the maintenance listing standards for broad-based indices. Specifically, the following maintenance listing standards shall apply to each class of index options originally listed pursuant to proposed Rule 1802(d).

First, the requirements set forth in the proposed initial listing standards set forth in proposed Rules 1802(d)(1)–(d)(3), and proposed Rules 1802(d)(9)–(d)(15) must continue to be satisfied. The requirements set forth in proposed Rules 1802(d)(5)–(d)(8) must be satisfied only as of the first day of January and July in each year.

Additionally, for broad-based indices, the total number of component securities in the index may not increase or decrease by more than ten percent (10%) from the number of component securities in the index at the time of its initial listing.

Finally, proposed Rule 1802(e) states that, in the event a class of index options listed on the Exchange fails to satisfy the maintenance listing standards set forth in the proposed Rule, the Exchange shall not open for trading any additional series of options of that class unless the continued listing of that class of index options has been approved by the Commission under Section 19(b)(2) of the Act.[24]

These maintenance listing standards are the same as the maintenance standards for broad-based indices that are currently in place on other exchanges.[25]

The Exchange believes that the requirements in the proposed listing standards regarding, among other things, the minimum market capitalization, trading volume, and relative weightings of an underlying index's component stocks are designed to ensure that the markets for the index's component stocks are adequately capitalized and sufficiently liquid, and that no one stock dominates the index. The Exchange believes that these requirements minimize the potential for manipulating the underlying index.

The Exchange further believes that the requirement in proposed Rule 1802(b)(10) (with respect to narrow-based index options) that the current underlying index value will be reported at least once every fifteen (15) seconds during the time the index options are traded on the Exchange, and the requirement in proposed Rule 1802(d)(11) (with respect to broad-based index options) that the current index value be widely disseminated at least once every fifteen (15) seconds by the OPRA, CTA/CQ, NIDS or by one or more major market data vendors during the time an index option trades on MIAX PEARL should provide transparency with respect to current index values and contribute to the transparency of the market for index options. In addition, the Exchange believes that the requirement in proposed Rule 1802(d)(2) that an index option be A.M.-settled, rather than on closing prices, should help to reduce the potential impact of expiring index options on the market for the index's component securities.

Proposed Rule 1803, Dissemination of Information, requires the dissemination of index values as a condition to the trading of options on an index. The proposed rule includes the requirement that the Exchange disseminate, or assure that the current index value is disseminated, after the close of business and from time-to-time on days on which transactions in index options are made on the Exchange. The proposed rule also requires the Exchange to maintain, in files available to the public, information identifying the components whose prices are the basis for calculation of the index and the method used to determine the current index value.[26]

The Exchange is proposing to adopt Rules 1804 through 1807 relating to position limits, exemptions from position limits, and exercise limits in index options. These proposed rules contain the standard position limit and exercise limits for Broad-Based, Industry (narrow-based) and Foreign Currency index options, as well as exemption standards and the procedures for requesting exemptions from those proposed rules.[27]

Proposed Rule 1804, Position Limits for Broad-Based Index Options, states that Exchange Rule 307 generally shall govern position limits for broad-based index options, as modified by proposed Rule 1804. Specifically, the proposed rule states that there may be no position limit for certain Specified (as provided in Rule 1800)[28] broad-based index options contracts. Except as otherwise indicated below, the position limit for a broad-based index option shall be 25,000 contracts on the same side of the market. Reduced-value options[29] on broad-based security indexes for which full-value options have no position and exercise limits will similarly have no position and exercise limits. All other broad-based index options contracts shall be subject to a contract limitation fixed by the Exchange, which shall not be larger than the limits provided in the chart below.

Broad-based underlying index	Standard limit (on the same side of the market)	Restrictions
To be Specified	To be Specified	To be Specified.

Proposed Rules 1804(b) through (d) describe situations in which index option contracts will, or will not, be aggregated for purposes of establishing the number of contracts in a position. Specifically, proposed Rule 1804(b) states that that index options contracts shall not be aggregated with options contracts on any stocks whose prices are the basis for calculation of the index. Proposed Rule 1804(c) states that positions in reduced-value index options shall be aggregated with positions in full-value indices. For such purposes, ten reduced-value contracts shall equal one contract. Finally, proposed Rule 1804(d) states that positions in Short Term Option Series and Quarterly Options Series shall be aggregated with positions in options contracts on the same index.[30]

Proposed Rule 1805, Position Limits for Industry Index Options, states that Rule 307 generally shall govern position

[23] *See, e.g.,* MIAX Options Rule 1802(d); Nasdaq ISE Rule 2002(d); Nasdaq Phlx Rule 1009A(d); and Cboe Rule 24.2(f).

[24] 15 U.S.C 78s(b)(2).

[25] *See, e.g.,* MIAX Options Rule 1802(e); Nasdaq ISE Rule 2002(e); Nasdaq Phlx Rule 1009A(e); and Cboe Rule 24.2(g).

[26] This proposed Rule is substantially similar to Nasdaq ISE Rule 2003 and Cboe Rule 24.3.

[27] These proposed Rules are based on Nasdaq ISE Rule 2006.

[28] *See supra* note 5.

[29] *See* proposed Rule 1809(b)(2).

[30] This is substantially similar to Nasdaq ISE Rule 2004 and Cboe Rule 24.4.

limits for industry index [31] options, as modified by proposed Rule 1805.

Proposed Rule 1805(a) sets forth position limits for industry index options. These position limits, once established by the Exchange, must be reviewed and determined on a semi-annual basis, as described below.

The specific position limits applicable to an industry index are:

(i) 18,000 contracts if the Exchange determines, at the time of a review conducted as described below, that any single underlying stock accounted, on average, for thirty percent (30%) or more of the index value during the thirty (30)-day period immediately preceding the review; or

(ii) 24,000 contracts if the Exchange determines, at the time of a review conducted as set forth below, that any single underlying stock accounted, on average, for twenty percent (20%) or more of the index value or that any five (5) underlying stocks together accounted, on average, for more than fifty percent (50%) of the index value, but that no single stock in the group accounted, on average, for thirty percent (30%) or more of the index value, during the thirty (30)-day period immediately preceding the review; or

(iii) 31,500 contracts if the Exchange determines that the conditions specified above which would require the establishment of a lower limit have not occurred.

Proposed Rule 1805(a)(2) requires the Exchange make the determinations of these specific position limits described above with respect to options on each industry index, first at the commencement of trading of such options on the Exchange and thereafter review the determination semi-annually on January 1 and July 1.

Proposed Rule 1805(a)(3) describes the procedures to be taken by the Exchange at the time of each semi-annual review. Specifically, if the Exchange determines, at the time of the semi-annual review, that the position limit in effect with respect to options on a particular industry index is lower than the maximum position limit permitted by the criteria set forth in Rule 1805(a)(1), the Exchange may effect an appropriate position limit increase immediately.[32]

Conversely, if the Exchange determines, at the time of a semi-annual review, that the position limit in effect with respect to options on a particular industry index exceeds the maximum position limit permitted by the criteria set forth in proposed Rule 1805(a)(1), the Exchange shall reduce the position limit applicable to such options to a level consistent with such criteria. Such a reduction would not become effective until after the expiration date of the most distantly expiring options series relating to the industry index that is open for trading on the date of the review, and such a reduction shall not become effective if the Exchange determines, at the next semi-annual review, that the existing position limit applicable to such options is consistent with the criteria set forth in proposed Rule 1805(a)(1).[33] The purpose of this provision is to protect investors with open positions as of the date of the review from inadvertently violating the new, reduced position limit. Additionally, an Exchange determination (prior to the effectiveness of the new, lower position limit due to remaining unexpired series) that the criteria permitting the higher position limit again exist obviates the need for the lower position limit and the lower position limit will not take effect.

Proposed Rules 1805(b)–(d) describe situations in which industry index option contracts will, or will not, be aggregated for purposes of establishing the number of contracts in a position. Just as with broad-based index options,[34] proposed Rules 1805(b)–(d) state that index options contracts shall not be aggregated with options contracts on any stocks whose prices are the basis for calculation of the index. Positions in reduced-value index options shall be aggregated with positions in full-value index options. For such purposes, ten (10) reduced-value options shall equal one (1) full-value contract. Positions in Short Term Option Series and Quarterly Options Series shall be aggregated with positions in options contracts on the same index.

Proposed Rule 1805A, Position Limits for Foreign Currency Index Options, includes a table to be completed by the Exchange upon the Exchange's determination to list and trade options overlying a Foreign Currency Index (subject to the Commission's approval of a proposed rule change). Under the proposed rule, option contracts on a Foreign Currency Index shall be subject to the position limits described in the table below.

Foreign currency index	Standard limit (on the same side of the market)	Restrictions
To be Specified	To be Specified	To be Specified.

Proposed Rule 1806, Exemptions from Position Limits, describes the broad-based index hedge exemption, the industry index hedge exemption, the application on the Exchange of exemptions granted by other options exchanges, and the delta-based index hedge exemption.

Proposed Rule 1806(a) describes the broad-based index hedge exemption. The broad-based index hedge exemption is in addition to the other exemptions available under Exchange Rules, Interpretations and Policies.[35] The proposed rule sets forth the procedures and criteria which must be satisfied to qualify for a broad-based index hedge exemption.

First, proposed Rule 1806(a)(1) states that the account in which the exempt options positions are held (''hedge exemption account'') must have received prior Exchange approval for the hedge exemption specifying the maximum number of contracts that may be exempt under the proposed Rule. The hedge exemption account must have provided all information required on Exchange-approved forms and must have kept such information current. Exchange approval may be granted on the basis of verbal representations, in which event the hedge exemption account shall within two business days, or such other time period designated by the Exchange, furnish the Exchange with appropriate forms and documentation substantiating the basis for the exemption. The hedge exemption account may apply from time to time for an increase in the maximum number of

[31] For purposes of this proposed rule change and these proposed rules, the term ''industry index'' has the same meaning as the term ''narrow-based index.''

[32] For example, if the conditions specified in proposed Rule 1805(a)(ii) are determined to exist which would allow a position limit of 24,000 contracts and the current position limit for the option, based upon the previous review, has been established as 18,000 contracts, the Exchange may effect a position limit increase to 24,000 contracts immediately.

[33] The proposed Rule is virtually identical to Cboe Rule 24.4A.

[34] *See* proposed Rules 1804(b)–(d).

[35] *See, e.g.,* Exchange Rule 308.

contracts exempt from the position limits.

Proposed Rule 1806(a)(2) states that a hedge exemption account that is not carried by a Member must be carried by a member of a self-regulatory organization participating in the Intermarket Surveillance Group (''ISG''), which is comprised of an international group of exchanges, market centers, and market regulators.[36]

Proposed Rule 1806(a)(3) requires that the hedge exemption account maintain a qualified portfolio, or will effect transactions necessary to obtain a qualified portfolio concurrent with or at or about the same time as the execution of the exempt options positions, of:

(i) A net long or short position in common stocks in at least four industry groups and contains at least twenty (20) stocks, none of which accounts for more than fifteen percent (15%) of the value of the portfolio or in securities readily convertible, and additionally in the case of convertible bonds economically convertible, into common stocks which would comprise a portfolio; or

(ii) a net long or short position in index futures contracts or in options on index futures contracts, or long or short positions in index options or index warrants, for which the underlying index is included in the same margin or cross-margin product group cleared at the Clearing Corporation as the index options class to which the hedge exemption applies.

To remain qualified, a portfolio must at all times meet these standards notwithstanding trading activity.

Proposed Rule 1806(a)(4) contains the requirement that, in order to qualify for the broad-based exemption, the exemption must apply to positions in broad-based index options dealt in on the Exchange and is applicable to the unhedged value of the qualified portfolio. The unhedged value will be determined as follows:

(i) The values of the net long or short positions of all qualifying products in the portfolio are totaled;

(ii) for positions in excess of the standard limit, the underlying market value (A) of any economically equivalent opposite side of the market calls and puts in broad-based index options, and (B) of any opposite side of the market positions in stock index futures, options on stock index futures, and any economically equivalent opposite side of the market positions, assuming no other hedges for these contracts exist, is subtracted from the qualified portfolio; and

(iii) the market value of the resulting unhedged portfolio is equated to the appropriate number of exempt contracts as follows: The unhedged qualified portfolio is divided by the correspondent closing index value and the quotient is then divided by the index multiplier or 100.

Proposed Rule 1806(a)(5) states that positions in broad-based index options that are traded on the Exchange are exempt from the standard limits to the extent specified in the table below.

Broad-based index option type	Broad-based index hedge exemption (in addition to standard limit)
Broad-based indexes other than for those that do not have any position limits	75,000

Proposed Rule 1806(a)(6) lists the types of transactions that are available for hedging. Specifically, only the following qualified hedging transactions and positions are eligible for purposes of hedging a qualified portfolio (*i.e.* stocks, futures, options and warrants) pursuant to the proposed Rule:

(i) Long put(s) used to hedge the holdings of a qualified portfolio;

(ii) Long call(s) used to hedge a short position in a qualified portfolio;

(iii) Short call(s) used to hedge the holdings of a qualified portfolio; and

(iv) Short put(s) used to hedge a short position in a qualified portfolio.

Proposed Rule 1806(a)(6) then identifies the following strategies, which may be effected only in conjunction with a qualified stock portfolio for non-P.M. settled, European style index options only:

(v) A short call position accompanied by long put(s), where the short call(s) expires with the long put(s), and the strike price of the short call(s) equals or exceeds the strike price of the long put(s) (a ''collar''). Neither side of the collar transaction can be in-the-money at the time the position is established. For purposes of determining compliance with Rule 306 and proposed Rule 1806, a collar position will be treated as one contract;

(vi) A long put position coupled with a short put position overlying the same broad-based index and having an equivalent underlying aggregate index value, where the short put(s) expires with the long put(s), and the strike price of the long put(s) exceeds the strike price of the short put(s)(a ''debit put spread position''); and

(vii) A short call position accompanied by a debit put spread position, where the short call(s) expires with the puts and the strike price of the short call(s) equals or exceeds the strike price of the long put(s). Neither side of the short call, long put transaction can be in-the-money at the time the position is established. For purposes of determining compliance with Rule 307 and this Rule 1806, the short call and long put positions will be treated as one contract.

Proposed Rule 1806(a)(7) describes certain permitted and prohibited activities for hedge exemption accounts. Specifically, the proposed Rule states that the hedge exemption account shall:

(i) Liquidate and establish options, stock positions, their equivalent or other qualified portfolio products in an orderly fashion; not initiate or liquidate positions in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes; and not initiate or liquidate a stock position or its equivalent with an equivalent index options position with a view toward taking advantage of any differential in price between a group of securities and an overlying stock index option;

(ii) liquidate any options prior to or contemporaneously with a decrease in the hedged value of the qualified portfolio which options would thereby be rendered excessive; and

(iii) promptly notify the Exchange of any material change in the qualified portfolio which materially affects the unhedged value of the qualified portfolio.

Proposed Rules 1806(a)(8)–(12) contain several regulatory requirements for hedge exemption accounts. Specifically, the proposed Rules state that if an exemption is granted, it will be effective at the time the decision is communicated. Retroactive exemptions will not be granted. The proposed rules also require that the hedge exemption account shall promptly provide to the Exchange any information requested concerning the qualified portfolio. Positions included in a qualified portfolio that serve to secure an index hedge exemption may not also be used to secure any other position limit exemption granted by the Exchange or any other self- regulatory organization or futures contract market. Any Member that maintains a broad-based index options position in such Member's own account or in a customer account, and has reason to believe that such position

[36] The purpose of the ISG is to provide a framework for the sharing of information and the coordination of regulatory efforts among exchanges trading securities and related products to address potential intermarket manipulations and trading abuses. The ISG plays a crucial role in information sharing among markets that trade securities, options on securities, security futures products, and futures and options on broad-based security indexes. A list identifying the current ISG members is available at *https://www.isgportal.org/isgPortal/public/members.htm.*

is in excess of the applicable limit, shall promptly take the action necessary to bring the position into compliance. Failure to abide by this provision shall be deemed to be a violation of Rules 307 and Rule 1806 by the Member. Finally, violation of any of the provisions of the proposed rule, absent reasonable justification or excuse, shall result in withdrawal of the index hedge exemption and may form the basis for subsequent denial of an application for an index hedge exemption.

Proposed Rule 1806(b) describes the Industry Index Hedge Exemption. The industry (narrow-based) index hedge exemption is in addition to the other exemptions available under Exchange Rules, Interpretations and Policies, and may not exceed twice the standard limit established under Rule 1805. Industry index options positions may be exempt from established position limits for each options contract ''hedged'' by an equivalent dollar amount of the underlying component securities or securities convertible into such components; provided that, in applying such hedge, each options position to be exempted is hedged by a position in at least seventy-five percent (75%) of the number of component securities underlying the index. In addition, the underlying value of the options position may not exceed the value of the underlying portfolio. The value of the underlying portfolio is: (1) The total market value of the net stock position; and (2) for positions in excess of the standard limit, subtract the underlying market value of: (i) Any offsetting calls and puts in the respective index option; (ii) any offsetting positions in related stock index futures or options; and (iii) any economically equivalent positions (assuming no other hedges for these contracts exist). The following procedures and criteria must be satisfied to qualify for an industry index hedge exemption:

(1) The hedge exemption account must have received prior Exchange approval for the hedge exemption specifying the maximum number of contracts that may be exempt under this Interpretation. The hedge exemption account must have provided all information required on Exchange-approved forms and must have kept such information current. Exchange approval may be granted on the basis of verbal representations, in which event the hedge exemption account shall within two business days, or such other time period designated by the Exchange, furnish the Exchange with appropriate forms and documentation substantiating the basis for the exemption. The hedge exemption account may apply from time to time for an increase in the maximum number of contracts exempt from the position limits.

(2) A hedge exemption account that is not carried by a Member must be carried by a member of a self-regulatory organization participating in the Intermarket Surveillance Group.

(3) The hedge exemption account shall liquidate and establish options, stock positions, or economically equivalent positions in an orderly fashion; shall not initiate or liquidate positions in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes; and shall not initiate or liquidate a stock position or its equivalent with an equivalent index options position with a view toward taking advantage of any differential in price between a group of securities and an overlying stock index option. The hedge exemption account shall liquidate any options prior to or contemporaneously with a decrease in the hedged value of the portfolio which options would thereby be rendered excessive. The hedge exemption account shall promptly notify the Exchange of any change in the portfolio which materially affects the unhedged value of the portfolio.

(4) If an exemption is granted, it will be effective at the time the decision is communicated. Retroactive exemptions will not be granted.

(5) The hedge exemption account shall promptly provide to the Exchange any information requested concerning the portfolio.

(6) Positions included in a portfolio that serve to secure an index hedge exemption may not also be used to secure any other position limit exemption granted by the Exchange or any other self-regulatory organization or futures contract market.

(7) Any Member that maintains an industry index options position in such Member's own account or in a customer account, and has reason to believe that such position is in excess of the applicable limit, shall promptly take the action necessary to bring the position into compliance. Failure to abide by this provision shall be deemed to be a violation of Rule 307 and proposed Rule 1806 by the Member.

(8) Violation of any of the provisions of proposed Rule 1806, absent reasonable justification or excuse, shall result in withdrawal of the index hedge exemption and may form the basis for subsequent denial of an application for an index hedge exemption hereunder.

Proposed Rule 1806(c), Exemptions Granted by Other Options Exchanges, states that a Member may rely upon any available exemptions from applicable position limits granted from time to time by another options exchange for any options contract traded on the Exchange provided that such Member:

(1) Provides the Exchange with a copy of any written exemption issued by another options exchange or a written description of any exemption issued by another options exchange other than in writing containing sufficient detail for Exchange regulatory staff to verify the validity of that exemption with the issuing options exchange, and

(2) fulfills all conditions precedent for such exemption and complies at all times with the requirements of such exemption with respect to the Member's trading on the Exchange.

Proposed Rule 1806(d), Delta-Based Index Hedge Exemption, describes the Delta-Based Index Hedge Exemption as in addition to the standard limit and other exemptions available under Exchange rules. The proposed rule states that an index option position of a Member or non-Member affiliate of a Member that is delta neutral shall be exempt from established position limits as prescribed under Rules 1804 and 1805, subject to the following:

(1) The term ''delta neutral'' refers to an index option position that is hedged, in accordance with a permitted pricing model, by a position in one or more correlated instruments, for the purpose of offsetting the risk that the value of the option position will change with incremental changes in the value of the underlying index. The term ''correlated instruments'' means securities and/or other instruments that track the performance of or are based on the same underlying index as the index underlying the option position (but not including baskets of securities).

(2) An index option position that is not delta neutral shall be subject to position limits in accordance with proposed Rules 1804 and 1805 (subject to the availability of other position limit exemptions). Only the options contract equivalent of the net delta of such position shall be subject to the appropriate position limit. The ''options contract equivalent of the net delta'' is the net delta divided by units of trade that equate to one option contract on a delta basis. The term ''net delta'' means, at any time, the number of shares and/or other units of trade (either long or short) required to offset the risk that the value of an index option position will change with incremental changes in the value of the underlying index, as determined in accordance with a permitted pricing model.

(3) A ''permitted pricing model'' shall have the meaning as defined in Rule 308(a)(7)(iii).[37]

Proposed Rule 1806(d)(4), Effect on Aggregation of Accounts, states that (i) Members and non-Member affiliates who rely on this exemption must ensure that the permitted pricing model is applied to all positions in correlated instruments that are owned or controlled by such Member or non-Member affiliate.

Notwithstanding subparagraph (i), above, the net delta of an option position held by an entity entitled to rely on this exemption, or by a separate and distinct trading unit of such entity, may be calculated without regard to positions in correlated instruments held by an affiliated entity or by another trading unit within the same entity, provided that:

(A) The entity demonstrates to the Exchange's satisfaction that no control relationship, as defined in Rule 307(f), exists between such affiliates or trading units; and

(B) the entity has provided (by the Member carrying the account as applicable) the Exchange written notice in advance that it intends to be considered separate and distinct from any affiliate or, as applicable, which trading units within the entity are to be considered separate and distinct from each other for purposes of this exemption.

Proposed Rule 1806(d)(4)(iii) states that, notwithstanding subparagraphs (i) and (ii) of proposed Rule 1806(d)(4), a Member or non-Member affiliate who relies on this exemption shall designate, by prior written notice to the Exchange (to be obtained and provided by the Member carrying the account as applicable), each trading unit or entity whose option positions are required under Exchange Rules to be aggregated with the option positions of such Member or non-Member affiliate that is relying on this exemption for purposes of compliance with Exchange position limits or exercise limits. In any such case: (A) The permitted pricing model shall be applied, for purposes of calculating such Member's or affiliate's net delta, only to the positions in correlated instruments owned and controlled by those entities and trading units who are relying on this exemption; and (B) the net delta of the positions owned or controlled by the entities and trading units who are relying on this exemption shall be aggregated with the non-exempt option positions of all other entities and trading units whose options positions are required under Exchange Rules to be aggregated with the option positions of such Member or affiliate.

Proposed Rule 1806(d)(5) describes the obligations of Members seeking the Delta Hedge Exemption. First, a Member that relies on this exemption for a proprietary index options position: (A) Must provide a written certification to the Exchange that it is using a permitted pricing model as defined above, and (B) by such reliance authorizes any other person carrying for such Member an account including, or with whom such Member has entered into, a position in a correlated instrument to provide to the Exchange or the Clearing Corporation such information regarding such account or position as the Exchange or Clearing Corporation may request as part of the Exchange's confirmation or verification of the accuracy of any net delta calculation under this exemption. The index option positions of a non-Member relying on this exemption must be carried by a Member with which it is affiliated.

Proposed Rule 1806(d)(5)(iii) requires that a Member carrying an account that includes an index option position for a non-Member affiliate that intends to rely on the Delta-Based Hedge Exemption must obtain from such non-Member affiliate and must provide to the Exchange: (A) A written certification to the Exchange that the non-Member affiliate is using a permitted pricing model as described above; and (B) a written statement confirming that such non-Member affiliate: (1) Is relying on this exemption; (2) will use only a permitted pricing model for purposes of calculating the net delta of its option positions for purposes of this exemption; (3) will promptly notify the Member if it ceases to rely on this exemption; (4) authorizes the Member to provide to the Exchange or the Clearing Corporation such information regarding positions of the non-Member affiliate as the Exchange or Clearing Corporation may request as part of the Exchange's confirmation or verification of the accuracy of any net delta calculation under this exemption; and (5) if the non-Member affiliate is using the Clearing Corporation Model, has duly executed and delivered to the Member such documents as the Exchange may require to be executed and delivered to the Exchange as a condition to reliance on the exemption.

Proposed Rule 1806(d)(6) requires each Member (other than an Exchange market maker using the Clearing Corporation Model) that holds or carries an account that relies on the Delta-Based Hedge Exemption shall report, in accordance with Exchange Rule 310,[38]

[37] A ''permitted pricing model'' means: (A) A pricing model maintained and operated by the Clearing Corporation (''OCC Model''); (B) A pricing model maintained and used by a Member subject to consolidated supervision by the SEC pursuant to Appendix E of SEC Rule 15c3–1, or by an affiliate that is part of such Member's consolidated supervised holding company group, in accordance with its internal risk management control system and consistent with the requirements of Appendices E or G, as applicable, to SEC Rule 15c3–1 and SEC Rule 15c3–4 under the Exchange Act, as amended from time to time, in connection with the calculation of risk-based deductions from capital or capital allowances for market risk thereunder, provided that the Member or affiliate of a Member relying on this exemption in connection with the use of such model is an entity that is part of such Member's consolidated supervised holding company group; (C) A pricing model maintained and used by a financial holding company or a company treated as a financial holding company under the Bank Holding Company Act of 1956, or by an affiliate that is part of either such company's consolidated supervised holding company group, in accordance with its internal risk management control system and consistent with: 1. the requirements of the Board of Governors of the Federal Reserve System, as amended from time to time, in connection with the calculation of risk based adjustments to capital for market risk under capital requirements of the Board of Governors of the Federal Reserve System, provided that the Member or affiliate of a Member relying on this exemption in connection with the use of such model is an entity that is part of such company's consolidated supervised holding company group; or 2. the standards published by the Basel Committee on Banking Supervision, as amended from time to time and as implemented by such company's principal regulator, in connection with the calculation of risk-based deductions or adjustments to or allowances for the market risk capital requirements of such principal regulator applicable to such company—where ''principal regulator'' means a member of the Basel Committee on Banking Supervision that is the home country consolidated supervisor of such company—provided that the Member or affiliate of a Member relying on this exemption in connection with the use of such model is an entity that is part of such company's consolidated supervised holding company group. (D) A pricing model maintained and used by an OTC derivatives dealer registered with the SEC pursuant to SEC Rule 15c3–1(a)(5) in accordance with its internal risk management control system and consistent with the requirements of Appendix F to SEC Rule 15c3–1 and SEC Rule 15c3–4 under the Exchange Act, as amended from time to time, in connection with the calculation of risk-based deductions from capital for market risk thereunder, provided that only such OTC derivatives dealer and no other affiliated entity (including a Member) may rely on this subparagraph (D); or (E) A pricing model used by a national bank under the National Bank Act maintained and used in accordance with its internal risk management control system and consistent with the requirements of the Office of the Comptroller of the Currency, as amended from time to time, in connection with the calculation of risk based adjustments to capital for market risk under capital requirements of the Office of the Comptroller of the Currency, provided that only such national bank and no other affiliated entity (including a Member) may rely on this subparagraph (E).

[38] Each Member is required under Exchange Rule 310, Reports Related to Position Limits, to file with the Exchange the name, address and social security or tax identification number of any customer, as well as any Member, any general or special partner of the Member, any officer or director of the Member or any participant, as such, in any joint, group or syndicate account with the Member or with any partner, officer or director thereof, who,

all index option positions (including those that are delta neutral) that are reportable thereunder. Each such Member on its own behalf or on behalf of a designated aggregation unit pursuant to Rule 1806(d)(4) shall also report, in accordance with Exchange Rule 310 for each such account that holds an index option position subject to the Delta-Based Hedge Exemption in excess of the levels specified in Rules 1804 and 1805, the net delta and the options contract equivalent of the net delta of such position.

Finally, proposed Rule 1806(d)(7) requires that each Member relying on the Delta-Based Hedge Exemption shall: (i) Retain, and undertake reasonable efforts to ensure that any non-Member affiliate of the Member relying on this exemption retains, a list of the options, securities and other instruments underlying each option position net delta calculation reported to the Exchange hereunder, and (ii) produce such information to the Exchange upon request.

The proposed Rules relating to position limits and exemptions from position limits are based on, and substantially similar to, rules that are currently in place on other exchanges.[39]

Proposed Rule 1808, Trading Sessions, provides that index options will trade between the hours of 9:30 a.m. and 4:15 p.m. Eastern time, the same as on other exchanges. The proposed rule also contains procedures for trading rotations, as well as trading halts and suspensions.

Specifically, proposed Rule 1808(a) states that, except as otherwise provided in this Rule or under unusual conditions as may be determined by the Exchange, (i) transactions in index options may be effected on the Exchange between the hours of 9:30 a.m. and 4:15 p.m. Eastern time, and (ii) transactions in options on a Foreign Currency Index may be effected on the Exchange between the hours of 7:30 a.m. and 4:15 p.m. Eastern time. With respect to options on foreign indexes, the Exchange shall determine the days and hours of business. The proposed Rule and the various enumerated times are consistent with rules in place on other exchanges.[40]

Proposed Rule 1808(b), Trading Rotations, states that, except as otherwise provided in the proposed Rule, the opening process for index options shall be governed by Rule 503.[41] The opening rotation for index options shall be held at or as soon as practicable after 9:30 a.m. Eastern time. The Exchange may delay the commencement of the opening rotation in an index option whenever in the judgment of the Exchange such action is appropriate in the interests of a fair and orderly market. Among the factors that may be considered in making these determinations are: (1) Unusual conditions or circumstances in other markets; (2) an influx of orders that has adversely affected the ability of the Market Maker to provide and to maintain fair and orderly markets; (3) activation of opening price limits in stock index futures on one or more futures exchanges; (4) activation of daily price limits in stock index futures on one or more futures exchanges; (5) the extent to which either there has been a delay in opening or trading is not occurring in stocks underlying the index; and (6) circumstances such as those which would result in the declaration of a fast market under Rule 506(d).[42]

Proposed Rule 1808(c) describes circumstances and procedures relating to halts and suspensions in index options. Specifically, trading on the Exchange in any index option shall be halted or suspended whenever trading in underlying securities whose weighted value represents more than twenty percent (20%), in the case of a broad based index, and ten percent (10%) for all other indices, of the index value is halted or suspended. The Exchange also may halt trading in an index option, including in options on a Foreign Currency Index, when, in its judgment, such action is appropriate in the interests of a fair and orderly market and to protect investors. Among the facts that may be considered are the following:

(1) Whether all trading has been halted or suspended in the market that is the primary market for a plurality of the underlying stocks, or in the case of a Foreign Currency Index, in the underlying foreign currency market;

(2) whether the current calculation of the index derived from the current market prices of the stocks is not available, or in the case of the a Foreign Currency Index, the current prices of the underlying foreign currency is not available;

(3) the extent to which the rotation has been completed or other factors regarding the status of the rotation; and

(4) other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present, including, but not limited to, the activation of price limits on futures exchanges.

Proposed Rule 1808(d) describes the resumption of trading following a halt or suspension in an index option. Trading in options of a class or series that has been the subject of a halt or suspension by the Exchange may resume if the Exchange determines that the interests of a fair and orderly market are served by a resumption of trading. Among the factors to be considered in making this determination are whether the conditions that led to the halt or suspension are no longer present, and the extent to which trading is occurring in stocks or currencies underlying an index. Upon reopening, a rotation shall be held in each class of index options unless the Exchange concludes that a different method of reopening is appropriate under the circumstances, including but not limited to, no rotation, an abbreviated rotation or any other variation in the manner of the rotation.

Proposed Rule 1808(e) states that Rule 504, Interpretations and Policies .03 applies to index options trading with respect to the initiation of a market wide trading halt commonly known as a ''circuit breaker.'' [43]

on the previous business day held aggregate long or short positions of 200 or more option contracts of any single class of options traded on the Exchange. The report shall indicate for each such class of option contracts the number of option contracts comprising each such position and, in case of short positions, whether covered or uncovered. (b) Electronic Exchange Members that maintain an end of day position in excess of 10,000 non-FLEX equity option contracts on the same side of the market on behalf of its own account or for the account of a customer, shall report whether such position is hedged and provide documentation as to how such position is hedged. This report is required at the time the subject account exceeds the 10,000 contract threshold and thereafter, for customer accounts, when the position increases by 2,500 contracts and for proprietary accounts when the position increases by 5,000 contracts. (c) In addition to the reports required by paragraph (a) and (b) of this Rule, each Member shall report promptly to the Exchange any instance in which the Member has reason to believe that a person included in paragraph (a), acting alone or in concert with others, has exceeded or is attempting to exceed the position limits established pursuant to Rule 307. Interpretations and Policies: .01 For purposes of calculating the aggregate long or short position under paragraph (a) above, Members shall combine (i) long positions in put options with short positions in call options, and (ii) short positions in put options with long positions in call options. *See* Exchange Rule 310.

[39] *See, e.g.,* Nasdaq ISE Rule 2006; Cboe Rule 24.4, Interpretations and Policies .01, .05, and Rule 24.4A; and Nasdaq Phlx Rule 1001A and Interpretations and Policies .01–.04 thereto.

[40] *See* MIAX Options Rule 1808; Nasdaq ISE Rule 2008; Cboe Rule 24.6, and Nasdaq Phlx Rule 101.

[41] *See* Exchange Rule 503. Openings on the Exchange, governs the opening of trading on the Exchange with respect to, among other things, determining the opening price and matching orders and quotes in the system. These and other provisions will apply to openings in index options.

[42] This reference to MIAX Options Rule 506(d) will be construed to reference corresponding MIAX PEARL Rule 506(e).

[43] The Exchange shall halt trading in all securities whenever a market-wide trading halt commonly

Continued

Proposed Rule 1808(f) addresses the hours for trading foreign currency options. Specifically, when the hours of trading of the underlying primary securities market for an index option do not overlap or coincide with those of the Exchange, all of the provisions as described in paragraphs (c), (d) and (e) above shall not apply except for (c)(4).

Proposed Rule 1808(g) governs the situation where the primary market for a security underlying the current index value of an index option does not open does not open for trading on a given day. In such a circumstance, the price of that security shall be determined, for the purposes of calculating the current index value at expiration, based on the opening price of that security on the next day that its primary market is open for trading. This procedure shall not be used if the current index value at expiration is fixed in accordance with the Rules and By-Laws of the Clearing Corporation.

The proposed rules governing trading sessions, including trading rotations, halts and suspensions, resumption of trading following a halt or suspension, circuit breakers, special provisions for foreign indices, and pricing when the primary market does not open are based on, and substantially similar to, the rules in place on other exchanges.[44]

Proposed Rule 1809, Terms of Index Options Contracts, outlines the terms of index options contracts in terms of the meaning of premium bids and offers; exercise prices; expiration months and the trading of European Style Index options. The proposed Rule also applies to A.M. Settled Index Options, and Long-Term Option Series (including Reduced-Value Long Term Options Series), which would also require a filing with the Commission for the specific index option(s) to which the proposed rule is applicable.[45]

Proposed Rule 1809(a) contains general provisions applicable to the trading of index options on the Exchange. Specifically, the proposed Rule states generally that bids and offers shall be expressed in terms of dollars and cents per unit of the index. The Exchange shall determine fixed-point intervals of exercise prices for call and put options. With respect to expirations, proposed Rule 1809(a)(3) states that index options contracts, including option contracts on a Foreign Currency Index, may expire at three (3)-month intervals or in consecutive months. The Exchange may list up to six (6) expiration months at any one time, but will not list index options that expire more than twelve (12) months out. Notwithstanding the preceding restriction, the Exchange may list up to seven expiration months at any one time for any broad-based security index option contracts on which any exchange calculates a constant three (3)-month volatility index.

Proposed Rule 1809(a)(4) permits the Exchange to list and trade certain European-style index options to be Specified by the Exchange, some of which may be A.M.-settled as provided in paragraph (a)(5). The Exchange will file a proposed rule change and any such listing and trading is subject to the approval of the Commission.[46]

Proposed Rule 1809(a)(5) governs A.M.-Settled Index Options. The last day of trading for A.M.-settled index options shall be the business day preceding the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, the business day preceding the last day of trading in the underlying securities prior to the expiration date. The current index value at the expiration of an A.M.-settled index option shall be determined, for all purposes under these proposed Rules and the Rules of the Clearing Corporation, on the last day of trading in the underlying securities prior to expiration, by reference to the reported level of such index as derived from first reported sale (opening) prices of the underlying securities on such day, except that:

(i) In the event that the primary market for an underlying security does not open for trading on that day, the price of that security shall be determined, for the purposes of calculating the current index value at expiration, as set forth in Rule 1808(g), unless the current index value at expiration is fixed in accordance with the Rules and By-Laws of the Clearing Corporation; and

(ii) In the event that the primary market for an underlying security is open for trading on that day, but that particular security does not open for trading on that day, the price of that security, for the purposes of calculating the current index value at expiration, shall be the last reported sale price of the security.

Proposed Rule 1809(a)(5)(ii) permits the Exchange to list specific A.M.-settled index options that are approved for trading on the Exchange, subject to the filing of a proposed rule change and the approval of the Commission.

Proposed Rule 1809(b)(1) permits the Exchange, notwithstanding the permitted expiration months set forth in proposed Rule 1809(a)(3) (as described above), to list long-term index options series that expire from twelve (12) to sixty (60) months from the date of issuance. Under the proposal, long term index options series may be based on either the full or reduced value of the underlying index. There may be up to ten (10) expiration months, none further out than sixty (60) months. Strike price interval, bid/ask differential and continuity Rules shall not apply to such options series until the time to expiration is less than twelve (12) months. When a new long term index options series is listed, such series will be opened for trading either when there is buying or selling interest, or forty (40) minutes prior to the close, whichever occurs first. No quotations will be posted for such options until they are opened for trading.

Proposed Rule 1809(b)(2) governs the trading of reduced-value long term options series.[47] Proposed Rule 1809(b)(2)(i) permits the Exchange to list the specific reduced-Value long term options series traded on the Exchange (subject to an Exchange filing and Commission approval).[48] Reduced-value long term options series may expire at six-month intervals. When a new expiration month is listed, series may be near or bracketing the current index value. Additional series may be added when the value of the underlying index increases or decreases by ten (10) to fifteen percent (15%).

Proposed Rule 1809(c) sets forth the procedures for adding and deleting strike prices. The procedures for adding and deleting strike prices for index options are provided in Exchange Rule 404, as amended by the following:

(1) The interval between strike prices will be no less than $5.00; provided that in the case of certain classes of index options, the interval between strike prices will be no less than $2.50 and such must be listed specifically in the Rule.

known as a circuit breaker is initiated on the New York Stock Exchange in response to extraordinary market conditions. *See* Exchange Rule 504, Interpretations and Policies .03. Rule 530(e) provides that the Exchange shall halt trading in all options whenever the equities markets initiate a market-wide trading halt commonly known as a circuit breaker in response to extraordinary market conditions.

[44] *See, e.g.,* MIAX Options Rule 1808; Nasdaq ISE Rule 2008; Cboe Rule 24.7; and Nasdaq Phlx Rule 1047A.

[45] *See supra* note 5.

[46] *Id.*

[47] A reduced-value options series is an option series overlying an index that trades in units based upon a percentage of the value of the underlying index, for example, ten percent (10%) of the value of the index.

[48] *See supra* note 5.

(2) New series of index options contracts may be added up to, but not on or after, the fourth business day prior to expiration for an option contract expiring on a business day, or, in the case of an option contract expiring on a day that is not a business day, the fifth business day prior to expiration.

(3) When new series of index options with a new expiration date are opened for trading, or when additional series of index options in an existing expiration date are opened for trading as the current value of the underlying index to which such series relate moves substantially from the exercise prices of series already opened, the exercise prices of such new or additional series shall be reasonably related to the current value of the underlying index at the time such series are first opened for trading. In the case of all classes of index options, the term ''reasonably related to the current value of the underlying index'' shall have the meaning set forth in proposed Rule 1809(c)(4), described below.

(4) Notwithstanding any other provision of this paragraph (c), the Exchange may open for trading additional series of the same class of index options as the current index value of the underlying index moves substantially from the exercise price of those index options that already have been opened for trading on the Exchange. The exercise price of each series of index options opened for trading on the Exchange shall be reasonably related to the current index value of the underlying index to which such series relates at or about the time such series of options is first opened for trading on the Exchange. The term ''reasonably related to the current index value of the underlying index'' means that the exercise price is within thirty percent (30%) of the current index value.

The Exchange may also open for trading additional series of index options that are more than thirty percent (30%) away from the current index value, provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate, or individual customers or their brokers. Market Makers trading for their own account shall not be considered when determining customer interest under this provision.

Proposed Rule 1809(d) states that the reported level of the underlying index that is calculated by the reporting authority on the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, the last day of trading in the underlying securities prior to the expiration date for purposes of determining the current index value at the expiration of an A.M.-settled index option, may differ from the level of the index that is separately calculated and reported by the reporting authority and that reflects trading activity subsequent to the opening of trading in any of the underlying securities.

Proposed Rule 1809(e) provides that the Rules of the Clearing Corporation specify that, unless the Rules of the Exchange provide otherwise, the current index value used to settle the exercise of an index options contract shall be the closing index value for the day on which the index options contract is exercised in accordance with the Rules of the Clearing Corporation or, if such day is not a business day, for the most recent business day. The closing settlement value for options on a Foreign Currency Index shall be specified by the Exchange.

Proposed Rule 1809, Interpretations and Policies .01, Short Term Option Series Program, specifies that, notwithstanding the restriction in Rule 1809(a)(3), after an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day (''Short Term Option Opening Date'') series of options on that class that expire at the close of business on each of the next five Fridays that are business days and are not Fridays in which monthly options series or Quarterly Options Series expire (''Short Term Option Expiration Dates''). The Exchange may have no more than a total of five Short Term Option Expiration Dates. If the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date will be the first business day immediately prior to that Friday.

Proposed Interpretations and Policies .01(a) to Rule 1809 permits the Exchange to select up to thirty (30) currently listed option classes on which Short Term Option Series may be opened on any Short Term Option Opening Date. In addition to the thirty (30) option class restriction, the Exchange may also list Short Term Option Series on any option classes that are selected by other securities exchanges that employ a similar program under their respective rules. For each index option class eligible for participation in the Short Term Option Series Program, the Exchange may open up to thirty (30) Short Term Option Series on index options for each expiration date in that class. The Exchange may also open Short Term Option Series that are opened by other securities exchanges in option classes selected by such exchanges under their respective short term option rules.

Proposed Interpretations and Policies .01(b) to proposed Rule 1809 states that no Short Term Option Series on an index option class may expire in the same week during which any monthly option series on the same index class expires or, in the case of Quarterly Options Series, on an expiration that coincides with an expiration of Quarterly Options Series on the same index class.

Proposed Interpretations and Policies .01(c) to Rule 1809 governs the listing and trading of initial series in short-term options. The Exchange may open up to twenty (20) initial series for each option class that participates in the Short Term Option Series Program. The strike price of each Short Term Option Series will be fixed at a price per share, with approximately the same number of strike prices above and below the calculated index value of the underlying index at about the time that Short Term Option Series are initially opened for trading on the Exchange (*e.g.,* if seven series are initially opened, there will be at least three strike prices above and three strike prices below the calculated index value). Any strike prices listed by the Exchange shall be within thirty percent (30%) above or below the current value of the underlying index.

Proposed Interpretations and Policies .01(d) to Rule 1809, Additional Series, states that the Exchange may open up to ten (10) additional series for each option class that participates in the Short Term Option Series Program when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the current value of the underlying index moves substantially from the exercise price or prices of the series already opened. Any additional strike prices listed by the Exchange shall be within thirty percent (30%) above or below the current value of the underlying index. The Exchange may also open additional strike prices on Short Term Option Series that are more than thirty percent (30%) above or below the current value of the underlying index provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers. Market Makers trading for their own account shall not be considered when determining customer interest under this provision. In the event that the

underlying security has moved such that there are no series that are at least ten percent (10%) above or below the current price of the underlying security, the Exchange will delist any series with no open interest in both the call and the put series having a: (i) Strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or the call series for a given expiration month, so as to list series that are at least ten percent (10%) but not more than thirty percent (30%) above or below the current price of the underlying security. In the event that the underlying security has moved such that there are no series that are at least ten percent (10%) above or below the current price of the underlying security and all existing series have open interest, the Exchange may list additional series, in excess of the thirty (30) allowed under this Interpretations and Policies .01. The opening of the new Short Term Option Series shall not affect the series of options of the same class previously opened. Notwithstanding any other provisions in proposed Rule 1809, Short Term Option Series may be added up to, and including on, the Short Term Option Expiration Date for that options series.

Proposed Interpretations and Policies .01(e) to Rule 1809 governs strike price intervals for short term index option series. The interval between strike prices on Short Term Option Series shall be the same as the strike prices for series in that same index option class that expire in accordance with the normal monthly expiration cycle. During the month prior to expiration of an index option class that is selected for the Short Term Option Series Program pursuant to this rule (''Short Term Option''), the strike price intervals for the related index non-Short Term Option (''Related non-Short Term Option'') shall be the same as the strike price intervals for the index Short Term Option.

Proposed Interpretations and Policies .02 to Rule 1809 governs the Quarterly Options Series Program. Notwithstanding the restriction in proposed Rule 1809(a)(3) (described above), the Exchange may list and trade options series that expire at the close of business on the last business day of a calendar quarter (''Quarterly Options Series''). The Exchange may list Quarterly Options Series for up to five (5) currently listed options classes that are either index options or options on exchange traded funds (''ETFs''). In addition, the Exchange may also list Quarterly Options Series on any options classes that are selected by other securities exchanges that employ a similar pilot program under their respective rules. The Exchange may list series that expire at the end of the next consecutive four (4) calendar quarters, as well as the fourth quarter of the next calendar year. The Exchange will not list a Short Term Option Series on an options class whose expiration coincides with that of a Quarterly Options Series on that same options class. Quarterly Options Series shall be P.M. settled.

Proposed Interpretations and Policies .02(d) to Rule 1809, Initial Series, states that the strike price of each Quarterly Options Series will be fixed at a price per share, with at least two, but no more than five, strike prices above and at least two, but no more than five, strike prices below the value of the underlying index at about the time that a Quarterly Options Series is opened for trading on the Exchange. The Exchange shall list strike prices for Quarterly Options Series that are reasonably related to the current index value of the underlying index to which such series relates at about the time such series of options is first opened for trading on the Exchange. The term ''reasonably related to the current index value of the underlying index'' means that the exercise price is within thirty percent (30%) of the current index value.

Proposed Interpretations and Policies .02(e) to Rule 1809, Additional Series, permits the Exchange to open for trading additional Quarterly Options Series of the same class when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the initial exercise price or prices. The Exchange may also open for trading additional Quarterly Options Series that are more than thirty percent (30%) away from the current index value, provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate, or individual customers or their brokers. Market-makers trading for their own account shall not be considered when determining customer interest under this provision. The Exchange may open additional strike prices of a Quarterly Options Series that are above the value of the underlying index provided that the total number of strike prices above the value of the underlying is no greater than five. The Exchange may open additional strike prices of a Quarterly Options Series that are below the value of the underlying index provided that the total number of strike prices below the value of the underlying index is no greater than five. The opening of any new Quarterly Options Series shall not affect the series of options of the same class previously opened.

Proposed Interpretations and Policies .02(f) to Rule 1809, Strike Interval, states that the interval between strike prices on Quarterly Options Series shall be the same as the interval for strike prices for series in that same options class that expire in accordance with the normal monthly expiration cycle.

Proposed Interpretations and Policies .03 to Rule 1809 states that, notwithstanding the requirements set forth in proposed Rule 1809, the Exchange may list additional series of index options classes if such series are listed on at least one other national securities exchange in accordance with the applicable rules of such exchange for the listing of index options.[49] Proposed Interpretations and Policies .04 to Rule 1809 states that, notwithstanding the requirements set forth in proposed Rule 1809 and any Interpretations and Policies thereto, the Exchange may list additional expiration months on options classes opened for trading on the Exchange if such expiration months are opened for trading on at least one other registered national securities exchange.

Proposed Interpretations and Policies .05 to Rule 1809 states that, notwithstanding the requirements set forth in this Rule 1809 and any Interpretations and Policies thereto, the Exchange may open for trading Short Term Option Series on the Short Term Option Opening Date that expire on the Short Term Option Expiration Date at strike price intervals of (i) $0.50 or greater where the strike price is less than $75, and $1 or greater where the strike price is between $75 and $150 for all index option classes that participate in the Short Term Options Series Program; or (ii) $0.50 for index option classes that trade in one dollar increments and are in the Short Term Option Series Program.

The proposed rules concerning the terms of options contracts are based on, and substantially similar to, rules that are currently operative on other exchanges.[50]

Proposed Rule 1810 applies to debit put spreads. Debit put spread positions in European-style, broad-based index options traded on the Exchange (hereinafter ''debit put spreads'') may be

[49] *See supra* note 3.

[50] *See, e.g.,* MIAX Options Rule 1809; Nasdaq ISE Rule 2009; Cboe Rule 24.9; and Nasdaq Phlx Rule 1101A.

maintained in a cash account as defined by Federal Reserve Board Regulation T Section 220.8 [51] by a Public Customer, provided that the following procedures and criteria are met:

(a) Approval to maintain debit put spreads in a cash account carried by an Exchange Member. A customer so approved is hereinafter referred to as a ''spread exemption customer.''

(b) The spread exemption customer has provided all information required on Exchange-approved forms and has kept such information current.

(c) The customer holds a net long position in each of the stocks of a portfolio that has been previously established or in securities readily convertible, and additionally in the case of convertible bonds economically convertible, into common stocks which would comprise a portfolio. The debit put spread position must be carried in an account with a member of a self-regulatory organization participating in the ISG.

(d) The stock portfolio or its equivalent is composed of net long positions in common stocks in at least four industry groups and contains at least twenty (20) stocks, none of which accounts for more than fifteen percent (15%) of the value of the portfolio (hereinafter ''qualified portfolio''). To remain qualified, a portfolio must at all times meet these standards notwithstanding trading activity in the stocks.

(e) The exemption applies to European-style broad-based index options dealt in on the Exchange to the extent the underlying value of such options position does not exceed the unhedged value of the qualified portfolio. The unhedged value would be determined as follows: (1) The values of the net long or short positions of all qualifying products in the portfolio are totaled; (2) for positions in excess of the standard limit, the underlying market value (A) of any economically equivalent opposite side of the market calls and puts in broad-based index options, and (B) of any opposite side of the market positions in stock index futures, options on stock index futures, and any economically equivalent opposite side of the market positions, assuming no other hedges for these contracts exist, is subtracted from the qualified portfolio; and (3) the market value of the resulting unhedged portfolio is equated to the appropriate number of exempt contracts as follows—the unhedged qualified portfolio is divided by the correspondent closing index value and the quotient is then divided by the index multiplier or 100.

(f) A debit put spread in Exchange-traded broad-based index options with European-style exercises is defined as a long put position coupled with a short put position overlying the same broad-based index and having an equivalent underlying aggregate index value, where the short put(s) expires with the long put(s), and the strike price of the long put(s) exceeds the strike price of the short put(s). A debit put spread will be permitted in the cash account as long as it is continuously associated with a qualified portfolio of securities with a current market value at least equal to the underlying aggregate index value of the long side of the debit put spread.

(g) The qualified portfolio must be maintained with either a Member, another broker-dealer, a bank, or securities depository.

(h) The spread exemption customer shall agree promptly to provide the Exchange any information requested concerning the dollar value and composition of the customer's stock portfolio, and the current debit put spread positions.

(1) The spread exemption customer shall agree to and any Member carrying an account for the customer shall:

(i) Comply with all Exchange Rules and regulations;

(ii) liquidate any debit put spreads prior to or contemporaneously with a decrease in the market value of the qualified portfolio, which debit put spreads would thereby be rendered excessive; and

(iii) promptly notify the Exchange of any change in the qualified portfolio or the debit put spread position which causes the debit put spreads maintained in the cash account to be rendered excessive.

(i) If any Member carrying a cash account for a spread exemption customer with a debit put spread position dealt in on the Exchange has a reason to believe that as a result of an opening options transaction the customer would violate this spread exemption, and such opening transaction occurs, then the Member has violated Rule 1810.

(j) Violation of any of these provisions, absent reasonable justification or excuse, shall result in withdrawal of the spread exemption and may form the basis for subsequent denial of an application for a spread exemption hereunder.

Proposed Rule 1811, Disclaimers, disclaims liability for index reporting authorities. The Disclaimer shall apply to the reporting authorities [52] identified in the Interpretations and Policies to proposed Rule 1801.[53]

Proposed Rule 1811(b), Disclaimer, provides that no reporting authority, and no affiliate of a reporting authority (each such reporting authority, its affiliates, and any other entity identified in this Rule are referred to collectively as a ''Reporting Authority''), makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of an index it publishes, any opening, intra-day or closing value therefor, or any data included therein or relating thereto, in connection with the trading of any options contract based thereon or for any other purpose. The Reporting Authority shall obtain information for inclusion in, or for use in the calculation of, such index from sources it believes to be reliable, but the Reporting Authority does not guarantee the accuracy or completeness of such index, any opening, intra-day or closing value therefor, or any date included therein or related thereto. The Reporting Authority hereby disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to such index, any opening, intra-day, or closing value therefor, any data included therein or relating thereto, or any options contract based thereon. The Reporting Authority shall have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses, or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any options contract based thereon, or arising out of any errors or delays in calculating or disseminating such index.

Proposed Rule 1811 concerning Disclaimers is based on, and substantially similar to, rules that are

[51] 12 CFR 220.8.

[52] The term ''reporting authority'' with respect to a particular index means the institution or reporting service designated by the Exchange as the official source for (1) calculating the level of the index from the reported prices of the underlying securities that are the basis of the index and (2) reporting such level. The reporting authority for each index approved for options trading on the Exchange shall be Specified (as provided in Rule 1800) in the Interpretations and Policies to Rule 1801. *See* proposed Rule 1801(n). *See also supra* note 5.

[53] The reporting authorities designated by the Exchange in respect of each index underlying an index options contract traded on the Exchange are as provided in a chart in proposed Rule 1801, Interpretations and Policies .01.

currently operative on other exchanges.[54]

Proposed Rule 1812, Exercise of American-Style Index Options, contains standards for exercising American-style index options. The proposed rule provides that no Member may prepare, time stamp or submit an exercise instruction for an American-style index options series if the Member knows or has reason to know that the exercise instruction calls for the exercise of more contracts than the ''net long position'' of the account for which the exercise instruction is to be tendered. For purposes of this rule: (i) The term ''net long position'' shall mean the net position of the account in such option at the opening of business of the day of such exercise instruction, plus the total number of such options purchased that day in opening purchase transactions up to the time of exercise, less the total number of such options sold that day in closing sale transactions up to the time of exercise; (ii) the ''account'' shall be the individual account of the particular customer, market-maker or ''non-customer'' (as that term is defined in the By-Laws of the Clearing Corporation) who wishes to exercise; and (iii) every transaction in an options series effected by a market-maker in a market-maker's account shall be deemed to be a closing transaction in respect of the market-maker's then positions in such options series. No Member may adjust the designation of an ''opening transaction'' in any such option to a ''closing transaction'' except to remedy mistakes or errors made in good faith.

Trading Halts

The Exchange proposes to amend Rule 504, Trading Halts, Interpretations and Policies .04 to address the handling of trade nullifications in index options due to trading halts. Specifically, Interpretations and Policies .04 would be amended to state that, with respect to index options, trades on the Exchange will be nullified if the trade occurred during a regulatory halt as declared by the primary market in underlying securities representing more than ten percent (10%) of the current index value for narrow-based stock index options, and twenty percent (20%) of the current index value for broad-based index options. New Interpretations and Policies .05 to Rule 504 states that trading halts, resumptions, trading pauses and post-halt notifications involving index options are governed by Rules 1808(c)–(f) (described above).

Surveillance and Capacity

The Exchange represents that is has an adequate surveillance program in place for index options. The Exchange is a member of the ISG, which ''is comprised of an international group of exchanges, market centers, and market regulators.'' The purpose of the ISG is to provide a framework for the sharing of information and the coordination of regulatory efforts among exchanges trading securities and related products to address potential intermarket manipulations and trading abuses. The ISG plays a crucial role in information sharing among markets that trade securities, options on securities, security futures products, and futures and options on broad-based security indexes. A list identifying the current ISG members is available at *https://www.isgportal.org/isgportal/public/members.htm.*

MIAX PEARL has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle the additional traffic associated with the listing and trading of index options.

The Exchange will announce the implementation date of the proposed rule change by Regulatory Circular to be published no later than 90 days following the date the Commission issues an order approving the proposed rule change. The implementation date will be no later than 90 days following the issuance of the Regulatory Circular.

2. Statutory Basis

MIAX PEARL believes that its proposed rule change is consistent with Section 6(b) of the Act[55] in general, and furthers the objectives of Section 6(b)(5) of the Act[56] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change will expand the Exchange's capability to introduce and trade both existing and new and innovative index products on the MIAX PEARL System. The added capability is consistent with the Act in that it should foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, specifically index options. The Exchange believes that there is unmet market demand on MIAX PEARL for exchange-listed index options and the listing and trading of index options on the Exchange is designed to attract both liquidity and order flow to the Exchange, all to the benefit of the marketplace as a whole.

The Exchange believes that the requirements in the proposed listing standards regarding, among other things, the minimum market capitalization, trading volume, and relative weightings of an underlying index's component stocks are designed to ensure that the markets for the index's component stocks are adequately capitalized and sufficiently liquid, and that no one stock dominates the index. These requirements are designed to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest, by ensuring that unusual or extreme volatility in any single component of an index could not cause the entire index to become so volatile that it puts investors at undue and unplanned risk. These requirements also minimize the potential for manipulating the underlying index, which protects investors and the public interest.

The Exchange further believes that the requirement in proposed Rule 1802(b)(10) that the current underlying index value will be reported at least once every fifteen (15) seconds during the time the index options are traded on the Exchange, and the requirement in proposed Rule 1802(d)(11) (with respect to broad-based index options) that the current index value be widely disseminated at least once every fifteen (15) seconds by OPRA, the CTA, NIDS or one or more major market data vendors during the time the index options are traded on the Exchange removes impediments to and perfects the mechanisms of a free and open market and a national market system by providing transparency with respect to current index values and by contributing to the overall transparency of the market for index options. In addition, the Exchange believes that the requirement in proposed Rule 1802(d)(2) that an index option be A.M.-settled, rather than based on closing prices, should help to reduce the potential impact of expiring index

[54] *See, e.g.,* MIAX Options Rule 1811; Nasdaq ISE Rule 2011 and Cboe Rule 24.14.

[55] 15 U.S.C. 78f(b).

[56] 15 U.S.C. 78f(b)(5).

options on the market for an index's component securities.

The Exchange believes that the requirement in proposed Rule 1803 to disseminate index values as a condition to the trading of options on an index fosters cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities by requiring absolute transparency regarding the dissemination of index values. The requirement that the Exchange disseminate, or assure that the current index value is disseminated, and the requirement that the Exchange maintain, in files available to the public, information identifying the components whose prices are the basis for calculation of the index and the method used to determine the current index value, protects investors and the public interest by ensuring that the current index value is disseminated regularly and consistently.

The Exchange's proposal to adopt Rules 1804 through 1807 relating to position limits, exemptions from position limits, exercise limits in index options, and regular maintenance reviews are designed to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest, by limiting investors' levels of concentration in a single index position. Not only would an investor be at undue risk by assuming such a position, but the market for the affected index option could be disproportionately affected by the trading activities of that single investor with an unusually large long or short position. The Exchange is proposing to mitigate this risk by establishing the same position and exercise limits, and hedging rules, that already exist on other exchanges, all designed for the protection of investors and the public interest.

Proposed Rule 1808, Trading Sessions, is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities, by establishing the same, uniform trading hours for index options as other exchanges. The Exchange's proposal to establish rules and procedures for openings, halts and reopenings, together with the designation by the Board of an Exchange official authorized to halt trading when, in his or her judgment, such action is appropriate in the interests of a fair and orderly market is designed to protect investors and the public interest by ensuring that there are multiple safeguards available during times of unusual or particularly volatile market activity.

Proposed Rule 1809, Terms of Index Options Contracts, outlines the terms of index options contracts in terms of the meaning of premium bids and offers; exercise prices; expiration months; the trading of European Style Index options. This proposed rule is the same as the rules concerning terms of index options contracts on other exchanges.[57] Proposed Rule 1809 is a generic rule concerning the manner of trading of index option contracts. The Exchange's proposal to adopt existing uniform rules governing terms of index option contracts is designed to perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest by adopting standards and rules for index option contracts that are consistent with other exchanges' standards and rules. The Exchange believes that this benefits investors and the marketplace as a whole because investors who determine to trade index options on MIAX PEARL will not need to rely on an unfamiliar set of rules and contract terms when they begin trading index options here.

The Exchange believes that its proposal to include index options in the Short Term Options Series Program removes impediments to, and perfects the mechanisms of, a free and open market and a national market system, and will benefit market participants by giving them more flexibility to closely tailor their investment and hedging decisions in a greater number of securities. The Exchange also believes that expanding the Short Term Options Series Program to include index options will provide the investing public and other market participants with additional opportunities to hedge their investment, thus allowing these investors to better manage their acceptable risk tolerance levels, all to the benefit of the investing public and the marketplace as a whole.

The Exchange's proposal to adopt Rule 1810 relating to debit put spreads fosters cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitates transactions in, securities, by maintaining uniformity in its rules governing this strategy with the same specificity as the rules on other exchanges.

Proposed Rule 1811 concerning Disclaimers is based on, and substantially similar to, rules that are currently operative on other exchanges.[58] The proposed rule promotes just and equitable principles of trade by stating that a Reporting Authority shall have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses, or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of an index, any opening, intra-day or closing value therefor, any data included therein or relating thereto, or any options contract based thereon, or arising out of any errors or delays in calculating or disseminating such index.

Proposed Rule 1812, Exercise of American-Style Index Options, is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade by providing that no Member may prepare, time stamp or submit an exercise instruction for an American-style index options series if the Member knows or has reason to know that the exercise instruction calls for the exercise of more contracts than the then ''net long position'' of the account for which the exercise instruction is to be tendered. The proposed rule contains standards for exercising American-style index options that are in effect on other exchanges.[59]

The Exchange believes that its proposed surveillance program and available capacity with respect to the listing and trading of index options perfects the mechanisms of a free and open market and a national market system through, among other things, its membership in ISG and its current available capacity. As discussed above, the Exchange represents that has an adequate surveillance program in place for index options. The Exchange is a member of the ISG, which ''is comprised of an international group of exchanges, market centers, and market regulators.'' The purpose of the ISG is to provide a framework for the sharing of information and the coordination of regulatory efforts among exchanges trading securities and related products to address potential intermarket manipulations and trading abuses. The ISG plays a crucial role in information sharing among markets that trade

[57] *See* MIAX Options Rule 1809; Nasdaq ISE Rule 2009; Cboe Rule 24.9; and Nasdaq Phlx Rule 1101A.

[58] *See, e.g.,* MIAX Options Rule 1811; Nasdaq ISE Rule 2011 and Cboe Rule 24.14.

[59] *See, e.g.,* MIAX Options Rule 1812; Nasdaq ISE Rule 2012; Cboe Rule 24.18; and Nasdaq Phlx Rule 1042A.

securities, options on securities, security futures products, and futures and options on broad-based security indexes. A list identifying the current ISG members is available at *https://www.isgportal.org/isgportal/public/members.htm.* MIAX PEARL has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle the additional traffic associated with the listing and trading of index 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 that is not necessary or appropriate in furtherance of the purposes of the Act. On the contrary, the Exchange believes that the proposed rule change will enable the Exchange to compete for order flow in index options products with other exchanges that currently have rules and functionality in place to list and trade index options.

The Exchange further believes that the proposed rule change will enhance intra-market competition, as more varied index products become available for trading on the Exchange, which should encourage a greater number of Market Makers to trade index options, resulting in greater liquidity and more competitive quoting on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2018–02 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–PEARL–2018–02. 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 website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2018–02 and should be submitted on or before March 20,2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[60]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–03894 Filed 2–26–18; 8:45 am]

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[60] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82749; File No. SR–ISE–2018–15]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Gateway Fees

February 21, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 12, 2018, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Schedule of Fees to remove obsolete text and amend the current rule text to provide a more accurate description of the Gateway Fees which are currently offered on ISE.

The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend ISE's current pricing related to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b 4.

Gateways at VI, C of the Schedule of Fees. The Exchange's current gateway offering was modified with the completion of the transition of ISE to INET technology in July 2017. First, as of July 2017, the Exchange no longer offered a Shared Gateway for its DTI [3] port to its Members. Second, the Exchange modified its offering of its Dedicated Gateway to remove the paired offering which allowed access to both ISE and Nasdaq GEMX, LLC (''GEMX''). Both of these changes are discussed in more detail below.

Shared Gateway

With the transition to INET, ISE no longer offered DTI ports as of July 2017. Prior to the replatform, ISE assessed Members a Shared Gateway fee of $750 per gateway, per month for DTI ports. The offering provided connectivity to both ISE and GEMX. The Exchange no longer offers DTI ports and has not billed this fee since the decommissioning of the DTI ports in July 2017. No ISE Member will be offered a Shared Gateway for a DTI port. Today, the Exchange does not assess a Shared Gateway fee for ports. ISE Members are able to utilize various ports today, namely, SQF, OTTO, FIX and Precise. The Exchange is noting a Shared Gateway fee of $0 on the Schedule of Fees for clarity. The Shared Gateway fee shall apply to all ports including FIX, SQF, OTTO and Precise.

Dedicated Gateway and Dedicated SQF

The Exchange filed a rule change to establish a Dedicated SQF Host in 2017 to discuss the transition of gateway services in connection with the INET migration.[4] In that rule change the Exchange noted it would offer Dedicated Gateways to facilitate member access to the Exchange.[5] The filing described a Dedicated SQF Host as an optional offering available to Market Makers—*i.e.,* Primary Market Makers (''PMMs'') and Competitive Market Makers (''CMMs'')—only for their SQF Port & SQF Purge Port connectivity.[6] A Dedicated SQF Host provides the PMM or CMM with assurance that their SQF Port and SQF Purge Port connection to the Exchange resides on a host that is not shared with other PMMs and CMMs.

The Exchange's Schedule of Fees currently provides for a Dedicated Gateway fee which is assessed at $2,250 per gateway pair, per month. The Schedule of Fees notes that the gateway connectivity provides connectivity to both GEMX and ISE. Also, the Schedule of Fees notes a Dedicated SQF Host Fee of $0 per host per month. The Exchange established the Dedicated SQF Host Fee at no cost because the Exchange did not desire to double bill ISE Market Makers for two sets of SQF connectivity—one to the old T7 legacy system and one to the new INET system.

The Exchange discontinued its paired Dedicated Gateways in July 2017. Since that time the Exchange has not billed Market Makers for use of Dedicated Gateways. The Exchange has offered the Dedicated SQF Host at no cost. At this time, the Exchange proposes to increase and amend the dedicated offering. The Exchange proposes to eliminate the reference to a ''Dedicated SQF Host Fee'' and commence assessing a fee for the ''Dedicated Gateway'' offering. The Exchange proposes to continue to refer to the dedicated offering as the ''Dedicated Gateway'' and assess a fee of $2,250 per SQF gateway, per month. Only Market Makers that utilize SQF ports have the option of utilizing this dedicated offering. Prior to the INET transition, all Members were able to utilize the dedicated offering for their DTI port. Today, only SQF ports, which are utilized by Market Makers, may be dedicated. All other ports, namely FIX, OTTO and Precise, can only be shared. An SQF port can be shared, at no cost, or dedicated. The current Dedicated SQF will not offer connectivity for GEMX and therefore the ''pair'' language is no longer relevant. The offering only grants access to ISE.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Shared Gateway

The Exchange believes that removing the obsolete pricing for the Shared Gateway for the DTI ports is reasonable because DTI ports are no longer available and the Exchange does not assess any other port a Shared Gateway fee. Also, the Exchange offers a Shared Gateway for any port, SQF, OTTO, FIX or Precise, at no cost.

The Exchange believes that removing the pricing for the Shared Gateway for DTI ports is equitable and not unfairly discriminatory because DTI ports are no longer available on ISE for any Member. Any Member may utilize a Shared Gateway at no cost.

Dedicated Gateway and Dedicated SQF

The Exchange believes that removing the current Dedicated Gateway paired pricing and the reference to the Dedicated SQF Host Fee, and increasing the fee for a dedicated offering, namely ''Dedicated Gateway'' fee from $0 [9] to $2,250 per SQF gateway, per month is reasonable. The Exchange discontinued the paired connectivity through the legacy T7 in July 2017. The Exchange offered these dedicated servers at no cost since August 2017. Increasing the Dedicated Gateway fee at this time permits the Exchange to recuperate costs its bears to offer such dedicated services and permits ISE Marker Makers to select between a Shared Gateway and a Dedicated Gateway for their SQF ports. The Exchange believes that assessing a fee of $2,250 per host, per month to obtain a dedicated server is reasonable given the cost of this offering to the Exchange. ISE Market Makers have the option of selecting a Shared Gateway for their SQF ports at no cost.

The Exchange believes that removing the current Dedicated Gateway paired pricing and the reference to the Dedicated SQF Host Fee, and increasing the fee for a dedicated offering, namely ''Dedicated Gateway'' fee from $0 to $2,250 per SQF gateway, per month is equitable and not unfairly discriminatory. At this time, no ISE Member is being assessed the paired Dedicated Gateway fees. Today, no ISE Market Maker is being assessed a Dedicated SQF Host fee. Any ISE Market Maker may select a Dedicated SQF, as compared to a Shared Gateway for their SQF connectivity. The Exchange will uniformly assess any ISE Market Maker the proposed $2,250 per host, per month fee. ISE Market Makers are likely to benefit from a dedicated as compared to a shared gateway as compared to other market participants. Dedicated SQF is designed to provide a more deterministic experience for ISE Market Makers when quoting on the Exchange by allowing them to better load balance their trading sessions, but does not provide any latency benefit when compared to using the shared

[3] DTI was an order entry protocol offered on ISE that was utilized by all members. DTI ports are not offered today.

[4] *See* Securities and Exchange Act Release No. 81095 (July 7, 2017), 82 FR 32409 (July 13, 2017)(SR–ISE–2017–62).

[5] *Id.*

[6] *Id. See also* ISE Rule 100(a)(25).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] The Exchange is not currently assessing a fee for a dedicated offering.

gateways, which are built on identical hardware to the dedicated gateways. The Exchange therefore believes that ISE Market Makers are likely to benefit from the load balancing provided by the dedicated gateways, which will aid ISE Market Makers in their obligations to maintain tight markets—a benefit that ultimately accrues to the benefit of all market participants that trade on the Exchange. Based on the Exchange's experience, the Exchange does not believe that market participants using other protocols, namely FIX, OTTO and Precise, are likely to use dedicated gateways, and the Exchange is therefore not offering such Dedicated Gateways for any of ports other than SQF Ports.

The Exchange does not believe that it is unfairly discriminatory to offer Dedicated Gateways only for SQF ports, which are only available to ISE Market Makers. Other exchanges also have gateways that are restricted to market makers. The New York Stock Exchange, for example, offers DMM Gateways that are only available to their Designated Market Makers.[10] ISE Market Makers provide liquidity on the Exchange and have continuous quoting obligations [11] to the market that require the ability to quickly and efficiently interact with their quotes and orders. Finally, with respect to assessing the same fee while discontinuing access to GEMX, the Exchange believes that is equitable and not unfairly discriminatory to no longer offer access to GEMX with this particular offering as other exchanges do not offer this option.[12]

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 other exchanges offer similar dedicated access to their servers.[13] The Exchange 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. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In terms of intra-market competition, no ISE Member will be assessed for a Shared Gateway. The new proposed Dedicated Gateway fee will be uniformly assessed to ISE Market Makers, who provide liquidity on the Exchange and have continuous quoting obligations [14] to the market. These market participants require the ability to quickly and efficiently interact with their quotes and orders. Further will respect to a Dedicated Gateways, the Exchange believes that ISE Market Makers are likely to benefit from the load balancing, which will aid ISE Market Makers in their obligations to maintain tight markets—a benefit that ultimately accrues to the benefit of all market participants that trade on the Exchange. An ISE Market Maker may selected a Shared Gateway for their SQF ports at no cost. Further, the Exchange notes that no ISE Market Maker will be offered connectivity to GEMX in connection with this offering.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[15] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ISE–2018–15 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–ISE–2018–15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2018–15 and should be submitted on or before March 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–03888 Filed 2–26–18; 8:45 am]

BILLING CODE 8011–01–P

[10] *See* Securities Exchange Act Release No. 79748 (January 6, 2017), 82 FR 3828 (January 12, 2017) (SR–NYSE–2016–93).

[11] *See* ISE Rule 804(e).

[12] Nasdaq MRX, LLC has never offered a dedicated gateway option today.

[13] *See* note 9 above.

[14] *See* ISE Rule 804(e).

[15] 15 U.S.C. 78s(b)(3)(A)(ii).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82753; File No. SR–Phlx–2018–17]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Section VI.A. of the Exchange's Pricing Schedule To Clarify the Exchange's Billing Practices With Respect to Permit Fees

February 21, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 13, 2018, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section VI.A. of the Exchange's Pricing Schedule to clarify the Exchange's billing practices with respect to permit fees when a member organization must transfer a permit due to the fact that the individual who is designated as the permit holder on the existing permit ceases to be primarily affiliated with the member organization.

The text of the proposed rule change is set forth below. Proposed new language is italicized; deleted text is in brackets.

* * * * *

NASDAQ PHLX LLC Pricing Schedule

THE EXCHANGE CALCULATES FEES ON A TRADE DATE BASIS.

POLICY FOR AMENDING BILLING INFORMATION: CORRECTIONS SUBMITTED AFTER TRADE DATE AND PRIOR TO THE ISSUANCE OF AN INVOICE BY THE EXCHANGE MUST BE SUBMITTED TO THE EXCHANGE IN WRITING AND MUST BE ACCOMPANIED BY SUPPORTING DOCUMENTATION. ONLY MEMBERS MAY SUBMIT TRADE CORRECTIONS.

ALL BILLING DISPUTES MUST BE SUBMITTED TO THE EXCHANGE IN WRITING AND MUST BE ACCOMPANIED BY SUPPORTING DOCUMENTATION. ALL DISPUTES MUST BE SUBMITTED NO LATER THAN SIXTY (60) DAYS AFTER RECEIPT OF A BILLING INVOICE, EXCEPT FOR DISPUTES CONCERNING NASDAQ PSX FEES, PROPRIETARY DATA FEED FEES AND CO-LOCATION SERVICES FEES. THE EXCHANGE CALCULATES FEES ON A TRADE DATE BASIS. ONLY MEMBERS MAY SUBMIT BILLING DISPUTES.

* * * * *

VI. Membership Fees

A. Permit and Registration Fees

* * * * *

• Permit Fees: The Exchange has established the date of notification of termination of a permit as the date that permit fee billing will cease. *The Exchange will not bill a member organization for more than one monthly permit fee if the member organization transfers an existing permit to another valid permit holder that is primarily affiliated with the member organization, as set forth in Rules 908(f) and 910, provided that the transfer from one permit holder to another occurs within the same business day.* Additionally, a permit holder will be billed only one monthly permit fee if the holder transfers from one member organization to another previously unrelated member organization as a result of a merger, partial sale or other business combination during a monthly permit fee period in order to avoid double billing in the month the merger or business combination occurred.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposal is to clarify the Exchange's practices with respect to the billing of permit fees when a member organization must transfer a permit due to the fact that the individual who is designated as the permit holder ceases to be primarily affiliated with the member organization.

Rule 910(f)(1) of the Exchange's Rules states that an organization wishing to obtain and maintain its status on the Exchange as a member organization must, among other things, be ''duly qualified by a permit holder who is primarily affiliated with such organization for purposes of nominating as provided in the By-Laws.'' If the individual who is designated as the permit holder ceases to be primarily affiliated with the member organization, then the member organization's permit terminates. If the member organization wishes to maintain its trading privileges on the Exchange, it must apply to transfer the permit to another affiliated individual as the permit holder, as is permitted by Rule 908(h).[3]

Section VI.A. of the Exchange's Pricing Schedule, which sets forth the fees that the Exchange charges for permits, does not state whether the Exchange will bill a member organization for one or two monthly permit fees in the foregoing scenario. The existing practice of the Exchange is to bill the member organization for only one permit fee, provided that the member organization applies to transfer its permit between permit holders on the same business day. The Exchange believes that this billing practice is fair because the number of permits that the member organization maintains does not change as the result of the transfer. Instead, the transfer occurs due to the Exchange's requirement in its membership rules that the permit holder be an individual who is primarily affiliated with the member organization. The Exchange proposes to codify its billing practice in Section VI.A. of its Pricing Schedule so as to eliminate any ambiguity and confusion on this issue going forward.[4]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Rule 908(h) provides that ''[a] permit may not be transferred by lease, sale, gift, involuntary transfer, or any other means or as collateral to secure any obligation, except that a permit may be transferred within the permit holder's member organization . . . .''

[4] To avoid being billed for a second monthly permit fee, the Exchange proposes to require member organizations to apply to transfer their permits between permit holders on the same business day as a means of differentiating the pertinent scenario from others in which member organizations apply for new or additional permits long after certain of its other permits terminate.

[5] 15 U.S.C. 78f(b).

objectives of Section 6(b)(5) of the Act,[6] 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. Specifically, the proposal codifies the Exchange's existing billing practices so as to clarify that the Exchange will bill a member organization for only one monthly permit fee when the organization transfers one of its permits during a month to a new permit holder within its organization if the individual then listed as the permit holder ceases to be primarily affiliated with the organization. This clarification is just and equitable and it protects investors and the public interest because it prohibits the Exchange from double billing when a member organization applies to transfer a permit between affiliated individuals to maintain the validity of that permit in accordance with the Exchange's membership rules. The proposed change will also apply to all member organizations equally.

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 proposal is not intended to nor will it have any discernable impact on competition. The Exchange merely intends to codify its existing billing practices and to clarify them in a manner that prevents double billing of member organizations for monthly permit fees.

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[7] and subparagraph (f)(6) of Rule 19b-4 thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6)[9] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[10] 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 waiving the operative delay will allow it to immediately dispel any confusion that may exist among member organizations regarding the Exchange's billing practices for transferred permits. The Exchange also notes that the proposed rule change will ensure that member organizations are billed fairly for their permits and for maintaining their permits in accordance with the Exchange's membership rules. Based on the foregoing, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change as operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2018–17 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–Phlx–2018–17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2018–17 and should be submitted on or before March 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–03892 Filed 2–26–18; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] 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).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82751; File No. SR–FINRA–2018–005]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Revise the Research Analyst (Series 86 and 87) Examinations

February 21, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 9, 2018, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as ''constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule'' under Section 19(b)(3)(A)(i) of the Act[3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing revisions to the content outline and selection specifications for the Research Analyst (Series 86 and 87) examinations as part of the restructuring of the representative-level examination program.[5] The proposed revisions also update the material to reflect changes to the laws, rules and regulations covered by the examinations and to incorporate the functions and associated tasks currently performed by a Research Analyst. In addition, FINRA is proposing to make changes to the format of the content outline. FINRA is not proposing any textual changes to the By-Laws, Schedules to the By-Laws or Rules of FINRA.

The revised Series 86 and 87 content outline is attached.[6] The revised Series 86 and 87 selection specifications have been submitted to the Commission under separate cover with a request for confidential treatment pursuant to SEA Rule 24b–2.[7]

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room. [sic]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 15A(g)(3) of the Act[8] authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. In accordance with that provision, FINRA has developed examinations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge, consistent with applicable registration requirements under FINRA rules. FINRA periodically reviews the content of the examinations to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

The SEC recently approved a proposed rule change to restructure the FINRA representative-level qualification examination program.[9] The rule change, which will become effective on October 1, 2018,[10] restructures the examination program into a new format whereby all new representative-level applicants will be required to take a general knowledge examination (the Securities Industry Essentials or SIE™) and a tailored, specialized knowledge examination (a revised representative-level qualification examination) for their particular registered role.

The restructured program eliminates duplicative testing of general securities knowledge on the current representative-level qualification examinations by moving such content into the SIE examination.[11] The SIE examination will test fundamental securities-related knowledge, including knowledge of basic products, the structure and function of the securities industry, the regulatory agencies and their functions and regulated and prohibited practices, whereas the revised representative-level qualification examinations will test knowledge relevant to day-to-day activities, responsibilities and job functions of representatives.[12]

Currently, an individual registering as an equity Research Analyst must satisfy the General Securities Representative co-requisite registration and pass the Research Analyst (Series 86 and 87) examinations. The purpose of the current co-requisite is to ensure that Research Analysts have general securities knowledge, because the Series 86 and 87 examinations do not cover such knowledge. As part of the restructuring process, FINRA has eliminated the requirement that individuals registering as Research Analysts satisfy the General Securities Representative co-requisite registration. Instead, individuals registering as Research Analysts will be required to pass the SIE examination, which will

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] FINRA also is proposing corresponding revisions to the Series 86 and 87 question banks. Based on instruction from SEC staff, FINRA is submitting this filing for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(1) thereunder, and is not filing the question banks. *See* Letter to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000. The question banks are available for SEC review.

[6] The Commission notes that the content outline is attached to the filing, not to this Notice.

[7] 17 CFR 240.24b–2.

[8] 15 U.S.C. 78*o*–3(g)(3).

[9] *See* Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR–FINRA–2017–007).

[10] *See Regulatory Notice* 17–30 (SEC Approves Consolidated FINRA Registration Rules, Restructured Representative-Level Qualification Examinations and Changes to Continuing Education Requirements) (October 2017).

[11] Each of the current representative-level examinations covers general securities knowledge, with the exception of the Research Analyst (Series 86 and 87) examinations.

[12] FINRA filed the SIE content outline with the SEC for immediate effectiveness. *See* Securities Exchange Act Release No. 82578 (January 24, 2018), 83 FR 4375 (January 30, 2018) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2018–002). In addition to the proposed rule change relating to the revised Series 86 and 87 examinations, FINRA will file with the Commission for immediate effectiveness the content outlines for the other revised representative-level qualification examinations.

cover general securities knowledge, as a co-requisite.

Further, FINRA, in consultation with a committee of industry representatives, undertook a review of the Research Analyst (Series 86 and 87) examinations to revise the Series 86 and 87 content outline to reflect changes to the laws, rules and regulations covered by the examinations and to incorporate the functions and associated tasks currently performed by a Research Analyst. The proposed change will align the organization of the Series 86 and 87 content outline with the organization of the content outlines of the other revised representative-level examinations.[13] FINRA also is proposing to make other changes to the format of the Series 86 and 87 content outline.

Beginning on October 1, 2018, new applicants seeking to register as Research Analysts must pass the SIE examination as well as the revised Research Analyst (Series 86 and 87) examinations.

Current Content Outline

The Series 86 examination contains the analysis portion of the Research Analyst examinations and tests knowledge of fundamental analysis and valuation of equity securities. The Series 87 examination contains the regulatory portion of the Research Analyst examinations and tests knowledge of applicable rules and regulations pertaining to equity research. The current Series 86 and 87 content outline is divided into four sections. The Series 86 covers two sections and the Series 87 covers the other two sections. The following are the four sections, denoted Section 1 through Section 4, with the associated number of questions:

Series 86

1. Information and Data Collection, 10 questions;
2. Analysis, Modeling and Valuation, 90 questions;

Series 87

3. Preparation of Research Reports, 32 questions; and
4. Dissemination of Information, 18 questions.

In addition, each section includes references to the applicable laws, rules and regulations associated with that section. The current content outline also includes a preface (addressing, among other things, the purpose, administration and scoring of the examination), sample questions and reference materials.

Revised Content Outline

FINRA is proposing to update the content outline to reflect changes to the laws, rules and regulations covered by the examinations and to incorporate the functions and associated tasks currently performed by a Research Analyst. However, FINRA is not proposing to adjust the number of questions on the examinations or to adjust the number of questions assigned to each section on the current outline. Further, the proposed functions match the sections on the current outline. The following are the four major job functions, denoted Function 1 through Function 4, with the associated number of questions:

Series 86

Function 1: Information and Data Collection, 10 questions;

Function 2: Analysis, Modeling and Valuation, 90 questions;

Series 87

Function 3: Preparation of Research Reports, 32 questions; and

Function 4: Dissemination of Information, 18 questions.

Each function also includes specific tasks describing activities associated with performing that function. There are four tasks (1.1–1.4) associated with Function 1;[14] four tasks (2.1–2.4) associated with Function 2;[15] four tasks (3.1–3.4) associated with Function 3;[16] and five tasks (4.1–4.5) associated with Function 4.[17] For example, one such task (Task 1.1) is gathering macroeconomic data.[18] Further, the content outline lists the knowledge required to perform each function and associated tasks (*e.g.,* short- and long-term trends in the economy, demographic information, domestic and international issues). In addition, where applicable, the content outline lists the laws, rules and regulations a candidate is expected to know to perform each function and associated tasks (*e.g.,* FINRA Rule 2241 (Research Analysts and Research Reports)).

As noted above, FINRA also is proposing to revise the content outline to reflect changes to the laws, rules and regulations covered by the examination. Among other revisions, FINRA is proposing to revise the content outline to reflect the adoption of rules in the consolidated FINRA rulebook (*e.g.,* NASD Rule 2711 (Research Analysts and Research Reports) was adopted as FINRA Rule 2241 (Research Analysts and Research Reports)).[19]

FINRA is proposing similar changes to the Series 86 and 87 selection specifications and question banks.

Finally, FINRA is proposing to make other changes to the format of the content outline, including to the preface, sample questions and reference materials.[20] Among other changes, FINRA is proposing to: (1) Reduce the preface to one page of introductory information; (2) streamline details regarding the purpose of the examinations; (3) move the application procedures to FINRA's website; and (4) explain that the passing score is established using a standard setting procedure, and that a statistical adjustment process known as equating is used in scoring the examinations.[21]

The number of scored questions on the Series 86 examination will remain at 100 questions,[22] and candidates will continue to have four hours and 30 minutes to complete the examination. The number of scored questions on the Series 87 examination will remain at 50 questions,[23] and candidates will continue to have one hour and 45 minutes to complete the examination. Currently, a score of 73 percent is required to pass the Series 86 examination and a score of 74 percent is required to pass the Series 87 examination. The passing score for each examination will also remain the same.

Availability of Content Outline

The current Series 86 and 87 content outline is available on FINRA's website, at *www.finra.org.* The revised Series 86

[13] FINRA currently has organized several FINRA qualification examinations, such as the Securities Trader (Series 57) examination, based on the functions that are performed by the respective registered persons and the associated tasks. FINRA is proposing similar layouts for all of the representative-level examinations, including the Series 86 and 87 examinations.

[14] *See* Exhibit 3a, Outline Page 3. The outline is attached as Exhibit 3a to the 19b–4 form.

[15] *See* Exhibit 3a, Outline Pages 4–6.

[16] *See* Exhibit 3a, Outline Pages 7–8.

[17] *See* Exhibit 3a, Outline Pages 9–10.

[18] *See* Exhibit 3a, Outline Page 3.

[19] *See* Rule Conversion Chart, available at *http://www.finra.org/industry/finra-rule-consolidation.*

[20] FINRA is proposing similar changes to the content outlines for other representative-level examinations.

[21] *See* Exhibit 3a, Outline Page 2.

[22] Consistent with FINRA's practice of including ''pretest'' questions on examinations, the Series 86 examination includes 10 additional, unidentified pretest questions that do not contribute towards the candidate's score. The pretest questions are designed to ensure that new examination questions meet acceptable testing standards prior to use for scoring purposes. Therefore, the Series 86 examination actually consists of 110 questions, 100 of which are scored. The 10 pretest questions are randomly distributed throughout the examination.

[23] The Series 87 examination includes five additional pretest questions. Therefore, the Series 87 examination actually consists of 55 questions, 50 of which are scored. The five pretest questions are randomly distributed throughout the examination.

and 87 content outline will replace the current content outline on FINRA's website, and it will be made available on the website on the date of this filing.

FINRA is filing the proposed rule change for immediate effectiveness. The implementation date will be October 1, 2018, to coincide with the implementation of the restructured representative-level examination program. FINRA will also announce the implementation date of the proposed rule change in a *Regulatory Notice.*

2. Statutory Basis

FINRA believes that the proposed revisions to the Series 86 and 87 examinations are consistent with the provisions of Section 15A(b)(6) of the Act,[24] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(g)(3) of the Act,[25] which authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. FINRA believes that the proposed revisions will further these purposes by updating the examination program to reflect changes to the laws, rules and regulations covered by the examinations and to incorporate the functions and associated tasks currently performed by a Research Analyst.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The updated examinations align with the functions and associated tasks currently performed by a Research Analyst and tests knowledge of the most current laws, rules, regulations and skills relevant to those functions and associated tasks. As such, the proposed revisions would make the examinations more effective. FINRA also provided a detailed economic impact assessment regarding the introduction of the SIE examination and the restructuring of the representative-level examinations as part of the proposed rule change to restructure the FINRA representative-level qualification examination program.[26]

[24] 15 U.S.C. 78*o*–3(b)(6).

[25] 15 U.S.C. 78*o*–3(g)(3).

[26] *See* Securities Exchange Act Release No. 80371 (April 4, 2017), 82 FR 17336 (April 10, 2017) (Notice of Filing of File No. SR–FINRA–2017–007).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [27] and paragraph (f)(1) of Rule 19b–4 thereunder.[28] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2018–005 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–FINRA–2018–005. 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 website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2018–005 and should be submitted on or before March 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–03890 Filed 2–26–18; 8:45 am]

BILLING CODE 8011–01–P

[27] 15 U.S.C. 78s(b)(3)(A).

[28] 17 CFR 240.19b–4(f)(1).

[29] 17 CFR 200.30b–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, March 1, 2018.

PLACE: Closed Commission Hearing Room 10800.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Jackson, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: February 22, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–04032 Filed 2–23–18; 11:15 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Meeting of the Advisory Committee on Veterans Business Affairs

AGENCY: U.S. Small Business Administration.

ACTION: Notice of open Federal Advisory Committee meeting.

SUMMARY: The U.S. Small Business Administration (SBA) is issuing this notice to announce the location, date, time, and agenda for the next meeting of the Advisory Committee on Veterans Business Affairs. The meeting is open to the public.

DATES: Thursday, March 8, 2018, from 9:00 a.m. to 4:00 p.m.

Where: Eisenhower Conference Room B, located on the concourse level.

Contact Info: (Teleconference Dial-in) 1–888–858–2144, Access Code: 7805798; (webinar) *https://connect16.uc.att.com/sba/meet/?ExEventID=87805798*; Access Code: 7805798.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Advisory Committee on Veterans Business Affairs (ACVBA). The ACVBA is established pursuant to 15 U.S.C. 657(b) note, and serves as an independent source of advice and policy. The purpose of this meeting is to focus on strategic planning, updates on past and current events, and the ACVBA's objectives for 2018.

Additional Information: This meeting is open to the public. Advance notice of attendance is requested. Anyone wishing to attend and/or make comments to the ACVBA must contact SBA's Office of Veterans Business Development no later than March 2, 2018 at *veteransbusiness@sba.gov.* Comments for the record will be limited to five minutes to accommodate as many participants as possible. Written comments should be sent to the above by March 2, 2018. Special accommodation requests should also be directed to SBA's Office of Veterans Business Development at (202) 205–6773 or *veteransbusiness@sba.gov.*

For more information on veteran owned small business programs, please visit *www.sba.gov/veterans.*

Dated: February 20, 2018.

Richard W. Kingan,

SBA Committee Management Officer.

[FR Doc. 2018–03933 Filed 2–26–18; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Federal Register Meeting Notice; Meeting of the Interagency Task Force on Veterans Small Business Development

AGENCY: U.S. Small Business Administration.

ACTION: Notice of open Federal Interagency Task Force meeting.

SUMMARY: The U.S. Small Business Administration (SBA) is issuing this notice to announce the location, date, time and agenda for the next meeting of the Interagency Task Force on Veterans Small Business Development. The meeting is open to the public.

DATE AND TIME: Wednesday, March 7, 2018, from 1:00 p.m. to 4:00 p.m.

ADDRESSES: U.S. Small Business Administration, 409 3rd Street SW, Washington, DC 20416.

Where: Eisenhower Conference Room B, located on the concourse level.

Contact Info: (Teleconference Dial-In) 1–888–858–2144, Access Code: 7805798 (webinar) *https://connect16.uc.att.com/sba/meet/?ExEventID=87805798*; Access Code: 7805798.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Interagency Task Force on Veterans Small Business Development (Task Force). The Task Force is established pursuant to Executive Order 13540 to coordinate the efforts of Federal agencies to improve capital, business development opportunities, and pre-established federal contracting goals for small business concerns owned and controlled by veterans and service-disabled veterans.

Moreover, the Task Force shall coordinate administrative and regulatory activities and develop proposals relating to ''six focus areas'': (1) Improving capital access and capacity of small business concerns owned and controlled by veterans and service-disabled veterans through loans, surety bonding, and franchising; (2) ensuring achievement of the pre-established Federal contracting goals for small business concerns owned and controlled by veterans and service disabled veterans through expanded mentor-protégé assistance and matching such small business concerns with contracting opportunities; (3) increasing the integrity of certifications of status as a small business concern owned and controlled by a veteran or service-disabled veteran; (4) reducing paperwork and administrative burdens on veterans in accessing business development and entrepreneurship opportunities; (5) increasing and improving training and counseling services provided to small business concerns owned and controlled by veterans; and (6) making other improvements relating to the support for veterans business development by the Federal Government.

Additional Information: This meeting is open to the public. Advance notice of attendance is requested. Anyone wishing to attend and/or make comments to the Task Force must contact SBA's Office of Veterans Business Development no later than March 2, 2018 at *veteransbusiness@sba.gov.* Comments for the record should be applicable to the ''six focus areas'' of the Task Force and will be limited to five minutes in the interest of time and to accommodate as many participants as possible. Written comments should also be sent to the above email no later than March 2, 2018. Special accommodations requests should also be directed to SBA's Office of Veterans Business Development at (202) 205–6773 or to *veteransbusiness@sba.gov.* For more information on veteran owned small business programs, please visit *www.sba.gov/veterans.*

Dated: February 20, 2018.

Richard W. Kingan,

SBA Committee Management Officer.

[FR Doc. 2018–03935 Filed 2–26–18; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 10324]

60-Day Notice of Proposed Information Collection: Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements, and Other Agreements

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to April 30, 2018.

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

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov*. You can search for the document by entering ''Docket Number: DOS–2018–0011'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: DDTCPublicComments@state.gov*.
- *Regular Mail:* Send written comments to: Directorate of Defense Trade Controls, Attn: Managing Director, 2401 E St. NW, Suite H–1205, Washington, DC 20522–0112.

You must include the subject (PRA 60 Day Comment), information collection title (Statement of Political Contributions, Fees, and Commissions Relating to Sales of Defense Articles and Defense Services), and OMB control number (1405–0093) in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding this collection to Andrea Battista, who may be reached at *BattistaAL@state.gov*.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements, and Other Agreements.
- *OMB Control Number:* 1405–0093.
- *Type of Request:* Extension.
- *Originating Office:* Directorate of Defense Trade Controls (DDTC).
- *Form Number:* No Form.
- *Respondents:* Business, Nonprofit Organizations, or Persons who intend to furnish defense services or technical data to a foreign person.
- *Estimated Number of Respondents:* 580.
- *Estimated Number of Responses:* 4430.
- *Average Time per Response:* 2 hours.
- *Total Estimated Burden Time:* 8,860 hours.
- *Frequency:* On occasion.
- *Obligation To Respond:* Mandatory.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

DDTC regulates the export and temporary import of defense articles and services enumerated on the USML in accordance with the Arms Export Control Act (AECA) (22 U.S.C. 2751 *et seq*.) and the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). In accordance with ITAR § 124.1, any person who intends to furnish defense services or technical data to a foreign person must submit a proposed technical assistance, manufacturing, or distribution license agreement and obtain prior authorization from DDTC for such agreement. Amendments to existing agreements must also be submitted for approval. The electronic mechanism utilized for submitting, reviewing, and approving agreement proposals is the Defense Trade Application Systems (DTAS). Specifically, this process utilizes the DSP–5 license application as the primary instrument or ''vehicle'' for transmitting agreements and their respective amendments from one phase of the adjudication process to the next.

Methodology

Respondents will submit information as attachments to relevant license applications or requests for other approval.

Anthony M. Dearth,

Chief of Staff (Acting), Directorate of Defense Trade Controls, U.S. Department of State.

[FR Doc. 2018–03911 Filed 2–26–18; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice: 10322]

60-Day Notice of Proposed Information Collection: Maintenance of Records by DDTC Registrants

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. We are requesting comments on this collection from all interested individuals and organizations in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow 60 days for public comment preceding submission of this collection to OMB.

DATES: The Department will accept comments from the public up to April 30, 2018.

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

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering the docket number, DOS–2018–0009, in the search field. Then, select ''Comment Now'' to complete the comment form.
- *Email:* The public email comments to *DDTCPublicComments@state.gov.* Include ''ATTN: OMB Approval, Maintenance of Records by Registrants'' in the subject of the email.
- *Mail:* The public may mail comments to the Directorate of Defense Trade Controls, Department of State, 2401 E St. NW, Suite H1205, Washington, DC 20522.

You must include the information collection title (Maintenance of Records by Registrants) and the OMB control number (1405–0111) in all correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents,

to Andrea Battista, who may be reached at *BattistaAL@state.gov* or (202) 663–3136.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Maintenance of Records by Registrants.
- *OMB Control Number:* 1405–0111.
- *Type of Request:* Extension of a currently approved collection.
- *Originating Office:* Directorate of Defense Trade Controls (PM/DDTC).
- *Form Number:* No form.
- *Respondents:* Persons registered with DDTC who conduct business regulated by the International Traffic in Arms Regulations (ITAR, 22 CFR parts 120–130).
- *Estimated Number of Respondents:* 9,100.
- *Estimated Number of Responses:* 9,100.
- *Average Time Per Response:* 20 hours.
- *Total Estimated Burden Time:* 182,000 hours.
- *Frequency:* Annually.
- *Obligation to Respond:* Mandatory.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The ITAR requires that persons registered with DDTC maintain records pertaining to defense trade-related transactions. This information collection approves the record-keeping requirements imposed on registrants by the ITAR. Respondents to this collection may submit their records to DDTC as supporting documentation for disclosures of potential violations of the AECA. The method by which respondents submit these records is approved under OMB Control No. 1405–0179. DDTC uses these records to analyze registrant compliance processes and procedures, and to help assess whether potential AECA or ITAR violations merit administrative sanctions or referral to the Department of Justice for possible criminal prosecution.

Methodology

Respondents may maintain records in any format consistent with the provisions in ITAR § 122.5.

Dated: February 20, 2018.

Anthony M. Dearth,

Managing Director (Acting), Directorate of Defense Trade Controls, Department of State.

[FR Doc. 2018–03919 Filed 2–26–18; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Release Certain Properties From All Terms, Conditions, Reservations and Restrictions of a Quitclaim Deed Agreement Between City of Leesburg and the Federal Aviation Administration for the Leesburg International Airport, Leesburg, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The FAA hereby provides notice of intent to release certain airport properties 7.28 acres at the Leesburg International Airport, Leesburg, FL from the conditions, reservations, and restrictions as contained in a Quitclaim Deed agreement between the FAA and the City of Leesburg, dated March 23, 1948. The release of property will allow the City of Leesburg to dispose of the property for other than aeronautical purposes. The property is located north of the airport, across U.S. Highway 441. The parcel is currently designated Non Aeronautical Use. The property will be released of its federal obligations for Commercial Use. The fair market value of this parcel has been determined to be $2,200,000.

Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Leesburg International Airport and the FAA Airports District Office.

DATES: Comments are due on or before March 29, 2018.

ADDRESSES: Documents are available for review at Leesburg International Airport, and the FAA Airports District Office, 8427 South Park Circle, Suite 524, Orlando, FL 32819. Written comments on the Sponsor's request must be delivered or mailed to: Jennifer Ganley, Program Manager, Orlando Airports District Office, 8427 South Park Circle, Suite 524, Orlando, FL 32819.

FOR FURTHER INFORMATION CONTACT: Jennifer Ganley, Program Manager, Orlando Airports District Office, 8427 South Park Circle, Suite 524, Orlando, FL 32819.

SUPPLEMENTARY INFORMATION:

Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

Bart Vernace,

Manager, Orlando Airports District Office, Revision Date 11/22/00.

[FR Doc. 2018–03953 Filed 2–26–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent of Waiver With Respect to Land; Indianapolis International Airport, Indianapolis, Indiana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA is considering a proposal to change 1.451 acres of airport land from aeronautical use to non-aeronautical use and to authorize the sale of airport property located at Indianapolis International Airport, Indianapolis, IN. The aforementioned land is not needed for aeronautical use. The future use of the property is for commercial and industrial development.

There are no impacts to the airport by allowing the Indianapolis Airport Authority to dispose of the property.

DATES: Comments must be received on or before March 29, 2018.

ADDRESSES: Documents are available for review by appointment at the FAA Chicago Airports District Office, Melanie Myers, Program Manager, 2300 East Devon Avenue, Des Plaines, IL 60018, Telephone: (847) 294–7525/Fax: (847) 294–7046 and Eric Anderson, Director of Properties, Indianapolis Airport Authority, 7800 Col. H. Weir Cook Memorial Drive, Indianapolis, Indiana 46241, (317) 487–5135.

Written comments on the Sponsor's request must be delivered or mailed to:

Melanie Myers, Program Manager, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone Number: (847) 294–7525/FAX Number: (847) 294–7046.

FOR FURTHER INFORMATION CONTACT: Melanie Myers, Program Manager, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, IL 60018, Telephone: (847) 294–7525/Fax: (847) 294–7046.

SUPPLEMENTARY INFORMATION: In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

The vacant land consists of two (2) original airport acquired parcels. These parcels were acquired under grant 6–18–0038–01 or without federal participation. The future use of the property is for commercial and industrial development.

The disposition of proceeds from the sale of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999 (64 FR 7696).

This notice announces that the FAA is considering the release of the subject airport property at the Indianapolis International Airport from federal land covenants, subject to a reservation for continuing right of flight as well as restrictions on the released property as required in FAA Order 5190.6B section 22.16. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA.

Legal Description

Part of the West Half of the Northwest Quarter of Section 24, Township 15 North, Range 2 East of the Second Principal Meridian in Marion County, Indiana, more particularly described as follows:

Commencing at the southwest corner of the Northwest Quarter of Section 24 Township 15 North, Range 2 East; thence North 88 degrees 45 minutes 38 seconds East along the south line of said Quarter a distance of 40.00 feet to the East right of way line of High School Road; thence North 00 degrees 02 minutes 05 seconds East along said right of way a distance of 18.00 feet to the southwest corner of a land tract conveyed to Airport Inn Developers by Instrument number 82–03934 as recorded in the Marion County Recorder's office; thence North 76 degrees 24 minutes 15 seconds East along a southeast line of said land tract a distance of 24.44 feet to the Point of Beginning; thence North 88 degrees 45 minutes 38 seconds East parallel with the south line of said Quarter a distance of 457.50 feet; thence North 87 degrees 31 minutes 55 seconds East a distance of 108.19 feet; thence North 81 degrees 23 minutes 38 seconds East a distance of 34.96 feet; thence North 62 degrees 49 minutes 04 seconds East a distance of 40.45 feet to a point located 15.00 feet east of the East line of the West Half of the West Half of said Quarter; thence North 00 degrees 05 minutes 31 seconds East parallel with the east line of said West Half of the West Half of said Quarter a distance of 215.56 feet to the north line of a land tract conveyed to Indianapolis Airport Authority by Instrument number 82–04538; thence South 57 degrees 28 minutes 02 seconds West along the north line of said land tract a distance of 17.81 feet to a corner of the land tract conveyed to Airport Inn developers by Instrument number 82–03934 (the following three courses being along the south lines of said land tract); (1) thence South 62 degrees 27 minutes 47 seconds West a distance of 178.37 feet; (2) thence South 66 degrees 53 minutes 07 seconds West a distance of 292.47 feet; (3) thence South 76 degrees 24 minutes 15 seconds West a distance of 199.81 feet to the Point of Beginning. Containing 1.451 acres, more or less.

Issued in Des Plaines, Illinois on February 12, 2018.

Deb Bartell,

Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 2018–03957 Filed 2–26–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice for Fresno Yosemite International Airport, Fresno, California

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the City of Fresno for Fresno Yosemite International Airport under the provisions of 49 U.S.C. 47501 *et seq.* (Aviation Safety and Noise Abatement Act) and 14 CFR part 150 are in compliance with applicable requirements.

DATES: *Effective Date:* The effective date of the FAA's determination on the noise exposure maps is February 16, 2018.

FOR FURTHER INFORMATION CONTACT: Camille Garibaldi, Federal Aviation Administration, San Francisco Airports District Office, 1000 Marina Boulevard, Suite 220, Brisbane, CA 94005–1835; email *Camille.Garibaldi@faa.gov;* or Telephone: 650–827–7613

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Fresno Yosemite International Airport are in compliance with applicable requirements of Title14, Code of Federal Regulations (CFR) Part 150 (hereinafter referred to as ''Part 150''), effective February 16, 2018. Under 49 United States Code (U.S.C.) section 47503 of the Aviation Safety and Noise Abatement Act (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure maps and accompanying documentation submitted by the City of Fresno. The documentation that constitutes the ''Noise Exposure Maps'' as defined in section 150.7 of Part 150 includes: Figure 14 Existing Condition (2017) Noise Exposure Map, and Figure 15 Forecast Conditions (2022) Noise Exposure Map. The Noise Exposure Maps contain current and forecast information including the depiction of the airport and its boundary; the runway configurations, land uses such as residential, commercial, industrial, and open space/recreational land use; locations of noise sensitive public buildings (such as schools, hospitals,

and historic properties on or eligible for the National Register of Historic Places); and the Community Noise Equivalent Level (CNEL) 65, 70, and 75 decibel airport noise contours resulting from existing and forecast airport operations. The frequency of airport operations is described in Section 4.2 of the Noise Exposure Map Update report. Flight tracks associated with Fresno Yosemite International Airport are depicted in Figures 9 through 12. The Fresno Yosemite International Airport noise monitoring system is described in both Section 5.3 and Appendix O, with noise monitoring locations shown on Figure O–1 of the report. Estimates of the number of people residing within the CNEL contours is located in Section 5.2.2 of the Noise Exposure Map Update report. The FAA has determined that these noise exposure maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on February 16, 2018.

FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of Part 150, that the statutorily required consultation has been accomplished.

Copies of the full noise exposure map documentation and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, Western-Pacific Region, Office of Airports, 15000 Aviation Boulevard, Room 3012, Lawndale, CA 90261.

Federal Aviation Administration, San Francisco Airports District Office, 1000 Marina Boulevard, Suite 220, Brisbane, CA 94005–1835.

Mark W. Davis, Airports Planning Manager, Fresno Yosemite International Airport, 4995 E. Clinton Way, Fresno, CA 93727.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Hawthorne, California, on February 16, 2018.

Brian Q. Armstrong,

Acting Director, Office of Airports, AWP–600, Western-Pacific Region.

[FR Doc. 2018–03955 Filed 2–26–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Northeast Philadelphia Airport (PNE), Philadelphia, Pennsylvania

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of request to release airport property for non-aeronautical purposes.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land for non-aeronautical purposes at the Northeast Philadelphia Airport (PNE), Philadelphia, Pennsylvania.

DATES: Comments must be received on or before February 27, 2018.

ADDRESSES: Comments on this application may be mailed or delivered to the following address:

Raymond Scheinfeld, Environmental Manager, Division of Aviation, Philadelphia International Airport, Terminal D–E 3rd Floor Philadelphia, Pennsylvania 19153 and at the FAA Harrisburg Airports District Office:

Lori K. Pagnanelli, Manager, Harrisburg Airports District Office, 3905 Hartzdale Dr., Suite 508, Camp Hill, PA 17011.

FOR FURTHER INFORMATION CONTACT: Rick Harner, Civil Engineer, Harrisburg Airports District Office, location listed above.

The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release airport property for non-aeronautical purposes at the Northeast Philadelphia Airport (PNE) under the provisions of Section 47125(a) of Title 49 U.S.C. On November 6, 2017, the FAA determined that the request to release airport property for non-aeronautical purposes at the Northeast Philadelphia Airport (PNE), Pennsylvania, submitted by the City of Philadelphia, Department of Aviation, met the procedural requirements. Final release of the property is subject to FAA's NEPA determination made on August 11, 2017.

The following is a brief overview of the request:

The City requests the release of a portion of airport property totaling 8.36 acres, which is no longer needed for aeronautical purposes. The 8.36 acres were part of 54.432 acres known as Tract 4. This property is located off Academy Road in the City of Philadelphia, Philadelphia County and was originally purchased with federal funds under the Federal Aid for Airports Program (FAAP) Grant 9–36–040–5901. The 8.36 acres requested for non-aeronautical use are to be sold to UL Grant Avenue, LLC, to be used for retail development and a maintenance building for the adjacent Union League Golf Club. The property is located in the southeast portion of existing airport property and is currently vacant. As shown on PNE's approved Airport Layout Plan, the property does not serve a current aeronautical purpose and is not needed for current or future airport development. The proceeds from the Fair Market Value (FMV) sale of the 8.36 acres of property will be added to the airport's operating revenue or will be used for eligible airport development purposes, as outlined in FAA Order 5190.6B, Airport Compliance Manual.

Any person may inspect the request by appointment at the FAA office address listed above. Interested persons are invited to comment on the proposed release. All comments will be considered by the FAA to the extent practicable.

Issued in Camp Hill, Pennsylvania, on February 21, 2018.

Lori K. Pagnanelli,

Manager, Harrisburg Airports District Office.

[FR Doc. 2018–03954 Filed 2–26–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0059]

Qualification of Drivers; Exemption Applications; Hearing

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

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 30 individuals for an exemption from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions would enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

DATES: Comments must be received on or before March 29, 2018.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA- using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. 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 heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy*.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a five-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The 30 individuals listed in this notice have requested an exemption from the hearing requirement in 49 CFR 391.41(b)(11). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

On February 1, 2013, FMCSA announced in a Notice of Final Disposition titled, Qualification of Drivers; Application for Exemptions; National Association of the Deaf, (78 FR 7479), its decision to grant requests from 40 individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers. Since the February 1, 2013 notice, the Agency has published additional notices granting requests from hard of hearing and deaf individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers.

II. Qualifications of Applicants

Kathleen A. Abenchuchan Ms. Abunchuchan, age 61, holds an operator's license in Iowa.

Maurice Abenchuchan Mr. Abenchuchan, age 33, holds an operator's license in Iowa.

Cory Lee Adkins Mr. Adkins, age 40, holds an operator's license in Ohio.

James Bogart Mr. Bogart, age 34, holds an operator's license in Kansas.

Johnny D. Brewer Mr. Brewer, age 47, holds an operator's license in Ohio.

Forrest Carroll Mr. Carroll, age 51, holds an operator's license in Ohio.

James G. Carter Mr Carter, age 28, holds an operator's license in Georgia.

Julian V. Faire, Jr. Mr. Faire, age 47, holds an operator's license in California.

Jeffrey Farrington Mr. Farrington, age33, holds an operator's license in New York.

Barry E. Felton, Sr. Mr. Felton, age 47, holds an operator's license in Delaware.

S*amuel Fernandez* Mr. Fernandez, age 43, holds an operator's license in Florida.

Jada Hart Mr. Hart, age 31, holds an operator's license in Iowa.

*Harold C. Johnso*n Mr. Johnson, age 66, holds a class A CDL in Pennsylvania.

Paul Klug Mr. Klug, age 62, holds a class A CDL in IA.

Cody Lauritsen Mr. Lauritsen, age35, holds an operator's license in Nebraska.

Dayton Lawson, Jr. Mr. Lawson, age 53, holds a class A CDL in Michigan.

Berenice Martinez Ms. Martinez, age 34, holds an operator's license in Texas.

Scott Miller Mr. Miller, age 58, holds an operator's license in Iowa.

Michael A. Murrah Mr. Murrah, age 34, holds an operator's license in Illinois.

Kenneth Novcaski Mr. Novcaski, age 59, holds a class B CDL in Arizona.

Kiley C. Peterson Ms. Peterson, age 27, holds an operator's license in Iowa.

John See Mr. See, age 69, holds a class A CDL in Ohio.

Michael Sepulvedo Mr. Sepulvedo, age 54, holds an operator's license in Colorado.

Darren Talley Mr. Talley, age 53, holds a class A CDL in Lousiana.

Frankie D. Tarlton Mr. Tarlton, age 73, holds a class A CDL in North Carolina.

Dianna P. Turner Ms Turner, age 39, holds a class A CDL in New Jersey.

Dirk M. Vanderspek Mr. Vanderspek, age 58, holds a class A CDL in Utah.

Thomas K. Warner II Mr. Warner, age 48, holds an operator's license in Washington.

Tommy M. Weldon Mr. Weldon, age 55, holds an operator's license in Georgia.

Johnny Wu Mr. Wu, age 25, holds an operator's license in Delaware.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the dates section of the notice.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2017–0057 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period. FMCSA may issue a final determination any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2017–0059 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to this notice.

Issued on: February 20, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–03942 Filed 2–26–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0050; FMCSA–2015–0119; FMCSA–2015–0320]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for nine individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on January 21, 2018. The exemptions expire on January 21, 2020. Comments must be received on or before March 29, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2012–0050; FMCSA–2015–0119; FMCSA–2015–0320; using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. 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 heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day E.T., 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for five years if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5.]

The nine individuals listed in this notice have requested renewal of their exemptions from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

II. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

III. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315, each of the nine applicants has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition. The nine drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous two-year exemption period. In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System (CDLIS) and the Motor Carrier Management Information System (MCMIS) are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency (SDLA). These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

As of January 21, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following nine individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Thomas A. De Angelo (IL)
Nathan L. Dermer (AK)
Daniel L. Halstead (NV)
Toriano T. Mitchell (OH)
Thomas A. Mitman (NY)
Diana J. Mugford (VT)
Tyler W. Schaefer (ME)
Alvin C. Strite (PA)
Thomas B. Vivirito (PA)

The drivers were included in docket number FMCSA–2012–0050; FMCSA–2015–0119; FMCSA–2015–0320. Their exemptions are applicable as of January 21, 2018, and will expire on January 21, 2020.

IV. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must remain seizure-free and maintain a stable treatment during the two-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified Medical Examiner, as defined by 49 CFR 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VI. Conclusion

Based upon its evaluation of the nine exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the epilepsy and seizure disorders prohibition in 49 CFR 391.41 (b)(8). In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: February 8, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–03940 Filed 2–26–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0090]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From the Automobile Carriers Conference of the American Trucking Associations

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

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an application for exemption from the Automobile Carriers Conference (ACC) of the American Trucking Associations (ATA) requesting that motor carriers operating stinger steered automobile transporter equipment be relieved from the requirement to place warning flags on projecting loads of new motor vehicles. The Federal Motor Carrier Safety Regulations (FMCSRs) require any commercial motor vehicle (CMV)

transporting a load that extends more than 4 feet beyond the rear of the vehicle to be marked with a single red or orange fluorescent warning flag at the extreme rear if the projecting load is 2 feet wide or less, and two warning flags if the projecting load is wider than 2 feet. The flags must be located to indicate the maximum width of loads which extend beyond the sides and/or rear of the vehicle. The ACC believes that the reflex reflectors that are required to be installed on the new motor vehicles being transported, in conjunction with the various marking and conspicuity requirements required on the trailer transporting the new vehicles, provide a level of safety that is greater than that achieved by the warning flags required by the FMCSRs.

DATES: Comments must be received on or before March 29, 2018.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2018–0090 using any of the following methods:

- *Website: http://www.regulations.gov.* Follow the instructions for submitting comments on the Federal electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday–Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the ''Public Participation'' heading below. 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'' heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to Room W12–140, DOT Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Public participation: The *http://www.regulations.gov* website is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the ''help'' section of the *http://www.regulations.gov* website as well as the DOT's *http://docketsinfo.dot.gov* website. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. José R. Cestero, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–5541, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (TEA–21) [Pub. L. 105–178, June 9, 1998, 112 Stat. 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). On August 20, 2004, FMCSA published a final rule (69 FR 51589) implementing section 4007. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305).

The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

ACC Application for Exemption

The ACC has applied for an exemption from 49 CFR 393.87, requesting that motor carriers operating stinger steered automobile transporter equipment be relieved from the requirement to place warning flags on projecting loads of new motor vehicles. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.87 of the FMCSRs requires any commercial motor vehicle transporting a load which extends beyond the sides by more than 4 inches, or more than 4 feet beyond the rear, to have the extremities of the load marked with red or orange fluorescent warning flags. Each warning flag must be at least 18 inches square. There must be a single flag at the extreme rear if the projecting load is 2 feet wide or less, and two warning flags are required if the projecting load is wider than 2 feet. The flags must be located to indicate the maximum width of loads which extend beyond the sides and/or rear of the vehicle.

In its application, the ACC states ''With the enactment of the FAST [Fixing America's Surface Transportation] Act in December 2015, stinger steered automobile transporter equipment are permitted a rear vehicular overhang allowance of not less than six feet. [49 U.S.C. 31111(b)(1)(G)] Prior to the enactment of the FAST Act, the minimum rear overhang allowance for all automobile transporters was a minimum of four feet. [23 CFR Sec. 658.13(e)(ii)].''

The ACC states:

> The transportation of new motor vehicles poses a dilemma in adhering to the flag requirements. Affixing flags or anything else to the surfaces of the vehicles is not allowed by vehicle manufacturers as it can lead to scratches and other damage to the vehicle. Auto transporters have attempted to adhere to the intent of the regulations by affixing flags at the end of the trailers (see attachments). This in itself can still lead to vehicle damage by virtue of the flag rubbing on the vehicle surface. However, this attempt to comply with the regulatory intent does not adhere to the letter of the regulations and has resulted in carriers receiving numerous citations for being in violation of the flag requirements.

The ACC states that motor vehicles are the only commodity to be transported that must adhere to the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 108,

''*Lamps, reflective devices and associated equipment*,'' and that FMCSS No. 108 has required motor vehicles to be equipped with side-facing reflex reflectors in addition to amber reflectors in the front of the vehicle and red reflectors in the rear of the vehicle since 1968. The ACC contends that the reflective devices that are required to be on the vehicles being transported, along with the required lighting and conspicuity treatments on the trailer ''more than adequately adhere to the intent of Sec. 383.87 in notifying the motoring public that a load extends more than four feet beyond the rear of the trailer.'' In addition, ACC states that FMVSS No. 108 imposes specific performance criteria for the required reflectors, whereas there are no such performance requirements for the flags required by the FMCSRs.

The ACC states that the automobile transporter vehicle population is a fraction of the overall CMV population, consisting of approximately 16,000 units, and that the stinger steered vehicle population is a subset of that. Further, ACC notes that since the enactment of the FAST Act, the industry has not experienced an increase in collisions into the rear end of trucks with the additional 2 feet of allowable overhang. The ACC states that ''Statistics show that the accident frequency of collisions into the rear end of auto transporters is miniscule with a rate of less than 0.05%.''

The exemption would apply to all motor carriers operating stinger steered automobile transporter equipment. The ACC believes that the reflex reflectors that are required to be installed on the new motor vehicles being transported, in conjunction with the various marking and conspicuity requirements required on the trailer transporting the new vehicles, provide a level of safety that is greater than that achieved by the warning flags required by the FMCSRs.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on ACC's application for an exemption from 49 CFR 393.87. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: February 20, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–03943 Filed 2–26–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0120]

Hours of Service of Drivers: Application for Exemption; G4S Secure Solutions (USA), Inc. (G4S)

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

ACTION: Notice of final disposition; denial of application for exemption.

SUMMARY: FMCSA announces its decision to deny the application of G4S Secure Solutions (USA), Inc. (G4S), for an exemption from the requirement that its drivers use electronic logging devices (ELDs) to record their hours of service (HOS). G4S requested the exemption for all its drivers of customer/government-owned vehicles used intermittently to perform passenger transportation. FMCSA analyzed the exemption application and public comments, and determined that the record does not establish that the applicant would not achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption. FMCSA therefore issued a letter of denial to the applicant on January 5, 2018.

DATES: Application for exemption was denied January 5, 2018.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Mr. Tom Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 614–942–6477. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

FMCSA reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305(a)). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice also must specify the effective period of the exemption (up to 5 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

G4S is an international security solutions group, with operations in more than 100 countries and more than 54,000 employees in North America. One component of G45's operations is detainee and prisoner transport. Government agencies across the country, including the U.S. Immigration and Customs Enforcement and State/county police departments, contract with G4S to safely and securely transport prisoners, offenders, and illegal aliens. To perform these transportation services, G4S is registered with the FMCSA as a for-hire motor carrier. While the company maintains a relatively small fleet of vehicles, a significant portion of its transportation services are performed by G4S employees operating customer/government-owned equipment (*e.g.,* buses and 15-passenger-vans).

The company had started the process of installing compliant ELDs in its own vehicle fleet. G4S, however, believed an exemption was for instances when its drivers operate customer/government-owned equipment to perform passenger transportation services. In these instances, it is the customer, not G4S, that owns and maintains the vehicles. For its part, G4S provides qualified drivers to operate the vehicles and is explicitly precluded, often by contract, from making any modifications to or installing any equipment in the vehicles.

G4S claimed that, from a safety perspective, its operations are indistinguishable from driveaway-

towaway operations, which are excluded from the ELD mandate. In these instances, neither the carriers nor the drivers own the vehicles being driven, nor are they authorized to make any modifications to those vehicles. Similarly, in both cases, the vehicles at issue may only be operated by the carrier's drivers for a single trip.

The application for exemption is in the docket for this notice.

IV. Public Comments

On April 21, 2017, FMCSA published notice of the G4S application and requested public comment (82 FR 18820). The Agency received three comments, and all opposed the granting of the G4S exemption request. Groups filing in opposition were the Advocates for Highway and Auto Safety (Advocates), the Owner-Operator Independent Driver's Association (OOIDA), and the Commercial Vehicle Safety Alliance (CVSA). Issues raised by these commenters in opposition to the exemption request are as follows.

(1) The G4S application does not meet the statutory and regulatory requirements for the exemption. It fails to consider practical alternatives, justify the need for exemption, provide an analysis of the safety impacts the requested exemption may cause, and provide information on the specific countermeasures to be undertaken to ensure that the exemption will achieve an equivalent or greater level of safety than would be achieved absent the exemption.

(2) G4S cites technical concerns regarding interoperability of ELDs and the use of different vehicles as reasons why their drivers should be exempted from the ELD mandate. While these points are legitimate, they are not limited to this carrier. Carriers of all sizes may encounter these same interoperability problems as drivers operate multiple ELD platforms with varying methods of data transfer.

(3) Confusion and inconsistencies, such as patchwork adoption of the ELD requirement because of exemptions, create more work for the enforcement community and industry alike. These inconsistencies also have a direct impact on data quality, an especially important consideration for the accurate tracking of HOS compliance.

All comments are available for review in the docket for this notice.

V. FMCSA Decision

When FMCSA published the final rule mandating ELDs, it relied upon research indicating that the rule improves commercial motor vehicle (CMV) safety by improving compliance with the hours-of-service rules. The rule also reduces the overall paperwork burden for both motor carriers and drivers.

In its application, G4S provides no analysis of the safety performance of drivers who would operate using paper records of duty status under the exemption. G4S compares its request to the ELD regulatory exception for driveaway-towaway vehicles, but provides no analysis of how the risk of fatigue and crashes when operating an empty vehicle in a driveaway-towaway operation would be equivalent to the risk posed by operating a passenger-carrying vehicle.

The G4S application does not consider practical alternatives or provide an analysis of the safety impacts the requested exemption may cause. It also does not provide countermeasures to be undertaken to ensure that the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation.

For these reasons, FMCSA denied the request for exemption by letter dated January 5, 2018.

Issued on: February 20, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–03944 Filed 2–26–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

United States Mint

Pricing for the 2018 San Francisco Mint Silver Reverse Proof Set

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing the price of the 2018 San Francisco Mint Silver Reverse Proof Set™. The United States Mint will price each set at $54.95. The United States Mint at San Francisco will produce the set.

FOR FURTHER INFORMATION CONTACT: Derrick Griffin, Marketing Specialist, Numismatic and Bullion Directorate; United States Mint; 801 9th Street NW, Washington, DC 20220; or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112, 5132 & 9701.

Dated: February 20, 2018.

David Croft,

Acting Deputy Director, United States Mint.

[FR Doc. 2018–03901 Filed 2–26–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0098]

Agency Information Collection Activity: Dependents' Application for VA Education Benefits

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, 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 April 30, 2018.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0098'' in any correspondence. During the comment period, comments may be viewed online through the 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. 3311 (as amended by P.L. 113–146, section 701, effective August 7, 2014), 3513, 3697A, 5113, 5101, 5102, and 5103, 38 CFR 21.3030 and 21.9510.

Title: Dependents' Application for VA Education Benefits, VA Form 22–5490.

OMB Control Number: 2900–0098.

Type of Review: Extension of a currently approved collection.

Abstract: VA claims examiners use the information from this collection to help determine whether an applying individual qualifies for DEA or Fry Scholarship benefits. The information will also be used to determine if the program of education the applicant wishes to pursue is approved for educational assistance. The form is used to obtain the necessary information from the claimant, and a determination cannot be made without this information.

Affected Public: Individuals or Households.

Estimated Annual Burden: 29,739 hours.

Estimated Average Burden per Respondent: 45 and 25 min (paper and electronic, respectively).

Frequency of Response: One-time.

Estimated Number of Respondents: 50,981.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2018–03908 Filed 2–26–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0635]

Agency Information Collection Activity: Suspension of Monthly Check

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, 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 reinstatement of a previously 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 April 30, 2018.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administrations (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov*. Please refer to ''OMB Control No. 2900–0635'' 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 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: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Suspension of Monthly Check (VA Form 29–0759).

OMB Control Number: 2900–0635.

Type of Review: Reinstatement of a previously approved collection.

Abstract: The form is used by the Department of Veterans Affairs to advise the beneficiary that his/her monthly check has been suspended. The information requested is authorized by law, 38 U.S.C. 1917.

Affected Public: Individuals or Households.

Estimated Annual Burden: 83 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: On Occasion.

Estimated Number of Respondents: 500.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2018–03909 Filed 2–26–18; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 83 Tuesday,

No. 39 February 27, 2018

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Removing Oenothera avita ssp. eurekensis From the Federal List of Endangered and Threatened Plants, and Reclassification of Swallenia alexandrae From Endangered to Threatened; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2013–0131; FXES11130900000–145–FF09E42000]

RIN 1018–AW04

Endangered and Threatened Wildlife and Plants; Removing Oenothera avita ssp. eurekensis From the Federal List of Endangered and Threatened Plants, and Reclassification of Swallenia alexandrae From Endangered to Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule and availability of post-delisting monitoring plan.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are removing *Oenothera avita* ssp. e*urekensis,* which is now recognized as *Oenothera californica* ssp. *eurekensis* (with a common name of Eureka Valley evening-primrose, Eureka evening-primrose, or Eureka Dunes evening-primrose) from the Federal List of Endangered and Threatened Plants. We are also reclassifying *Swallenia alexandrae* (with a common name of Eureka dune grass, Eureka dunegrass, or Eureka Valley dune grass) from an endangered to a threatened species. For Eureka Valley evening-primrose, this action is based on our evaluation of the best available scientific and commercial information, including comments received, which indicates that the threats have been eliminated or reduced to the point that the subspecies no longer meets the definition of an endangered species or a threatened species under the Endangered Species Act of 1973, as amended (Act).

For Eureka dune grass, this reclassification is based on our evaluation of the best available scientific and commercial information, including comments received. We conclude that the stressors acting upon Eureka dune grass are of sufficient imminence, scope, or magnitude to indicate that they are continuing to result in impacts at either the population or rangewide scales, albeit to a lesser degree than at the time of listing, and we find that Eureka dune grass meets the statutory definition of a threatened species (*i.e.,* the stressors impacting the species or its habitat are of sufficient magnitude, scope, or imminence to indicate that the species is likely to become an endangered species in the foreseeable future throughout all or a significant portion of its range).

DATES: This final rule becomes effective March 29, 2018.

ADDRESSES: Comments, materials received, and supporting documentation used in preparation of this final rule are available on the internet at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2013–0131. Additionally, comments, materials, and supporting documentation are available for public inspection by appointment (see **FOR FURTHER INFORMATION CONTACT** below). The post-delisting monitoring plan for *Oenothera californica* ssp. *eurekensis* is available on our Endangered Species Program's national website (*http://endangered.fws.gov*) and on the internet at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0131.

FOR FURTHER INFORMATION CONTACT: Mendel Stewart, Field Supervisor, Carlsbad Fish and Wildlife Office, 2177 Salk Avenue, Suite 250, Carlsbad, CA 92008; telephone 760–431–9440; facsimile 760–431–5901. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Species addressed. Oenothera californica ssp. *eurekensis* (Eureka Valley evening-primrose) and *Swallenia alexandrae* (Eureka dune grass) are endemic to three dune systems in the Eureka Valley, Inyo County, California. Eureka Valley falls within federally designated wilderness within Death Valley National Park and is managed accordingly by the National Park Service (Park Service).

Why we need to publish this document. A species that is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range warrants protection under the Endangered Species Act. If a species is determined to no longer to be a threatened species or an endangered species, we may reclassify the species or remove it from the Federal List of Endangered and Threatened Wildlife and Plants. Removing a species from the List or changing its status on the List can only be completed by issuing a rule. We proposed to delist Eureka Valley evening-primrose and Eureka dune grass in 2014.

- This document finalizes the delisting of Eureka Valley evening-primrose. Our evaluation took into consideration information and comments submitted during the public comment period, as well as subsequent information that became available. At this time, the best available information continues to indicate that there are no longer population- or rangewide-level threats impacting Eureka Valley evening-primrose such that it is in danger of extinction now or is likely to become endangered in the foreseeable future. Thus, we conclude that Eureka Valley evening-primrose no longer meets the definition of an endangered species or threatened species, and we are removing it from the Federal List of Endangered and Threatened Plants in title 50 of the Code of Federal Regulations at 50 CFR 17.12(h).
- This document finalizes the reclassification of Eureka dune grass from an endangered species to a threatened species. Based on our evaluation of the best scientific and commercial information available, including information and comments submitted during the public comment period, we now determine that the stressors identified in the proposed rule are more significant than previously thought. Although threats identified at the time of listing have been substantially removed, Eureka dune grass is currently responding negatively to the stressors to which it is exposed. The best available scientific and commercial data lead us to conclude that Eureka dune grass no longer meets the definition of an endangered species under the Act, but it is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Therefore, we are reclassifying the species from an endangered species to a threatened species.

The basis for our action. Under the Endangered Species Act of 1973, a species may be determined to be an endangered species or threatened species because of any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We must consider the same factors in delisting a species. We may delist a species if the best scientific and commercial data indicate the species is neither a threatened species nor an endangered species for one or more of the following reasons: (1) The species is extinct, (2) the species has recovered and is no longer endangered or threatened, or (3) the original scientific data used at the time the species was classified were in error.

We have determined that stressors to one or more populations of Eureka Valley evening-primrose no longer exist, or they are not causing significant impacts at either the population or rangewide scales such that the species is currently in danger of extinction or is likely to become endangered within the foreseeable future throughout all or a significant portion of its range. Additionally, we have determined that stressors to one or more populations of Eureka dune grass are of sufficient imminence, intensity, or magnitude to cause significant impacts at either the population or rangewide scales such that the species is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

Peer review and public comment. We sought comments from independent specialists to ensure that our consideration of the status of Eureka Valley evening-primrose and Eureka dune grass is based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our proposed delisting rule. We also considered all public comments and information received during the comment period, and other new information available since publication of the proposed rule. The final decisions do not substantially rely on information received after the close of the comment period, as this new information was supportive of or consistent with information already in the record. Comments are addressed at the end of this **Federal Register** document.

Previous Federal Actions

Please refer to the proposed delisting rule for Eureka Valley evening-primrose and Eureka dune grass (79 FR 11053, February, 27, 2014) or the species' profiles available on the internet at *www.ecos.fws.gov* for a detailed description of the previous Federal actions concerning these species prior to the publication of the proposed delisting rule. The proposed delisting rule established a 60-day comment period that closed on April 28, 2014, and we did not receive any requests to extend the comment period or hold a public hearing.

Background

For the proposed delisting rule, we conducted a scientific analysis as presented in this document and supplemented with additional information presented in the Background Information document (Service 2014, entire; available at *http://www.regulations.gov,* Docket No. FWS–R8–ES–2013–0131). The Background Information document was prepared by Service biologists to provide additional discussion of the environmental setting for the Eureka Valley, and other information on the life history, taxonomy, genetics, seed bank ecology, survivorship and demography, rangewide distribution, and abundance surveys, as well as additional information on the stressors that may be impacting Eureka Valley evening-primrose and Eureka dune grass. Also, see the Final Species Analysis available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov* (Service 2017).

Eureka Dune Ecosystem

Eureka Valley evening-primrose and Eureka dune grass are endemic (unique to a geographic area) to the sand dunes of Eureka Valley (Figure 1), which occur within Death Valley National Park, Inyo County, California. Three dune systems (collectively referred to as ''the Eureka Dunes'') occur in Eureka Valley and are located between the Last Chance Mountains to the east, the Saline Mountains to the south, and the Inyo Mountains to the west and north (Rowlands 1982, p. 2). The Main Dunes (sometimes referred to in literature as ''Eureka Dunes'') system parallel the Last Chance Mountains (Service 1982, p. 12) and are the largest of the three dunes, covering a total area of about 2,003 acres (ac) (811 hectares (ha)) (Service 2013 based on Shovik 2010). The Saline Spur and Marble Canyon Dunes, two smaller dune systems, cover an area of about 238 ac (96 ha) and 610 ac (247 ha), respectively (Service 2013 based on Shovik 2010). Saline Spur Dunes and Marble Canyon Dunes, including a southern extension of Marble Canyon Dunes known as the unnamed site, are located approximately 4 miles (mi) (6.4 kilometers (km)) and 9 mi (14.4 km) west of the Main Dunes (Bagley 1986, p. 4). The southern extension of Marble Canyon Dunes (the unnamed site) was previously treated as a separate dune system, but we refer to this area and the rest of the dune system as the Marble Canyon Dunes. See additional discussion in Service 2014 (pp. 4–7). Temperature regime, wind speeds, and precipitation patterns vary among the three dunes likely due to their relative position within Eureka Valley. For instance, the Main Dunes (labeled as ''Eureka Dunes'' in Figure 1, below) has lower daily temperatures than the other two dunes, while other patterns, such as rainfall, vary among the three dunes on both a temporal and spatial scale (Scoles-Sciulla and DeFalco 2017).

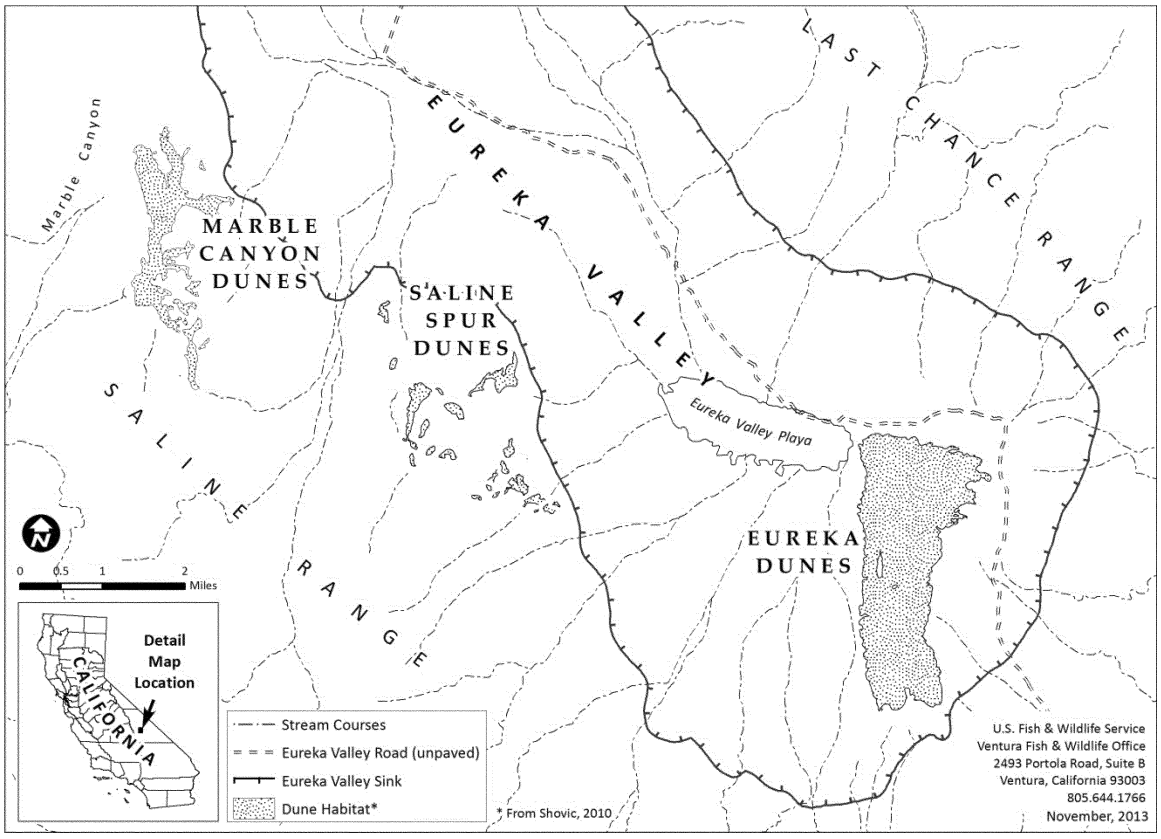

FIGURE 1—Sand dune systems of Eureka Valley, which comprise the Main Dunes (also referred to as "Eureka Dunes" in this figure and in some literature), Saline Spur Dunes, and Marble Canyon Dunes, Inyo County, California.

Eureka Valley Evening-Primrose

See the proposed delisting rule (79 FR 11053) and the Background Information document (Service 2014) for a detailed discussion of Eureka Valley evening-primrose's description, taxonomy, life history, rangewide distribution, abundance surveys, and population estimates, which are available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov.*

Eureka Valley evening-primrose is a short-lived perennial in the evening-primrose family (Onagraceae). It forms leaf rosettes for the first 1 or 2 years, then develops decumbent or ascending stems to 31.5 inches (in) (8 decimeters) high. Large individuals have the potential to produce tens of thousands of seeds (Pavlik and Barbour 1985, pp. 15, 21). Eureka Valley evening-primrose has mechanisms for both short- and long-distance seed dispersal (Pavlik 1979a, p. 59; 1979b, p. 71; Pavlik and Barbour 1985, pp. 27, 41; 1986, pp. 31, 81). *Oenothera californica* ssp. *eurekensis* is currently the accepted scientific name (Wagner 1993, p. 803; Wagner 2002, p. 395; Wagner *et al.* 2007, p. 180; Wagner 2012, p. 952; California Native Plant Society (CNPS) 2013). We have no specific information for Eureka Valley evening-primrose indicating the level of genetic diversity within or among the populations.

In general, Eureka Valley evening-primrose individuals spend most of the year as a small rosette of leaves (Pavlik 1979a, pp. 47–49, 52; 1979b, pp. 87–88). However, observations indicate that, under optimal conditions, recruits (first-year plants) can bloom in the year in which they germinate (Pavlik 1979a, p. 66). In April and May, mature plants undergo rapid stem elongation and bloom between April and July. Plants sometimes bloom again in the fall with additional summer or fall rains (Pavlik 1979a, p. 53; 1979b, p. 89). However, abundance and timing of rainfall appear to be important not only for germination, but for successful recruitment of individuals into the population; sufficient rainfall for germination in the fall months needs to be followed by additional rainfall events during the winter months for recruitment to occur (Pavlik and Barbour 1986, p. 10).

In addition to the production of seed through sexual reproduction, Eureka Valley evening-primrose reproduces vegetatively through the production of clonal rosettes that arise from a branched rootstock (Pavlik 1979a, p. 68; Pavlik and Barbour 1986, p. 84; Pavlik and Barbour 1988, p. 240). If conditions are favorable, a large individual can produce both rosettes and flower in the same year. In years with unfavorable climatic conditions, established plants may remain dormant and persist underground by their fleshy roots. Therefore, the number of above-ground plants observed in any year represents only a portion of the population and may consist of multiple individuals of the same genetic identity.

In general, evening-primrose taxa are pollinated by hawkmoths, butterflies, and bees (Gregory 1964, pp. 387, 398, 403, 407; Moldenke 1976, pp. 322, 346, 358). In particular, a hawkmoth known as the white-lined sphinx moth (*Hyles lineata*), bees (*Haprobroda* spp. (no common name), *Hesperapis* spp. (no common name)), and sweat bees (*Lasioglossum lusoria*) have been

observed on Eureka Valley evening-primrose (Griswold *in litt.* 2012).

New information made available during the comment period or since publication of the proposed rule is summarized in the next three sections below.

Species Description, Taxonomy, and Life History

New information comprises the following: Over two growing seasons (2014, 2015), rooting depth for Eureka Valley evening-primrose was observed to be within the top 11.8 in (30 centimeters (cm)) of substrate (Scoles-Sciulla and DeFalco 2016, p. 9); compared to Eureka dune grass, which roots at a deeper level, Eureka Valley evening-primrose accesses water that is closer to the surface of the sand. Additionally, Eureka Valley evening-primrose seeds buried in all three dunes in July of 2014 and retrieved after 3, 6, 9, and 14 months had high germination rates, regardless of burial depth or which dune they were buried at. By comparison, seeds that were stored indoors starting July 2014 had lower total germination after 3 and 6 months, but had similar total germination after 14 months (Scoles-Sciulla and DeFalco 2016, p. 8). Overall, this information suggests that exposure to high temperatures during the summer months facilitates after-ripening (the period of internal change that is necessary in some apparently mature seeds before germination can occur) in this species (Scoles-Sciulla and DeFalco 2016, p. 8).

Rangewide Distribution

New information comprises the following: Continued monitoring for visible presence/absence within the rangewide 1-ha grid system resulted in documentation of the largest expanse of Eureka Valley evening-primrose ever recorded at all three dune systems since this monitoring effort began in 2007 (Park Service 2015). While the taxon remains tied to the sandy soils associated with the three dune systems, in ''good'' years such as 2014, individuals may be found farther away from the three dunes (Park Service 2014); however, the areas closer to the dunes continue to be the ''core'' areas where the taxon is found, even in years of lower abundance and productivity (Park Service 2013a, 2014, 2015). This information indicates that Eureka Valley evening-primrose has the ability to withstand years of less-than-favorable climatic conditions, and take advantage of years with more favorable climatic conditions.

Abundance Surveys and Population Estimates

New information comprises the following: Based on two additional years (2014, 2015) of monitoring Eureka Valley evening-primrose beyond the 2008–2013 monitoring period described in the proposed rule, the Park Service has continued to observe great annual variability in the abundance of the taxon, with 2014 being a ''superbloom'' year with the number of individuals estimated at well over 1 million (Park Service 2014, p. 6). In 2015, the abundance was not as large as in 2014, but larger than it had been other years previous to 2014; based on Park Service data, we estimated the visible abundance to be in the tens of thousands (see Park Service 2015, Figure 12 on p. 16). Overall, this information suggests that the visible abundance is only a portion of the total number of individuals that are present from year to year (with other individuals remaining dormant if climatic conditions are less than optimal), and that this characteristic contributes to the resiliency of the species.

Eureka Dune Grass

See the proposed delisting rule (79 FR 11053) and the Background Information document (Service 2014) for a detailed discussion of Eureka dune grass's description, taxonomy, life history, rangewide distribution, abundance surveys, and population estimates, which are available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov*.

Eureka dune grass is a perennial, hummock-forming (development of mounds of windblown soil at the base of plants on dune landscapes) grass comprising a monotypic genus (genus containing only one single species) of the grass family (Poaceae). The coarse, stiff stems reach 20 in (50 cm) in height, and the lanceolate leaves are tipped with a sharp point (DeDecker 1987, p. 2). Flowers are clustered in spike-like panicles and produce seeds that are 0.16 in (4 millimeter (mm)) long and 0.08 in (2 mm) wide (Bell and Smith 2012, p. 1,496). The root system becomes fibrous and extensive over time and can give rise to adventitious stems. Based on its morphological characteristics and taxonomic affinities, the species is thought to be a relictual species, which exists as a remnant of a formerly widely distributed group in an environment that is now different from where it originated.

Eureka dune grass is dormant during the winter and begins to produce new shoot growth around February. Growth accelerates in May, with flowering from April to June and seed dispersal between May and July (Pavlik 1979a, pp. 47–49; Pavlik 1979b, p. 87; Service 1982, pp. 4–6). Like all grass taxa, the flowers of Eureka dune grass are wind-pollinated and, therefore, do not rely on insect pollinators. Eureka dune grass does not appear to propagate asexually (Pavlik and Barbour 1985, p. 4); therefore, sexual reproduction is considered to be the dominant form of reproduction for this species.

Individuals have been observed to continue growing for at least 12 years with no signs of senescence (Henry n.d., pers. comm. *in* Pavlik and Barbour 1986, p. 11), and likely can grow for decades; older individuals form large hummocks that can reach on the order of 2,500 cubic decimeters (88 cubic feet; extrapolated from Pavlik and Barbour (1988, p. 229)). Germination of new individuals appears to occur infrequently, typically in response to rainfall during the summer months (Pavlik and Barbour 1986, pp. 47–59).

The amount of Eureka dune grass seed produced per individual increases with canopy size, which means that larger individuals may contribute more seed to the seed bank (Pavlik and Barbour 1985, p. 14). Compared to other perennial grass species, Eureka dune grass produces low numbers of seeds per individual (Pavlik and Barbour 1986, p. 30); this low seed production could be due to the inefficiency of wind pollination and the low density of individuals across the dunes (Pavlik and Barbour 1985, p. 17).

New information made available during the comment period or since publication of the proposed rule is summarized in the next three sections below.

Species Description, Taxonomy, and Life History

New information comprises the following: Over two growing seasons (2014, 2015), rooting depth for Eureka dune grass was observed to be 35.4 in (90 cm) (Scoles-Sciulla and DeFalco 2016, p. 9).

Rangewide Distribution

New information comprises the following:

(1) In 2014 and 2015, the Park Service continued to monitor presence/absence of Eureka dune grass across all three dunes. Comparing the area (*i.e.,* number of acres/hectares) that contained Eureka dune grass in 2015 with the area that contained Eureka dune grass in 2011, they found: On the Main Dunes, there was a 20 percent loss (from 1,102 to 885

ac (446 to 358 ha)); on Marble Canyon Dunes, there was a 1 percent loss (from 195 to 193 ac (79 to 78 ha)); and on Saline Spur Dunes, there was a 7 percent gain (from 215 to 230 ac (87 to 93 ha)) (Park Service 2015 p. 5).

(2) Since 2012, the Park Service has continued to map individual clumps of Eureka dune grass on the Main Dunes with Global Positioning System (GPS) (National Park Service 2015). Due to inconsistent application of mapping protocols in earlier years, the Park Service considers data from 2014 and 2015 to be the most accurate. From 2014 to 2015, the area covered with dune grass declined by 19.2 percent (from 69.39 to 56.05 ac (280,799 square meter (m^2) to 226,846 m^2)) (Park Service 2015). The greatest losses appear to be in the central and south-central portions of the Main Dunes.

(3) Photopoints continued to be monitored by the Park Service in 2014 and 2015. These photopoints, including some that were established in 1974, provide a qualitative assessment of the changes in coverage of Eureka dune grass within the viewsheds they include. For the Main Dunes, the combined viewshed of all photopoints represents 33.4 percent of the dune; for Marble Canyon Dunes, the combined viewshed represents 21 percent of the dune; all photopoints from these two dunes document a substantial loss of Eureka dune grass coverage since the time they were established (Park Service 2014). The Park Service also noted that between 2014 and 2015, no substantial change was observed (Park Service 2015), suggesting that the losses occurred prior to 2014. Photopoints were not established on the Saline Spur Dunes until 2008 and 2010 (Park Service 2014); therefore, data is not available for a long-term qualitative evaluation of dune grass coverage in this population.

While a reduction in visible Eureka dune grass individuals is clearly noticeable from a visual inspection, it is difficult to quantify this reduction in terms of estimating changes in population distribution, densities, or abundance. Without other quantitative data to assist in interpretation, it would be difficult to distinguish whether visual changes represent local shifts in distribution and density or rangewide changes in the population. The additional information provided by the presence/absence monitoring, as well as the GPS mapping of clumps on the Main Dunes corroborates the observations of the loss of Eureka dune grass that has occurred over the last 35 years.

The most robust analysis can be made for the Main Dunes, for which there are all three sets of data (photopoints, presence/absence surveys, and GPS mapping), and all of which show a loss of individuals over time. The Main Dunes also represents over half of all the Eureka dune grass in Eureka Valley, so the loss from this dune is significant for the entire range of the species. Three sets of data (photopoints, presence/absence surveys, and GPS mapping), are also available for Marble Canyon Dunes, though presence/absence surveys and GPS mapping were initiated in both cases a year later than at the Main Dunes. Photopoints taken in the northern and northeastern portion of the dune show a loss of individuals between 1985 and 2013; presence/absence surveys indicate slight gains and losses between 2008 and 2015; and GPS mapping was not considered accurate by the Park Service until 2015, and therefore comparisons with earlier years cannot be made. Photopoint monitoring from the Main Dunes and from Marble Canyon Dunes both qualitatively indicate that extensive losses of dune grass occurred during the earlier portion of the 28-year monitoring period. More frequent photopoint monitoring was not initiated until 2007; by this time, most of the loss had already occurred, and more recent photos show less change.

Only presence/absence surveys (initiated in 2008) and GPS mapping of individuals (initiated in 2012 but not considered accurate until 2015) is available for Saline Spur Dunes. These two data sets have established that the western edge of Saline Spur Dunes contains the largest continuous population of Eureka dune grass at all three dunes (Park Service 2015 p. 2). Photopoint monitoring at this dune was only established in 2008 and 2010, and as of 2014 did not indicate any visible change (Park Service 2014, p. 6).

On a small scale, the usefulness of comparing recent maps with historical maps is limited because of the higher precision that was possible in the 2007 to 2015 surveys. Overall and on a large scale, the most recent maps indicate that Eureka dune grass populations are still present in the same general locations from which they were known at the time of our 2007 5-year status review. The precision that has been available with the hectare grid surveys and the GPS mapping has provided more useful examination of the distribution of Eureka dune grass on a smaller scale and a means by which to compare changes in distribution over time. The total extent of Eureka dune grass on all three dunes as of 2015 (Park Service 2015) is presented in the ''*Swallenia* Maps'' document available on the internet at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2013–0131.

Abundance Surveys and Population Estimates

For a detailed discussion of the abundance and population estimates for Eureka dune grass, see the Background Information Document (Service 2014), which is available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov.* In that previous discussion, we stated that developing population estimates for Eureka dune grass is challenging because of: Lack of historical information regarding population sizes at the time of listing (to establish baseline for comparison), the site-specific transects that were done in 1976 and 1986 (*e.g.,* see Henry (1976) and Bagley (1986)), and followup surveys conducted by the Park Service (Park Service 2008a, pp. 5–6 and 17–18), were too spatially limited to be useful for population estimates, and estimating numbers of individuals is inherently difficult because of their clumping growth form. The Park Service previously attempted estimating population size based on the monitoring of the hectare grid at all three dunes: For the year 2011, the estimate was 8,014 individuals, and for 2013, it was 8,176 individuals (Park Service 2013a, p. 7). The Park Service cautions that the true population size could vary greatly due to a variety of limitations and assumptions. Even so, we know that, based on this information, thousands of Eureka dune grass individuals exist, and the number was relatively stable across the 2 years compared.

New information comprises the following: The Park Service has not attempted a revised method for estimating population size due to the inherent difficulty of doing so. However, because the estimates were based on the area occupied by Eureka dune grass in the monitoring of the hectare grid, we refer back to that metric (see section on *Rangewide Distribution* for Eureka dune grass, above) as a surrogate.

The best available data indicate the species continues to occur within Eureka Valley at all three dunes within its range (and as stated above, we have no information regarding population size at the time of listing for comparison, with population surveys prior to listing being limited to the northern end of the Main Dunes). Based on the combination of all data available (photopoints monitoring, presence/absence surveys based on the hectare grid, and GPS mapping of individual clumps), indications are that, between

2011 and 2015, the amount of Eureka dune grass has declined at the Main Dunes by 20 percent; the changes at Marble Canyon Dunes and Saline Spur Dunes have been of a smaller magnitude, with Marble Canyon Dunes showing a one percent loss, and with Saline Spur Dunes showing a seven percent increase (Park Service 2015, p. 5).

History of Threats Analyses for Eureka Valley Evening-Primrose and Eureka Dune Grass

For a brief history of the threats analyses that we conducted since the time Eureka Valley evening-primrose and Eureka dune grass were listed in 1978, see our proposed delisting rule (79 FR 11053, February 27, 2014). For a detailed discussion of the status review initiated with our 2011 90-day finding (76 FR 3069, January 19, 2011), see the Background Information document (Service 2014, pp. 38–65). Both the proposed listing rule and Background Information document are available on the internet at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0131.

Summary of Changes From the Proposed Rule

(1) We updated information on annual survey results based on monitoring for abundance and distribution undertaken by the Park Service in 2014 and 2015 (Park Service 2014, 2015). Also included is the Park Service's new subsampling methodology (Park Service 2017).

(2) We updated information on abiotic characteristics of the dune habitat (temperature, wind, and precipitation patterns) within the description of the Eureka Dunes Ecosystem in the Background section based on observations made by the United States Geological Survey (USGS) (Scoles-Sciulla and DeFalco 2017).

(3) We updated information on life-history characteristics, specifically rooting depth, for both species, and seed longevity for Eureka Valley evening-primrose, based on observations made by USGS (Scoles-Sciulla and DeFalco 2017).

(4) We added new information to the section on potential competition between *Salsola* spp. (Russian thistle) and Eureka Valley evening-primrose, based on research conducted by Chow (2016).

(5) On July 1, 2014, we published a final policy interpreting the phrase ''significant portion of its range'' (79 FR 37578). We have revised our discussion of ''significant portion of its range'' as it relates to both Eureka Valley evening-primrose and Eureka dune grass in the Determinations section below to be consistent with our policy. Although the final policy's approach differed slightly from that discussed in the proposed rule, applying the policy did not affect the outcome of the final status determinations.

(6) We have revised our determination regarding Eureka dune grass based on new information and analyses, and now conclude it best fits the definition of a threatened species.

Recovery and Recovery Plan Implementation

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. Under section 4(f)(1)(B)(ii), recovery plans must, to the maximum extent practicable, include: ''Objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of [section 4 of the Act], that the species be removed from the list.'' However, revisions to the list (adding, removing, or reclassifying a species) must reflect determinations made in accordance with sections 4(a)(1) and 4(b) of the Act. Section 4(a)(1) requires that the Secretary determine whether a species is an endangered species or threatened species (or not) because of one or more of five threat factors. Section 4(b) of the Act requires that the determination be made ''solely on the basis of the best scientific and commercial data available.'' Therefore, recovery criteria should help indicate when we would anticipate that an analysis of the species' status under section 4(a)(1) would result in a determination that the species is no longer an endangered species or threatened species.

Thus, while recovery plans provide important guidance to the Service, States, and other partners on methods of minimizing threats to listed species and measurable objectives against which to measure progress towards recovery, they are not regulatory documents and cannot substitute for the determinations and promulgation of regulations required under section 4(a)(1) of the Act. A decision to revise the status of or remove a species from the Federal List of Endangered and Threatened Plants (50 CFR 17.12) is ultimately based on an analysis of the best scientific and commercial data then available to determine whether a species is no longer an endangered species or a threatened species, regardless of whether that information differs from the recovery plan. Below, we summarize the recovery plan goals and discuss progress toward meeting the recovery objectives and how they inform our analyses of the species' status and the stressors affecting them.

In 1982, we finalized the Eureka Valley Dunes Recovery Plan, which included recovery objectives for both Eureka Valley evening-primrose and Eureka dune grass (Recovery Plan; Service 1982). While the Recovery Plan did not include recovery criteria, the plan followed guidance in effect at the time it was finalized and we consider its recovery objectives to be similar to what are considered to be recovery criteria under current recovery planning guidance. The Recovery Plan identified two objectives, each with specific recovery tasks, to consider Eureka Valley evening-primrose and Eureka dune grass for downlisting to threatened status, and eventually, delisting (Service 1982, pp. 26–41). These two objectives are:

(1) Restore the Eureka dune grass and the Eureka Valley evening-primrose to threatened status by protecting extant populations from existing (*i.e.,* in 1982) and potential human threats.

(2) Determine the number of individuals, populations, and acres of habitat necessary for each species to maintain itself without intensive management, in a vigorous, self-sustaining manner within their natural historical dune habitat (estimated 6,000 ac (2,428 ha)) and implement recovery tasks to attain these objectives.

Objective 1: Restore the Eureka dune grass and the Eureka Valley evening-primrose to threatened status by protecting extant populations from existing (i.e., in 1982) and potential human threats.

Objective 1 is intended to remove existing human threats to populations of Eureka Valley evening-primrose and Eureka dune grass through enforcement of existing laws and regulations, and management of human access to Eureka Valley (Service 1982, p. 26). At the time of listing, the primary threat to both species was off-highway vehicle (OHV) activity, and a lesser threat was camping on and around the dunes (43 FR 17910, April 26, 1978). Since listing, potential human threats have included other recreational activities such as sandboarding and horseback riding.

Various land management decisions and activities have been implemented by the Bureau of Land Management (BLM; prior to Park Service acquisition of the Eureka Valley area in 1994) and the Park Service (since 1994). All of the dune systems within Eureka Valley have also been designated as Federal

wilderness areas. A number of land use decisions and management activities have been implemented to support the long-term protection of Eureka Valley evening-primrose and Eureka dune grass within the Federal wilderness area, including (but not limited to): Making OHV activity illegal; conducting patrols to enforce laws, regulations, and restrictions; closing and restoring unauthorized roads; installing interpretative signs, barriers, and wilderness boundary signs; and delineating and maintaining campsites (Park Service 2008a, 2009, 2010).

Additionally, various education and public outreach (*e.g.,* public awareness program, interpretive displays) have been conducted to reduce overall impacts to both species. Because all three populations occur within Federal wilderness areas that are now protected against the threats identified as imminent at the time of listing and in the Recovery Plan, we conclude that the condition of the habitat for Eureka Valley evening-primrose and Eureka dune grass has improved due to management activities that have been implemented by BLM and the Park Service, and that this recovery objective has been met.

Objective 2: Determine the number of individuals, populations, and acres of habitat necessary for each species to maintain itself without intensive management, in a vigorous, self-sustaining manner within their natural historical dune habitat (estimated 6,000 ac (2,428 ha)) and implement recovery tasks to attain these objectives.

At the time the recovery plan was developed, our knowledge of the demographic characteristics of the two species was limited. The intent of this objective was to gather and develop information necessary to evaluate the status of both species with regards to demographic characteristics to determine at what point they could be considered recovered, and more importantly to attain the desired demographic levels necessary for recovery. While we have not yet developed precise values for all of the various demographic characteristics that help us determine whether actions to remove threats have the desired effect (*e.g.,* stable populations, positive growth), both species still occupy all three dune systems, and the best available monitoring data indicate thousands of plants are present at each dune system. Additionally, the best available information indicates that the BLM and Park Service have sufficiently minimized OHV and other recreation activities that were previously impacting the populations and their habitat. Even though the precise values of all demographic characteristics are not known, we note that many research and monitoring efforts have occurred for both species since the time of listing (unless otherwise noted), which have provided information on the life-history needs of both Eureka Valley evening-primrose and Eureka dune grass, as well as potential impacts to both species, including (but not limited to) the following studies:

(1) Conducting a series of studies on both species to investigate effects of pollination on seed set, seed ecology, species' demography, and plant and animal interactions (herbivory, seed predation, and dispersal) (Pavlik and Barbour 1985, 1986).

(2) Establishing baseline conditions for monitoring trends of both species across all three dune systems (Bagley 1986).

(3) Studying the genetic diversity of all Eureka dune grass populations (Bell 2003).

(4) Conducting partial distribution surveys of both species on portions of various dunes (Beymer *in litt.* 1997; Peterson *in litt.* 1998), as well as documenting the distribution and abundance of Russian thistle, a potential competitor, across all three dune systems (Park Service 2011a).

(5) Documenting distribution, abundance, and demography of both species (Park Service 2008b, 2008c, 2010a, 2011a, 2011b, 2012, 2013a, 2014, 2015, 2017).

(6) Determining if vegetation succession at the northern end of the Main Dunes (Eureka dune grass habitat) is associated with changes in subsurface hydrology (Park Service 2008c, p. 4).

(7) Investigating potential competition between Russian thistle and Eureka Valley evening-primrose, and the effects of herbivory on Eureka Valley evening-primrose (Chow and Klinger 2013a; Chow *in litt.* 2011; Chow 2016).

(8) Monitoring photopoint stations over time, starting in 1985, and retaken at various intervals (Park Service 2008c, 2011b, 2014).

(9) Investigating the correlations between abiotic factors (temperature, wind, and precipitation patterns) and growth response in Eureka Valley evening-primrose and Eureka dune grass (Scoles-Sciulla and DeFalco 2017).

As a result of the considerable work that has been undertaken to understand the population dynamics and life histories of these two species, we have: (1) Established detailed baseline information regarding the abundance and distribution of both species with which to compare their status in future years, including the documentation of a population estimate for over a million individuals of Eureka Valley evening-primrose in the ''superbloom'' year of 2014; (2) investigated potential stressors more closely and determined that some potential stressors are of more concern than others; (3) clarified how the life-history strategies of the two species are different and lead to resiliency for Eureka Valley evening-primrose but not Eureka dune grass; and (4) suggested other potential stressors for the two species that should be monitored into the future. Overall, we consider the intent of Objective 2 has been partially met.

In summary, based on our review of the Recovery Plan and the information obtained from the various management activities, surveys, and research that have occurred to date, we conclude that the habitat for Eureka Valley evening-primrose and Eureka dune grass has been protected and its status improved due to land use decisions and management activities that have been implemented by BLM and the Park Service to reduce human-caused threats (Objective 1). Further, we conclude, as detailed below, that the status of Eureka Valley evening-primrose has improved substantially as documented by its resiliency and elucidated by the surveys and research undertaken since the time of listing (Objective 2). Therefore, the intent of both objectives has been met for the Eureka Valley evening-primrose. However, Objective 2 has not been met for the Eureka dune grass because monitoring data indicate declining trends at the Main Dunes and Marble Canyon Dunes.

Summary of Factors Affecting the Species

Section 4 of the Act and its implementing regulations (50 CFR part 424) set forth the procedures for listing species, reclassifying species, or removing species from listed status. ''Species'' is defined by the Act as including any species or subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature (16 U.S.C. 1532(16)). A species may be determined to be an endangered or threatened species because of any one or a combination of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or

human made factors affecting its continued existence. A species may be reclassified or removed from the Federal List of Endangered and Threatened Plants (50 CFR 17.12) on the same basis.

Determining whether the status of a species has improved to the point that it can be downlisted or delisted requires consideration of whether the species is an endangered species or threatened species because of the same five categories of threats specified in section 4(a)(1) of the Act. For species that are already listed as endangered species or threatened species, this analysis of threats is an evaluation of both the threats currently facing the species and the threats that are reasonably likely to affect the species in the foreseeable future following the delisting or downlisting and the removal or reduction of the Act's protections.

A species is an ''endangered species'' for purposes of the Act if it is in danger of extinction throughout all or a significant portion of its range and is a ''threatened species'' if it is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The word ''range'' in the significant portion of its range phrase refers to the range in which the species currently exists, and the word ''significant'' refers to the value of that portion of the range being considered to the conservation of the species. The ''foreseeable future'' is the period of time over which events or effects reasonably can or should be anticipated, or trends extrapolated. For the purposes of this analysis, we first evaluate the status of the species throughout all its range, then consider whether the species is in danger of extinction or likely to become so in a significant portion of its range.

Summary of Factors Affecting Eureka Valley Evening-Primrose

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

OHV Activity

For a detailed discussion of the types and amount of OHV activity, both at the time of listing and since then, see the proposed delisting rule (79 FR 11053, February 27, 2014) and the Background Information document (Service 2014), which are available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov.* OHV activity has not been authorized on the dunes in Eureka Valley since 1976, and not anywhere off established roads since 1994, when all the lands in Eureka Valley were included in a wilderness area designation.

OHV activity could affect Eureka Valley evening-primrose habitat in multiple ways, as evidenced from many studies that have occurred within dune ecosystems (such as Wilshire and Nakata 1976, Webb and Wilshire 1983). Physical impacts on dunes can include compaction or erosion of sandy substrates, acceleration of wind erosion (Gillette and Adams 1983, pp. 97–109), and acceleration of dune drift (Gilberston 1983, pp. 362–365). OHV activity can also change the unique hydrologic conditions of dunes. Because dunes have the capacity to hold moisture for long periods of time, disturbance of the surface sands resulting in exposure of moist sands underneath can increase moisture loss from the dunes (Geological Society of America 1977, p. 4). Changes in physical and hydrologic properties of the dunes from heavy OHV activity could in turn affect the suitability of the dune habitat for germination and recruitment of seedlings, clonal expansion of existing individuals, and dispersal of seeds to favorable microsites.

The same potential OHV impacts that affect dune habitat can also affect Eureka Valley evening-primrose individual plants. Normally, these types of impacts would be discussed under Factor E (Other Natural or Manmade Factors Affecting Its Continued Existence), but are included here in the Factor A discussion for ease of analysis. OHV impacts to individual plants within dune systems and other desert ecosystems have been extensively studied (such as Bury and Luckenbach 1983, Gilbertson 1983, and Lathrop 1983). Within dunes systems, for instance, while OHV activity alters the physical structure and hydrology of the dunes (rendering the dune habitat less suitable for supporting individuals and populations of the two species), it also affects individuals directly by shredding plants or damaging root systems, thereby killing or injuring (*e.g.,* reducing the reproduction or survival of individuals) the plants.

Although unauthorized OHV activity has occasionally occurred on the Eureka Dunes, it has not approached the levels seen prior to listing Eureka Valley evening-primrose as an endangered species. Existing regulatory mechanisms (such as through the Park Service's Organic Act and other laws guiding management of Park Service lands) in place since listing have resulted in beneficial effects to the species (*e.g.,* management measures to control OHV and recreational activities) (see additional discussion under Factor D, below). The management of OHV activity through land use designations (*i.e.,* Area of Critical Environmental Concern, Federal wilderness areas) has resulted in the near elimination of OHV activity on Eureka Dunes at the current time. We anticipate this situation will continue into the future because we expect Federal wilderness areas to remain in place indefinitely, and we expect the Park Service's current management to be implemented over the next 20 years, as well as modified periodically into the future with adaptive management strategies (as demonstrated by the Park Service's natural resource management strategies to date and anticipated in the future per Park Service policies and regulations (see Factor D)). Additionally, the remote location, inaccessibility, and wilderness status of the Saline Spur and Marble Canyon Dunes appear to be providing sufficient protection for dune habitats and plants at these locations both currently and in the future. Although the Park Service has documented sporadic occurrences of unauthorized OHV activity, these occurrences are almost entirely localized to areas on and adjacent to the northern end of the Main Dunes (Park Service 2013a, p. 3).

In response to the publication of the proposed delisting rule, Park Service stated that OHV trespass on the dunes still occurs and is documented at least annually, and that current staffing and funding levels do not allow for a constant park presence at the dunes, which would be required to completely prevent OHV trespass (Park Service 2014, p. 5). Regardless, the best available information indicates that OHV trespass activity is no longer causing significant population- or rangewide-level impacts to Eureka Valley evening-primrose.

Other Recreational Activities

In addition to unauthorized OHV activity that may occur currently (as described above), other recreational activities have been known historically and currently occur (occasionally) within the Eureka Dunes, including horseback riding, sandboarding, camping outside of designated areas, and creation of access routes. For a detailed discussion regarding these recreational activities, both at the time of listing and since then, see the proposed delisting rule (79 FR 11053, February 27, 2014) and the Background Information document (Service 2014), which are available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov.* Camping and associated access routes were identified as a minor threat in the Recovery Plan because their proximity to Eureka Dunes

facilitated unauthorized OHV activity (Service 1982, pp. 22–23). Horseback riding and sandboarding were potential threats to Eureka Valley evening-primrose and Eureka dune grass identified after listing, and were discussed in the 5-year status reviews published in 2007 (Service 2007a, p. 10; Service 2007b, pp. 7–8). All of these activities were discussed in our 5-year review under Factor A because, like OHV activity, they have the ability to have physical impacts on the dune habitat (such as destabilization and displacement of sands); however, these same activities have the potential for damaging individual plants through crushing, trampling, and uprooting. Although impacts to individual plants are more appropriately discussed under Factor E, for ease of analysis we also discuss impacts to individual plants here.

New information regarding impacts specifically to Eureka Valley evening-primrose individual plants (as opposed to habitat) comprises the following: In response to the publication of the proposed delisting rule, the Park Service referred back to a study conducted by Pavlik (1979a), which found that seedlings of both Eureka dune grass and Eureka Valley evening-primrose are extremely fragile and cannot tolerate even the lightest disturbance by foot traffic. Although the Park Service has not been able to measure the amount of foot traffic, the potential impacts from such traffic can be qualitatively observed on stabilized sand following rain events (Park Service 2014, p. 5). In addition, one peer reviewer observed evidence (*i.e.,* tracks) of unauthorized OHV activity at the base of the Main Dunes, as well as increased visitor use, specifically camping, at the dunes since the 1980s (McLaughlin *in litt.* 2014).

Our current assessment is that, while the Park Service has documented some unauthorized activity (*e.g.,* sandboarding, OHV activity in closed areas) that may result in minor or occasional impact to individual plants, these are infrequent occurrences and affect very small areas and are not spread throughout the range of the species. Additionally, existing regulatory mechanisms (such as through the Park Service's Organic Act and other laws guiding management of Park Service lands) in place since listing have resulted in beneficial effects to the species (including management measures to control recreational activities) (see additional discussion under Factor D, below). Therefore, the best available information at this time indicates that other recreational activities, if they occur, are not causing population-level effects (as compared to pre-listing levels) to Eureka Valley evening-primrose currently, nor are they expected to do so in the future, in large part due to the extensive protections and management provided by the Park Service.

As discussed in the proposed rule (79 FR 11053, February 27, 2014), regulatory provisions of the Wilderness Act, the Park Service Organic Act, and the other laws guiding management of Park Service lands are adequate to minimize threats to populations of Eureka Valley evening-primrose from OHV activity, sandboarding, and horseback riding.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Utilization for commercial, recreational, scientific, or educational purposes was not identified as a threat to Eureka Valley evening-primrose in the listing rule. There is no known commercial or recreational value that we consider consumptive (that is, based on physical use or removal of the plants). Educational groups frequently visit Eureka Dunes, but we are unaware of any activities that would be considered consumptive use. Since listing, there have been three section 10(a)(1)(A) permits issued for studies involving the removal of plants, seeds, or plant parts; only two of these permits included Eureka Valley evening-primrose. These studies usually involve collection of seeds or leaves for laboratory experiments or collection of voucher specimens for herbaria; in each case we analyzed potential impacts during the permitting process and determined that the collection activities would not jeopardize the continued existence of the species. We do not consider this level of research and collection to pose any potential threat of overutilization for the species. Furthermore, the State of California and the Park Service have regulatory mechanisms in place to control any potential utilization in the future (see also Factor D below). Any collection of plants would require permits from the State of California and the Park Service. We do not have any new information regarding this factor, and we conclude that overutilization for commercial, recreational, scientific, or educational purposes are not a short-term or long-term threat to the continued existence of Eureka Valley evening-primrose.

C. Disease or Predation

At the time of listing, disease and predation were not identified as a potential threat to Eureka Valley evening-primrose. Since then, studies (Pavlik and Barbour 1985, 1986; Scoles-Sciulla and DeFalco 2013) and observations (Chow *in litt.* 2011, 2012b) imply that herbivory and seed predation may be a potential stressor for the species. For a detailed discussion regarding disease and predation, both at the time of listing and since then, see the proposed delisting rule (79 FR 11053, February 27, 2014) and the Background Information document (Service 2014), which are available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov.*

New information comprises updated results from two studies that were ongoing at the time the proposed rule published.

(1) Chow and Klinger (2014) evaluated the effects of lagomorph (taxonomic order of mammals comprising rabbits, hares, and pikas) herbivory on Eureka Valley evening-primrose competition, both with itself, and with Russian thistle (see discussion of the latter under Factor E) in an ex situ setting. While herbivory can result in the removal of aboveground vegetative material, it was not found to exacerbate intraspecific competition in Eureka Valley evening-primrose (Chow and Klinger (2013b, p. 21). However, herbivory can result in mortality of plants if individuals are repeatedly consumed or the roots are eaten, and it could also impact flower and fruit production (Chow and Klinger 2014, pp. 19, 21).

(2) USGS (Scoles-Sciulla and DeFalco 2013) observed that up to 99 percent of the surface area of Eureka Valley evening-primrose individuals were consumed over the growing season in 2012, contributing to low survival rates at all dune sites that year. In subsequent years, USGS reported on survival rates over the course of the growing season (*e.g.,* 100 percent in 2013 (Scoles-Sciulla and DeFalco 2014, pp. 8–9), and between 20 and 70 percent at various dunes in 2014 (Scoles-Sciulla and DeFalco 2015, pp. 8–9); however, no other herbivory effects were discussed with the findings for these years.

Seed predation and herbivory are naturally occurring processes. We expect that Eureka Valley evening-primrose has adapted to withstand some level of herbivory and seed predation. Given that Eureka Valley evening-primrose continues to occupy the same general distribution identified at the time of listing, it does not appear that herbivory and seed predation by themselves are occurring at such a level to cause population-level declines or other adverse effects to the species as a whole. Based on the best available

information at this time (including the research observations provided by Chow and Klinger (2013b) and USGS (Scoles-Sciulla and DeFalco 2014, 2015); the expectation that this species has evolved with some level of herbivory/seed predation; and the fact that herbivory/seed predation is naturally occurring and some level of herbivory/seed predation is expected, we conclude that the observed impacts are not causing population-level effects for Eureka Valley evening-primrose currently, nor are they expected to do so in the future.

D. The Inadequacy of Existing Regulatory Mechanisms

Under this factor, we evaluate whether the stressors identified within the other factors may be ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Section 4(b)(1)(A) of the Act requires that the Service take into account ''those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species. . . .'' In relation to Factor D under the Act, we interpret this language to require the Service to consider relevant Federal, State, and Tribal laws, regulations, and other such binding legal mechanisms that may ameliorate or exacerbate any of the threats we describe in threat analyses under the other four factors or otherwise enhance the species' conservation. Our consideration of these mechanisms is described in detail within each of the threats or stressors to the species (see discussion under each of the other factors).

The following existing regulatory mechanisms and conservation actions were specifically considered and discussed as they relate to the stressors, under the applicable factors, affecting Eureka Valley evening-primrose: The Wilderness Act, the Park Service Organic Act, and the other laws guiding management of Park Service lands are adequate to minimize threats to populations of Eureka Valley evening-primrose from OHV activity, sandboarding, and horseback riding. Beneficial effects for Eureka dune grass include: (1) Management measures to control illegal OHV activity (see Factor A discussion, above), including the Park Service's management policies (Park Service 2006); (2) the Organic Act; (3) the legal and stewardship mandates outlined in the Park Service's General Management Plan (Park Service 2002, entire); and (4) the Wilderness and Backcountry Stewardship Plan (Park Service 2013b, pp. 4, 5, 10, 16), given all areas containing populations of the species are within congressionally designated wilderness. The best available information indicates that these existing regulatory mechanisms have reduced the previously identified significant adverse effects to individual plants and populations, especially impacts associated with OHV activity (Factors A and E) and other recreational activities (*i.e.,* sandboarding, camping, and associated access routes) (Factors A and E). There are no existing regulatory mechanisms to address other potential stressors, including herbivory, seed predation, competition with Russian thistle, effects of climate change, and stochastic events.

While most of these laws, regulations, and policies are not specifically directed toward protection of Eureka Valley evening-primrose, they mandate consideration, management, and protection of resources that benefit the species. We expect these laws, regulatory mechanisms, and management plans to remain in place into the future.

For a detailed discussion regarding inadequacy of existing regulatory mechanisms, both at the time of listing and since then, see the proposed delisting rule (79 FR 11053, February 27, 2014) and the Background Information document (Service 2014), which are available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov.* There is no new information concerning these regulatory mechanisms.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

OHV Activity and Other Recreational Activities

See the ''OHV Activity'' and ''Other Recreational Activities'' sections, above under Factor A, for a complete discussion of realized and potential impacts since the time of listing. As stated there, we included a complete discussion of potential impacts to both habitat and individual plants under Factor A for ease of analysis. We conclude, based on the best available information, that the Wilderness Area designation, coupled with Park Service management of OHV activity and other recreational activity, has significantly reduced potential impacts to Eureka Valley evening-primrose individuals, currently and into the future. See additional discussion above under Factors A and D.

Competition With Russian Thistle

Invasive, nonnative plants can potentially affect the long-term persistence of endemic species. *Salsola* spp. (Russian thistle) is the only invasive, nonnative species that has spread onto the dunes in the Eureka Valley. Previous information (available at the time of our 2007 5-year reviews) was generally limited to personal observations and collections with no specific information regarding the density or distribution of Russian thistle. However, due to continuing concerns expressed by the Park Service and other parties since 2007, we conducted a more thorough review of the life-history characteristics of Russian thistle and the potential impacts it could have on Eureka Valley evening-primrose, particularly the potential for Russian thistle to compete with Eureka Valley evening-primrose for resources such as water and nutrients, which would potentially result in fewer or smaller individuals of Eureka Valley evening-primrose. We also reviewed information provided by the Park Service concerning the distribution of Russian thistle on and around the dunes in Eureka Valley and preliminary results of an *ex situ* competition study (Chow and Klinger 2013b). For a detailed discussion regarding the potential for competition between Eureka Valley evening-primrose and Russian thistle, both at the time of listing and since then, see the proposed delisting rule (79 FR 11053, February 27, 2014) and the Background Information document (Service 2014), which are available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov.*

New Information comprises the following: A preliminary study regarding interspecific competition (competition between individuals of different species) and intraspecific competition (competition between individuals of the same species) initiated in 2012 was updated by Chow and Klinger (2016) and Chow (2016). They found that competition (interspecific and intraspecific) reduced the relativized biomass of target individuals for both Eureka Valley evening-primrose and Russian thistle (Chow and Klinger 2014, p. 16). They were unable to determine if competition (inter- and intraspecific) affected the reproductive potential of either taxa, although they did observe that Eureka Valley evening-primrose produced more vegetative material, whereas Russian thistle produced more reproductive material (Chow and Klinger 2014, p. 20). This is likely the result of the different reproductive strategies (annual versus perennial) employed by these two taxa (Chow and Klinger 2014, p. 20). As in their preliminary study, Chow and Klinger (2013b, p. 16) found that Eureka

Valley evening-primrose tolerated interspecific competition better than Russian thistle. However, the effect of intraspecific competition between Eureka Valley evening-primrose individuals was less clear. For example, the highest number of neighbors (*i.e.,* six individuals) in one of the treatments did not result in the greatest impact to the target individual (Chow and Klinger 2014, p. 16). This may be because of competition occurring below ground.

Rooting depth of Eureka Valley evening-primrose was observed during the course of two different studies. Most of the Eureka Valley evening-primrose roots examined from a laboratory experiment were located at the bottom of pots as opposed to Russian thistle roots, which were more concentrated in the mid-section of the pot (Chow and Klinger 2014, pp. 17–18). This finding suggests the possibility that the spatial separation of the roots of Eureka Valley evening-primrose and Russian thistle is why the effects of intraspecific competition examined on the dunes was greater for Eureka Valley evening-primrose than interspecific competition. Rooting depth relative to soil moisture was also observed by USGS (Scoles-Sciulla and DeFalco 2015, p. 10); they concluded that Eureka Valley evening-primrose likely uses soil moisture within the top 11.8 in (30 cm) of soil because soil moisture at greater depths varied little over the spring and early summer, when primrose individuals were actively growing.

The growing phenologies (timing) of Eureka Valley evening-primrose and Russian thistle are likely sufficiently different that competition for water resources is minimal. The Park Service (Park Service 2014) observed the ''phenological asynchrony'' between these two species and noted that, although they share habitat in semi-stabilized sand, they do not appear to be stimulated by the same precipitation events and so do not reproduce at the same time or compete for the same resources. Overall at the present time, the best available information presented by Chow and Klinger (2013b) and Chow (2016) suggest that Russian thistle does not outcompete the Eureka Valley evening-primrose. Additionally, recent reports from the Park Service (2013, 2014) indicate that Eureka Valley evening-primrose continues to occupy areas where it was known to occur around the time of listing. Therefore, we do not consider impacts from Russian thistle to be a threat to the continued existence of the Eureka Valley evening-primrose both now and in the future.

Climate Change

For a detailed discussion regarding the potential effects of climate change on Eureka Valley evening-primrose, both at the time of listing and since then, see the proposed delisting rule (79 FR 11053, February 27, 2014) and the Background Information document (Service 2014), which are available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov.*

Potential effects of climate change may include a variety of potential changes, such as the following:

(1) A decrease in the level of soil moisture that could increase evaporation and transpiration rates and thus impact the growth or performance of individual plants (Weltzin *et al.* 2003, p. 943).

(2) Altered timing and amount of rainfall could influence germination and possibly establishment of Eureka dune grass (Pavlik and Barbour 1986, p. 47).

(3) The timing of phenological phases, such as flowering, leafing out, and seed release in both Eureka Valley evening-primrose and Eureka dune grass, could change, which has been noted in many other plant species (Bertin 2008, pp. 130–131). Additionally, pollinator availability could become limited (Hegland *et al.* 2009) during the time Eureka Valley evening-primrose is flowering, which in turn could affect pollination effectiveness, and consequently the amount of seed it produces.

(4) Lower rainfall could affect survival of individual plants (*e.g.,* reproductive adults, seedlings) and result in less frequent germination events, both of which could affect recruitment. Alternatively, increased rainfall could increase germination and survival, but could also increase competition with invasive, nonnative plants or increase the population size of herbivores. With respect to herbivores, a subsequent decrease in rainfall could result in increased herbivory of certain plants due to a decreased availability in the variety of vegetation.

New information comprises the following: The most recent global climate models from the Intergovernmental Panel on Climate Change (IPCC) fifth assessment (IPCC 2013) do not resolve how two important weather patterns (*i.e.,* the El Niño Southern Oscilliation (ENSO) phenomenon and North American monsoon) will change over the next century (Cook and Seager 2013). These two weather patterns may be important drivers of the Eureka Valley evening-primrose population dynamics (Evans *in litt.* 2014); climate envelope forecasts indicate that suitable climate for Eureka Valley evening-primrose will shift to the northwest of Eureka Valley dunes by 2050 (Evans *in litt.* 2014).

In 2016, USGS completed 3 years of field study at all three dune systems to evaluate the influence of rainfall and temperature patterns on germination and growth of Eureka Valley evening-primrose and Eureka dune grass (Scoles-Sciulla and DeFalco 2017); final analysis will not be complete until 2018. Preliminary results indicate that: (1) Temperature regime, wind speeds, and precipitation patterns at the three dunes show some differences that likely are due to their relative position within Eureka Valley (for instance, the Main Dunes has lower daily temperatures than the other two dunes, while other patterns, such as rainfall, vary among the three dunes on both a temporal and spatial scale); (2) soil moisture probes installed near Eureka Valley evening-primrose individuals suggest that moisture at depths greater than 11.8 in (30 cm) varied little over the spring and early summer when the species was actively growing; and (3) rooting depth for Eureka Valley evening-primrose was within the top 11.8 in (30 cm) of substrate (Scoles-Sciulla and DeFalco 2017). Although the study is incomplete, this information indicates that the extent of the annual expression of Eureka Valley evening-primrose may vary between dunes in part due to the variation in precipitation between the dunes and that the species is accessing soil moisture at a deeper level than Russian thistle, which may reduce potential competition.

In summary, effects of climate change on Eureka Valley evening-primrose may occur in the future, although we cannot predict what the effects will be. Regardless, climate change will be affecting the climatic norms with which this species has previously persisted, and it is probable that this shift could cause stress to the species. We note that, as a short-lived perennial, the ability of this species to shift geographically over time in accordance with shifting climatic norms is greater than would be for a long-lived perennial plant species. However, because of the uncertainty regarding the magnitude and the imminence of such a shift, we are unable to determine the extent that this may become a stressor in the future. Additionally, while uncertainty exists, we expect the Park Service will continue to manage and monitor the species so that corrective actions may occur in the future.

Stochastic Events

For a detailed discussion regarding the potential effects of stochastic events on Eureka Valley evening-primrose, both at the time of listing and since then, see the proposed delisting rule (79 FR 11053, February 27, 2014) and the Background Information document (Service 2014), which are available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov.* In those documents, we discussed that environmental stochasticity (variation in recruitment and mortality rates in response to weather, disease, competition, predation, or other factors external to the population) could result from such events as drought, windstorms, and timing and amount of rainfall. There is no new information regarding the potential effects of stochastic events on Eureka Valley evening-primrose.

Overall, it is possible that environmental stochasticity (in the form of extreme weather events) could cause stress to Eureka Valley evening-primrose. However, the best available information at this time does not indicate the impacts associated with the observed and predicted range of stochastic events would affect the long-term persistence of Eureka Valley evening-primrose.

In our proposed rule and supporting documents, we also discussed that low genetic diversity theoretically could affect the ability of plant species to adjust to novel or fluctuating environments, survive stochastic events, or maintain high levels of reproductive performance (Huenneke 1991, p. 40). The species-rich genus *Oenothera* has been used as a model for the study of plant evolution, particularly regarding reproductive systems (Theiss *et al.* 2010). DNA analysis has been used to clarify phylogenetic relationships; evidence indicates that the genus *Oenothera* is polyphyletic (relating to a taxonomic group that does not include the common ancestor of the members of the group, and whose members have two or more separate origins) (Levin *et al.* 2003, 2004). Despite the number of studies, however, we have no specific information for *O. californica* ssp. *eurekensis* indicating the level of genetic diversity within or among the populations. However, given the resiliency exhibited by the species, at this time, the best available information does not indicate the species is experiencing any potential negative effects of low genetic diversity within and among the Eureka Valley evening-primrose populations.

Combination of Factors

For a detailed discussion regarding the potential effects of a combination of factors on Eureka Valley evening-primrose, both at the time of listing and since then, see the proposed delisting rule (79 FR 11053, February 27, 2014) and the Background Information document (Service 2014), which are available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov.* In those documents, we discussed that a combination of favorable climatic conditions could lead to an increase in food sources for small mammal populations, which could then cause additional stress on Eureka Valley evening-primrose through seed predation and herbivory. During the comment period, one peer reviewer commented that, although boom and bust population cycles of small mammals and their impacts on native vegetation are well known, in the case of Eureka Valley, there may be another confounding factor: Prior to the introduction of Russian thistle to the Valley in the last century, lagomorph populations were likely smaller. The spread of Russian thistle around the dunes may have increased the size of lagomorph populations above historical levels, and thus could potentially result in increased herbivory on Eureka Valley evening-primrose (Thomas *in litt.* 2014).

During field studies since the proposed delisting rule was published, researchers (Chow and Klinger 2014, pp. 19–20, 46) observed evidence of small mammal predation and lagomorph predation on Eureka Valley evening-primrose during their field studies. However, no quantitative data are available regarding the extent of herbivory on Eureka Valley evening-primrose throughout its range, the size of the lagomorph population (or other small mammal populations), nor how their numbers fluctuate with the presence of Russian thistle. In addition, the ''superbloom'' year of 2014 provided a qualitative confirmation that, despite the large expression of Russian thistle that occurred in 2010 and the observations of small mammal herbivory in the intervening years, Eureka Valley evening-primrose was sufficiently resilient to have an aboveground expression of more than 1 million individuals.

While the combination of factors could potentially affect Eureka Valley evening-primrose, the best available information does not indicate that cumulative or synergistic effects are of sufficient magnitude or extent that they are affecting the viability of the species at this time or into the future.

Summary of Factors Affecting the Species—Eureka Dune Grass

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

OHV Activity

OHV activity may impact Eureka dune grass and its habitat in the same fashion and magnitude as that described above for Eureka Valley evening-primrose (see the OHV Activity section under Factor A for Eureka Valley evening-primrose, above). This includes 4-wheel drive vehicular use of roads and trails, predominantly on public lands, for the purpose of touring, hunting, fishing, or other public land use. Existing regulatory mechanisms (such as through the Park Service's Organic Act and other laws guiding management of Park Service lands) in place since listing have resulted in beneficial effects to the species, including management measures to control OHV and recreational activities) (see additional discussion under Factor D, below). As a result, OHV-related impacts to Eureka dune grass have essentially been ameliorated, in large part due to the designation of Federal wilderness areas throughout the species' range, with the exception of some minor unauthorized OHV activity that the Park Service acknowledges, also noting that the remote location of the dunes and limited resources make enforcing restrictions difficult (Park Service 2011b, p. 17).

Additional discussion regarding potential impacts and the Park Service's management of OHV activity, land use designations, and the potential for future adaptive management strategies regarding OHV activities that are established to benefit Eureka dune grass and other Eureka Dunes ecosystem species are described in detail under the OHV Activity section under Factor A for the Eureka Valley evening-primrose, above, and in the proposed delisting rule (79 FR 11053, February 27, 2014).

Overall, the current level of unauthorized OHV use is sporadic and does not occur across the range of the species, and there does not appear to be any correlation between OHV recreation and the status of the species. Given the management of OHV activity through land use designations has resulted in the near elimination of OHV activity on Eureka Dunes at the current time, and given the likelihood that these protections and adaptive management strategies will continue into the future at the remote locations where Eureka

dune grass occurs, we conclude that OHV activity no longer impacts the species or its habitat at the population or rangewide levels currently and into the future.

Other Recreational Activities

In addition to unauthorized OHV activity that may occur currently (as described above), other recreational activities have historically and currently occur (occasionally) within the Eureka Dunes, including horseback riding, sandboarding, camping outside of designated areas, and creation of access routes. Potential impacts from these recreational activities are described in detail either above in the Other Recreational Activities section under Factor A for Eureka Valley evening-primrose, or in the associated Other Recreational Activities section of the proposed delisting rule. Existing regulatory mechanisms (such as through the Park Service's Organic Act and other laws guiding management of Park Service lands) in place since listing have resulted in beneficial effects to the species (including management measures to control recreational activities) (see additional discussion above for Eureka Valley evening-primrose, as well as under Factor D, below).

New information is the same as that presented above for Eureka Valley evening-primrose: In response to publication of the proposed delisting rule, the Park Service referred back to a study conducted by Pavlik (1979a), which found that seedlings of Eureka dune grass are extremely fragile and cannot tolerate even the lightest disturbance by foot traffic. Although the Park Service has not been able to measure the amount of foot traffic, the potential impacts from such traffic can be qualitatively observed on stabilized sand following rain events (Park Service 2014, p. 5). In addition, one peer reviewer observed evidence (*i.e.,* tracks) of unauthorized OHV activity at the base of the Main Dunes, as well as increased visitor use, specifically camping, at the dunes since the 1980s (McLaughlin *in litt.* 2014).

Our current assessment is that, while the Park Service has documented some unauthorized activity (*e.g.,* sandboarding, OHV activity in closed areas) that may result in minor or occasional impact to individual plants, these are infrequent occurrences and affect very small areas and are not spread throughout the range of the species. The Park Service is aware of the potential for impacts to Eureka dune grass from hikers accessing the north end of the Main Dunes and considers this a priority area for rangers to patrol and to have visitor contact.

Given the existing conservation measures in place across the Eureka Dunes (*i.e.,* reduction or elimination of impacts associated with horseback riding, sandboarding, camping, and establishment of access points via implementation of patrols, illegal road closures, interpretative signs, barriers, etc.), the best available information at this time indicates that unauthorized OHV and other recreational activities, if they occur, are not causing population-level effects (as compared to pre-listing levels) for Eureka dune grass habitat currently, nor are they expected to do so in the future.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Given the same scenario and discussion applies, please see the Factor B section for Eureka Valley evening-primrose, above, regarding collection of seeds or leaves for laboratory experiments or collection of voucher specimens for herbaria as a potential stressor to Eureka dune grass. Of the three section 10(a)(1)(A) permits issued for studies involving the removal of plants, seeds, or plant parts, only two of these were for Eureka dune grass. We do not consider this level of research and collection to pose any potential threat of overutilization for the species. We also do not have any new information regarding this factor, and we conclude that collection of seeds or leaves is not a short-term or long-term threat to the continued existence of Eureka dune grass.

C. Disease or Predation

At the time of listing, disease and predation were not identified as potential threats to Eureka dune grass. Since then, studies imply that herbivory and seed predation are a potential stressor to the species. For a detailed discussion regarding disease and predation, both at the time of listing and since then, see the proposed delisting rule (79 FR 11053, February 27, 2014) and the Background Information document (Service 2014), which are available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov.*

New information comprises the following: Updated results from one study on plant growth and reproduction (Scoles-Sciulla and DeFalco 2015) that was ongoing at the time of the proposed delisting rule. Results indicate that in 2014, out of 90 Eureka dune grass individuals tagged in 2013, 16 did not grow due to severe herbivore damage in 2013; and an additional 4 plants grew but did not reproduce (Scoles-Sciulla and DeFalco 2015, p. 8). In 2015, the same 16 individuals still did not grow, and 3 of the additional 4 plants grew but did not reproduce (Scoles-Sciulla and DeFalco 2016, p. 8). No herbivory effects were discussed with the findings for the year 2016 (Scoles-Sciulla and DeFalco 2017).

In their 2015 monitoring report, the Park Service made note of rodent herbivory on leaves and stems of Eureka dune grass, most likely from kangaroo rats (*Dipodomys* sp.) that underwent a population surge in the previous year (Park Service 2015, pp. 18–19). Additionally, abundant rodent tracks were found in the central and southern portions of the Main Dunes (Park Service 2015, pp. 18–19). No studies have been done to quantify the extent of herbivore damage to the species. However, because Eureka dune grass produces seed in low abundance, the loss of any of this seed to herbivores could affect the ability of the species to bank seed and germinate in abundance when suitable conditions arise in the future.

New information is also noted with regards to potential herbivory from lagomorphs. Thomas (*in litt.* 2014) cited two references that were inadvertently excluded in the proposed rule or Background Information document (Service 2014, entire). This information indicates that Russian thistle is consumed by black-tailed jackrabbits and cottontail rabbits (Daniel *et al.* 1993, p. 5; Fagerstone *et al.* 1980, pp. 230–231) and may be a preferred food source (Fagerstone *et al.* 1980, p. 230). Thomas (*in litt.* 2014) suggests that it is possible that Russian thistle may have increased lagomorph populations above historical levels, and thus, increased herbivory on Eureka dune grass. Although anecdotal in nature, we also note that the Park Service staff has made observations of herbivory by small mammals on Eureka dune grass (Park Service 2015, pp. 18–20).

Seed predation and herbivory are naturally occurring processes. We expect that Eureka dune grass can adapt to withstand some level of herbivory and seed predation. Given that the species continues to occupy the same range as identified at the time of listing, it does not appear that herbivory and seed predation by themselves are occurring at such a level to cause population-level declines or other adverse effects to the species as a whole. Based on the best available information at this time (*i.e.,* observations by USGS and the Park Service between 2013 and 2015, the expectation that this species

has evolved with some level of herbivory/seed predation, that herbivory/seed predation is naturally occurring, and some level of herbivory/seed predation is expected for the species), we conclude that the observed impacts in and of themselves are not likely causing population-level effects for Eureka dune grass currently. However, given that Eureka dune grass is already experiencing low to no reproduction, any additional loss of biomass due to herbivory will likely place additional stress on individual plants and limit their ability to expend resources on reproduction. Therefore, we acknowledge that herbivory or seed predation could be a concern for this species into the future, and recommend that observations of this stressor should continue.

D. The Inadequacy of Existing Regulatory Mechanisms

Under this factor, we evaluate whether the stressors identified within the other factors may be ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Section 4(b)(1)(A) of the Act requires that the Service take into account ''those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species. . . .'' In relation to Factor D under the Act, we interpret this language to require the Service to consider relevant Federal, State, and Tribal laws, regulations, and other such binding legal mechanisms that may ameliorate or exacerbate any of the threats we describe in threat analyses under the other four factors or otherwise enhance the species' conservation. Our consideration of these mechanisms is described in detail within each of the threats or stressors to the species (see discussion under each of the other factors).

As similarly described above under the Factor D section for Eureka Valley evening-primrose, the following existing regulatory mechanisms and conservation actions were specifically considered and discussed as they relate to the stressors, under the applicable factors, affecting Eureka dune grass: The Wilderness Act, the Park Service Organic Act, and the other laws guiding management of Park Service lands. We concluded they are adequate to minimize and control threats to populations of Eureka dune grass from OHV activity, sandboarding, and horseback riding. Eureka dune grass and its habitat benefit from existing regulatory mechanisms and conservation actions, including: (1) Management measures to control illegal OHV activity (see Factor A discussion, above), including the Park Service's management policies (Park Service 2006); (2) the Organic Act; (3) the legal and stewardship mandates outlined in the Park Service's General Management Plan (Park Service 2002, entire); and (4) the Wilderness and Backcountry Stewardship Plan (Park Service 2013b, pp. 4, 5, 10, 16), given all areas containing populations of the species are within congressionally designated wilderness. The best available information indicates that these existing regulatory mechanisms have reduced the previously identified significant adverse effects to individual plants and populations, especially impacts associated with OHV activity (Factors A and E) and other recreational activities (*i.e.,* sandboarding, camping, and associated access routes) (Factors A and E). We also expect the Park Service to continue using these mechanisms to assist in reducing impacts into the future. At this time, there are no existing regulatory mechanisms to address herbivory, seed predation, effects of climate change, and stochastic events under Factor E (see below).

Downlisting Eureka dune grass from an endangered species to a threatened species on the Federal List of Endangered or Threatened Plants would not significantly change the protections afforded this species under the Act. Additionally, while most of the other laws, regulations, and policies considered are not specifically directed toward protection of Eureka dune grass, they mandate consideration, management, and protection of resources that benefit the species. We expect these laws, regulatory mechanisms, and management plans to remain in place into the future.

For a more detailed discussion of the various existing regulatory mechanisms, both at the time of listing and since then, see the proposed delisting rule (79 FR 11053, February 27, 2014) and the Background Information document (Service 2014), which are available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov.* There is no new information concerning these regulatory mechanisms.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

OHV Activity and Other Recreational Activities

See the OHV Activity and Other Recreational Activities sections, above, under Factor A for Eureka dune grass and Eureka Valley evening-primrose for a complete discussion of realized and potential impacts since the time of listing. As stated there, we conclude, based on the best available information, that the Wilderness Area designation, coupled with Park Service management of OHV activity and other recreational activity, has significantly reduced potential impacts to Eureka dune grass individuals currently and into the future. Even so, there is one portion of the range of this species (and not affecting Eureka Valley evening-primrose)—the Main Dunes adjacent to the campground area—that is subject to the most impact from recreational hiking. The National Park Service has anecdotally documented foot traffic in this area when it is most observable, *i.e.,* after a rain event (Park Service 2014, p. 5). If the area being trampled overlaps with an area where there has been a localized germination event of Eureka dune grass, it could result in the loss of those individuals as well as potentially prevent the species from recovering (*e.g.,* limiting the species' ability to expend resources on growth and establishment that would increase abundance of individuals) in the area. We expect the Park Service to continue to manage OHV and other recreational activities to assist in reducing impacts to Eureka dune grass into the future.

Competition With Russian Thistle

Invasive, nonnative plants can potentially impact the long-term persistence of endemic species. Russian thistle is the only invasive, nonnative species that has spread onto the dunes in the Eureka Valley. Potential impacts associated with Russian thistle are described under the Competition with Russian Thistle section under Factor E for Eureka Valley evening-primrose, above, and in the associated section of the proposed delisting rule (79 FR 11053, February 27, 2014) and the Background Information document (Service 2014), which are available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov.*

The potential for Russian thistle to impact Eureka dune grass is unlikely because: (1) Eureka dune grass typically occurs on the steeper, unstable slopes of the dunes, which appears to limit the establishment of Russian thistle; and (2) Russian thistle roots are shallower than those of Eureka dune grass, which reduces the likelihood of potential competition between the two species.

New information comprises the following: The Park Service continued to note the presence/absence of Russian thistle during the hectare grid monitoring in 2014 and 2015; at the Main Dunes, the number of hectares in the monitoring grid where Russian thistle and Eureka dune grass both occur

was 19 percent in 2013 (Park Service 2014, pp. 4, 12, 15; 2015, p. 3), and 4 percent in 2015 (Hoines *in litt.* 2017). Due to the steeper terrain occupied by Eureka dune grass on the Main Dunes, the percentage of hectares of Russian thistle that overlap with dune grass is less than that for overlap between Russian thistle and Eureka Valley evening-primrose. At the two smaller dunes, there is a greater percentage of hectares of Russian thistle that overlap with Eureka dune grass than at the Main Dunes (in 2013, 91 percent at Saline Spur Dunes, and 76 percent at Marble Canyon Dunes). However, on a finer spatial scale, the cover of each of these species (Eureka dune grass and Russian thistle) is so low that the opportunity for competition is limited. In addition, in their ecological study of Eureka dune grass, USGS measured the rooting depth, and found it to be approximately 35 in (90 cm) (Scoles-Sciulla and DeFalco 2016, p. 9). The rooting depth for annual species of Russian thistle is shallower (in one study, the average was 24 in (60 cm) (Padilla and Pugnare 2007)). There are also phenological differences in the growing season between Eureka dune grass and Russian thistle: During the growing season for Russian thistle (summer), adult dune grass individuals are extracting water from lower depths (Scoles-Sciulla and DeFalco 2016). Therefore, based on the best available information, although competition between individuals of Russian thistle and individuals of Eureka dune grass may occasionally occur, because of their separation in space and time, we conclude that competition with Russian thistle does not pose a population-level impact to Eureka dune grass at this time.

Climate Change

For a detailed discussion of climate change in the Eureka Valley and its potential effects to Eureka dune grass and its habitat, please see the proposed delisting rule (79 FR 11053, February 27, 2014) and the Background Information document (Service 2014), which are available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov.* At the time we published the proposed rule, we concluded that there is considerable uncertainty in local climate projections, and we expected Eureka dune grass is adapted to withstand drier climate conditions. We also stated that impacts from climate change on Eureka dune grass may occur in the future, although we cannot predict what the effects will be.

New information comprises the following: In 2016, USGS completed a field study at all three dune systems to evaluate the influence of rainfall and temperature patterns on germination and growth of Eureka dune grass and Eureka Valley evening-primrose; the results of this study are not yet available (Scoles-Sciulla and DeFalco 2017, p. 9). To date, they note the following:

(1) Temperature regime, wind speeds, and precipitation patterns at the three dunes show some differences that likely are due to their relative position with Eureka Valley. For instance, the Main Dunes has lower daily temperatures than the other two sites, while other patterns, such as rainfall, vary among the three dunes on both a temporal and spatial scale.

(2) Soil moisture probes installed near dune grass individuals suggest that moisture from a summer storm event (11 in (29 cm)) may infiltrate the soil near plants more deeply than away from plants. Also, soil moisture down to 35 in (90 cm) declined more rapidly near the dune grass than in the interspaces during this time when Eureka dune grass is actively growing.

(3) Rooting depth for Eureka dune grass was 35 in (90 cm) during the 2014 and 2015 growth seasons, as compared to a ''within top [11 in] 30 cm'' rooting depth for Eureka Valley evening-primrose (Scoles-Sciulla and DeFalco 2017, pp. 5–8).

There are two primary ways in which a shift in local climatic conditions could affect the long-term persistence of Eureka dune grass. First, because the species taps into water at deeper soil levels in the dune sands, a reduction in the availability of this water could affect the persistence of mature, established individuals; a loss of these mature individuals from the population is significant, because most of the seed production for the future of the population is contributed by these older individuals. Second, a shift in precipitation patterns during the summer and fall season could affect the ability of Eureka dune grass to have successful germination events. Water year precipitation (*i.e.,* the total annual rainfall between October 1 of one year until September 30 of the following year) has been on a declining trend between 1896 and 2013 (Willoughby *in litt.* 2014); summer precipitation (April through September) has also been on a declining trend between 1896 and 2013 (Willoughby *in litt.* 2014). It is reasonable to assume the lack of summer precipitation is one of the parameters affecting the ability of Eureka dune grass to experience germination events. Park Service staff had documented a germination event in 2014, but none had been observed prior to that since 1984 (Park Service 2014; Pavlik and Barbour 1986, p. 50). At this time, we have no further information regarding the extent to which the 2014 germinants may have survived or become established within the population.

In summary, impacts from climate change on Eureka dune grass may occur in the future. Although we cannot predict what the effects will be, they could impact various aspects of the life history of the species, including altering germination and establishment success, as well as growth, reproduction, and longevity. Regardless, climate change will be affecting the climatic norms with which this species has previously persisted, and it is probable that this shift could cause stress to the species. We note that, as a long-lived perennial, the ability of this species to shift geographically over time in accordance with shifting climatic norms is less than would be for a short-lived perennial (for example, Eureka Valley evening-primrose) or annual plant species. The conditions for germination (specifically, late summer/early fall precipitation) occur less frequently than the typical winter precipitation to which most annual and perennial Mojave desert species respond. Although several patches of germination were observed by the Park Service in 2014, that was the only year since rangewide monitoring began in 2008 that they observed such germination. Because of the uncertainty regarding the magnitude and the imminence of such a shift in climatic norms, we are unable to determine the extent to which this will become a stressor in the foreseeable future, and particularly how it will affect the interval between successful germination and establishment events that the species needs to replace the loss of senescent individuals.

Stochastic Events

For a detailed discussion of the potential impacts of stochastic events on Eureka dune grass and its habitat, see the ''Stochastic Events'' section of the proposed delisting rule (79 FR 11053, February 27, 2014) and the Background Information document (Service 2014, pp. 62–64). At the time we published the proposed rule, we concluded that neither windstorms nor a variation in rainfall represent a substantial threat to Eureka dune grass. We have no new information regarding the potential threat posed by stochastic events.

With regard to genetic stochasticity, we stated in the proposed delisting rule that low genetic diversity may affect the ability of plant species to adjust to novel or fluctuating environments, survive

stochastic events, or maintain high levels of reproductive performance (Huenneke 1991, p. 40). Although Bell (2003, p. 6) concluded that there was low genetic diversity within and among the three populations of Eureka dune grass, there is no past information available regarding the level of genetic diversity within and among the three populations of Eureka dune grass that would allow us to determine if genetic diversity has changed over time or the extent to which low genetic diversity may affect the species' fitness or its ability to adapt to changing conditions over time. Overall, we concluded in the proposed delisting rule that genetic stochasticity does not pose a threat to Eureka dune grass currently or in the future.

Currently, we have no additional information on whether genetic diversity has changed over time, or whether genetic stochasticity poses a threat to Eureka dune grass in the future.

Combination of Factors

For a detailed discussion of the combination of various factors and potential impacts on Eureka dune grass and its habitat, see the ''Combination of Factors'' section of the proposed delisting rule (79 FR 11053, February 27, 2014), and the Background Information document (Service 2014), which are available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov.* We concluded that while the combination of factors could potentially impact Eureka dune grass, the best available information did not indicate that the magnitude or extent of cumulative or synergistic effects was impacting the species to the point that they are affecting the viability of the species at this time or into the future (although the available information indicates some uncertainty about how synergistic effects could impact the species in the future).

The best available information for Eureka dune grass indicates that the rangewide distribution (as represented by presence in the grid monitoring), as well as the number of large individuals of the dune grass, is in decline at two (the Main Dunes and Marble Canyon Dunes) out of three of the dune systems. In addition, since most of Eureka dune grass occurs at the Main Dunes, the decline in abundance and distribution at the Main Dunes represents a larger proportion of the decline rangewide for the species. Although we do not know specifically what the combination of factors may be contributing to the decline of Eureka dune grass, the combination of rangewide distribution monitoring, 30 years of photopoints, and trends analysis by three different parties (Kendall *in litt.* 2014; Park Service 2014; and Willoughby *in litt.* 2014) indicate that the status of this species is not yet stable or improving. This species exhibits life-history characteristics (intrinsic factors) that include low seed production, low frequency of germination, and low frequency of establishment of new individuals that reach reproductive age. These characteristics contribute to the difficultly of maintaining robust populations of individuals over time. Any additional external (extrinsic) factors, such as trampling, herbivory, or drought, that impact these critical life-history stages in Eureka dune grass will reduce its reproductive potential, and its ability to persist, in the future.

Please see the Climate Change section under Factor E, above, for a discussion of its potential effect as a stressor to Eureka dune grass. At this time, our evaluation of the best available information indicates that the combination of stress caused by changing climatic norms with other stressors, such as herbivory, are likely exacerbating the species' ability to exhibit a stable or increasing population size across its range into the future. We also note that the best available information suggests this species is physiologically adapted to the specific hydrologic and soil conditions on the dunes. However, both water year precipitation and summer precipitation have declined in the region between 1896 and 2013; these declines could affect the species by reducing successful germination events and recruitment in the summer-fall months and also by reducing the health and longevity of established adults due to lower annual rainfall.

With respect to herbivory (please see the Factor C section above), it is possible that the abundance of lagomorphs (due to presence of Russian thistle that it feeds on) has increased greater than historical levels, and thus may contribute to elevated levels of herbivory on Eureka dune grass (Thomas *in litt.* 2014). Although anecdotal in nature, we also note that the Park Service staff has made observations of herbivory by small mammals on Eureka dune grass (Park Service 2015, pp. 18–20).

Determinations

Introduction

Under section 4(a)(1) of the Act, we determine whether a species is an endangered species or threatened species because of any of the following: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence.

The fundamental question before the Service is whether the species meets the definition of ''endangered species'' or ''threatened species'' under the Act. To make this determination, we evaluated the projections of extinction risk, described in terms of the condition of current and future populations and their distribution (taking into account the risk factors and their effects on those populations). For any species, as population condition declines and distribution shrinks, the species' extinction risk increases and overall viability declines.

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' On July 1, 2014, we published a final policy interpreting the phrase ''significant portion of its range'' (SPR) (79 FR 37578). In our policy, we interpret the phrase ''significant portion of its range'' in the Act's definitions of ''endangered species'' and ''threatened species'' to provide an independent basis for listing a species in its entirety; thus there are two situations (or factual bases) under which a species would qualify for listing: A species may be in danger of extinction or likely to become so in the foreseeable future throughout all of its range; or a species may be in danger of extinction or likely to become so throughout a significant portion of its range. If a species is in danger of extinction throughout an SPR, it, the species, is an ''endangered species.'' The same analysis applies to ''threatened species.''

Our final policy addresses the consequences of finding a species is in danger of extinction in an SPR, and what would constitute an SPR. The final policy states that (1) if a species is found to be endangered or threatened throughout a significant portion of its range, the entire species is listed as an endangered species or a threatened species, respectively, and the Act's protections apply to all individuals of the species wherever found; (2) a portion of the range of a species is

''significant'' if the species is not currently endangered or threatened throughout all of its range, but the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range; (3) the range of a species is considered to be the general geographical area within which that species can be found at the time the Service or the National Marine Fisheries Service makes any particular status determination; and (4) if a vertebrate species is endangered or threatened throughout an SPR, and the population in that significant portion is a valid DPS, we will list the DPS rather than the entire taxonomic species or subspecies.

The SPR policy is applied to all status determinations, including analyses for the purposes of making listing, delisting, and reclassification determinations. The procedure for analyzing whether any portion is an SPR is similar, regardless of the type of status determination we are making. The first step in our assessment of the status of a species is to determine its status throughout all of its range. Depending on the status throughout all of its range, we will subsequently examine whether it is necessary to determine its status throughout a significant portion of its range. If we determine that the species is in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range, we list the species as an endangered (or threatened) species and no SPR analysis will be required. The same factors apply whether we are analyzing the species' status throughout all of its range or throughout a significant portion of its range.

As described in our policy, once the Service determines that a ''species''—which can include a species, subspecies, or distinct population segment (DPS)—meets the definition of ''endangered species'' or ''threatened species,'' the species must be listed in its entirety and the Act's protections applied consistently to all individuals of the species wherever found (subject to modification of protections through special rules under sections 4(d) and 10(j) of the Act).

For the purpose of these determinations, we note that the implementation timeline of Death Valley National Park's Wilderness and Backcountry Stewardship Plan (Park Service 2013b) is 20 years. We think this is an appropriate timeframe over which events or effects reasonably can or should be anticipated, or trends extrapolated, because it is the length of time that the Park has planned for managing the habitat of Eureka Valley evening-primrose and Eureka dune grass, and during which time the Park will be monitoring the status of the populations. Although we expect this beneficial management to occur for at least the length of this timeframe, we expect management of the Eureka Dunes to continue well into the future beyond 20 years. Based on the Park Service's track record for natural resource management and revisions to management plans, we can reasonably expect such revisions to incorporate protective management consistent with the needs of the species well into the future and beyond the existing 20-year stewardship plan timeframe described above. We expect future revisions to be consistent with laws, regulations, and policies governing Federal land management planning; however, we cannot predict the exact contents of future plans. For additional information used to determine foreseeable future for these species, see the discussion of the Park Service's responsibilities and a description of Death Valley National Park's Wilderness and Backcountry Stewardship Plan in the ''Recovery'' and ''Factor D'' sections of the Background Information document (Service 2014, pp. 32–38, 48–51).

In considering what factors might constitute threats to the species, we must look beyond the mere exposure of the species to the factor to determine whether the exposure causes actual impacts to the species. If there is exposure to a factor, but no response, or only a positive response, that factor is not a threat. If there is exposure and the species responds negatively, the factor may be a threat and we then attempt to determine how significant the threat is. If the threat is significant, it may drive, or contribute to, the risk of extinction of the species such that the species warrants listing as an endangered species or a threatened species as those terms are defined by the Act. This does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely impacted could suffice. The mere identification of factors that could impact a species negatively is not sufficient to compel a finding that listing is appropriate; we require evidence that these factors individually or cumulatively are operative threats that act on the species to the point that the species meets the definition of an endangered species or threatened species under the Act.

Eureka Valley Evening-Primrose—Determination of Status Throughout All of Its Range

As required by section 4(a)(1) of the Act, we conducted a review of the status of this plant and assessed the five factors to evaluate whether Eureka Valley evening-primrose is in danger of extinction currently or likely to become so in the foreseeable future throughout all of its range. We examined the best scientific and commercial information available regarding the past, present, and future threats faced by the species. We reviewed information presented in the 2010 petition, information available in our files and gathered through the status review initiated with our 90-day finding in response to this petition, additional information that became available since the time our 2007 5-year status reviews were completed, and other available published and unpublished information, including public comments and information available after publication of the proposed rule. We also consulted with species experts and land management staff with Death Valley National Park who are actively managing for the conservation of Eureka Valley evening-primrose.

We examined the following stressors that may be affecting Eureka Valley evening-primrose: Unauthorized OHV activity, and other unauthorized recreational activities (specifically, horseback riding, sandboarding, camping, and access routes) (Factor A); collection for scientific research (Factor B); herbivory and seed predation (Factor C); the inadequacy of existing regulatory mechanisms (Factor D); and other unauthorized recreational activities (*i.e.,* horseback riding, sandboarding, camping, and access routes), competition with Russian thistle, effects of climate change, and stochastic events (Factor E). Our analysis indicates that measures have been put in place since the time of listing that have resulted in management and the elimination or reduction of the significant impacts to Eureka Valley evening-primrose populations identified at the time of listing (*i.e.,* OHV activity, and to a lesser extent camping and unauthorized OHV activity) that could have resulted in the extirpation of all or parts of populations. These impacts have been eliminated or reduced to the extent that they are considered negligible currently, and are expected to continue to be negligible into the future.

It is important to acknowledge the significant commitment made initially by BLM and subsequently by the Park Service in their efforts to provide

permanent protection to Eureka Valley evening-primrose and its habitat, as well as ongoing management, research, and public outreach opportunities. Since the publication of the proposed delisting rule in 2014, the Park Service continued to monitor the species for presence/absence throughout its range in 2014 and 2015 and developed a new subsampling method that was initiated in 2017. In addition, the Park Service coordinated with researchers to promote additional studies on monitoring methodologies (Chow and Klinger 2016), examine competition with Russian thistle (Chow and Klinger 2016), and investigate how growth and reproduction are influenced by changes in local climate (Scoles-Sciulla and DeFalco 2017). The Park Service worked with us to develop a post-delisting monitoring plan for Eureka Valley evening-primrose, which commits the Park Service to continued monitoring of this species for a period of 10 years.

The recovery criteria in the recovery plan have been achieved and the recovery objectives identified in the recovery plan have been met for Eureka Valley evening-primrose, based on the information presented in this final rule, the proposed rule (79 FR 11053, February 27, 2014), and the Background Information document (Service 2014), which are available under Docket No. FWS–R8–ES–2013–0131 at *http://www.regulations.gov.*

In conclusion, as discussed in the *Summary of Factors Affecting the Species—Eureka Valley Evening-primrose* section above, herbivory, seed predation, stochastic events, climate change, and competition with Russian thistle during years the thistle is abundant have the potential to impact Eureka Valley evening-primrose currently or into the foreseeable future. However, the best available information at this time indicates a negligible impact or lack of impact to the species across its range, although localized impacts may be affecting individual Eureka Valley evening-primrose plants in portions of populations within the range (*e.g.,* documented herbivory and seed predation at the north end of the Main Dunes).

Therefore, after review and analysis of the information regarding stressors as related to the five statutory factors, we find that the ongoing stressors are not of sufficient imminence, scope, or magnitude, either individually or in combination, to indicate that Eureka Valley evening primrose is presently in danger of extinction throughout all of its range, nor are any potential stressors described herein expected to rise to the level that would likely cause the species to become in danger of extinction in the foreseeable future throughout all of its range. Thus, we conclude that Eureka Valley evening-primrose is not in danger of extinction throughout all of its range nor is it likely to become so in the foreseeable future.

Eureka Dune Grass—Determination of Status Throughout All of Its Range

As required by section 4(a)(1) of the Act, we conducted a review of the status of Eureka dune grass and assessed the five factors to evaluate whether it is endangered or threatened throughout all of its range. We examined the best scientific and commercial information available regarding the past, present, and future threats faced by the species. We reviewed information presented in the 2010 petition, information available in our files and gathered through the status review initiated with our 90-day finding in response to this petition, additional information that became available since the time our 2007 5-year status reviews were completed, and other available published and unpublished information, including public comments and information available after publication of the 2014 proposed delisting rule. We also consulted with species experts and land management staff with Death Valley National Park who are actively managing for the conservation of Eureka dune grass.

We examined the following stressors that may be affecting Eureka dune grass: Unauthorized OHV activity, other unauthorized recreational activities (specifically, horseback riding, sandboarding, camping, and access routes)) (Factor A); collection for scientific research (Factor B); herbivory and seed predation (Factor C); the inadequacy of existing regulatory mechanisms (Factor D); and other unauthorized recreational activities (*i.e.,* horseback riding, sandboarding, camping, hiking, and access routes), competition with Russian thistle, climate change, and stochastic events (Factor E). The most significant impacts to Eureka dune grass populations at the time of listing (*i.e.,* OHV activity, and to a lesser extent camping and unauthorized OHV activity) that placed the species in danger of extinction at that time have been eliminated or reduced (as a result of the significant commitment made initially by BLM and subsequently by the Park Service to implement management measures) to the extent that they are considered negligible currently, and are expected to continue to be negligible into the future.

Of the factors identified above, herbivory, seed predation, recreational hiking on the Main Dunes, climate change, or potentially a combination of these stressors may have the potential to impact Eureka dune grass currently or into the foreseeable future. We found that the best available information does not indicate that these stressors are affecting individual populations or the species as a whole across its range to the extent that they currently are of sufficient imminence, scope, or magnitude to rise to the level that Eureka dune grass is an endangered species (*i.e.,* presently in danger of extinction throughout all of its range). However, our review of new information and comments received indicate that, while the overall range of the species is generally the same as it has been since the time of listing, the abundance and density of the species is being reduced across much of its range. Specifically, the best available information indicates there is a continued decline in abundance and density, low seed production, and low recruitment, despite the Park Service's management. Thus, one or more stressors are likely still acting on the species at the population level, likely contributing to the observed decline in abundance and density, and likely contributing to the lack of sufficient recruitment necessary for stable or ideally increasing populations.

Although some factors may be causing stress to portions of populations within the range of the species (*e.g.,* documented herbivory and seed predation at the north end of the Main Dunes), we do not know the cause of the reduction in abundance and density rangewide. The observed decline does not appear to be an imminent issue for the species. Rather, the decline appears to be occurring slowly over time. It is likely that, as a long-lived species in which adults have well-established root systems and are able to persist through short periods of stress, it may be difficult to detect the effects of that stress until sometime into the future. Furthermore, the existing regulatory mechanisms are sufficient to manage the habitat of the species, with respect to potential impacts from OHV and other recreation.

In conclusion, we have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by Eureka dune grass. After review and analysis of the best available information regarding stressors as related to the five statutory factors, we find that Eureka dune grass is not currently in danger of extinction throughout its range; however, the ongoing threats are of sufficient

imminence, scope, or magnitude to indicate that this species is likely to become an endangered species within the foreseeable future throughout all of its range.

Significant Portion of the Range

Introduction

Consistent with our interpretation that there are two independent bases for listing species as described above, after examining the status of Eureka Valley evening-primrose and Eureka dune grass throughout all of their ranges, we now examine whether it is necessary to determine their status throughout a significant portion of their ranges. Per our final SPR policy, we must give operational effect to both the ''throughout all'' of its range language and the SPR phrase in the definitions of ''endangered species'' and ''threatened species.'' We have concluded that to give operational effect to both the ''throughout all'' language and the SPR phrase, the Service should conduct an SPR analysis if (and only if) a species does not warrant listing according to the ''throughout all'' language.

If the species is neither endangered nor threatened throughout all of its range, we determine whether the species is endangered or threatened throughout a significant portion of its range. To undertake this analysis, we first identify any portions of the species' range that warrant further consideration. The range of a species can theoretically be divided into portions in an infinite number of ways. However, there is no purpose in analyzing portions of the range that have no reasonable potential to be significant or in analyzing portions of the range in which there is no reasonable potential for the species to be endangered or threatened. To identify only those portions that warrant further consideration, we determine whether there is substantial information indicating that there are any portions of the species' range: (1) That may be ''significant'' *and* (2) where the species may be in danger of extinction or likely to become so within the foreseeable future. We emphasize that answering these questions in the affirmative is not a determination that the species is in danger of extinction or likely to become so in the foreseeable future throughout a significant portion of its range—rather, it is a step in determining whether a more-detailed analysis of the issue is required.

In practice, one key part of identifying portions for further analysis may be whether the threats or effects of threats are geographically concentrated in some way. If a species is not in danger of extinction or likely to become so in the foreseeable future throughout all of its range and the threats to the species are essentially uniform throughout its range, then the species is not likely to be in danger of extinction or likely to become so in the foreseeable future in any portion of its range and no portion is likely to warrant further consideration. Moreover, if any concentration of threats applies only to portions of the species' range that are not ''significant,'' such portions will not warrant further consideration.

We evaluate the significance of the portion of the range based on its biological contribution to the conservation of the species. For this reason, we describe the threshold for ''significant'' in terms of an increase in the risk of extinction for the species. We conclude in our policy that such a biologically based definition of ''significant'' best conforms to the purposes of the Act, is consistent with judicial interpretations, and best ensures species' conservation. We determine if a portion's biological contribution is so important that the portion qualifies as ''significant'' by asking whether, *without that portion,* the status of the species would be so impaired that the species would be in danger of extinction or likely to become so in the foreseeable future (*i.e.,* would be an ''endangered species'' or a ''threatened species''). Conversely, we would not consider the portion of the range at issue to be ''significant'' if there is sufficient viability elsewhere in the species' range that the species would not be in danger of extinction or likely to become so throughout its range even if the population in that portion of the range in question became extirpated (extinct locally).

If we identify any portions (1) that may be significant and (2) where the species may be in danger of extinction or likely to become so in the foreseeable future, we engage in a more-detailed analysis to determine whether these standards are indeed met. The identification of an SPR does not create a presumption, prejudgment, or other determination as to whether the species is in danger of extinction or likely to become so in the foreseeable future in that identified SPR. We must go through a separate analysis to determine whether the species is in danger of extinction or likely to become so in the SPR. To make that determination, we will use the same standards and methodology that we use to determine if a species is in danger of extinction or likely to become so in the foreseeable future throughout all of its range.

If we have identified portions of the species' range for further analysis, we conduct a detailed analysis of the significance of the portion and the status of the species in that portion. Depending on the biology of the species, its range, and the threats it faces, it might be more efficient for us to address the significance question first or the status question first. If we address significance first and determine that a portion of the range is not ''significant,'' we do not need to determine whether the species is in danger of extinction or likely to become so in the foreseeable future there; if we address the status of the species in portions of its range first and determine that the species is not in danger of extinction or likely to become so in a portion of its range, we do not need to determine if that portion is ''significant.''

Eureka Valley Evening-Primrose—Significant Portion of Its Range Analyses

Because we determined that Eureka Valley evening-primrose is not in danger of extinction or likely to become so in the foreseeable future throughout all of its range, we will consider whether there are any significant portions of its range in which Eureka Valley evening-primrose is in danger of extinction or likely to become so in the foreseeable future.

Applying the process described above to identify whether any portions of a species' range warrant further consideration, we determine whether there is substantial information indicating that: (1) Particular portions may be significant, and (2) the species may be in danger of extinction in those portions or likely to become so within the foreseeable future. To identify portions where a species may be in danger of extinction or likely to become so in the foreseeable future, we consider whether there is substantial information to indicate that any threats or effects of threats are geographically concentrated in any portion of the species' range.

We consider the ''range'' of Eureka Valley evening-primrose to include three populations, all encompassed within the three dune systems (Marble Canyon Dunes, Saline Spur Dunes, and the Main Dunes (the latter also sometimes referred to as the Eureka Dunes)) that span a distance of 9 mi (14.4 km) from west to east within Eureka Valley in Death Valley National Park, Inyo County, California. The three populations have likely been present since the beginning of the Holocene era when pluvial lakes retreated during a warming phase, leaving behind the dune systems in Eureka Valley.

Historical distribution of Eureka Valley evening-primrose beyond the three currently recognized populations is unknown. In other words, the current distribution of the species is the only known distribution, which has remained generally the same since it was first recorded in 1976.

We considered whether the factors that could cause stress to Eureka Valley evening-primrose individuals or to the populations as a whole might be different at any one of the populations relative to each other. The factors we identified that could still cause stress to the species include: Herbivory, seed predation, stochastic events, climate change, and competition with Russian thistle during years the thistle is abundant. There are two characteristics of the habitat for the species that could influence the extent to which these factors cause stress to the species: (1) The *type* of dune system that supports each of the populations, and (2) the *extent* of the sandy dune habitat that supports each of the populations (please see the ''Environmental Setting'' section of the Background Information document (Service 2014, pp. 4–7) for more information). We compare the three dunes to each other as follows.

TABLE 1—COMPARISON OF DUNE HABITAT CHARACTERISTICS AT THREE DUNE SYSTEMS IN EUREKA VALLEY

Dune system	Type of dune system	Extent of dune habitat (acres (ac)) (hectares (ha))
1. Marble Canyon Dunes	Obstacle dune	610 ac (247 ha).
2. Saline Spur Dunes	Obstacle dune	238 ac (96 ha).
3. Main Dunes (a.k.a. Eureka Dunes)	Sand mountain/Transverse	2,003 ac (811 ha).

The *type* of dune system is important because of the way each of them intercepts, stores, and delivers moisture (from precipitation) to a plant at critical times in its life cycle, specifically during seed germination (needs moisture closer to the surface where the seeds are), and during growth (needs moisture deeper below the surface where the roots are). As Park Service monitoring over the last 9 years indicates, a ''good'' year for Eureka Valley evening-primrose at one dune system is not necessarily a ''good'' year for the species at another dune system. Although the mechanisms are complex and not entirely understood, it is likely that obstacle dunes have little capacity to store water, and thus intercept and deliver moisture over a shorter period of time. In comparison, the sand mountain type of dune system has a greater capacity to store water, and to deliver moisture to plants over a longer period of time. Therefore, if rainfall were abundant and equal at all three dune systems, the Main Dunes would provide an inherent advantage relative to Marble Canyon Dunes and Saline Spur Dunes, with respect to the ability of the dune system to provide sustained moisture for germination and growth of Eureka Valley evening-primrose.

The *extent* of dune habitat is important because, if rainfall were abundant and equal at all three dune systems, the greater extent of dune habitat at the Main Dunes would provide more space for Eureka Valley evening-primrose to germinate and grow than at Marble Canyon Dunes and Saline Spur Dunes. While not every hectare of each dune provides suitable conditions for germination and growth of Eureka Valley evening-primrose, a comparison of the extent of dune habitat is still a useful relative measure of potentially suitable habitat: The Main Dunes is over three times as large as Marble Canyon Dunes, and eight times as large as Saline Spur Dunes. Thus, if rainfall were abundant and equal at all three dune systems, the Main Dunes provides an inherent advantage to Eureka Valley evening-primrose relative to Marble Canyon Dunes and Saline Spur Dunes, both with respect to type of dune system and extent of dune habitat, and would theoretically support the largest population of the species.

The factors we identified that could cause stress to Eureka Valley evening-primrose currently or in the future are herbivory, seed predation, stochastic events, climate change, and competition with Russian thistle during years the thistle is abundant. All of these factors are known to cause stress in plant species; the extent to which they cause stress to Eureka Valley evening-primrose has not been studied in detail. Stress in plant populations can manifest in many forms, ranging from death of individuals to reduced vigor and growth of individuals to reduced reproductive success. In general, small plant populations are more vulnerable than large plant populations to factors that cause stress because there are fewer numbers of individuals to act as a ''reserve'' from which the species can recover. Moreover, once populations become small because of stress caused by one factor, they are more vulnerable to stress caused by other factors, hence the ''Combination of Factors'' phenomenon as discussed under the Summary of Factors Affecting the Species section. The best available information indicates that the factors that cause stress could be equally present at all three dunes.

Because Marble Canyon Dunes and Saline Spur Dunes are obstacle dunes with less water-holding capacity than the Main Dunes and comprise a smaller extent of dune habitat than the Main Dunes, they likely will, over time (under conditions of abundant and equal rainfall), support smaller populations of Eureka Valley evening-primrose than the Main Dunes. Furthermore, these smaller populations could be more vulnerable to factors that cause stress than the population at the Main Dunes; therefore, the level of stress to which populations at Marble Canyon Dunes and Saline Spur Dunes are subjected could be higher than the level of stress to which the populations at the Main Dunes are subjected. However, the best available data at this time do not indicate a higher level of stress at any of the populations/dunes as compared to other populations/dunes (although 2014 had the largest abundance for all three dunes, over the monitoring period since 2008, each of the dunes has shown increases and decreases over time, with no discernible pattern). In addition, we think that the three dune systems are close enough in proximity to each other that given Eureka Valley evening-primrose's abundant seed production in favorable years, migration of propagules from areas of higher concentration to areas of lower concentration likely mitigates for the increased vulnerability of the populations at Marble Canyon Dunes and Saline Spur Dunes as compared to the Main Dunes (Pavlik and Barbour 1985, pp. 24–53; and see discussion on seed dispersal and metapopulations in Cain *et al.* 2000, p. 1,220).

Based on our evaluation of the factors that cause stress to Eureka Valley evening-primrose at the three

populations where it occurs, the factors that may cause stress are neither sufficiently concentrated nor of sufficient magnitude to indicate that the species is in danger of extinction, or likely to become so within the foreseeable future, at any of the areas that support populations of the species. Therefore, no portion of Eureka Valley evening-primrose's range warrants a detailed SPR analysis.

Eureka Dune Grass—Significant Portion of Its Range Analyses

Because we found that Eureka dune grass is likely to become in danger of extinction in the foreseeable future throughout all of its range, per our Service's Significant Portion of its Range (SPR) Policy (79 FR 37578, July 1, 2014), no portion of its range can be significant for purposes of the definitions of endangered species and threatened species. We therefore do not need to conduct an analysis of whether there is any significant portion of its range where the species is in danger of extinction or likely to become so in the foreseeable future.

While we conclude an SPR analysis is not necessary, we note that, similar to Eureka Valley evening primrose, the type of dune system and extent of sandy dune habitat could influence the extent to which factors continuing to affect the species could cause stress to Eureka dune grass. However, as noted above, all three populations of dune grass benefit from management by the National Park Service that has eliminated or substantially reduced the impacts associated with OHV and other recreational activities, removing the imminent threat of habitat destruction or modification. Similar to Eureka Valley evening-primrose, the available data do not indicate a higher level of stress at any of the populations/dunes as compared to the others and the remaining stressors are likely affecting all three populations similarly such that none are likely to have a different status or be at greater risk.

Therefore, we conclude the species is a threatened species because of its status throughout all of its range.

Summary of the Determination for Eureka Valley Evening-Primrose

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by Eureka Valley evening-primrose. After review and analysis of the information regarding stressors as related to the five statutory factors, we find that the ongoing stressors are not of sufficient imminence, intensity, or magnitude to indicate that this species is presently in danger of extinction throughout all or a significant portion of its range. Additionally, no threats exist currently nor are any potential stressors expected to rise to the level that would likely cause the species to become in danger of extinction in the foreseeable future throughout all or a significant portion of its range. Because the species is neither in danger of extinction now nor likely to become so in the foreseeable future throughout all or any significant portion of its range, the species does not meet the definition of an endangered species or threatened species. As a consequence of this determination, we find that the Eureka Valley evening-primrose no longer requires the protection of the Act, and we are removing Eureka Valley evening-primrose from the Federal List of Endangered and Threatened Plants.

Summary of the Determination for Eureka Dune Grass

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by Eureka dune grass. After review and analysis of the information regarding stressors as related to the five statutory factors, we find that the ongoing stressors are no longer of sufficient imminence, intensity, or magnitude to indicate that this species is presently in danger of extinction throughout all or a significant portion of its range. However, we find that the stressors acting upon Eureka dune grass are of sufficient imminence, scope, or magnitude to indicate that they are continuing to result in impacts at either the population or rangewide scales, albeit to a lesser degree than at the time of listing, and we find that Eureka dune grass meets the statutory definition of a threatened species (*i.e.,* likely to become an endangered species in the foreseeable future throughout all or a significant portion of its range). As a consequence of this determination, we are reclassifying the species from an endangered species to a threatened species on the Federal List of Endangered and Threatened Plants.

Effects of the Rule

This final rule revises 50 CFR 17.11(h) by removing Eureka Valley evening-primrose from the List of Endangered and Threatened Plants. The prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, no longer apply to this species. Federal agencies are no longer required to consult with the Service under section 7 of the Act to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of this species.

This rule also revises 50 CFR 17.11(h) to reclassify Eureka dune grass from an endangered species to a threatened species on the Federal List of Endangered and Threatened Plants. However, this reclassification does not significantly change the protection afforded to this species under the Act. Anyone removing and reducing to possession the species from areas under Federal jurisdiction, or otherwise engaging in activities prohibited under 50 CFR 17.71, is subject to a penalty under section 11 of the Act. Pursuant to section 7 of the Act, Federal agencies must ensure that any actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of Eureka dune grass. Whenever a species is listed as a threatened species, the Act allows promulgation of special rules under section 4(d) to prohibit any act prohibited by section 9(a)(1) (for wildlife) or section 9(a)(2) (for plants) when it is deemed necessary and advisable to provide for the conservation of the species. The Service has promulgated a general rule providing standard protections for threatened species found under section 9 of the Act and Service regulations at 50 CFR 17.31 (for wildlife) and 17.71 (for plants). No species-specific special section 4(d) rule is proposed, or anticipated to be proposed, for Eureka dune grass, and the general prohibitions provided under 50 CFR 17.71 will apply. Recovery actions directed toward Eureka dune grass will continue to be implemented, as funding allows, and in coordination with the Park Service.

Future Conservation Measures

Section 4(g)(1) of the Act requires us, in cooperation with the States, to implement a system to monitor effectively for not less than 5 years the status of all species that have been recovered and delisted. The purpose of this requirement is to develop a program that detects the failure of any delisted species to sustain itself without the protective measures provided by the Act. If at any time during the monitoring period, data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing under section 4(b)(7) of the Act. The management practices of, and commitments by, the Park Service under existing laws, regulations, and policies should afford adequate protection to Eureka Valley evening-primrose into the foreseeable future upon delisting, as the entire known

range of this species occurs within Death Valley National Park.

Post-Delisting Monitoring Plan—Eureka Valley Evening-Primrose

We have worked cooperatively with the National Park Service, California Department of Fish and Wildlife, and other interested parties to develop a strategy to implement appropriate monitoring activities for Eureka Valley evening-primrose for a term of 10 years. The results of such monitoring, if not consistent with a recovered status for the species, could trigger additional management actions, trigger additional or extended monitoring, or trigger status reviews or listing actions. We anticipate coordinating with the Park Service, USGS, universities, and other interested entities that may be able to contribute funding or resources to assist the Park Service in their efforts to monitor this species, thereby providing the information necessary to determine whether protections under the Act should be reinstated. The post-delisting monitoring plan includes measures to: Monitor recreation traffic in Eureka Valley; maintain a Remote Automated Weather Station in Eureka Valley; and continue annual population monitoring. The annual population monitoring will be based on a subsampling methodology, first implemented in the spring of 2017, and will also include observations of any damage to Eureka Valley evening-primrose resulting from recreation or herbivory.

Given the mission of the Park Service and its past and current stewardship efforts, it is important to note that management for Eureka Valley evening-primrose has been effective to date, and it is reasonable to expect that management will continue to be effective for Eureka Valley evening-primrose and its habitat beyond a post-delisting monitoring period, the 20-year timeframe associated with the Wilderness and Backcountry Stewardship Plan (Park Service 2013b), and well into the future. In addition to post-delisting monitoring, the Park Service anticipates continuing to manage the Eureka Valley dunes, including such tasks as conducting ranger patrols, maintaining educational signs, and making contact with visitors within the range of the species (Cipra *in litt.* 2013). Additional monitoring or research (beyond post-delisting monitoring requirements) may occur in the future for Eureka Valley evening-primrose and other rare endemics within the Park based on congressional funding and resource levels (Cipra *in litt.* 2013). We will work closely with the Park Service to ensure post-delisting monitoring is conducted and to ensure future management strategies are implemented (as warranted) to benefit Eureka Valley evening-primrose.

Summary of Comments and Recommendations

In the proposed rule published on February 27, 2014, in the **Federal Register** (79 FR 11053), we requested that all interested parties submit written comments on the proposal by April 28, 2014. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. We did not receive any requests for a public hearing. All substantive information provided during the comment period has either been incorporated directly into this final determination or is addressed below.

Peer Reviewer Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from five knowledgeable individuals with scientific expertise that included familiarity with Eureka Valley evening-primrose, Eureka dune grass, their habitat, biological needs and potential threats, or principles of conservation biology. We received responses from all five of the peer reviewers.

We reviewed all comments received from the peer reviewers for substantive issues and new information regarding the proposed delisting of Eureka Valley evening-primrose and Eureka dune grass. The peer reviewers provided additional information, clarifications, and suggestions to improve the final rule. Peer reviewer comments are addressed in the following summary, and new information was incorporated into the final rule as appropriate.

For Eureka Valley evening-primrose, one peer reviewer cautioned that our proposed delisting was based on current and reasonably predicted conditions. A second peer reviewer expressed concern related to the potential of future rainfall decline and possible competition with Russian thistle. A third peer reviewer expressed concerns regarding potential climate change effects into the future. And a fourth peer reviewer suggested that we need additional information to support our conclusions on herbivory, competition with Russian thistle, and effects of climate change.

For Eureka dune grass, three peer reviewers expressed concerns based on potential effects related to climate change (changes in rainfall), infrequent germination and establishment, declining numbers of plants at two of three populations, herbivory, and low genetic diversity. Another peer reviewer suggested that herbivory and competition with Russian thistle are potential threats to Eureka dune grass and that we needed to continue to monitor impacts of these stressors as well as the effects of climate change. Overall, peer reviewers suggested that stressors to Eureka dune grass were more severe than our analysis indicated.

We have addressed specific peer review comments below in the following order: Comments of a general nature or applicable to both species, comments specific to Eureka Valley evening-primrose, and comments specific to Eureka dune grass.

Peer Reviewer Comments of a General Nature or Applicable to Both Species

(1) *Comment:* Three peer reviewers commented on competition with Russian thistle as a potential threat to Eureka Valley evening-primrose, Eureka dune grass, or both. Of these three, one expressed concern that Russian thistle was a potential threat to Eureka Valley evening-primrose. Additionally, one peer reviewer stated there was insufficient information to reach a conclusion regarding Eureka Valley evening-primrose and Russian thistle, and another suggested we further evaluate competition with Russian thistle as a potential stressor for both species. The latter peer reviewer provided information concerning the spread of Russian thistle over time on another desert dune system (in Petrified Forest National Park (PFNP), Arizona (Thomas *et al.* 2009)).

Our Response: Our analysis used the best available information in analyzing the potential threat posed to Eureka Valley evening-primrose and Eureka dune grass by competition with Russian thistle. In this final rule, we provided additional information regarding potential competition between the plants and Russian thistle (see ''Competition With Russian Thistle'' sections above for both Eureka Valley evening-primrose and Eureka dune grass for additional discussion). The results of one study (Chow and Klinger 2014, 2016) elucidated that, in a nursery setting, Eureka Valley evening-primrose was more competitive with itself than it was with Russian thistle, and Park staff observed differences in growing season phenology that would minimize competition in the field between the two species (Park Service 2015). In addition, we concluded that Russian thistle is not likely having a population-level impact on the Eureka Valley evening-primrose, which is a longer lived perennial species with a seedbank

and a means of going into dormancy and lasting through unfavorable years. By contrast, Russian thistle is an annual species with a short-lived seedbank. See the ''Competition with Russian Thistle'' section under Eureka Valley evening-primrose, above, for further discussion.

We are aware of no studies that have focused on potential competition between Russian thistle and Eureka dune grass, and there are only a few studies that have looked at competition between Russian thistle and other grass species. The USGS study (Scoles-Sciulla and DeFalco 2016) found that rooting depths for established Eureka dune grass individuals were deeper than those typical of Russian thistle, which would also serve to minimize competition. In addition, the dune grass also occupies a higher elevation compared to where Russian thistle occurs. Thus, at this time, we have determined that Russian thistle is not a threat to either species (see ''Competition With Russian Thistle'' sections, above, for both Eureka Valley evening-primrose and Eureka dune grass for additional discussion).

(2) *Comment:* One peer reviewer asserted we made a premature conclusion that Russian thistle was not a threat to Eureka Valley evening-primrose and Eureka dune grass, suggesting there may be an interaction between Russian thistle and lagomorph abundance. The peer reviewer provided additional information regarding lagomorph populations and Russian thistle that was not considered in the proposed rule (see, for instance, Daniel *et al.* 1993, and Fagerstone *et al.* 1980). The peer reviewer indicated that Russian thistle may have increased lagomorph abundance and thus an increased level of herbivory on both species. The peer reviewer recommended that we collect information on the demography of the black-tailed jackrabbits in relationship to Russian thistle infestations and levels of herbivory and the reproductive success of Eureka Valley evening-primrose and Eureka dune grass.

Our Response: In both the proposed rule and in response to the information provided by the peer reviewer, we considered the interaction between Russian thistle and lagomorph populations. Although we have no information regarding lagomorph populations on the dunes in Eureka Valley and how their abundance may be influenced by Russian thistle, we incorporated the new information provided by the peer reviewer into the final rule and discussed the combination of Russian thistle and lagomorphs as a potential threat to Eureka Valley evening-primrose and Eureka dune grass (see ''Competition With Russian Thistle'' sections, above, for both Eureka Valley evening-primrose and Eureka dune grass for additional discussion). We have forwarded the recommendation to investigate demography of black-tailed jackrabbits in relationship to Russian thistle infestations and levels of herbivory on the two plants species to the Park Service.

(3) *Comment:* Two peer reviewers suggested we conduct additional analyses on the potential effects of climate change on Eureka Valley evening-primrose and Eureka dune grass and continue to monitor their populations to assess the effects of herbivory and competition with Russian thistle. A third peer reviewer suggested that we defer our determination until USGS completes its study of these two species.

Our Response: We appreciate the peer reviewers' recommendations regarding additional analyses and monitoring; however, we are unable at this time to defer our determination until a later date. Our analysis of the various stressors and our final agency action has been guided by the Act and its implementing regulations, considering the five listing factors and using the best available information, as per our policy on Information Standards under the ESA (59 FR 34271, July 1, 1994). Although we are not proceeding with a final delisting rule for Eureka dune grass at this time, we have shared the peer reviewer's recommendations for future monitoring with staff from Death Valley National Park for their consideration.

(4) *Comment:* One peer reviewer provided recommendations regarding future monitoring of both species. The peer reviewer recommended monitoring OHV activity, discussed how to improve upon the current monitoring strategy, and suggested an appropriate model to analyze data.

Our Response: We appreciate the peer reviewer's recommendations regarding future monitoring of Eureka Valley evening-primrose and Eureka dune grass, and the suggested model to use for analyzing the data. We agree that selecting the appropriate model for data analysis is important because even with data gathered over the last 5 years, it has been difficult to detect population trends. We shared the peer reviewer's recommendations for future monitoring with staff from Death Valley National Park for their consideration. The monitoring outlined in the post-delisting monitoring plan for the Eureka Valley evening-primrose will include notation of any observed impacts, including OHV activity, to the species if they occur.

Peer Reviewer Comments Specific to Eureka Valley Evening-Primrose

(5) *Comment:* One peer reviewer expressed concerns about seed predation and herbivory impacts to Eureka Valley evening-primrose, stating that if herbivory impacts are high on an individual, the individual would not produce seed before succumbing to predation impacts, potentially resulting in a net loss of seed bank. Alternatively, another peer reviewer asserted that seed predation and herbivory were not significant threats to Eureka Valley evening-primrose, although no information was provided to support this view.

Our Response: Based on observations made by USGS researchers (Scoles-Sciulla and DeFalco 2013) and University of California-Davis (Chow and Klinger 2013a), there is information to indicate that herbivory, particularly by lagomorphs, is a stressor for Eureka Valley evening-primrose, at least in those portions of the dunes where such herbivory has been observed. In contrast to Eureka dune grass, Eureka Valley evening-primrose has two reproductive strategies that provide resilience in the face of herbivory: First, it produces large amounts of seed, so that even if the population sustains some impact from seed herbivory, it has a mechanism for replacing itself over time through the seedbank; second, individuals are able to regenerate vegetatively through the development of clonal rosettes. Although we acknowledge that any stress caused by loss of biomass due to herbivory could place additional stress on individual plants and limit their ability to expend resources on reproduction, the best available information indicates that the life-history strategies of this species serve to counteract the effects of herbivory such that herbivory does not significantly affect the viability of the species, or its ability to respond to favorable conditions for germination, growth, and reproduction when they occur.

(6) *Comment:* One peer reviewer stated that the effects of climate change was a threat to Eureka Valley evening-primrose, asserting that climate change would lead to increased drought stress, and that we did not provide evidence to support our conclusion that Eureka Valley evening-primrose possesses adaptations that would allow it to persist into the future. The peer reviewer also provided climate envelope forecasts for Eureka Valley evening-primrose, using species locality data, climate layers from the IPCC fifth

assessment report's Coupled Model Intercomparison Project Phase 5 (CMIP5), and Maxent. The peer reviewer claimed that the results of this information and modeling exercise indicate that the species is projected to disappear from the Main Dunes by approximately 2050. The peer reviewer also stated that Eureka Valley evening-primrose is a microendemic, which, by definition, is found only at one or a very small number of locations. Furthermore, the peer reviewer declared that when the climate changes at that one or few locations, species are at risk of falling outside of their climatic envelope, or are at risk of extinction.

Our Response: We appreciate the work the peer reviewer did to develop a climate envelope forecast for this species. With respect to adaptations, we discussed in the proposed delisting rule that the phenology of Eureka Valley evening-primrose makes it likely to have high germination, recruitment, and reproduction in El Niño years when winter rainfall is above average (see the sections on Species Description, Taxonomy, and Life History in the proposed rule). In the proposed rule to delist, we concluded that a shift in climatic norms will likely cause stress to Eureka Valley evening-primrose. Furthermore, we stated that the best available information indicated that the species is physiologically adapted to the specific hydrologic and soil conditions on the dunes, and the stress imposed by projected climate change effects currently and in the future is not likely to rise to the level that the long-term persistence of Eureka Valley evening-primrose would be impacted.

Based on the new and clarifying information we received, we conclude that of all the potential future stressors on Eureka Valley evening-primrose, a shift in climatic norms may be important in affecting its long-term persistence. We note that, as a short-lived perennial, the ability of this species to shift geographically over time with shifting climatic norms is greater than would be for a long-lived perennial plant species. However, because of the uncertainty regarding the magnitude and the imminence of such a shift, we are unable to determine the extent that this may become a stressor in the foreseeable future. Because climate change science is a rapidly evolving field, we updated our climate change discussion in this final rule to include information from more recent modeling efforts for the southwest region. As one of the measures in the post-delisting monitoring plan, the Park Service will continue to track seasonal rainfall from local weather stations and observe annual patterns of correlation between amount of rainfall and expression of Eureka Valley evening-primrose.

(7) *Comment:* One peer reviewer stated that stochastic events were not a significant threat, although no information was provided or discussed to support this position. Two other peer reviewers discussed how the life history of Eureka Valley evening-primrose affects population persistence in response to stochastic events. Both of these peer reviewers agreed that the long-lived seed bank of Eureka Valley evening-primrose and its ability to form clones help to ensure the long-term viability of this species. However, one of these peer reviewers thought population persistence could be impacted by mass germination events and herbivores through a reduction of the seed bank.

Our Response: We agree that the ability of Eureka Valley evening-primrose to persist in the face of stochastic events (in addition to other potential stressors) is in part dependent on the life-history characteristics of the species (see the ''Life History'' sections on Eureka Valley evening-primrose above and in the proposed delisting rule). The copious seed production of individuals (and formation of seed bank), once they are established, works in favor of long-term persistence even in the face of stochastic events, as does the species' ability to establish many new individuals (mass establishment) when conditions are favorable. The best available information indicates that current and projected future impacts associated with stochastic events (with the exception of extreme weather events) are not likely to rise to the level that the long-term persistence of Eureka Valley evening-primrose would be impacted. The National Park Service will continue to monitor the status of Eureka Valley evening-primrose populations into the future (for 10 years) as a means of determining whether any potential stressors, including stochastic events, are impacting the species (see ''Post-Delisting Monitoring Plan—*Oenothera californica* ssp. *eurekensis,*'' above).

Peer Reviewer Comments Specific to Eureka Dune Grass

(8) *Comment:* Two peer reviewers commented on seed predation and herbivory as potential threats to Eureka dune grass. One of these peer reviewers provided information on how herbivory could impact sensitive plant species by reducing their seed production. The other peer reviewer asserted that seed predation and herbivory were not significant threats to Eureka dune grass.

Our Response: Based on observations made by USGS researchers (Scoles-Sciulla and DeFalco 2013) and a researcher from the University of California-Davis (Chow 2012b), there is information to indicate that herbivory, particularly by lagomorphs, is affecting Eureka dune grass, at least in those portions of the dunes where such herbivory has been observed. Given that Eureka dune grass is already experiencing low to no reproduction, any additional loss of biomass due to herbivory will likely place additional stress on individual plants and limit their ability to expend resources on reproduction. However, based on the best available information at this time, we concluded that the observed impacts from herbivory, by themselves, are not causing population- or rangewide-level effects for the Eureka dune grass. We acknowledge that herbivory could be a concern for a species that has low recruitment and apparent declines, and recommend that observations on the extent of herbivory should continue to be made in the future.

(9) *Comment:* Two peer reviewers asserted that climate change is a threat to Eureka dune grass. One of these peer reviewers indicated that climate change would lead to increased drought stress and stated that we did not provide evidence to support our conclusion that Eureka dune grass possesses adaptations that allow this species to persist into the future. Both peer reviewers also stated that climate change may cause reductions in rainfall or changes in rainfall patterns, which could affect germination and establishment of Eureka dune grass. For instance, one peer reviewer provided summer precipitation data showing that over the last 15 years, there were fewer years of above-average summer rainfall (required for the germination of Eureka dune grass) as compared to the previous 15-year period, and thus indicating that current climatic weather patterns are not conducive to the germination events needed for long-term persistence of the species.

Our Response: We appreciate the analysis of summer precipitation rainfall data provided by one of the peer reviewers. Previous research also indicates that summer precipitation is likely critical for the germination of Eureka dune grass (Pavlik and Barbour 1986, pp. 11, 47–59). Although the correlation shown by the new precipitation data provided by the peer reviewer does not prove causation, given what we know about the life-history characteristics of this species, we agree it is reasonable to assume the lack of summer precipitation is one of

the parameters affecting the ability of Eureka dune grass to experience germination events. Since February 2014 when our proposed rule published, Park staff were able to observe several patches of germination of Eureka dune grass, particularly on the west side of Saline Spur Dunes and the northwest end of Main Dunes in the fall of 2015. Park staff were unable to monitor these germinants over time, and thus, we have no information on whether these germinants may have successfully recruited into the population.

In the proposed rule to delist, we concluded that a shift in climatic norms will likely cause stress to Eureka dune grass (79 FR 11067–11069, February 27, 2014). Furthermore, we stated that the best available information currently indicated that this species was physiologically adapted to the specific hydrologic and soil conditions on the dunes, and the stress imposed by projected climate change effects currently and in the future is not likely to rise to the level that the long-term persistence of Eureka dune grass would be impacted.

Based on the new and clarifying information we received, it is possible that of all the potential future stressors on Eureka dune grass, a shift in climatic norms may be important in affecting its long-term persistence. We note that, as a long-lived perennial, the ability of this species to shift geographically over time with shifting climatic norms is less than would be for a short-lived perennial or annual plant species. However, because of the uncertainty regarding the magnitude and the imminence of such a shift, we are unable to determine the extent that this may become a stressor in the foreseeable future. Given the modeled predictions of a continued changing climate in this region, this potential stressor should continue to be monitored and evaluated in the future. However, we did conclude that climate-related impacts may be acting in concert with other stressors to contribute to the decrease in population numbers and distribution for Eureka dune grass. We also note that continuing to track seasonal and annual rainfall from local weather stations will be a part of the ongoing population monitoring for this species.

(10) *Comment:* Two peer reviewers suggested that the monitoring data collected by the Park Service, specifically distribution data and repeat photopoints, indicated that Eureka dune grass has experienced a decline throughout its range. One peer reviewer thought we should extrapolate the results from repeat transects and photopoints rather than assume Eureka dune grass has experienced declines only in these specific areas. This peer reviewer also noted that Eureka dune grass has a small range despite our assertion that it continues to occupy almost the same geographic area it did at the time of listing. Additionally, the peer reviewer stated that Eureka dune grass has very low population numbers, and few, if any, plants have been recruited into the population since 1999.

Our Response: Recent survey information from the Park Service indicates that, although the rangewide distribution of Eureka dune grass continues to be similar over the years when observed at a large scale (*e.g.,* it continues to occur scattered across the entirety of all three dunes), the large-scale monitoring (1-ha grid system) has not been as effective in detecting changes in abundance in smaller, localized areas. Such changes are more readily observed with smaller-scale monitoring techniques, such as the photopoint monitoring and the mapping of individual clumps over time. The declines in the number of Eureka dune grass clumps are shown in repeat photopoints at both Eureka and Marble Canyon Dunes.

As of 2017, there are two additional years of Park Service data from the rangewide distribution monitoring grid that show continuing declines at the Main Dunes and Marble Canyon Dunes. This distribution data, combined with recent photopoint survey information from the Park corroborates that the declines documented at both Eureka and Marble Canyon Dunes are likely representative of rangewide impacts. Because the Main Dunes support over half the Eureka dune grass, the decline in abundance and density on that dune is relatively more important for the species.

(11) *Comment:* One peer reviewer stated that there was a low degree of evolutionary potential within and between populations of Eureka dune grass based on the available genetic information (low levels of allelic variation relative to other grass taxa).

Our Response: We acknowledge the low levels of allelic variation found, as per Bell (2013). However, Eureka dune grass has persisted for a long evolutionary time. While it is possible that low allelic variation may contribute to the demographic characteristics, we do not know to what extent that may affect the species' fitness.

(12) *Comment:* One peer reviewer stated that stochastic events (for instance, a spring wind storm that would desiccate new germinants) are a potential threat to Eureka dune grass. The peer reviewer indicated that the ability of the Eureka dune grass population to persist was dependent upon mass establishment events from seed and the longevity of adult plants. Furthermore, based on recent climate analyses, the peer reviewer asserted that the frequency of conditions thought to be suitable for mass establishment events is apparently decreasing, noting that there have not been any mass establishment events since 1984–1985.

Our Response: We agree with the peer reviewer that the ability of Eureka dune grass to persist in the face of stochastic events (in addition to other stressors) is in part dependent on the life-history characteristics of the species. The longevity of individuals, once they are established, works in favor of long-term persistence even in the face of stochastic events, as does its ability to establish many new individuals (mass establishment) when conditions are favorable. Future monitoring of the patches of germination observed by Park staff in fall 2015 will be useful to add to our knowledge of recruitment potential that follows from a germination event.

Comments From the State

Section 4(b)(5)(A)(ii) of the Act states that the Secretary must give actual notice of a proposed regulation under section 4(a) to the State agency in each State in which the species is believed to occur, and invite the comments of such agency. Section 4(i) of the Act states, ''the Secretary shall submit to the State agency a written justification for his failure to adopt regulations consistent with the agency's comments or petition.'' The Service submitted the proposed regulation to the State of California but received no formal comments from the State regarding the proposal.

Public Comments

We received five letters from the public that provided comments on the proposed rule. All five commenters stated that Eureka dune grass did not warrant delisting. Four of these commenters maintained that Eureka Valley evening-primrose did not warrant delisting, and cited continuing concerns with unauthorized OHV use and competition with nonnative species. The fifth suggested the species may warrant either downlisting or delisting, stating that the most recent data indicated a general increasing trend, albeit episodic, despite significant herbivory.

Public Comments of a General Nature or Applicable to Both Species

(13) *Comment:* One commenter indicated that the Park Service's monitoring program has demonstrated that threats still exist for Eureka Valley evening-primrose and Eureka dune grass. The commenter asserted that we were ignoring threats information and proposing to delist the Eureka Valley evening-primrose and Eureka dune grass because they were, at one time, considered ''Spotlight Species.''

Our Response: In 2008, as part of a nationwide initiative, we identified Eureka Valley evening-primrose and Eureka dune grass as ''Spotlight Species''; this initiative was intended to set performance targets and identify actions to achieve those targets for the spotlighted species. We developed 5-year Spotlight Species Action Plans for each species and identified specific goals, measures, and actions; the goal was to delist or downlist the species. The 2010 Spotlight Species Action Plans themselves did not influence our decision when evaluating the status of the species. As with all listed species, we conduct a thorough review of the best available scientific and commercial information and determine whether the threats to the species have been eliminated or reduced to the point that the species no longer meets the definition of an endangered species or a threatened species under the Act.

(14) *Comment:* Three commenters suggested that there is inadequate information to conclude that Russian thistle is not competing with Eureka Valley evening-primrose and Eureka dune grass given the limited water and nutrients available; they suggested further study is warranted to determine the potential impact. One of these commenters cited a study (Cannon *et al.* 1995) that found Russian thistle impacted grassland succession.

Our Response: Please refer to *Comment and Response (1)* above.

(15) *Comment:* There were numerous comments regarding the potential impacts of OHV use on the two plants. For instance, three commenters asserted that impacts from unauthorized recreational activities, specifically OHV use, continue to represent a threat to Eureka Valley evening-primrose and Eureka dune grass. One of these commenters and a fourth commenter suggested there is a need for additional interpretive and directional signage, as well as ongoing monitoring and enforcement. Further, one of these commenters stated that unauthorized OHV activity may increase on and around the Eureka Dunes due to decreasing resources for Park Service law enforcement. One commenter asserted that we should not delist Eureka Valley evening-primrose or Eureka dune grass because there remains a low level of unauthorized OHV use in these species' habitat, and the Eureka Valley evening-primrose and Eureka dune grass populations have failed to respond positively to current management.

Our Response: In the proposed rule and in this final rule, we acknowledge that unauthorized OHV use continues; however, we conclude that, based on the best available information, this unauthorized activity occurs sporadically, and does not appear to be having a population-level impact on either species. We disagree that Eureka Valley evening-primrose has not responded positively to BLM's and the Park Service's management of the area. Most notably, both agencies have taken steps to protect Eureka Valley from unauthorized recreational activities, especially OHV use. Prior to these efforts, unrestricted OHV use occurred throughout Eureka Valley, concentrated on and around the Main Dunes. Additionally, the monitoring program developed by the Park Service has demonstrated that, though the Eureka Valley evening-primrose population fluctuates in above-ground expression, it continues to be distributed throughout its known range. For example, in 2014, the Park Service documented the largest expression of Eureka Valley evening-primrose ever observed.

Although monitoring the status of Eureka dune grass has been more challenging over time, the Park Service has, since 2007, documented a larger geographic distribution for the species than was known previously. Monitoring also indicates that, while the density of Eureka dune grass has declined across much of its range (including the Main Dunes that harbor the majority of the species' range), there are certain small areas where density has increased. Overall, the current level of unauthorized OHV use is sporadic and does not occur across the range of the species, and there does not appear to be any correlation between OHV recreation and the status of the species. In addition, we consider the Park Service's current efforts adequate to monitor and enforce closures in the Eureka Valley, and we anticipate that these efforts will continue into the future. Therefore, we conclude it is likely that there are other factors that are affecting the status of Eureka dune grass, rather than management efforts on behalf of the Park Service.

(16) *Comment:* One commenter stated that the recovery of Eureka Valley evening-primrose and Eureka dune grass depends on the long-term commitment of the Park Service to conduct monitoring and management, including enforcement of closures to OHV use and other recreational impacts, management of Russian thistle, continued population monitoring, and additional research. Another commenter suggested that it was premature to delist Eureka dune grass until USGS completed their study. The second commenter noted that despite Eureka dune grass occurring within a federally designated wilderness, the population continues to decline, and additional research is necessary to determine the reasons for this decline.

Our Response: The Park Service has demonstrated its commitment to continue monitoring and protecting the populations of Eureka Valley evening-primrose and Eureka dune grass, and has worked with us to develop a post-delisting monitoring plan for Eureka Valley evening-primrose. Additionally, under the Act, we are tasked with using the best available information, and at this time, while the information generated by the USGS study may be useful, we cannot delay our determination until this or additional studies are completed.

(17) *Comment:* One commenter stated that we should discuss how the removal of either or both species from the Act may impact the availability and allocation of funding for enforcement of the Park Service regulations and patrols of Eureka Valley under Factor D. The commenter stated that the designation under the Act provides a level of protection by mandating that the Park Service maintain monitoring, patrols, and enforce existing regulations, and also protect the ecosystem.

Our Response: Under the Act, we determine whether a species is an endangered species or threatened species because of any of five listing factors. We evaluate the impacts of current and future stressors acting on the species and habitat where it occurs and any conservation measures or regulatory mechanisms that may offset those impacts. The Eureka Valley evening-primrose and Eureka dune grass occur entirely within Eureka Valley, which is managed by the Park Service. We concluded in the proposed rule and reaffirm here that the Park Service's laws, policies, and plans will continue to protect the habitat of Eureka Valley evening-primrose and Eureka dune grass, and effectively minimize those stressors described under Factors A, B, and E (specifically in relation to OHV

activities). Additionally, the Park Service plans to continue monitoring both species.

(18) *Comment:* One commenter indicated that coyote poaching, specifically at the Ash Meadows National Wildlife Refuge, was a potential factor affecting lagomorph (*Lepus* and *Sylvilagus*) populations and leading to increased herbivory of rare plants. However, the commenter noted that because Eureka Valley is remote, poaching may not be a factor that affects levels of herbivory experienced by Eureka Valley evening-primrose or Eureka dune grass.

Our Response: We acknowledge that a reduction in the number of predators such as coyotes could lead to an increase in lagomorph numbers, and we appreciate the commenter submitting this information. However, our evaluation of the best available information at this time does not indicate that coyote poaching has occurred or is occurring in Eureka Valley.

Public Comments Specific to Eureka Valley Evening-Primrose

(19) *Comment:* One commenter asserted that the evidence provided in the proposed delisting rule supported downlisting of Eureka Valley evening-primrose. However, the commenter expressed concern that herbivory and unauthorized recreational activities still pose a threat to important population sites, such as the occurrence located to the east of the Main Dunes.

Our Response: In the proposed rule, we concluded that herbivory and unauthorized recreational activities, specifically OHV use, were not threats to the Eureka Valley evening-primrose. While we acknowledge that unauthorized recreational activities do occur on a sporadic basis, we concluded that these activities were limited in extent. We also received new information from the Park Service in 2014 indicating there was another mass germination of Eureka Valley evening-primrose in the sand flats to the east of the Main Dunes, including observations of the species in locations that it previously had not been documented (Park Service 2014). This new information indicates that Eureka Valley evening-primrose maintains a large seedbank, and when conditions are favorable, it can result in mass germination events. While we do not know how many of these seedlings will be recruited into the population, if even a portion of the seedlings survive to become adults, this will help to maintain the viability of this population. Finally, we acknowledge that herbivory could have significant impacts on individuals in certain years when the Eureka Valley evening-primrose population is small. However, we anticipate that the life-history characteristics of this species (*e.g.,* abundant and precocious seed production, production of clones to spread risk, a portion of the population remains dormant) help to maintain its viability despite years when herbivory is high.

Public Comments Specific to Eureka Dune Grass

(20) *Comment:* Four commenters questioned why we proposed to delist Eureka dune grass given the Park Service's information indicating portions of the populations at Main and Marble Canyon Dunes have declined. Some of these commenters acknowledged that recent surveys (2008 to 2013) indicated populations at Marble Canyon and Saline Spur Dunes were stable. However, all four commenters also noted that none of the populations showed a statistically significant net increase in population size over the same time period, and that long-term data (*i.e.,* repeat photopoints) demonstrated local extirpations have occurred at Main and Marble Canyon Dunes. Two commenters argued that monitoring by the Park Service indicates that Eureka dune grass continues to decline at the Main Dunes, which contains the largest segment of the population. Finally, one commenter indicated that we did not provide an explanation why the declines we described were not significant. This commenter also stated that we did not explain why large reproductive plants had died or why they have not been replaced by seedlings and young plants.

Our Response: Please refer to *Comment and Response (10)* above.

(21) *Comment:* One commenter asserted that the low density of Eureka dune grass plants is due to several factors, such as water and nutrient availability, and inability of individuals to become established on the steepest slopes. The commenter also highlighted specifics about the Main Dunes that we should take into consideration, *i.e.,* that the Main Dunes are much larger than Marble Canyon and Saline Spur Dunes, and that the majority of Eureka dune grass individuals occur on the Main Dunes.

Our Response: We added language into this final rule to indicate several factors that may limit the distribution of Eureka dune grass across its range. We provided population estimates for all three dunes in the *Abundance Surveys and Population Estimates* section, above, for Eureka dune grass. The size of the three dunes is also described in ''Environmental Setting'' section of the Background Information document (Service 2014, pp. 4–5), and we noted that the Main Dunes was the largest with the largest population of Eureka dune grass. Overall, following our evaluation of comments and new information received since the time of the proposal, we conclude that a combination of factors are likely contributing to Eureka dune grass lowered abundance and density. Thus, we have determined that although the species is not currently in danger of extinction (endangered), it may become so in the foreseeable future (threatened). See the *Summary of the Determination for Eureka Dune Grass* section, above.

(22) *Comment:* Two commenters questioned our determination that the effects of climate change were not a threat now or in the future to Eureka dune grass. The first commenter indicated that prolonged drought could impact the Eureka dune grass population due to the loss of adult plants, and the failure of seeds to become established. The second commenter argued that, while the exact impacts to Eureka dune grass are unclear, scientific models indicate that the Mojave Desert will become hotter and drier. Additionally, this commenter argued that these changing conditions may exceed the physiological tolerance of the species, and lead to decreases in plant density and a range contraction.

Our Response: Please refer to *Comment and Response (9),* above.

(23) *Comment:* One commenter argued that the best available information indicates Eureka dune grass has low genetic diversity, which increases its vulnerability to changes in the environment and increases its risk of extinction. The commenter also stated that low genetic diversity may be a factor in the low seed production and infrequent establishment of Eureka dune grass.

Our Response: Please refer to *Comment and Response (11),* above.

(24) *Comment:* One commenter referenced recent information collected by USGS on the amount of herbivory occurring on Eureka dune grass. The commenter acknowledged that the amount of herbivory experienced by plants varies with the number of herbivores; however, the commenter indicated that a combination of high levels of herbivory (as documented by USGS) and Eureka dune grass' life-history characteristics (*e.g.,* low annual seed production, no vegetative reproduction, and infrequent germination and establishment of

seedlings) could affect the long-term persistence and recovery of the population.

Our Response: Please refer to *Comment and Response (8)* above.

(25) *Comment:* Three commenters claimed that Recovery Plan objectives 1 and 2 (Service 1982, pp. 26–31) have not been met for Eureka dune grass, and thus, the species should not be delisted. These commenters argued that we failed to consider evidence that indicates the population of Eureka dune grass continues to decline at several locations throughout its range, especially at the most dense occurrence at the northern end of the Main Dunes. One of these commenters indicated that despite the reduction in unauthorized OHV activity, the Eureka dune grass population continues to decline. This commenter suggested the continued population decline may be the result of impacts from past OHV activity, or due to other factors. Finally, two additional commenters suggested that we postpone making a decision until USGS completes its study.

Our Response: For our discussion of the Recovery Plan Objectives, please refer to the Recovery and Recovery Plan Implementation section, above. While we agree the information generated by the USGS study may be useful, we cannot delay our determination until this study is completed. We note that any additional information forthcoming from current studies can be incorporated into monitoring efforts that will be continued by the Park Service.

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act, need not be prepared in connection with listing, delisting, or reclassification of a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited in this rulemaking is available on the internet at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2013–0131 or upon request from the Deputy Field Supervisor, Carlsbad Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are staff members of the Pacific Southwest Regional Office in Sacramento, California, in coordination with the Ventura Fish and Wildlife Office in Ventura, California, and the Carlsbad Fish and Wildlife Office in Carlsbad, California.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we hereby amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.12(h), the List of Endangered and Threatened Plants, under FLOWERING PLANTS, by:

■ a. Removing the entry for ''*Oenothera avita* ssp. *eurekensis*''*;* and

■ b. Revising the entry for ''*Swallenia alexandrae*'' to read as set forth below.

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Scientific name	Common name	Where listed	Status	Listing citations and applicable rules
FLOWERING PLANTS				
*	*	*	*	*
Swallenia alexandrae	Eureka dune grass, Eureka Valley dune grass, or Eureka dunegrass.	Wherever found	T	82 FR [**Federal Register** *page where the document begins*], February 27, 2018.
*	*	*	*	*

Dated: December 3, 2017.

James W. Kurth

Deputy Director for U.S. Fish and Wildlife Service Exercising the Authority of the Director for U.S. Fish and Wildlife Service.

[FR Doc. 2018–03769 Filed 2–26–18; 8:45 am]

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