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

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3555

RIN 0575–AD00

Single Family Housing Guaranteed Loan Program

AGENCY: Rural Housing Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Housing Service (RHS or Agency) is amending the current regulation for the Single Family Housing Guaranteed Loan Program (SFHGLP) on the subjects of lender indemnification, refinancing, and qualified mortgage requirements. The Agency is expanding its lender indemnification authority for loss claims in the case of fraud, misrepresentation, or noncompliance with applicable loan origination requirements. This action is taken to continue the Agency's efforts to improve and expand the risk management of the SFHGLP. The Agency is amending its refinancing provisions to simply require that the new interest rate not exceed the interest rate on the original loan and to add a new refinance option, ''streamlined-assist.'' Finally, the agency is amending its regulation to indicate that a loan guaranteed by RHS is a Qualified Mortgage if it meets certain requirements set forth by the Consumer Protection Finance Bureau (CFPB).

DATES: Effective June 2, 2016.

FOR FURTHER INFORMATION CONTACT: Lilian Lipton, Finance and Loan Analyst, Single Family Housing Guaranteed Loan Division, STOP 0784, Room 2250, USDA Rural Development, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250–0784, telephone: (202) 260–8012, email is *lilian.lipton@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been determined to be non-significant by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Except where specified, all State and local laws and regulations that are in direct conflict with this rule will be preempted. Federal funds carry Federal requirements. No person is required to apply for funding under this program, but if they do apply and are selected for funding, they must comply with the requirements applicable to the Federal program funds. This rule is not retroactive. It will not affect agreements entered into prior to the effective date of the rule. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 must be exhausted.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effect of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million, or more, in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. This final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' It is the determination of the Agency that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, neither an Environmental Assessment nor an Environmental Impact Statement is required.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the undersigned has determined and certified by signature of this document that this rule change will not have a significant impact on a substantial number of small entities. This rule does not impose any significant new requirements on Agency applicants and borrowers, and the regulatory changes affect only Agency determination of program benefits for guarantees of loans made to individuals.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on RD in the development of regulatory policies that have Tribal implications or preempt tribal laws. RD has determined that the final rule does not have a substantial direct effect on one or more Indian Tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian Tribes. Thus, this rule is not subject to the requirements of Executive Order 13175. If a Tribe determines that this rule has implications of which RD is not aware and would like to engage with RD on this rule, please contact RD's Native

American Coordinator at (720) 544–2911 or *AIAN@wdc.usda.gov.*

Executive Order 12372, Intergovernmental Consultation

This program/activity is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. (See the Notice related to 7 CFR part 3015, subpart V, at 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985).

Programs Affected

This program is listed in the Catalog of Federal Domestic Assistance under Number 10.410, Very Low to Moderate Income Housing Loans (Section 502 Rural Housing Loans).

Paperwork Reduction Act

The information collection and record keeping requirements contained in this regulation have been approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The assigned OMB control number is 0575–0179.

E-Government Act Compliance

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

Non-Discrimination Policy

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Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Background Information

On March 5, 2015, RHS published a proposed rule with request for comments for the Single Family Housing Guaranteed Loan Program (SFHGLP) (80 FR 11950–11954). Rural Development received comments from seventeen respondents. Comments were from lenders, secondary market sources, builders, and other interest groups. Specific public comments and substantive changes from the proposed rule are addressed below in general order of appearance in the regulation, not based in the order of importance.

One respondent requested the Agency to clarify when the rule would become effective and what the trigger events will be for the effective date of the various requirements for loan applications received by lenders on or after the effective date of the final rule. The final rule will become effective 60 days after its publication in the **Federal Register**.

Refinancing (§ 3555.101(d))

Five respondents fully supported the Agency's proposal to amend its refinancing provisions and add the Streamlined-Assist Refinance option.

One respondent supported the Streamlined-Assist Refinance program but requested that the Agency: (1) Add repayment requirements for remaining borrowers; (2) limit costs to principal and current interest charges due, reasonable and customary re-conveyance fee, and the upfront guarantee fee; and (3) limit refinance balance to original purchase loan amount. The Agency believes the Streamlined-Assist Refinance's purpose is to increase affordability for current borrowers and implementing the suggested changes will defeat the purpose of this option. No change is made in this provision.

One respondent supported the addition of the Streamlined-Assist Refinance option but requested clarification with regards to the inclusion of the guarantee fee and eligible closing costs. Eligible loan purposes, including fees and closing costs, will remain the same as described on § 3555.101(d) for all refinancing transactions. Closing costs may be included in the refinance loan amount. No change is made in this provision.

One respondent requested the eligibility of non-section 502 loans to be refinanced through the program, such as balloon or ARM mortgage products, if they meet USDA eligibility requirements. The Agency does not have statutory authority as this request does not conform with the Housing Act of 1949 limits on refinancing in this program. No change is made in this provision.

Indemnification (§ 3555.108(d))

Two respondents believe a five-year indemnification period is too long and requested the Agency to maintain the current lender indemnification period of 24 months. The Agency will continue to pursue a five-year indemnification period, similar to those of other federal agencies and as recommended by the Office of Inspector General (OIG) Report 04703–003–HY. The rule has been amended to clarify that the loan originator will be required to indemnify the Agency and not a subsequent holder or acquirer of the loan. No other change is made in this provision.

Two respondents requested the Agency to amend its definition of default accounts from 30 days delinquent to 60 days. The Agency will maintain the 30-day definition, consistent with other federal agencies. No change is made in this provision.

One respondent encouraged the Agency to add a standard of materiality for the underwriting defect and to specify that there must be a connection between the defect and the cause of default by adding that ''The Agency may seek indemnification if fraud or misrepresentation occurs in connection with the origination *and the lender knew, or should have known about the occurrence.''* It also recommended the Agency to clarify that an indemnification does not affect the guaranty status of the loan. RHS will include the standard of materiality and a provision that the loan note guarantee of the holder will not be affected by indemnification by the originating lender.

Qualified Mortgage (§ 3555.109)

Six respondents requested RHS to update program guidance to incorporate different points and fee limitations than those proposed. The Agency will remain consistent with the Consumer Financial Protection Bureau (CFPB) and other federal agencies in its points and fees limitations. No change is made in this provision.

Two respondents requested the Agency to not adopt CFPB's 43-percent debt-to-income limit. The Agency had not included any debt-to-income limitation in the proposed rule. The CFPB debt ratio limitations do not apply to loans guaranteed by the Agency. Until January 20, 2021 or the date on which an agency rule defining qualified mortgages becomes effective (whichever is earlier), loans guaranteed by RHS are presumed to be qualified mortgages under 12 CFR 1026.43(e)(4).

Four respondents noted that Housing Finance Agencies (HFA) loans are exempt from the Qualified Mortgage requirements and are automatically classified as Qualified Mortgages eligible for insurance through the SFHGLP. The Agency is amending its rule and will include language exempting HFAs from the Qualified Mortgage requirements.

Principal Reduction (§ 3555.304(d))

One respondent wrote that the Mortgage Recovery Advance (MRA) already provides for principal reductions, and that by separating principal reduction from the MRA would complicate the process because loan servicers would now have to take two steps instead of only one. The respondent pointed out that if the PRA is eventually forgiven, it would become a tax liability to borrowers because the Internal Revenue Service (IRS) considers forgiven debt to be taxable income. Struggling low or moderate income borrowers may not be able to handle the additional tax bill. The respondent also indicated that since the PRA results in an unsecured loan which would not be forgiven if the borrower re-defaulted on their mortgage, mortgage loan servicers would be in a position of collecting on an unsecured loan. Mortgage loan servicers do not want to collect unsecured loans, and the respondent suggested that the agency should collect the unsecured loans.

One respondent indicated that the use of separate notes, one for an MRA and one for a PRA, would complicate special loan servicing workouts and may confuse or overwhelm eligible borrowers. The respondent indicated that the Agency should consider keeping both the MRA and PRA amounts as secured loans to avoid the likelihood of borrower confusion. The respondent also questioned how the PRA would be impacted should the borrower attempt to pay off the loan before the three year period prior to eligibility for debt forgiveness. Should the PRA be forgiven, the respondent suggested that the Agency should report the forgiveness amount to the IRS, and not the servicer. The respondent wrote that should the PRA not be forgiven, attempts to collect the unsecured loan would be detrimental to borrowers recovering from financial difficulties. Attempts to collect unsecured PRAs, suggested the respondent, could ultimately be more costly to the Agency than simply forgiving the amounts advanced. Finally, the respondent questioned whether the MRA and PRA claims should be filed separately or whether both amounts may be submitted in the same claim. Separate filings would be especially complicated according to the respondent.

Two respondents requested the Agency to eliminate the January 1, 2001 to January 1, 2010 timeframe restriction on PRAs.

One respondent supported the Principal Reduction Advance (PRA) proposal but requested that lenders have at least six months to implement the policy in order to allow for internal system integrations related to this process.

After careful review and consideration, the Agency agrees with all the comments submitted, and has decided to not implement the PRA transaction as it had been proposed. The original MRA procedure will remain unaltered and the PRA will not become a separate transaction.

Indemnification: In the Office of Inspector General (OIG) Report 04703–003–HY, SFH GL Loss Claims, the Agency was requested to re-evaluate the timeframe in which the Government can seek indemnification for noncompliance with regulations in loan origination. Present language in 7 CFR 3555.108(d)(1) limits the indemnification to losses if the payment under the guarantee was made within 24 months of loan closing. Origination defects which depart from Agency requirements, however, may cause defaults beyond 24 months from loan closing. Similarly, claims arising from defective originations may occur several years after loan closing. The change will trigger indemnification if the default occurs within five years from origination and the Agency concludes the default arose because the originator did not underwrite the loan according to Agency standards and guidelines, regardless of when the claim is paid. This is similar to how HUD and other federal agencies operate.

The Agency may also seek indemnification if the Agency determines that fraud or misrepresentation occurred in connection with the origination of the loan, regardless of when the loan closed. 7 CFR 3555.108(d)(2). This provision is being clarified to state that the Agency may seek indemnification in cases of fraud or misrepresentation regardless of when the loan closed or when the default occurred.

In addition, the definition of ''default'' has been added to section 3555.10 to clarify that default is when an account is more than 30 days overdue. This is consistent with how the term is used in the mortgage industry.

Refinance: There are currently two refinance options available to Section 502 borrowers, and the Agency is adding a third option which has been successfully tested in a pilot. The Agency is amending section 3555.101(d)(3)(i) to remove the requirement that the interest rate of a refinanced loan be at least 100 basis points below the original rate, and instead to require that the new interest rate not exceed the original interest loan's interest rate. The interest rate reduction requirement has proven problematic in rising rate environments. For example, in the case of divorce, the borrower may not be able to refinance as required by their divorce decree or judgment because they cannot secure an interest rate at least 1 percent lower than the first one.

The definition of ''streamlined-assist refinance'' is being added to 7 CFR 3555.10. On February 1, 2012 RHS created a refinancing pilot known as the ''Rural Refinance Pilot.'' The streamlined-assist refinance differs from the traditional refinance options in that there is no appraisal or credit report requirement in most instances, as long as the borrower has been current on their first mortgage for the previous 12 months and their new interest rate is at least 1 percent lower than their first one. A new appraisal is required for direct loan borrowers who received a subsidy for the purposes of calculating subsidy recapture.

The pilot was designed to assist existing Section 502 direct or guaranteed loan borrowers in refinancing their homes with greater ease in thirty-five eligible states where steep home price declines, unemployment and persistent poverty rates made refinancing a current

mortgage into more affordable terms difficult or impossible. Due to the success of the pilot program, RHS will adopt the pilot policy as a refinance option for existing Section 502 direct or guaranteed loan borrowers nationwide in addition to the two traditional refinance loan options of streamlined and non-streamlined. The special refinance loan option will be called ''streamlined-assist.''

This rule amends 7 CFR 3555.101(d)(3)(vi) to include ''streamlined-assist'' as one of three available refinance loan options in addition to the traditional ''streamlined'' and ''non-streamlined'' refinance loans. Section 3555.101(d)(3)(vi) discusses eligibility requirements for each streamlined and non-streamlined refinance loan. The streamlined-assist refinance will have the same features as the Rural Refinance Pilot described above. Additional eligibility criteria for refinance loans is discussed in Section 3555.101(d)(3).

Qualified Mortgage: The agency is changing Section 3555.109, to indicate that a loan guaranteed by RHS meeting certain CFPB requirements is a ''Qualified Mortgage.''

The CFPB published a ''Qualified Mortgage'' rule (12 CFR part 1026) which became effective January 10, 2014 and implemented in part the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111–203). This rule requires creditors to make a reasonable, good faith determination of a consumer's repayment ability for any consumer credit transaction secured by a dwelling, and establishes a safe harbor from liability for transactions that meet the requirements for ''qualified mortgages.'' Currently, SFHGLP loans are considered to be qualified mortgages if they meet the requirements in 12 CFR 1026.43(e)(2)(i)–(iii) and the points and fees limits in 12 CFR 1026.43(e)(3) until RHS promulgates its own rules regarding qualified mortgages, or January 10, 2021, whichever is earlier. (See 12 CFR 1026.43(e)(4)).

RHS guaranteed loans currently meet these requirements. Therefore, section 3555.109 is clarifying that RHS guaranteed loans which meet the CFPB requirements in 12 CFR 1026.43(e)(2)(i)–(iii) and 12 CFR 1026.43(e)(3) are considered qualified mortgages.

List of Subjects in 7 CFR Part 3555

Home improvement, Loan programs—Housing and community development, Mortgage insurance, Mortgages, Rural areas.

For the reason stated in the preamble, Chapter XVIII, Title 7 of the Code of Federal Regulations is amended as follows:

PART 3555—GUARANTEED RURAL HOUSING PROGRAM

■ 1. The authority citation for Part 3555 continues to read as follows:

Authority: 5 U.S.C. 301, 42 U.S.C. 1471, *et seq.*

■ 2. Amend § 3555.10 by adding definitions of *Default* and *Streamlined-assist refinance* in alphabetical order to read as follows:

§ 3555.10 Definitions and abbreviations.

* * * * *

Default. A loan is considered in default when a payment has not been paid after 30 days from the date it was due.

* * * * *

Streamlined-assist refinance. A streamlined-assist refinance is an abbreviated method of refinancing which does not require a credit report, or the calculation of loan-to-value or debt-to-income ratios. Lenders must verify that the borrower has been current on their existing loan for the preceding 12 month period.

* * * * *

■ 3. Section 3555.101 is amended by revising paragraphs (d)(3)(i), (ii), and (iv) to read as follows:

§ 3555.101 Loan purposes.

* * * * *

(d) * * *

(3) * * *

(i) Three options for refinancing may be offered: Streamlined, non-streamlined, and streamlined-assist. Other than provided in this paragraph, no cash out is permitted for any refinance. Documentation costs and underwriting requirements of subparts D, E, and F of this part apply to streamlined and non-streamlined refinances.

(A) Lenders may offer a streamlined refinance for existing Section 502 Guaranteed loans, which does not require a new appraisal. The lender will pay off the balance of the existing Section 502 Guaranteed loan.

(B) Lenders may offer non-streamlined refinancing for existing Section 502 Guaranteed or Direct loans, which requires a new and current market value appraisal. The amount of the new loan must be supported by sufficient equity in the property as determined by an appraisal. The appraised value may be exceeded by the amount of up-front guarantee fee financed, if any, when using the non-streamlined option.

(C) A streamlined-assist refinance loan is a special refinance option available to existing Section 502 direct and guaranteed loan borrowers. Applicants must meet the income eligibility requirements of § 3555.151(a), and must not have had any defaults during the 12 month period prior to the refinance loan application. There are no debt-to-income calculation requirements, no credit report requirements, no property inspection requirements, and no loan-to-value requirements. There is no appraisal requirement except for Section 502 direct loan borrowers who have received a subsidy.

(ii) The interest rate of the new loan must be fixed and must not exceed the interest rate of the original loan being refinanced.

* * * * *

(iv) The loan security must include the same property as the original loan and be owned and occupied by the borrowers as their principal residence.

* * * * *

■ 4. Amend § 3555.108 by revising paragraph (d) to read as follows:

§ 3555.108 Full faith and credit.

* * * * *

(d) *Indemnification.* The loan note guarantee will remain in effect for any holder of the loan who acquired it from an originating lender. If the Agency determines that a lender did not originate a loan in accordance with the requirements in this part, and the Agency pays a claim under the loan guarantee, the Agency may revoke the originating lender's eligibility status in accordance with subpart B of this part and may also require the originating lender:

(1) To indemnify the Agency for the loss, if the default leading to the payment of loss claim occurred within five (5) years of loan closing, when one or more of the following conditions is satisfied:

(i) The originating lender utilized unsupported data or omitted material information when submitting the request for a conditional commitment to the Agency;

(ii) The originating lender failed to properly verify and analyze the applicant's income and employment history in accordance with Agency guidelines;

(iii) The originating lender failed to address property deficiencies identified in the appraisal or inspection report that affect the health and safety of the occupants or the structural integrity of the property;

(iv) The originating lender used an appraiser that was not properly licensed or certified, as appropriate, to make residential real estate appraisal in accordance with § 3555.103(a); or,

(2) To indemnify the Agency for the loss regardless of how long ago the loan closed or the default occurred, if the Agency determines that fraud or misrepresentation was involved with the origination of the loan.

(3) In addition, the Agency may use any other legal remedies it has against the originating lender.

■ 5. Add § 3555.109 to read as follows:

§ 3555.109 Qualified mortgage.

A qualified mortgage is a guaranteed loan meeting the requirements of this part and applicable Agency guidance, as well as the requirements in 12 CFR 1026.43(e)(2)(i) through (iii) and 12 CFR 1026.43(e)(3). An extension of credit made pursuant to a program administered by a State Housing Finance Agency is exempt from this requirement as defined in 12 CFR 1026.43(a)(3)(iv). Lenders will be allowed to cure unintentional errors and retain the qualified mortgage status if the conditions set in 12 CFR 1026.31(h) are met.

Dated: March 29, 2016.

Tony Hernandez,

Administrator, Rural Housing Service.

[FR Doc. 2016–10217 Filed 5–2–16; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 31075; Amdt. No. 526]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: *Effective Date:* 0901 UTC, May 26, 2016.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs 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 amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

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 95

Airspace, Navigation (air).

Issued in Washington, DC, on April 22, 2016.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, May 26, 2016.

■ 1. The authority citation for part 95 continues to read as follows:

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

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT

[Amendment 526 effective date May 26, 2016]

From	To	MEA
§ 95.6001 Victor Routes-U.S.		
§ 95.6196 VOR Federal Airway V196 is Amended to Read in Part		
Utica, NY VORTAC *6500—MCA Saranac Lake, NY VOR/DME, E BND	*Saranac Lake, NY VOR/DME	5,400
Saranac Lake, NY VOR/DME	RIGID, NY FIX.	

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—Continued

[Amendment 526 effective date May 26, 2016]

From	To	MEA
	E BND	9,000
	W BND	5,000
§ 95.6394 VOR Federal Airway V394 is Amended to Read in Part		
Daggett, CA VORTAC *10,400—MCA Oasys, NV FIX, SW BND **9,500—MOCA **10,000—GNSS MEA	*Oasys, NV FIX	**12,000
Oasys, NV FIX	Las Vegas, NV VORTAC	9,000

[FR Doc. 2016–10009 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 112

[Docket No. FDA–2011–N–0921]

RIN 0910–AG35

Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA or we) is amending a final rule that published in the **Federal Register** of November 27, 2015. That final rule established science-based minimum standards for the safe growing, harvesting, packing, and holding of produce, meaning fruits and vegetables grown for human consumption. The rule sets forth procedures, processes, and practices that minimize the risk of serious adverse health consequences or death, including those reasonably necessary to prevent the introduction of known or reasonably foreseeable biological hazards into or onto produce and to provide reasonable assurances that the produce is not adulterated on account of such hazards. FDA established these standards as part of our implementation of the FDA Food Safety and Modernization Act. The final rule published with some editorial and inadvertent errors. This document corrects those errors.

DATES: Effective May 3, 2016.

FOR FURTHER INFORMATION CONTACT: Samir Assar, Center for Food Safety and Applied Nutrition (HFS–317), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1636.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Friday, November 27, 2015 (80 FR 74354), FDA published the final rule ''Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption'' with some editorial and inadvertent errors. This action is being taken to correct inadvertent errors in the preamble to the final rule and to improve the accuracy of the provisions added to the Code of Federal Regulations.

On page 74357, the table with the heading ''COMPLIANCE DATES'' is corrected to read as follows:

COMPLIANCE DATES

Size of covered farm	Covered activities involving sprouts covered under subpart M (*i.e.,* subject to all requirements of part 112)	Covered activities involving all other covered produce (*i.e.,* subject to part 112, except subpart M)		Farms eligible for a qualified exemption (if applicable)		
		Compliance date for certain specified agricultural water requirements	Compliance date for all other requirements	Compliance date for retention of records supporting eligibility in § 112.7(b)	Compliance date for modified requirement in § 112.6(b)(1)	Compliance date for all other requirements in §§ 112.6 and 112.7
	Time periods starting from the effective date of this rule					Time periods starting from the effective date of this rule
Very small business.	3 years (January 26, 2019).	6 years (January 26, 2022).	4 years (January 26, 2020).	Effective date of rule (January 26, 2016).	January 1, 2020	4 years for farms not producing sprouts (January 26, 2020)/3 years for farms producing sprouts (January 26, 2019).
Small business ..	2 years (January 26, 2018).	5 years (January 26, 2021).	3 years (January 26, 2019).	.....	.....	3 years for farms not producing sprouts (January 26, 2019)/2 years for farms producing sprouts (January 26, 2018).
All other businesses.	1 year (January 26, 2017).	4 years (January 26, 2020).	2 years (January 26, 2018).	.....	.....	N/A.

Section 112.3 is revised to collapse paragraphs (a), (b), and (c) into a single paragraph.

The definition of ''farm'' is revised to use the same indent numbering as in the definition of ''farm'' under 21 CFR 1.227 established in the final rule, ''Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food'' (80 FR 55908; September 17, 2015).

The definition of ''covered activity'' is revised to replace the reference to 21 CFR part 110 with a reference to 21 CFR part 117.

The definition of ''harvesting'' is revised consistent with the revision to the definition of ''harvesting'' in § 1.227 as published in ''Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food; Technical Amendment'' (81 FR 3714; January 22, 2016).

The definition of ''packing'' is revised to remove a duplicative reference to section 201(r) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(r)) and to add the term ''re-packing'' in multiple places, so that the definition is consistent with the definition of ''packing'' in § 117.3 as published in ''Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food; Technical Amendment'' (81 FR 3714);

The definitions of ''small business'' and ''very small business'' are revised to remove paragraph references that are no longer needed due to the rearrangement of § 112.3 into a single section and to follow the structure of the other definitions in § 112.3.

In the definition of ''qualified end-user,'' paragraphs (i) and (ii) are redesignated as paragraphs (1) and (2).

Section 112.55(b) is revised to add a liquid weight basis for sampling, consistent with table 18 in the final rule ''Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption'' (80 FR 74354 at 74475) and discussion under Comment 291 in the same document (80 FR 74354 at 74472 to 74473).

List of Subjects in 21 CFR Part 112

Foods, Fruits and vegetables, Incorporation by reference, Packaging and containers, Recordkeeping requirements, Safety.

PART 112—STANDARDS FOR THE GROWING, HARVESTING, PACKING, AND HOLDING OF PRODUCE FOR HUMAN CONSUMPTION

■ 1. The authority citation for 21 CFR part 112 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 342, 350h, 371; 42 U.S.C. 243, 264, 271.

■ 2. Amend § 112.3 by:

■ a. Removing paragraphs (a) and (b) and (c) introductory text and adding introductory text;

■ b. In the definition of ''Qualified end-user'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2);

■ c. Revising the definitions of ''Covered activity'', ''Farm'', ''Harvesting'', and ''Packing''; and

■ d. Adding in alphabetical order the definitions of ''Small business'' and ''Very small business''.

The revisions and additions read as follows:

§ 112.3 What definitions apply to this part?

The definitions and interpretations of terms in section 201 of the Federal Food, Drug, and Cosmetic Act apply to such terms when used in this part. The following definitions also apply:

* * * * *

Covered activity means growing, harvesting, packing, or holding covered produce on a farm. Covered activity includes manufacturing/processing of covered produce on a farm, but only to the extent that such activities are performed on raw agricultural commodities and only to the extent that such activities are within the meaning of ''farm'' as defined in this chapter. Providing, acting consistently with, and documenting actions taken in compliance with written assurances as described in § 112.2(b) are also covered activities. This part does not apply to activities of a facility that are subject to part 117 of this chapter.

* * * * *

Farm means:

(1) *Primary production farm.* A primary production farm is an operation under one management in one general (but not necessarily contiguous) physical location devoted to the growing of crops, the harvesting of crops, the raising of animals (including seafood), or any combination of these activities. The term ''farm'' includes operations that, in addition to these activities:

(i) Pack or hold raw agricultural commodities;

(ii) Pack or hold processed food, provided that all processed food used in such activities is either consumed on that farm or another farm under the same management, or is processed food identified in paragraph (1)(iii)(B)(*1*) of this definition; and

(iii) Manufacture/process food, provided that:

(A) All food used in such activities is consumed on that farm or another farm under the same management; or

(B) Any manufacturing/processing of food that is not consumed on that farm or another farm under the same management consists only of:

(*1*) Drying/dehydrating raw agricultural commodities to create a distinct commodity (such as drying/dehydrating grapes to produce raisins), and packaging and labeling such commodities, without additional manufacturing/processing (an example of additional manufacturing/processing is slicing);

(*2*) Treatment to manipulate the ripening of raw agricultural commodities (such as by treating produce with ethylene gas), and packaging and labeling treated raw agricultural commodities, without additional manufacturing/processing; and

(*3*) Packaging and labeling raw agricultural commodities, when these activities do not involve additional manufacturing/processing (an example of additional manufacturing/processing is irradiation); or

(2) *Secondary activities farm.* A secondary activities farm is an operation, not located on a primary production farm, devoted to harvesting (such as hulling or shelling), packing, and/or holding of raw agricultural commodities, provided that the primary production farm(s) that grows, harvests, and/or raises the majority of the raw agricultural commodities harvested, packed, and/or held by the secondary activities farm owns, or jointly owns, a majority interest in the secondary activities farm. A secondary activities farm may also conduct those additional activities allowed on a primary production farm as described in paragraphs (1)(ii) and (iii) of this definition.

* * * * *

Harvesting applies to farms and farm mixed-type facilities and means activities that are traditionally performed on farms for the purpose of removing raw agricultural commodities from the place they were grown or raised and preparing them for use as food. Harvesting is limited to activities performed on raw agricultural commodities, or on processed foods created by drying/dehydrating a raw agricultural commodity without additional manufacturing/processing, on a farm. Harvesting does not include activities that transform a raw agricultural commodity into a processed food as defined in section 201(gg) of the Federal Food, Drug, and Cosmetic Act. Examples of harvesting include cutting (or otherwise separating) the edible portion of the raw agricultural

commodity from the crop plant and removing or trimming part of the raw agricultural commodity (*e.g.,* foliage, husks, roots or stems). Examples of harvesting also include cooling, field coring, filtering, gathering, hulling, shelling, sifting, threshing, trimming of outer leaves of, and washing raw agricultural commodities grown on a farm.

* * * * *

Packing means placing food into a container other than packaging the food and also includes re-packing and activities performed incidental to packing or re-packing a food (*e.g.,* activities performed for the safe or effective packing or re-packing of that food (such as sorting, culling, grading, and weighing or conveying incidental to packing or re-packing)), but does not include activities that transform a raw agricultural commodity into a processed food as defined in section 201(gg) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

Small business means a farm that is subject to any of the requirements of this part and, on a rolling basis, the average annual monetary value of produce (as defined in this section) the farm sold during the previous 3-year period is no more than $500,000; and the farm is not a very small business as defined in this section.

* * * * *

Very small business means a farm that is subject to any of the requirements of this part and, on a rolling basis, the average annual monetary value of produce (as defined in this section) the farm sold during the previous 3-year period is no more than $250,000.

* * * * *

■ 3. In § 112.55, revise paragraph (b) to read as follows:

§ 112.55 What microbial standards apply to the treatment processes in § 112.54?

* * * * *

(b) *Salmonella* species are not detected using a method that can detect three MPN *Salmonella* species per 4 grams (or milliliter, if liquid is being sampled) of total solids; and less than 1,000 MPN fecal coliforms per gram (or milliliter, if liquid is being sampled) of total solids.

Dated: April 21, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–09768 Filed 5–2–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0109]

RIN 1625–AA00

Safety Zone; Hudson River, Jersey City, NJ, Manhattan, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the Hudson River in the vicinity of Manhattan, NY, and Jersey City, NJ for the Louis Vuitton America's Cup World Series New York 2016 regatta. This temporary safety zone is necessary to protect all participating and spectator vessels from the hazards associated with regattas in high traffic areas. This rule is intended to restrict all vessels from a portion of the Hudson River during the event.

DATES: This rule is effective from 11:30 a.m. on Friday, May 6, 2016 through 5:00 p.m. on Sunday, May 8, 2016. This rule will be enforced between 11:30 a.m. to 5:00 p.m. from Friday, May 6, 2016 through Sunday, May 8, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0109 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 about this proposed rulemaking, call or email LTJG Christopher Dunn, Sector New York Waterways Management Division, U.S. Coast Guard; telephone 718–354–4012, email *christopher.e.dunn@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 doing so would be impracticable and contrary to the public interest. The event sponsor was late in submitting the marine event application. This late submission did not give the Coast Guard enough time to publish an NPRM and solicit comments from the public before establishing a safety zone. The nature of the Louis Vuitton America's Cup World Series New York 2016 requires the immediate establishment of a safety zone. Publishing an NPRM and delaying the effective date of this rule to await public comment inhibits the Coast Guard's ability to fulfill its statutory mission to protect ports, waterways, and the maritime public. We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. The rule must become effective on the date specified in order to provide for the safety of spectators and vessels operating in the area near this event. Delaying the effective date of this rule would be contrary to the public interest and would expose spectators and vessels to the hazards associated with the regattas. The sponsor advised that any change to the date of the event would cause economic hardship on the event sponsor, negatively impacting other activities being held in conjunction with the event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority in 33 U.S.C. 1231. The Louis Vuitton America's Cup World Series 2016, is planned to take place over a 3 day period between the dates of May 6–8, 2016, on the Hudson River in the vicinity of Manhattan, NY. The Series is composed of daily racing of high-speed, high-performance sailing vessels. The racing of these vessels on the Hudson River along Manhattan, NY is expected to generate national and international media coverage, and attract spectators on a number of recreational vessels and excursion vessels.

The Coast Guard is proposing establishing this safety zone, in conjunction with the Louis Vuitton America's Cup World Series 2016, to ensure the protection of the maritime public and event participants from the hazards associated with large-scale

marine events. The Coast Guard anticipates some concern with the proposed safety zone by mariners, especially commercial vessel operators, as vessel transits on the Hudson River along Manhattan may be restricted for a portion of each day for three consecutive days. The Hudson River is the site of many marine events each year and recreational and commercial vessel traffic is frequently heavy. The Coast Guard Sector New York Vessel Traffic Service routinely works with the local marine pilot organization and shipping agents to coordinate vessel transits during marine events on the Hudson River, and will continue to do so for the Louis Vuitton America's Cup World Series 2016 to avoid major interruptions to shipping schedules.

IV. Discussion of the Rule

The Louis Vuitton America's Cup World Series 2016 regatta is scheduled to occur on the navigable waters of a Hudson River in the vicinity of Manhattan, NY and Jersey City, NJ from May 6–8, 2016. This event will involve high-speed, high-performance sailing vessels that will compete in a series of daily races. This event is expected to generate national and international media coverage, and attract thousands of spectators on hundreds of commercial and recreational vessels.

The COTP proposes the establishment of a temporary safety zone on the navigable waters of the Hudson River to ensure the protection of the maritime public and event participants from the hazards associated with this event. This temporary safety zone will begin in the vicinity of the Battery and extend north to approximately North Cove, Manhattan, NY. The Coast Guard anticipates some concern by mariners, especially commercial vessel operators, that vessel transits on the Hudson River along Manhattan may be restricted for a portion of each day for three consecutive days. To ensure the safe and efficient movement of vessels in this area, a portion of the navigable waterway will remain available for use along the western side of the navigable channel. In addition, the Coast Guard Sector New York Vessel Traffic Service will continue to communicate and coordinate vessel movements that occur in the vicinity of this area for the entirety of this marine event.

Safety zone enforcement will be effective each day over a three consecutive day period starting May 6–8, 2016. Safety zone enforcement will begin each day at approximately 11:30 a.m. and continue until the Americas Cup races are completed for the day, but no later than 5:00 p.m.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive order 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 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

The potential impact on the public will be minimized for the following reasons: Vessels will only be restricted from the designated safety zone for a maximum of 6 hours per day for a maximum of 3 days; marine traffic will be permitted to transit the Hudson river along the New Jersey side of the river for the duration of this event and will be minimally impacted by the establishment of a temporary safety zone; vessels including those that require access to pier berths along the Manhattan side of the river will be permitted to enter or pass through the affected waterway with the permission of the COTP or the COTP's representative.

Notifications of this event and its associated safety zone will be made to mariners through advisory notice, Local Notice to Mariners, event sponsors, and local media. Notifications will be made well in advance of the event's commencement and last throughout the event.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator. Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you

believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone lasting approximately 6 hours for 3 days and is designed to minimize the impact to vessel traffic on the navigable waters, vessels will be able to transit around the zone in a safe manner. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination will be available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

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 and Department of Homeland Security Delegation No. 0170.1

■ 2. Add § 165.T01–0109 to read as follows:

§ 165.T01–0109 Safety Zone; Hudson River, Manhattan, NY.

(a) *Regulated Area.* The following area is a temporary safety zone: All navigable waters of the Hudson River bound by the following coordinates: Beginning at 40°43.441′ N., 74°01.538′ W.; thence to 40°43.390′ N., 74°01.015′ W.; thence to 40°42.846′ N., 74°01.143′ W.; thence to 40°41.992′ N., 74°01.230′ W.; thence to 40°41.995′ N., 74°01.916′ W.; thence back to the starting point.

(b) *Effective Period.* This rule will be effective from May 6–8, 2016. This rule will be enforced daily from approximately 11:30 a.m. until the America's Cup races are completed for the day, but no later than 5:00 p.m.

(c) *Definitions.* The following definitions apply to this section:

(1) *Designated Representative.* ''Designated representative'' means any Coast Guard commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the COTP New York, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) *Official Patrol Vessels.* ''Official patrol vessel'' means any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(d) *Regulations.* (1) The general regulations contained in 33 CFR 165.23, as well as the following regulations, apply.

(2) No vessels, except for those participating in the regatta, will be allowed to transit the safety zone without the permission of the COTP or designated representative.

(3) All persons and vessels shall comply with the instructions of the COTP or the designated representative. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(4) Spectators or other vessels shall not anchor, block, loiter, or impede the movement of event participants or official patrol vessels in the safety zones.

(5) Vessel operators desiring to enter or operate within the safety zone shall contact the COTP or the designated representative via VHF channel 16, the Vessel Traffic Service via VHF channel 14 or the Sector New York Command Center via 718–354–4353 to obtain permission to do so.

Dated: April 12, 2016.

M.H. Day,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2016–10305 Filed 5–2–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2016–0345]

Safety Zone, Chicago Harbor, Navy Pier Southeast, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Navy Pier Southeast Safety Zone within the Chicago Harbor during specified times from April 23, 2016 through January 1, 2017. This action is necessary and intended to ensure the safety of life and property on navigable waters prior to, during, and immediately after the firework displays. During the enforcement periods listed below, the Coast Guard will enforce restrictions upon, and control movement of vessels that transit this regulated area with the approval from the Captain of the Port Lake Michigan.

DATES: The regulation in 33 CFR 165.931 will be enforced at specified times between April 23, 2016 through January 1, 2017.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LT Lindsay Cook, Waterways Management Division, Marine Safety Unit Chicago, at 630–986–2155, email address *Lindsay.N.Cook@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce Safety Zone; Chicago Harbor, Navy Pier Southeast, Chicago, IL listed in 33 CFR 165.931, on April 23,

2016 from 10 p.m. until 10:45 p.m. and on each Saturday between May 28, 2016 through September 3, 2016 from 10 p.m. until 10:45 p.m. and each Wednesday from June 1, 2016 through August 31, 2016 at 9:15 p.m. until 10 p.m. Additionally, this safety zone will also be enforced on May 27, 2016 from 9 p.m. until 10:30 p.m., on June 10, 2016 from 9:15 p.m. until 10 p.m., on July 4, 2016 from 9:15 p.m. until 10 p.m., on July 28, 2016, July 29, 2016, September 10, 2016, and October 29, 2016 from 9:15 p.m. until 10:30 p.m., and on December 31, 2016 from 11:45 p.m. until 12:30 a.m. on January 1, 2017.

This safety zone encompasses all waters of Lake Michigan within Chicago Harbor bounded by coordinates beginning at 41°53′26.5″ N, 087°35′26.5″ W; then south to 41°53′7.6″ N, 087°35′26.3″ W; then west to 41°53′7.6″ N, 087°36′23.2″ W; then north to 41°53′26.5″ N, 087°36′24.6″ W; then east back to the point of origin (NAD 83). During the enforcement period, no vessel may transit this regulated area without approval from the Captain of the Port Lake Michigan (COTP) or a COTP designated representative. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port Lake Michigan, or his or her on-scene representative.

This notice of enforcement is issued under authority of 33 CFR 165.931 and 5 U.S.C.552 (a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan or a designated on-scene representative may be contacted via Channel 16, VHF–FM.

Dated: April 21, 2016.

A.B. Cocanour,

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

[FR Doc. 2016–10304 Filed 5–2–16; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0766; FRL–9944–87]

Pesticide Tolerance Crop Grouping Program Amendment IV

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule revises the current pesticide tolerance crop grouping regulations, which allow the establishment of tolerances for multiple related crops based on data from a representative set of crops. This rule creates five new crop groups, three new and two revised commodity definitions and revises the regulations on the interaction of crop group tolerances with processed food, meat, milk, and egg tolerances. These revisions will promote greater use of crop groupings for tolerance-setting purposes, both domestically and in countries that export food to the United States. This is the fourth in a series of planned crop group updates.

DATES: This final rule is effective July 5, 2016.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2006–0766, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. 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 OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For general information contact: Ramé Cromwell, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–9068; email address: *cromwell.rame@epa.gov.*

For technical information contact: Barbara Madden, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–001; telephone number: (703) 305–6463; email address: *madden.barbara@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer or food 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).

II. Background

A. What action is the Agency taking?

This final rule revises EPA's regulations governing crop group tolerances for pesticides. Specifically, this rule creates five new crop groups, three new and two revised commodity definitions, and revises the regulations on the interaction of crop group tolerances with processed food, meat, milk, and egg tolerances. This final rule is the fourth in a series of crop group updates expected to be promulgated in the next several years.

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

This rule is issued under the authority of section 408(e)(1)(C) of the Federal Food, Drug and Cosmetic Act (FFDCA), which authorizes EPA to establish ''general procedures and requirements to implement (section 408).'' 21 U.S.C. 346a(e)(1)(C). Under FFDCA section 408, EPA establishes tolerances for pesticide chemical residues in or on food, where there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue. A tolerance is the maximum permissible residue level established for a pesticide in raw agricultural produce and processed foods. The crop group regulations currently in 40 CFR 180.40 and 180.41 enable the establishment of tolerances for a crop group based on residue data for certain crops that are representative of the group.

III. The Proposed Rule

EPA published a notice of proposed rulemaking in the **Federal Register** on November 14, 2014 (79 FR 68153) (FRL–9918–40). Written comments were received from seven parties in response to the proposal: Three private citizens, the University of Hawaii, the Hawaii Farm Bureau Federation, the Minor Crop Farmer Alliance, and the Interregional Research Project Number (IR–4).

IV. Response to Comments

In this unit, EPA describes the major provisions of the proposed rule, the comments received on each provision, EPA's responses to those comments, and

EPA's determination regarding the final rule.

A. Crop Group 4–16: Leafy Vegetable Group

1. *Revise the proposed crop group name.* EPA is adopting its proposal to expand ''Crop Group 4: Leafy Vegetables (Except *Brassica* Vegetables) Group'' to both add and remove commodities and to restructure the group. EPA revises the name of the new crop group to ''Crop Group 4–16: Leafy Vegetable Group.'' Although the new crop group was proposed as ''Crop Group 4–14: Leafy Vegetable Group'', this change is needed in order to reflect the correct year of establishment, which is 2016. The final rule retains the pre-existing Crop Group 4 as described in Unit VI.

2. *Add new commodities.* The final rule expands the leafy vegetable crop group from the existing 27 commodities to 62 commodities in Crop Group 4–16: Leafy Vegetable Group.

3. *Revise representative commodities for new crop group.* The final rule retains the proposed four representative commodities for Crop Group 4–16: Head lettuce, leaf lettuce, mustard greens, and spinach.

EPA received an anonymous comment to make lettuce a separate subgroup under Crop Group 4–16 and adopt other crops as representative crops for Crop Group 4–16. The commenter indicated that lettuce is intolerant of most herbicides and proposed that lettuce be established as a separate subgroup and other crops be adopted as better representative commodities for the crop group. However, the commenter did not provide any additional information or suggest what alternative crop would be more appropriate as the representative crop. To address this comment, EPA reviewed data for all commodities included in the proposed Crop Group 4–16, including the commodities that would be appropriate for inclusion in Leafy Green subgroup 4–16A and *Brassica* Leafy Greens subgroup 4–16B. EPA has determined that lettuce would continue to be appropriately included in Crop Group 4 with the other vegetables based on similarities in the plant morphology; cultural practices; similar pest problems; the similar edible food portions and lack of livestock feed portions; potential to result in similar dietary exposure to pesticide residues; similarities in geographical locations and processing techniques; and the established tolerances for commodities currently within subgroup 4A (Ref. 1). Similarly, the Agency is including lettuce in subgroup 4–16A based on similarities in plant morphology; cultural practices; pest problems; the edible food portions and lack of livestock feed portions; potential to result in similar dietary exposure to pesticide residues; and similarities in geographical locations and processing techniques; and the established tolerances for commodities currently within subgroup 4A (Ref. 1). EPA expects that all proposed members of the crop subgroup 4–16A will generally have similar residue levels based on these similarities and has determined that it is appropriate to include the proposed commodities, including lettuce, in Crop Group 4–16 and subgroup 4–16A.

In determining the appropriate representative commodities for this crop group and subgroup, the Agency considered which commodities are most likely to contain the highest residues; to be the highest produced and/or consumed; and to be similar in morphology, growth habit, pest problems, and edible portion to the related commodities within a group or subgroup. EPA determined that head lettuce, leaf lettuce, mustard greens, and spinach are the appropriate representatives for the crop group, because these commodities account for >95% of the total leafy vegetable harvested acres reported in the United States Department of Agriculture (USDA) Census of Agriculture and are also the highest consumed commodities on a per capita basis in the group. These commodities have a long regulatory history as being representative commodities for Crop Groups 4 and 5 (Ref. 1).

4. *New subgroups.* The final rule retains the proposed addition of two subgroups to the revised Crop Group 4–16.

i. *Leafy greens subgroup 4–16A.* (Representative commodities- Head lettuce, Leaf lettuce, and Spinach). Forty-two commodities are included in this subgroup.

ii. *Brassica leafy greens subgroup 4–16B.* (Representative commodity- Mustard greens). Twenty commodities are included in this subgroup.

B. Crop Group 5–16: Head and Stem Brassica Vegetable Group

EPA proposed to remove commodities and to restructure existing Crop Group 5, as *Brassica* (Cole) Leafy Vegetables Crop Group 5–16. EPA received no comments on this proposal and therefore is adopting the proposed changes as final with one minor modification. EPA is revising the name of the new crop group to ''Crop Group 5–16: Head and Stem *Brassica* Vegetable Group.'' Although the new crop group was proposed as ''Crop Group 5–14: Head and Stem Brassica Vegetable Group'', this change is needed to reflect the correct year of establishment, which is 2016.

1. *Revise existing commodities.* The final rule revises Crop Group 5–16 to include five commodities.

2. *Revise representative commodities.* The final rule revises the representative commodities for Crop Group 5–16 by designating Broccoli or Cauliflower, and Cabbage as the representative commodities.

3. *Remove subgroups.* The final rule adopts the proposal not to include subgroups in Crop Group 5–16.

EPA received no comments on this provision and adopts its proposal without change.

C. New Crop Group 22: Stalk, Stem and Leaf Petiole Group

EPA received no comments on the addition of this new Crop Group and adopts its proposal without change.

1. *Commodities.* The final rule adopts 19 commodities to the new Crop Group 22.

2. Representative Commodities. The final rule adopts the proposed Asparagus and Celery as representative commodities.

3. *New Subgroups.* The final rule adopts the proposed two subgroups to the new Crop Group 22.

i. Stalk and stem vegetable subgroup 22A. (Representative commodity- Asparagus). Twelve commodities are included in this subgroup.

ii. *Leaf petiole vegetable subgroup 22B.* (Representative commodity- Celery). Seven commodities are included in this subgroup.

4. *Amendment to Definitions and Interpretations.* In conjunction with new Crop Group 22, EPA is adopting two new commodity definitions that were proposed for Fern, edible and Palm hearts to be added to § 180.1(g), as specified in this final rule.

No comments were submitted on this provision, and EPA adopts its proposal without change.

D. New Crop Group 23: Tropical and Subtropical Fruit, Edible Peel Group

EPA received three comments to the proposed Crop Group 23. The Agency received one comment about the proposed representative commodity for Crop subgroup 23A, which is addressed in Unit IV D.2, and another comment about a commodity definition for guava, which is addressed in Unit IV D.4. Additionally, EPA received a comment from IR–4 requesting that Achachairú (*Garcinia gardneriana* (Planch. & Triana) Zappi) be added to the proposed

Crop subgroup 24B. After reviewing the comment and considering available information, EPA determined that it would be appropriate to include Achachairú in Subtropical Fruit, medium to large fruit, edible peel subgroup 23B; this is addressed in Unit IV D.3.

The Agency also received a comment on the name ''Tropical and Subtropical'' being removed from the proposed subgroups titled ''small fruit, edible peel subgroup 23A'', '' medium to large fruit, edible peel subgroup 23B'', and ''palm fruit, edible peel subgroup 23C''. According to the commenter, these names could result in misunderstanding of what commodities are included in the adopted Crop Group 23.

EPA agrees with the commenter that removal of the names ''Tropical and Subtropical'' from the adopted subgroups could result in misunderstandings and has changed the subgroup names as follows: ''Tropical and Subtropical, small fruit, edible peel subgroup 23A''; ''Tropical and Subtropical, medium to large fruit, edible peel subgroup 23B''; and ''Tropical and Subtropical, palm fruit, edible peel subgroup 23C''. EPA is adopting its proposal with these changes to the subgroup names.

1. *Commodities.* The final rule adopts 109 commodities to the new Crop Group 23.

2. *Representative Commodities.* The final rule adopts the proposed Olive, Fig, Guava, and Date as representative commodities after consideration of one comment received concerning the representative commodity for Crop subgroup 23A, Olive.

An anonymous commenter provided, in part, the following comment: ''Having only a cool, subtropical fruit crop, *i.e.,* olive, as the representative for numerous tropical fruit crops . . . will make conducting residue trials for these crops unlikely since these crops are not adapted to nor grown in cool, Mediterranean-like climates but in tropical regions.'' The commenter recommended that the EPA find a different representative commodity for subgroup 23A and suggested that wax jambu or perhaps Costa Rican guava would be good choices. In response, EPA notes that there should not be a need to conduct residue trials for the other crops in the subgroup because the basis for crop grouping is that data for the representative commodity can be used to establish tolerances for the other commodities in the subgroup. Additionally, representative commodities are selected based on commodities most likely to contain the highest residues; to be the highest produced and/or consumed; to be similar in morphology, growth habit, pest problems and edible portion to the related commodities within a group or subgroup; and to have production in the United States. EPA determined olive is the appropriate representative for subgroup 23A for several reasons. First, in general, the smaller the fruit, the larger the ratio of surface area to weight; therefore, pesticide deposits on olives are expected to be higher than on wax jambu or Costa Rican guava. Because of their size, olives are expected to have a higher residue than wax jambu or Costa Rican guava. Second, olives account for most of the harvested U.S. acres for the members of subgroup 23A, whereas (as noted by the commenter) wax jambu and Costa Rican guava are primarily grown outside of the United States. Finally, the commodities in subgroup 23A are similar in fruit surface area, edible portions, and cultural practices.

3. *New Subgroups.* The final rule adopts the proposed three subgroups to the new Crop Group 23.

i. *Tropical and Subtropical, small fruit, edible peel subgroup 23A.* (Representative commodity—Olive). Fifty-six commodities are included in this subgroup.

ii. *Tropical and Subtropical, medium to large fruit, edible peel subgroup 23B.* (Representative commodities—Fig and Guava*).* Forty-four commodities are included in this subgroup after consideration of one comment received concerning the addition of a commodity.

EPA received a comment from IR–4 requesting that Achachairú (*Garcinia gardneriana* (Planch. & Triana) Zappi) be added to the proposed Crop subgroup 24B. After reviewing the comment and considering available information, EPA determined that the peel for Achachairú is edible and is used in fruit drinks. Therefore, EPA determined that it would be appropriate to include Achachairú in the Tropical and Subtropical Fruit, medium to large fruit, edible peel subgroup 23B. USDA APHIS indicates Achachairú is already being legally imported into the U.S., and therefore, being a member of the crop group will help avoid tolerance and import issues with this crop.

iii. *Tropical and Subtropical, Palm fruit, edible peel subgroup 23C.* (Representative commodity—Date). Nine commodities are included in this subgroup.

4. *Amendment to Definitions and Interpretations.* IR–4 originally petitioned the EPA to develop a new crop definition for guava to include many of the closely related genus *(Psidium),* species and varieties. EPA did not propose such a definition in the proposed rule and concluded that a guava definition was not necessary because it is one of the proposed representative commodities for crop subgroup 23B, ''Tropical and Subtropical, medium to large fruit, edible peel subgroup''. In conjunction with new Crop Group 23, EPA received a comment to the proposed rule from IR–4 that stated, in part: ''. . . IR–4 believes that this definition [for guava] is necessary because both fig and guava are required as representative commodities for Crop Subgroup 23B and all of the related guava varieties and subspecies would not be covered except with a subgroup tolerance.''

Upon review of the comment from IR–4, EPA agrees that a commodity definition for guava will be helpful to provide additional information on the closely related species and varieties of guava that are included for the commodity. Therefore, in conjunction with new Crop Group 23 and Crop Subgroup 23B, EPA is adopting a commodity definition for Guava to be added to § 180.1(g).

No additional comments were submitted on this provision, and EPA adopts its proposal with the changes noted in the previous discussion.

E. Crop Group 24: Tropical and Subtropical Fruit, Inedible Peel Group

EPA received several comments to the proposed Crop Group 24, which are individually addressed in this unit.

The Agency received a comment objecting to ''Tropical and Subtropical'' being removed from the proposed subgroups titled ''Small Fruit, inedible peel subgroup 24A''; ''medium to large fruit, smooth, inedible peel subgroup 24B''; ''medium to large fruit, rough or hairy, inedible peel subgroup 24C''; ''Inedible Peel, cactus subgroup 24D''; and ''Inedible Peel, vine subgroup 24E''. The commenter stated these names could result in misunderstanding of which commodities are included in the adopted Crop Group 24.

EPA agrees with the commenter that removal of the names ''Tropical and Subtropical'' from the adopted subgroups as proposed, could result in misunderstanding. For clarity the subgroups will be named as follows: ''Tropical and Subtropical, small fruit, inedible peel subgroup 24A''; ''Tropical and Subtropical, medium to large fruit, smooth, inedible peel subgroup 24B''; ''Tropical and Subtropical, medium to large fruit, rough or hairy, inedible peel subgroup 24C''; ''Tropical and Subtropical, inedible peel, cactus subgroup 24D''; and ''Tropical and

Subtropical, inedible peel, vine subgroup 24E''.

1. *Commodities.* The final rule adopts 104 commodities to the new Crop Group 24.

2. *Representative Commodities.* The final rule adopts the proposed Atemoya or Sugar apple; Avocado; Pomegranate or Banana; Dragon fruit; Prickly pear, fruit; Lychee; Passionfruit; and Pineapple as representative commodities.

3. *New Subgroups.* The final rule adopts the proposed five subgroups to the new Crop Group 24.

i. *Tropical and Subtropical, Small fruit, inedible peel subgroup 24A.* (Representative commodity—Lychee). Nineteen commodities are included in the subgroup.

EPA received a comment from the University of Hawaii, requesting removal of Longan from subgroup 24C and placing it in Crop subgroup 24A. The request is based on the size and texture of the fruit although it is similar to lychee, the adopted representative commodity for subgroup 24A.

EPA agrees with the commenter to move Longan from Crop subgroup 24C to Crop subgroup 24A. Therefore, nineteen commodities are now in subgroup 24A.

ii. *Tropical and Subtropical, medium to large fruit, smooth, inedible peel subgroup 24B.* (Representative commodities—Avocado, plus Pomegranate or Banana) Forty-two commodities are included in this subgroup.

iii. *Tropical and Subtropical, medium to large fruit, rough or hairy, inedible peel subgroup 24C.* (Representative commodities—Pineapple, plus atemoya or sugar apple). 26 commodities are included in this subgroup.

As stated previously, the final rule moves Longan from the proposed Crop subgroup 24C to Crop subgroup 24A. Therefore, there are now 26 commodities included in this subgroup.

iv. *Tropical and Subtropical, Inedible peel, cactus subgroup 24D.* (Representative commodities—Dragon fruit and Prickly pear fruit). Nine commodities are included in this subgroup.

v. *Tropical and Subtropical, Inedible peel, vine subgroup 24E.* (Representative commodity—Passionfruit). Eight commodities are included in this subgroup.

No additional comments were submitted on this provision, and EPA adopts its proposal without change.

F. Other Changes

No comments were submitted on the proposed ''other changes'' provisions, and EPA adopts its proposal without change.

G. Other Comments

EPA received one comment from the Hawaii Farm Bureau Federation requesting that EPA ensure the opportunity for some other orphan crops grown in Hawaii to be listed in future crop groupings scenarios. Those crops of concern are coffee *(Coffea arabica),* tea *(Camellia sinensis),* awa/kava *(Piper methysticum),* moringa *(Moringa oleifera),* and noni *(Morinda citrifolia).*

The primary reasons for the on-going crop grouping effort is to include as many orphan crops into groups, as appropriate, to facilitate trade and to provide tools for producers of minor and specialty crops. EPA is making every effort to include all appropriate commodities into crop groups. The crop groups discussed in this document are based on five petitions developed by the International Crop Grouping Consulting Committee (ICGCC) workgroup and submitted to EPA by IR–4. EPA encourages the Hawaii Farm Bureau Federation to participate in the ICGCC to ensure all commodities important to their growers are considered. Additionally, just as with this action, there will be an opportunity to provide comments on any future proposed crop groups.

One commenter disagreed with placing Kei apple *(Dovyalis caffra)* and Sapote, white *(Casimiroa edulis)* in Crop Group 24. The commenter believes the edible peel of the fruit should place the fruits in Crop Group 23. EPA does not agree that Crop Group 23 is appropriate for these two commodities. Kei apples are small, petalless, and clustered in the leaf axils. The aromatic fruit is oblate or nearly round and long, with bright yellow, smooth but minutely downy, somewhat tough skin. Aromatic fruit is also mealy, apricot-textured, juicy, and has highly acid flesh. Most people consider the fruit too acidic for eating out-of-hand even when fully ripe. The skin for Sapote, white is thin, papery, smooth, inedible, and covered with a very thin waxy bloom. The skin should be thickly peeled to remove the bitter flesh underneath. Fruit can also be halved and the pulp can be scooped out.

V. The Final Rule

After fully considering all comments, EPA is amending the names of a few commodities, and adopting changes to its proposal as discussed in Unit IV. EPA is otherwise finalizing the rule as proposed, and based on the rationales set forth in the proposed rule.

VI. Implementation

When an existing crop group is amended in a manner that expands or contracts its coverage of commodities, EPA will retain the pre-existing crop group in § 180.41; insert the revised crop group immediately after the pre-existing crop group in § 180.41; and title the revised crop group in a way that clearly differentiates it from the pre-existing crop group.

The revised crop group will retain roughly the same name and number as the pre-existing group, except the number will be followed by a hyphen and the final digits of the year established (*e.g.,* Crop Group 4–16).

EPA will initially retain pre-existing crop groups that have been superseded by revised crop groups. EPA will not establish new tolerances under the pre-existing groups. Further, EPA plans to eventually convert tolerances for any pre-existing crop group to tolerances with coverage under the revised crop group. This conversion will occur through the registration review process and in the course of evaluating new uses for a pesticide registration. EPA requests that petitioners for tolerances address crop grouping in their petitions. For existing petitions for which a Notice of Filing has been published, the Agency will attempt to conform these petitions to this rule.

VII. International Considerations

In the proposed rule, EPA described other related activities involving active participation by its North American Free Trade Agreement partners, Canada's Pest Management Regulatory Agency and the government of Mexico, IR–4, and the Codex Committee on Pesticide Residues. The goals of these activities remain minimizing differences within and among the United States and Codex groups and to develop representative commodities for each group that will be acceptable on an international basis, which in turn could lead to the increased harmonization of tolerances and MRL recommendations.

VIII. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Bernard A. Schneider, Ph.D. Selection of Representative Commodities and Processed Commodities. July 24, 2014. Docket ID number EPA–HQ–OPP–2006–0766.
2. EPA. Pesticide Tolerance Crop Grouping Program; Proposed Expansion; Proposed rule. **Federal Register** May 23, 2007 (77 FR 28920) (FRL–8126–1).
3. EPA. Pesticide Tolerance Crop Grouping Program; Final rule. **Federal Register** December 7, 2007 (72 FR 69150) (FRL–8343–1).

IX. Statutory and Executive Order Reviews

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

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review for review under Executive Orders 12866, October 4, 1993 (58 FR 51735) and 13563, January 21, 2011 (76 FR 3821).

EPA prepared an analysis of the potential costs and benefits associated with the first proposed rule issued in this series of updates (Ref. 2). This analysis, entitled ''Economic Analysis Proposed Expansion of Crop Grouping Program,'' is available in the docket. Because the costs and benefits of each update to the crop grouping rule are essentially the same, and generally involve reductions in regulatory burdens and costs, EPA believes the May 23, 2007 economic analysis continues to be applicable. This was discussed in Unit V. of the proposed rule for Group IV, and EPA did not receive any comments on the analysis or EPA's findings.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection requirements that would require additional review or approval by OMB under the PRA, 44 U.S.C. 3501 *et seq.* However, this action is expected to reduce paperwork burdens associated with submissions for tolerance related actions. For example, it may reduce the number of residue chemistry studies required to establish a tolerance for a crop within these groups because instead of testing each crop, only the representative crops would need to be tested under a crop grouping scheme.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule.

This action provides regulatory relief and regulatory flexibility. The new crop groups ease the process for an entity to request and for EPA to set pesticide tolerances on greater numbers of crops. Pesticides will be more widely available to growers for use on crops, particularly specialty crops. This action is not expected to have any adverse impact on any entities, regardless of size.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded federal mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. Accordingly, this action is not subject to the requirements of UMRA, 2 U.S.C. 1501 *et seq.*

E. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132, August 10, 1999 (64 FR 43255). It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Thus, Executive Order 13132 does not apply to this action.

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

This action does not have tribal implications as specified in Executive Order 13175, November 9, 2000 (65 FR 67249). This action will not have any effect on tribal governments, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045, April 23, 1997 (62 FR 19885) as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, May 22, 2001 (66 FR 28355), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards that would require the consideration of voluntary consensus standards pursuant to NTTAA section 12(d), 15 U.S.C. 272 note.

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

This action does not involve special consideration of environmental justice related issues as specified in Executive Order 12898, February 16, 1994 (59 FR 7629). This action does not address human health or environmental risks or otherwise have any disproportionate high and adverse human health or environmental effects on minority, low-income or indigenous populations.

IX. Congressional Review Act

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Commodities, Pesticides and pests.

Dated: April 22, 2016.

James Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321 (q), 346a and 371.

■ 2. In § 180.1:

■ i. Revise the entries for ''Broccoli'' and ''Sugar apple'' in the table in paragraph (g).

■ ii. Add in alphabetical order the entries ''Fern, edible, fiddlehead'', ''Guava'', and ''Palm hearts'' to the table in paragraph (g).

The additions and revisions read as follows:

§ 180.1 Definitions and interpretations.

* * * * *

(g) * * *

A	B
*	*
Broccoli	Broccoli, Chinese broccoli (gai lon, white flowering broccoli).
*	*
Fern, edible, fiddlehead	Fern, edible, fiddlehead including: Black lady fern, *Deparia japonica* (Thunb.) M. Kato; Bracken fern, *Pteridium aquilinum* (L.) Kuhn; Broad buckler fern, *Dryopteris dilatata* (Hoffm.) A. Gray; Cinnamon fern, *Osmundastrum cinnamomeum* (L.) C. Presl; Lady fern, *Athyrium filix-femina* (L.) Roth ex Mert.; Leather fern, *Acrostichum aureum* L.; Mother fern, *Diplazium proliferum* (Lam.) Thouars; Ostrich fern, *Matteuccia struthiopteris* (L.) Tod.; Vegetable fern, *Diplazium esculentum* (Retz.) Sw.; Zenmai fern, *Osmuda japonica* Thunb.
*	*
Guava	Guava (*Psidium guajava* L.); Guava, cattley (*Psidium cattleyanum* Sabine); Guava, Para (*Psidium acutangulum* DC.); Guava, purple strawberry (*Psidium cattleyanum* Sabine var. *cattleyanum*); Guava, strawberry (*Psidium cattleyanum* Sabine var. *littorale* (Raddi) Fosberg); Guava, yellow strawberry (*Psidium cattleyanum* Sabine var. *cattleyanum* forma *lucidum* O. Deg.)
*	*
Palm hearts	Palm hearts, various species, including: African fan palm, *Borassus aethiopum* Mart.; Cabbage palm, *Euterpe oleracea* Mart.; Cabbage palmetto, *Sabal palmetto* (Walter) Schult. & Schult. f.; Coconut, *Cocos nucifera* L.; Palmyra palm, *Borassus flabellifera* L.; Peach Palm, *Bactris gasipaes* Kunth; Royal palm, *Roystonea oleracea* (Jacq.) O.F. Cook; Salak palm, *Salacca zalacca* (Gaertn.) Voss; Saw palmetto, *Serenoa repens* (W. Bartram) Small; Wine palm, *Raphia* spp.
*	*
Sugar apple	*Annona squamosa* L. and its hybrid atemoya (*Annona cherimola* Mill X A. s*quamosa* L.) Also includes true custard apple (*Annona reticulata* L.).
*	*

* * * * *

■ 3. In § 180.40, revise paragraphs (e) and (f) to read as follows:

§ 180.40 Tolerances for crop groups.

* * * * *

(e) Since a group tolerance reflects maximum residues likely to occur on all individual crops within a group, the proposed or registered patterns of use for all crops in the group or subgroup must be similar before a group tolerance is established. The pattern of use consists of the amount of pesticide applied, the number of times applied, the timing of the first application, the interval between applications, and the interval between the last application and harvest. The pattern of use will also include the type of application; for example, soil or foliar application, or application by ground or aerial equipment. Additionally, since a group tolerance reflects maximum residues likely to occur on all individual foods within a group, food processing practices must be similar for all crops in the group or subgroup if the processing practice has the potential to result in residues in a processed commodity at a higher concentration than the raw agricultural commodity.

(f)(1) *General.* EPA will not establish a crop group for a pesticide unless all tolerances made necessary by the presence of pesticide residues in the crop group commodities have been issued or are being issued simultaneously with the crop group tolerance. For purposes of paragraph (f)(1):

(i) Necessary tolerances for residues resulting from crop group tolerances include:

(A) Tolerances for processed food, including processed animal feed, to the extent needed under FFDCA section 408(a)(2).

(B) Tolerances for raw commodities not covered by the crop group tolerance that are derivative of commodities in the group.

(C) Tolerances for meat, milk, or egg products that may contain residues as a result of livestock's consumption of animal feed containing pesticide residues to the extent needed under § 180.6(b).

(ii) Notwithstanding the foregoing, a tolerance is not considered necessary for processed food, derivative raw commodities, or meat, milk, and eggs if the precursor raw commodities are grown solely for sale as raw commodities and are completely segregated from commodities grown for the purpose of producing processed foods, derivative raw commodities, and commodities, or fractions thereof, that are used as animal feed.

(2) *Processed commodity and related raw commodity crop group tolerances.* EPA may establish crop group tolerances for processed commodities or fractions of commodities (*e.g.,* bran and flour from the Cereal Grains Group), including processed fractions used as animal feed (*e.g.,* pomace from the Pome Fruit Group), produced from crops in the crop groups in § 180.41. EPA may establish crop group tolerances for raw commodities or fractions of commodities, including fractions used as animal feed, derived from commodities covered by the crop groups in § 180.41 (*e.g.,* aspirated grain dust associated with the Cereal Grains Group). Crop group tolerances on processed foods and derivative raw commodities may be based on data on representative commodities for associated crop group. Paragraphs (c), (d), (e), (g), and (h) of § 180.40 apply to

group tolerances authorized by paragraph (f)(2).

(3) *Representative crops.* Unless indicated otherwise in §§ 180.40 and 180.41, the processed food and feed forms of the representative crops for a crop group are considered to be representative of the processed food and feed forms and any derivative raw commodities not covered by the crop group, that are produced from any of the raw agricultural commodities covered by the crop group tolerance. Additionally, unless indicated otherwise in §§ 180.40 and 180.41, representative commodities for such crop groups are selected taking into consideration whether their use as animal feed will result in residues in or on meat, milk, and/or eggs at a level representative of the residues that would result from use of the other commodities or byproducts in the crop group as an animal feed.

(4) *Data.* Processing data on representative crops are required prior to establishment of a group tolerance if the processing of the representative commodity has the potential to result in residues in a processed commodity at a higher concentration than in the representative commodity. Residue data are required on raw commodities derived from the crops in the crop group tolerance but not directly covered by the tolerance. Animal feeding studies with a representative crop are required if the representative crop is used as a significant animal feed.

* * * * *

■ 4. In § 180.41:

■ i. Revise paragraph (b).

■ ii. Redesignate paragraphs (c)(6) through (28) as paragraphs (c)(7) through (29), respectively.

■ iii. Add a new paragraph (c)(6).

■ iv. Redesignate newly redesignated paragraphs (c)(8) through (29) as paragraphs (c)(9) through (30), respectively.

■ v. Add a new paragraph (c)(8).

■ vi. Revise newly redesignated paragraphs (c)(25)(ii), (c)(26)(ii), and (c)(27)(ii) introductory text.

■ vii. Add paragraphs (c)(31), (32), and (33).

The additions and revisions read as follows:

§ 180.41 Crop group tables.

* * * * *

(b) Commodities not listed are not considered as included in the groups for the purposes of paragraph (b), and individual tolerances must be established. Miscellaneous commodities intentionally not included in any group include globe artichoke, hops, peanut, and water chestnut.

(c) * * *

(6) *Crop Group 4–16.* Leafy Vegetable Group.

(i) *Representative commodities.* Head lettuce, leaf lettuce, mustard greens, and spinach.

(ii) *Commodities.* The following Table 1 lists all commodities included in Crop Group 4–16.

TABLE 1—CROP GROUP 4–16: LEAFY VEGETABLE GROUP

Commodities	Related crop subgroups
Amaranth, Chinese (*Amaranthus tricolor* L.)	4–16A
Amaranth, leafy (*Amaranthus* spp.)	4–16A
Arugula (*Eruca sativa* Mill.)	4–16B
Aster, Indian (*Kalimeris indica* (L.) Sch. Bip.)	4–16A
Blackjack (*Bidens pilosa* L.)	4–16A
Broccoli, Chinese (*Brassica oleracea* var. *alboglabra* (L.H. Bailey) Musil)	4–16B
Broccoli raab (*Brassica ruvo* L.H. Bailey)	4–16B
Cabbage, abyssinian (*Brassica carinata* A. Braun)	4–16B
Cabbage, Chinese, bok choy (*Brassica rapa* subsp. *chinensis* (L.) Hanelt)	4–16B
Cabbage, seakale (*Brassica oleracea* L. var. *costata* DC.)	4–16B
Cat's whiskers (*Cleome gynandra* L.)	4–16A
Cham-chwi (*Doellingeria scabra* (Thunb.) Nees)	4–16A
Cham-na-mul (*Pimpinella calycina* Maxim)	4–16A
Chervil, fresh leaves (*Anthriscus cerefolium* (L.) Hoffm.)	4–16A
Chipilin (*Crotalaria longirostrata* Hook & Arn)	4–16A
Chrysanthemum, garland (*Glebionis coronaria* (L.) Cass. ex Spach. *Glebionis* spp.)	4–16A
Cilantro, fresh leaves (*Coriandrum sativum* L.)	4–16A
Collards (*Brassica oleracea L.* var. *viridis* L.)	4–16B
Corn salad (*Valerianella* spp.)	4–16A
Cosmos (*Cosmos caudatus* Kunth)	4–16A
Cress, garden (*Lepidium sativum* L.)	4–16B
Cress, upland (*Barbarea vulgaris* W.T. Aiton)	4–16B
Dandelion, leaves (*Taraxacum officinale* F.H. Wigg. Aggr.)	4–16A
Dang-gwi, leaves (*Angelica gigas Nakai)*	4–16A
Dillweed (*Anethum graveolens* L.)	4–16A
Dock (*Rumex patientia* L.)	4–16A
Dol-nam-mul (*Sedum sarmentosum* Bunge)	4–16A
Ebolo (*Crassocephalum crepidioides* (Benth.) S. Moore)	4–16A
Endive (*Cichorium endivia* L.)	4–16A
Escarole (*Cichorium endivia* L.)	4–16A
Fameflower (*Talinum fruticosum* (L.) Juss.)	4–16A
Feather cockscomb (*Glinus oppositifolius* (L.) Aug. DC.)	4–16A
Good King Henry (*Chenopodium bonus-henricus* L.)	4–16A
Hanover salad (*Brassica napus* var. *pabularia* (DC.) Rchb.)	4–16B
Huauzontle (*Chenopodium berlandieri* Moq.)	4–16A
Jute, leaves (*Corchorus spp.*)	4–16A
Kale (*Brassica oleracea* L. var. *Sabellica* L.)	4–16B
Lettuce, bitter (*Launaea cornuta* (Hochst. ex Oliv. & Hiern) C. Jeffrey)	4–16A
Lettuce, head (*Lactuca sativa* L.; including *Lactuca sativa* var. *capitata* L.)	4–16A
Lettuce, leaf (*Lactuca sativa* L.; including *Lactuca sativa* var. *longifolia* Lam.; *Lactuca sativa* var. *crispa* L.)	4–16A
Maca, leaves (*Lepidium meyenii* Walp.)	4–16B

TABLE 1—CROP GROUP 4–16: LEAFY VEGETABLE GROUP—Continued

Commodities	Related crop subgroups
Mizuna (*Brassica rapa* L. subsp. *nipposinica* (L.H. Bailey) Hanelt)	4–16B
Mustard greens (*Brassica juncea* subsp., including *Brassica juncea* (L.) Czern. subsp. *integrifolia* (H. West) Thell., *Brassica juncea* (L.) Czern. var. *tsatsai* (T.L. Mao) Gladis)	4–16B
Orach (*Atriplex hortensis* L.)	4–16A
Parsley, fresh leaves (*Petroselinum crispum* (Mill.) Fuss; *Petroselinum crispum* var. *neapolitanum* Danert)	4–16A
Plantain, buckthorn (*Plantago lanceolata* L.)	4–16A
Primrose, English (*Primula vulgaris* Huds.)	4–16A
Purslane, garden (*Portulaca oleracea* L.)	4–16A
Purslane, winter (*Claytonia perfoliata* Donn ex Willd.)	4–16A
Radicchio (*Cichorium intybus* L.)	4–16A
Radish, leaves (*Raphanus sativus* L. var *sativus,* including *Raphanus sativus* L. var. *mougri* H. W. J. Helm (*Raphanus sativus* L. var. *oleiformis* Pers)	4–16B
Rape greens (*Brassica napus* L. var. *napus,* including *Brassica rapa* subsp. *trilocularis* (Roxb.) Hanelt; *Brassica rapa* subsp. *dichotoma* (Roxb.) Hanelt; *Brassica rapa* subsp. *oleifera* Met)	4–16B
Rocket, wild (*Diplotaxis tenuifolia* (L.) DC.)	4–16B
Shepherd's purse (*Capsella bursa-pastoris* (L.) Medik)	4–16B
Spinach (*Spinacia oleracea* L.)	4–16A
Spinach, Malabar (*Basella alba* L.)	4–16A
Spinach, New Zealand (*Tetragonia tetragonioides* (Pall.) Kuntze)	4–16A
Spinach, tanier (*Xanthosoma brasiliense* (Desf.) Engl.)	4–16A
Swiss chard (*Beta vulgaris* L. ssp. v*ulgaris*)	4–16A
Turnip greens (*Brassica rapa* L. ssp. *rapa*)	4–16B
Violet, Chinese, leaves (*Asystasia gangetica* (L.) T. Anderson)	4–16A
Watercress (*Nasturtium officinale* W.T. Aiton)	4–16B
Cultivars, varieties, and hybrids of these commodities.	

(iii) *Crop subgroups.* The following Table 2 identifies the crop subgroups for Crop Group 4–16, specifies the representative commodities for each subgroup, and lists all the commodities included in each subgroup.

TABLE 2—CROP GROUP 4–16: SUBGROUP LISTING

Representative commodities	Commodities
Crop Subgroup 4–16A. Leafy greens subgroup	
Head lettuce, leaf lettuce, and spinach	Amaranth, Chinese; amaranth, leafy; aster, Indian; blackjack; cat's whiskers; cham-chwi; cham-na-mul; chervil, fresh leaves; chipilin; chrysanthemum, garland; cilantro, fresh leaves; corn salad; cosmos; dandelion, leaves; dang-gwi, leaves; dillweed; dock; dol-nam-mul; ebolo; endive; escarole; fameflower; feather cockscomb; Good King Henry; huauzontle; jute, leaves; lettuce, bitter; lettuce, head; lettuce, leaf; orach; parsley, fresh leaves; plantain, buckhorn; primrose, English; purslane, garden; purslane, winter; radicchio; spinach; spinach, Malabar; spinach, New Zealand; spinach, tanier; Swiss chard; violet, Chinese, leaves; cultivars, varieties, and hybrids of these commodities.
Crop Subgroup 4–16B. *Brassica* leafy greens subgroup	
Mustard greens	Arugula; broccoli, Chinese; broccoli raab; cabbage, abyssinian; cabbage, Chinese, bok choy; cabbage, seakale; collards; cress, garden; cress, upland; hanover salad; kale; maca, leaves; mizuna; mustard greens; radish, leaves; rape greens; rocket, wild; shepherd's purse; turnip greens; watercress; cultivars, varieties, and hybrids of these commodities.

* * * * *

(8) *Crop Group 5–16. Brassica* Head and Stem Vegetable Group.

(i) *Representative commodities.* Broccoli or cauliflower and cabbage.

(ii) *Commodities.* The following List 1 contains all commodities included in Crop Group 5–16.

LIST 1—CROP GROUP 5–16: BRASSICA HEAD AND STEM VEGETABLE GROUP

Commodities
Broccoli (*Brassica oleracea* L. var. *italica* Plenck)
Brussels sprouts (*Brassica oleracea* L. var. *gemmifera* (DC.) Zenker)
Cabbage (*Brassica oleracea* L. var. *capitata* L.)
Cabbage, Chinese, napa (*Brassica rapa* L. subsp. *pekinensis* (Lour.) Hanelt)

LIST 1—CROP GROUP 5–16: BRASSICA HEAD AND STEM VEGETABLE GROUP—Continued

Commodities
Cauliflower (*Brassica oleracea* L. var. *capitata* L)
Cultivars, varieties, and hybrids of these commodities.

* * * * *

(25) * * *

(ii) *Commodities.* The commodities included in Crop Group 16 are: Forage,

fodder, stover, and straw of all commodities included in the group cereal grains group. EPA may establish separate group tolerances on forage, fodder, hay, stover, or straw, if data on the representative commodities indicate differences in the levels of residues on forage, fodder, stover, or straw.

(26) * * *

(ii) *Commodities.* The commodities included in Crop Group 17 are: Forage, fodder, stover, and hay of any grass, *Gramineae/Poaceae* family (either green or cured) except sugarcane and those included in the cereal grains group, that will be fed to or grazed by livestock, all pasture and range grasses and grasses grown for hay or silage. EPA may establish separate group tolerances on forage, fodder, stover, or hay, if data on the representative commodities indicate differences in the levels of residues on forage, fodder, stover, or hay.

(27) * * *

(ii) *Commodities.* EPA may establish separate group tolerances on forage, fodder, straw, or hay, if data on the representative commodities indicate differences in the levels of residues on forage, fodder, straw, or hay. The following is a list of all the commodities included in Crop Group 18:

* * * * *

(31) *Crop Group 22.* Stalk, Stem and Leaf Petiole Vegetable Group.

(i) *Representative commodities.* Asparagus and celery.

(ii) *Commodities.* The following Table 1 lists all commodities included in Crop Group 22.

TABLE 1—CROP GROUP 22: STALK, STEM AND LEAF PETIOLE VEGETABLE GROUP

Commodities	Related crop subgroups
Agave (*Agave* spp.)	22A
Aloe vera (*Aloe vera* (L.) Burm.f.)	22A
Asparagus (*Asparagus officinalis* L.)	22A
Bamboo, shoots (*Arundinaria* spp.; *Bambusa* spp., *Chimonobambusa* spp.; *Dendrocalamus* spp., *Fargesia* spp.; *Gigantochloa* spp., *Nastus elatus; Phyllostachys* spp.; *Thyrsostachys* spp.)	22A
Cardoon (*Cynara cardunculus* L.)	22B
Celery (*Apium graveolens* var. *dulce* (Mill.) Pers.)	22B
Celery, Chinese (*Apium graveolens* L. var. *secalinum* (Alef.) Mansf.)	22B
Celtuce (*Lactuca sativa* var. *angustana* L.H. Bailey)	22A
Fennel, Florence, fresh leaves and stalk (*Foeniculum vulgare* subsp. *vulgare* var. *azoricum* (Mill.) Thell.)	22A
Fern, edible, fiddlehead	22A
Fuki (*Petasites japonicus* (Siebold & Zucc.) Maxim.)	22B
Kale, sea (*Crambe maritima* L.)	22A
Kohlrabi (*Brassica oleracea* L. var *gongylodes* L.)	22A
Palm hearts (various species)	22A
Prickly pear, pads (*Opuntia ficus-indica* (L.) Mill., *Opuntia* spp.)	22A
Prickly pear, Texas, pads (*Opuntia engelmannii* Salm-Dyck ex Engelm. var. *lindheimeri* (Engelm.) B.D. Parfitt & Pinkav)	22A
Rhubarb (*Rheum x rhabarbarum* L.)	22B
Udo (*Aralia cordata* Thunb.)	22B
Zuiki (*Colocasia gigantea* (Blume) Hook. f.)	22B
Cultivars, varieties, and hybrids of these commodities.	

(iii) *Crop subgroups.* The following Table 2 identifies the crop subgroups for Crop Group 22, specifies the representative commodities for each subgroup, and lists all the commodities included in each subgroup.

TABLE 2—CROP GROUP 22: SUBGROUP LISTING

Representative commodities	Commodities
Crop Subgroup 22A. Stalk and stem vegetable subgroup	
Asparagus	Agave; aloe vera; asparagus; bamboo, shoots; celtuce; fennel, florence, fresh leaves and stalk; fern, edible, fiddlehead; kale, sea; kohlrabi; palm hearts; prickly pear, pads; prickly pear, Texas, pads; cultivars, varieties, and hybrids of these commodities.
Crop Subgroup 22B. Leaf petiole vegetable subgroup	
Celery	Cardoon; celery; celery, Chinese; fuki; rhubarb; udo; zuiki; cultivars, varieties, and hybrids of these commodities.

(32) *Crop Group 23.* Tropical and Subtropical Fruit, Edible Peel Group.

(i) *Representative commodities.* Date, fig, guava, and olive.

(ii) *Commodities.* The following Table 1 lists all commodities included in Crop Group 23.

TABLE 1—CROP GROUP 23: TROPICAL AND SUBTROPICAL FRUIT, EDIBLE PEEL GROUP

Commodities	Related crop subgroups
Açaí (*Euterpe oleracea* Mart.)	23C
Acerola (*Malpighia emarginata* DC.)	23A

TABLE 1—CROP GROUP 23: TROPICAL AND SUBTROPICAL FRUIT, EDIBLE PEEL GROUP—Continued

Commodities	Related crop subgroups
Achachairú (*Garcinia gardneriana* (Planch. & Triana) Zappi)	23B
African plum (*Vitex doniana* Sweet)	23A
Agritos (*Berberis trifoliolata* Moric.)	23A
Almondette (*Buchanania lanzan* Spreng.)	23A
Ambarella (*Spondias dulcis* Sol. ex Parkinson)	23B
Apak palm (*Brahea dulcis* (Kunth) Mart.)	23C
Appleberry (*Billardiera scandens* Sm.)	23A
Arazá (*Eugenia stipitata* McVaugh)	23B
Arbutus berry (*Arbutus unedo* L.)	23A
Babaco (*Vasconcellea* x *heilbornii* (V.M. Badillo) V.M. Badillo)	23B
Bacaba palm (*Oenocarpus bacaba* Mart.)	23C
Bacaba-de-leque (*Oenocarpus distichus* Mart.)	23C
Bayberry, red (*Morella rubra* Lour.)	23A
Bignay (*Antidesma bunius* (L.) Spreng.)	23A
Bilimbi (*Averrhoa bilimbi* L.)	23B
Borojó (*Borojoa patinoi* Cuatrec.)	23B
Breadnut (*Brosimum alicastrum* Sw.)	23A
Cabeluda (*Plinia glomerata* (O. Berg) Amshoff)	23A
Cajou, fruit (*Anacardium giganteum* Hance ex Engl.)	23B
Cambucá (*Marlierea edulis* Nied.)	23B
Carandas-plum (*Carissa edulis* Vahl)	23A
Carob (*Ceratonia siliqua* L.)	23B
Cashew apple (*Anacardium occidentale* L.)	23B
Ceylon iron wood (*Manilkara hexandra* (Roxb.) Dubard)	23A
Ceylon olive (*Elaeocarpus serratus* L.)	23A
Cherry-of-the-Rio-Grande (*Eugenia aggregata* (Vell.) Kiaersk.)	23A
Chinese olive, black (*Canarium tramdenum* C.D. Dai & Yakovlev)	23A
Chinese olive, white (*Canarium album* (Lour.) Raeusch.)	23A
Chirauli-nut (*Buchanania latifolia* Roxb.)	23A
Ciruela verde (*Bunchosia armeniaca* (Cav.) DC.)	23B
Cocoplum (*Chrysobalanus icaco* L.)	23A
Date (*Phoenix dactylifera* L.)	23C
Davidson's plum (*Davidsonia pruriens* F. Muell.)	23B
Desert-date (*Balanites aegyptiacus* (L.) Delile)	23A
Doum palm coconut (*Hyphaene thebaica* (L.) Mart.)	23C
False sandalwood (*Ximenia americana* L.)	23A
Feijoa (*Acca sellowiana* (O. Berg) Burret)	23B
Fig (*Ficus carica* L.)	23B
Fragrant manjack (*Cordia dichotoma* G. Forst.)	23A
Gooseberry, abyssinian (*Dovyalis abyssinica* (A. Rich.) Warb.)	23A
Gooseberry, Ceylon (*Dovyalis hebecarpa* (Gardner) Warb.)	23A
Gooseberry, Indian (*Phyllanthus emblica* L.)	23B
Gooseberry, otaheite (*Phyllanthus acidus* (L.) Skeels)	23A
Governor's plum (*Flacourtia indica* (Burm. F.) Merr.)	23A
Grumichama (*Eugenia brasiliensis* Lam)	23A
Guabiroba (*Campomanesia xanthocarpa* O. Berg)	23A
Guava (*Psidium guajava* L.)	23B
Guava berry (*Myrciaria floribunda* (H. West ex Willd.) O. Berg)	23A
Guava, Brazilian (*Psidium guineense* Sw.)	23A
Guava, cattley (*Psidium cattleyanum* Sabine)	23B
Guava, Costa Rican (*Psidium friedrichsthalianum* (O. Berg) Nied.)	23A
Guava, Para (*Psidium acutangulum* DC.)	23B
Guava, purple strawberry (*Psidium cattleyanum* Sabine var. *cattleyanum*)	23B
Guava, strawberry (*Psidium cattleyanum* Sabine var. *littorale* (Raddi) Fosberg)	23B
Guava, yellow strawberry (*Psidium cattleyanum* Sabine var. *cattleyanum* forma *lucidum* O. Deg.)	23B
Guayabillo (*Psidium sartorianum* (O. Berg) Nied.)	23A
Illawarra plum (*Podocarpus elatus* R. Br. Ex Endl.)	23A
Imbé (*Garcinia livingstonei* T. Anderson)	23B
Imbu (*Spondias tuberosa* Arruda ex Kost.)	23B
Indian-plum (*Flacourtia jangomas* (Lour.). basionym)	23A
Jaboticaba (*Myrciaria cauliflora* (Mart.) O. Berg)	23B
Jamaica-cherry (*Muntingia calabura* L.)	23A
Jambolan (*Syzygium cumini* (L.) Skeels)	23A
Jelly palm (*Butia capitata* (Mart.) Becc.)	23C
Jujube, Indian (*Ziziphus mauritiana* Lam.)	23B
Kaffir-plum (*Harpephyllum caffrum* Bernh. Ex C. Krauss)	23A
Kakadu plum (*Terminalia latipes* Benth. subsp. *psilocarpa* Pedley)	23A
Kapundung (*Baccaurea racemosa* (Reinw.) Mull. Arg.)	23A
Karanda (*Carissa carandas* L.)	23A
Kwai muk (*Artocarpus hypargyreus* Hance ex Benth.)	23B
Lemon aspen (*Acronychia acidula* F. Muell)	23A

TABLE 1—CROP GROUP 23: TROPICAL AND SUBTROPICAL FRUIT, EDIBLE PEEL GROUP—Continued

Commodities	Related crop subgroups
Mangaba (*Hancornia speciosa* Gomes)	23B
Marian plum (*Bouea macrophylla* Griff.)	23B
Mombin, malayan (*Spondias pinnata* (J. Koenig ex L. f.) Kurz)	23B
Mombin, purple (*Spondias purpurea* L.)	23B
Mombin, yellow (*Spondias mombin* L.)	23A
Monkeyfruit (*Artocarpus lacucha* Buch. Ham.)	23B
Monos plum (*Pseudanamomis umbellulifera* (Kunth) Kausel)	23A
Mountain cherry (*Bunchosia cornifolia* Kunth)	23A
Nance (*Byrsonima crassifolia* (L.) Kunth)	23B
Natal plum (*Carissa macrocarpa* (Eckl.) A. DC.)	23B
Noni (*Morinda citrifolia* L.)	23B
Olive (*Olea europaea* L. subsp. *europaea*)	23A
Papaya, mountain (*Vasconcellea pubescens* A. DC.)	23B
Patauá (*Oenocarpus bataua* Mart.)	23C
Peach palm, fruit (*Bactris gasipaes* Kunth var. *gasipaes*)	23C
Persimmon, black (*Diospyros texana* Scheele)	23A
Persimmon, Japanese (*Diospyros kaki* Thunb.)	23B
Pitomba (*Eugenia luschnathiana* Klotzsch ex O. Berg)	23A
Plum-of-Martinique (*Flacourtia inermis* Roxb.)	23A
Pomerac (*Syzygium malaccense* (L.) Merr. & L.M. Perry)	23B
Rambai (*Baccaurea motleyana* (Mull. Arg.) Mull. Arg.)	23B
Rose apple (*Syzygium jambos* (L.) Alston)	23B
Rukam (*Flacourtia rukam* Zoll. & Moritizi)	23A
Rumberry (*Myrciaria dubia* (Kunth) McVaugh *Myrtaceae*)	23A
Sea grape (*Coccoloba uvifera* (L.) L.)	23A
Sentul (*Sandoricum koetjape* (Burm. F.) Merr.)	23B
Sete-capotes (*Campomanesia guazumifolia* (Cambess.) O. Berg)	23A
Silver aspen (*Acronychia wilcoxian* (F. Muell.) T.G. Hartley)	23A
Starfruit (*Averrhoa carambola* L.)	23B
Surinam cherry (*Eugenia uniflora* L.)	23B
Tamarind (*Tamarindus indica* L.)	23B
Uvalha (*Eugenia pyriformis* Cambess)	23B
Water apple (*Syzygium aqueum* (Burm. F.) Alston)	23A
Water pear (*Syzygium guineense* (Willd.) DC)	23A
Water berry (*Syzygium cordatum* Hochst. Ex C. Krauss)	23A
Wax jambu (*Syzygium samarangense* (Blume) Merr. & L.M. Perry)	23A
Cultivars, varieties, and hybrids of these commodities.	

(iii) *Table.* The following Table 2 identifies the crop subgroups for Crop Group 23, specifies the representative commodities for each subgroup, and lists all the commodities included in each subgroup.

TABLE 2—CROP GROUP 23: SUBGROUP LISTING

Representative commodities	Commodities
Crop Subgroup 23A. Tropical and Subtropical, Small fruit, edible peel subgroup	
Olive	Acerola; African plum; agritos; almondette; appleberry; arbutus berry; bayberry, red; bignay; breadnut; cabeluda; carandas-plum; Ceylon iron wood; Ceylon olive; cherry-of-the-Rio-Grande; Chinese olive, black; Chinese olive, white; chirauli-nut; cocoplum; desert-date; false sandalwood; fragant manjack; gooseberry, abyssinian; gooseberry, Ceylon; gooseberry, otaheite; governor's plum; grumichama; guabiroba; guava berry; guava, Brazilian; guava, Costa Rican; guayabillo; illawarra plum; Indian-plum; Jamaica-cherry; jambolan; kaffir-plum; kakadu plum; kapundung; karanda; lemon aspen; mombin, yellow; monos plum; mountain cherry; olive; persimmon, black; pitomba; plum-of-Martinique; rukam; rumberry; sea grape; sete-capotes; silver aspen; water apple; water pear; water berry; wax jambu; cultivars, varieties, and hybrids of these commodities.
Crop Subgroup 23B. Tropical and Subtropical, Medium to large fruit, edible peel subgroup	
Fig and guava	Achachairú; ambarella; arazá; babaco; bilimbi; borojó; cajou, fruit; cambucá; carob; cashew apple; ciruela verde; davidson's plum; feijoa; fig; gooseberry, Indian; guava; guava, cattley; guava, Para; guava, purple strawberry; guava, strawberry; guava, yellow strawberry; imbé; imbu; jaboticaba; jujube, Indian; kwai muk; mangaba; Marian plum; mombin, Malayan; mombin, purple; monkeyfruit; nance; natal plum; noni; papaya, mountain; persimmon, Japanese; pomerac; rambai; rose apple; sentul; starfruit; Surinam cherry; tamarind; uvalha; cultivars, varieties, and hybrids of these commodities.

TABLE 2—CROP GROUP 23: SUBGROUP LISTING—Continued

Representative commodities	Commodities
Crop Subgroup 23C. Tropical and Subtropical, Palm fruit, edible peel subgroup	
Date	Açaí; apak palm; bacaba palm; bacaba-de-leque; date; doum palm coconut; jelly palm; patauá; peach palm, fruit; cultivars, varieties, and hybrids of these commodities.

(33) *Crop Group 24.* Tropical and Subtropical Fruit, Inedible Peel Group.

(i) *Representative commodities.* Atemoya or sugar apple, avocado, banana or pomegranate, dragon fruit, lychee, passionfruit, pineapple, and prickly pear, fruit.

(ii) *Commodities.* The following Table 1 lists all commodities included in Crop Group 24.

TABLE 1—CROP GROUP 24: TROPICAL AND SUBTROPICAL FRUIT, INEDIBLE PEEL GROUP

Commodities	Related crop subgroups
Abiu (*Pouteria caimito* (Ruiz & Pav.) Radlk)	24B
Aisen (*Boscia senegalensis* (Pers.) Lam.)	24A
Akee apple (*Blighia sapida* K.D. Koenig)	24B
Atemoya (*Annona cherimola* Mill. X A. squamosa L.)	24C
Avocado (*Persea americana* Mill.)	24B
Avocado, Guatemalan (*Persea americana* Mill. var. *guatemalensis*)	24B
Avocado, Mexican (*Persea americana* Mill. var. *drymifolia* (Schltdl. & Cham.) S.F. Blak)	24B
Avocado, West Indian (*Persea americana* var. *americana*)	24B
Bacury (*Platonia insignis* Mart.)	24B
Bael fruit (*Aegle marmelos* (L.) Corrêa)	24A
Banana (*Musa* spp.)	24B
Banana, dwarf (*Musa* hybrids; *Musa acuminata* Colla)	24B
Binjai (*Mangifera caesia* Jack)	24B
Biriba (*Annona mucosa* Jacq.)	24C
Breadfruit (*Artocarpus altilis* (Parkinson) Fosberg)	24C
Burmese grape (*Baccaurea ramiflora* Lour.)	24A
Canistel (*Pouteria campechiana* (Kunth) Baehni)	24B
Cat's-eyes (*Dimocarpus longan* Lour. subsp. *malesianus* Leenh.)	24A
Champedak (*Artocarpus integer* (Thunb.) Merr.)	24C
Cherimoya (*Annona cherimola* Mill.)	24C
Cupuacú (*Theobroma grandiflorum* (Willd. Ex Spreng.) K. Schum.)	24B
Custard apple (*Annona reticulata* L.)	24C
Dragon fruit (*Hylocereus undatus* (Haw.) Britton & Rose)	24D
Durian (*Durio zibethinus* L.)	24C
Elephant-apple (*Limonia acidissima* L.)	24C
Etambe (*Mangifera zeylanica* (Blume) Hook. F.)	24B
Granadilla (*Passiflora ligularis* Juss.)	24E
Granadilla, giant (*Passiflora quadrangularis* L.)	24E
Ilama (*Annona macroprophyllata* Donn. Sm.)	24C
Ingá (*Inga vera* Willd. subsp. *affinis* (DC.) T.D. Penn.)	24A
Jackfruit (*Artocarpus heterophyllus* Lam.)	24C
Jatobá (*Hymenaea courbaril* L.)	24B
Karuka (*Pandanus julianettii* Martelli)	24C
Kei apple (*Dovyalis caffra* (Hook. F. & Harv.) Warb.)	24B
Langsat (*Lansium domesticum* Corrêa)	24B
Lanjut (*Mangifera lagenifera* Griff.)	24B
Longan (*Dimocarpus longan* Lour.)	24A
Lucuma (*Pouteria lucuma* (Ruiz & Pav.) Kuntze)	24B
Lychee (*Litchi chinensis* Sonn.)	24A
Mabolo (*Diospyros blancoi* A. DC.)	24B
Madras-thorn (*Pithecellobium dulce* (Roxb.) Benth.)	24A
Mammy-apple (*Mammea americana* L.)	24C
Manduro (*Balanites maughamii* Sprague)	24A
Mango (*Mangifera indica* L.)	24B
Mango, horse (*Mangifera foetida* Lour.)	24B
Mango, Saipan (*Mangifera odorata* Griff.)	24B
Mangosteen (*Garcinia mangostana* L.)	24B
Marang (*Artocarpus odoratissimus* Blanco)	24C
Marmaladebox (*Genipa americana* L.)	24C
Matisia (*Matisia cordata* Humb. & Bonpl.)	24A
Mesquite (*Prosopis juliflora* (Sw.) DC.)	24A
Mongongo, fruit (*Schinziophyton rautanenii* (Schinz) Radcl.-Sm)	24A
Monkey-bread-tree (*Adansonia digitata* L.)	24C
Monstera (*Monstera deliciosa* Liebm.)	24E
Nicobar-breadfruit (*Pandanus leram* Jones ex Fontana)	24C

TABLE 1—CROP GROUP 24: TROPICAL AND SUBTROPICAL FRUIT, INEDIBLE PEEL GROUP—Continued

Commodities	Related crop subgroups
Paho (*Mangifera altissima* Blanco)	24B
Pandanus (*Pandanus utilis* Bory)	24C
Papaya (*Carica papaya* L.)	24B
Passionflower, winged-stem (*Passiflora alata* Curtis)	24E
Passionfruit (*Passiflora edulis* Sims)	24E
Passionfruit, banana (*Passiflora tripartita* var. *mollissima* (Kunth) Holm-Niels. & P. Jorg.)	24E
Passionfruit, purple (*Passiflora edulis* Sims forma *edulis*)	24E
Passionfruit, yellow (*Passiflora edulis* Sims forma *flavicarpa* O. Deg.)	24E
Pawpaw, common (*Asimina triloba* (L.) Dunal)	24B
Pawpaw, small-flower (*Asimina parviflora* (Michx.) Dunal)	24A
Pelipisan (*Mangifera casturi* Kosterm.)	24B
Pequi (*Caryocar brasiliense* Cambess)	24B
Pequia (*Caryocar villosum* (Aubl.) Pers.)	24B
Persimmon, American (*Diospyros virginiana* L.)	24B
Pineapple (*Ananas comosus* (L.) Merr.)	24C
Pitahaya (*Hylocereus polyrhizus* (F.A.C. Weber) Britton & Rose)	24D
Pitaya (*Hylocereus* sp. including *H. megalanthus* (*H. ocamponis* and *H. polychizus*)	24D
Pitaya, amarilla (*Hylocereus triangularis* Britton & Rose)	24D
Pitaya, roja (*Hylocereus ocamponis* (Salm-Dyck) Britton & Rose)	24D
Pitaya, yellow (*Hylocereus megalanthus* (K. Schum. ex Vaupel) Ralf Bauer)	24D
Plantain (*Musa paradisiaca* L.)	24B
Pomegranate (*Punica granatum* L.)	24B
Poshte (*Annona liebmanniana* Baill.)	24B
Prickly pear, fruit (*Opuntia ficus-indica* (L.) Mill.)	24D
Prickly pear, Texas, fruit (*Opuntia engelmannii* Salm-Dyck ex Engelm. var. *lindheimeri* (Engelm.) B.D. Parfitt & Pinkav)	24D
Pulasan (*Nephelium ramboutan-ake* (Labill.) Leenh.)	24C
Quandong (*Santalum acuminatum* (R. Br.) DC.)	24B
Rambutan (*Nephelium lappaceum* L.)	24C
Saguaro (*Carnegiea gigantea* (Engelm.) Britton & Rose)	24D
Sapodilla (*Manilkara zapota* (L.) P. Royen)	24C
Sapote, black (*Diospyros digyna* Jacq.)	24B
Sapote, green (*Pouteria viridis* (Pittier) Cronquist)	24B
Sapote, mamey (*Pouteria sapota* (Jacq.) H.E. Moore & Stearn)	24C
Sapote, white (*Casimiroa edulis* La Llave & Lex)	24B
Sataw (*Parkia speciosa* Hassk.)	24B
Satinleaf (*Chrysophyllum oliviforme* L.)	24A
Screw-pine (*Pandanus tectorius* Parkinson)	24B
Sierra Leone-tamarind (*Dialium guineense* Willd.)	24A
Soncoya (*Annona purpurea* Moc. & Sessé ex Dunal)	24C
Soursop (*Annona muricata* L.)	24C
Spanish lime (*Melicoccus bijugatus* Jacq.)	24A
Star apple (*Chrysophyllum cainito* L.)	24B
Sugar apple (*Annona squamosa* L.)	24C
Sun sapote (*Licania platypus* (Hemsl.) Fritsch)	24C
Tamarind-of-the-Indies (*Vangueria madagascariensis* J.F. Gmel.)	24B
Velvet tamarind (*Dialium indum* L.)	24A
Wampi (*Clausena lansium* (Lour.) Skeels)	24A
White star apple (*Chrysophyllum albidum* G. Don)	24A
Wild loquat (*Uapaca kirkiana* Müll. Arg.)	24B
Cultivars, varieties, and hybrids of these commodities.	

(iii) *Table.* The following Table 2 identifies the crop subgroups for Crop Group 24, specifies the representative commodities for each subgroup, and lists all the commodities included in each subgroup.

TABLE 2—CROP GROUP 24: SUBGROUP LISTING

Representative commodities	Commodities
Crop Subgroup 24A. Tropical and Subtropical, Small fruit, inedible peel subgroup	
Lychee	Aisen; bael fruit; Burmese grape; cat's-eyes; ingá; longan; lychee; madras-thorn; manduro; matisia; mesquite; mongongo, fruit; pawpaw, small-flower; satinleaf; Sierra Leone-tamarind; Spanish lime; velvet tamarind; wampi; white star apple; cultivars, varieties, and hybrids of these commodities.

TABLE 2—CROP GROUP 24: SUBGROUP LISTING—Continued

Representative commodities	Commodities
Crop Subgroup 24B. Tropical and Subtropical, Medium to large fruit, smooth, inedible peel subgroup	
Avocado, plus pomegranate or banana	Abiu; akee apple; avocado; avocado, Guatemalan; avocado, Mexican; avocado, West Indian; bacury; banana; banana, dwarf; binjai; canistel; cupuacú; etambe; jatobá; kei apple; langsat; lanjut; lucuma; mabolo; mango; mango, horse; mango, Saipan; mangosteen; paho; papaya; pawpaw, common; pelipisan; pequi; pequia; persimmon, American; plantain; pomegranate; poshte; quandong; sapote, black; sapote, green; sapote, white; sataw; screw-pine; star apple; tamarind-of-the-Indies; wild loquat; cultivars, varieties, and hybrids of these commodities.
Crop Subgroup 24C. Tropical and Subtropical, Medium to large fruit, rough or hairy, inedible peel subgroup	
Pineapple, plus atemoya or sugar apple ...	Atemoya; biriba; breadfruit; champedak; cherimoya; custard apple; durian; elephant-apple; ilama; jackfruit; karuka; mammy-apple; marang; marmaladebox; monkey-bread tree; nicobar-breadfruit; pandanus; pineapple; pulasan; rambutan; sapodilla; sapote, mamey; soncoya; soursop; sugar apple; sun sapote; cultivars, varieties, and hybrids of these commodities.
Crop Subgroup 24D. Tropical and Subtropical, Cactus, inedible peel subgroup	
Dragon fruit and Prickly pear fruit	Dragon fruit; pitahaya; pitaya; pitaya, amarilla; pitaya, roja; pitaya, yellow; prickly pear, fruit; prickly pear, Texas, fruit; saguaro; cultivars, varieties, and hybrids of these commodities.
Crop Subgroup 24E. Tropical and Subtropical, Vine, inedible peel subgroup	
Passionfruit	Granadilla; granadilla, giant; monstera; passionflower, winged-stem; passionfruit; passionfruit, banana; passionfruit, purple; passionfruit, yellow; cultivars, varieties, and hybrids of these commodities.

[FR Doc. 2016–10319 Filed 5–2–16; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 81, No. 85
Tuesday, May 3, 2016

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6139; Directorate Identifier 2015–NM–061–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. This proposed AD was prompted by fuel system reviews conducted by the *manufacturer.* This proposed AD would require modifying the fuel quantity indicating system (FQIS) to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions. This proposed AD would also provide alternative actions for cargo airplanes. We are proposing this AD to prevent ignition sources inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by June 17, 2016.

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

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

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–2016–6139; 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 proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jon Regimbal, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6506; fax: 425–917–6590; email: *Jon.Regimbal@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–6139; Directorate Identifier 2015–NM–061–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88''), Amendment 21–78. Subsequently, SFAR 88 was amended by: Amendment 21–82 (67 FR 57490, September 10, 2002; corrected at 67 FR 70809, November 26, 2002) and Amendment 21–83 (67 FR 72830, December 9, 2002; corrected at 68 FR 37735, June 25, 2003, to change ''21–82'' to ''21–83'').

Among other actions, SFAR 88 requires certain type design approval (*i.e.,* type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design approval holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, combination of failures, and unacceptable (failure) experience. For all three failure criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this proposed AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable

fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Model 737NG FQIS Design

The design of the in-tank FQIS components and wiring has the potential for a latent FQIS electrical fault condition inside the fuel tank combined with an electrical hot short condition connecting a high power source to the FQIS wiring to cause an ignition source in a fuel tank.

Under the policy contained in FAA Policy Memo PS–ANM100–2003–112–15 [*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgPolicy.nsf/0/DC94C3A46396950386256D5E006AED11?OpenDocument&Highlight=anm-100-2003-112-15*], the FAA determined that this ignition source risk combined with the fleet average flammability for the center wing tank on Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes created an unsafe condition for the center fuel tank. Applying that same policy, the FAA determined that due to a lower fleet average flammability, that same unsafe condition does not exist in the main (wing) tanks of these airplanes.

Related Rulemaking

On March 21, 2016, we issued AD 2016–07–07, Amendment 39–18452 (81 FR 19472, April 5, 2016), for certain Boeing Model 757–200, –200PF, –200CB, and –300 series airplanes. AD 2016–07–07 requires similar actions to those proposed in this NPRM. AD 2016–07–07 addressed the numerous public comments that were submitted on the proposal.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require modifying the FQIS to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions. As an alternative for cargo airplanes, this proposed AD would provide the alternative to modify the airplane by separating FQIS wiring routed between the FQIS processor and the center fuel tank, provided repetitive BITE checks (checks of built-in test equipment) of the FQIS are also performed.

Costs of Compliance

There are approximately 1,393 U.S.-registered Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes in service. All of those airplanes are currently operated as passenger airplanes. Beginning with line number 2620, however, Boeing has delivered airplanes with flammability reductions means (FRM)/nitrogen generation system (NGS) installed. We estimate that 831 affected airplanes on the U.S. Register were delivered without FRM installed, but we do not know the number of airplanes that have had FRM installed post-production. However, because of the requirement in 14 CFR 121.1117 to install FRM on U.S. air-carrier passenger airplanes by the end of 2017, it is likely that no U.S. airplanes would actually be affected by this proposed AD. For any affected airplane, we estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS—REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product
Modification	1,200 work-hours × $85 per hour = $102,000	$200,000	$302,000

ESTIMATED COSTS—ALTERNATIVE ACTIONS

Action	Labor cost	Parts cost	Cost per product
BITE check	1 work-hour × $85 per hour = $85 per check	$0	$85 per check (4 checks per year, $340 per year).
Wire separation	230 work-hours × $85 per hour = $19,550	$10,000	$29,550.

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.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2016–6139; Directorate Identifier 2015–NM–061–AD.

(a) Comments Due Date

We must receive comments by June 17, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category, excluding airplanes equipped with a flammability reduction means (FRM) approved by the FAA as compliant with the Fuel Tank Flammability Reduction (FTFR) rule (73 FR 42444, July 21, 2008) requirements of section 25.981(b) or section 26.33(c)(1) of the Federal Aviation Regulations (14 CFR 25.981(b) or 14 CFR 26.33(c)(1)).

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent ignition sources inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Modification

Within 60 months after the effective date of this AD, modify the fuel quantity indicating system (FQIS) to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions, using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(h) Alternative Actions for Cargo Airplanes

For airplanes used exclusively for cargo operations: As an alternative to the requirements of paragraph (g) of this AD, do the actions specified in paragraphs (h)(1) and (h)(2) of this AD, using methods approved in accordance with the procedures specified in paragraph (i) of this AD. To exercise this alternative, operators must perform the first inspection required under paragraph (h)(1) of this AD within 6 months after the effective date of this AD. To exercise this alternative for airplanes returned to service after conversion of the airplane from a passenger configuration to an all-cargo configuration more than 6 months after the effective date of this AD, operators must perform the first inspection required under paragraph (h)(1) of this AD prior to further flight after the conversion.

(1) Within 6 months after the effective date of this AD, record the existing fault codes stored in the FQIS processor and then do a BITE check (check of built-in test equipment) of the FQIS. If any nondispatchable fault code is recorded prior to the BITE check or as a result of the BITE check, before further flight, do all applicable repairs and repeat the BITE check until a successful test is performed with no nondispatchable faults found, using a method approved in accordance with the procedures specified in paragraph (i) of this AD. Repeat these actions thereafter at intervals not to exceed 650 flight hours. Modification as specified in paragraph (h)(2) of this AD does not terminate the repetitive BITE check requirement of this paragraph.

(2) Within 60 months after the effective date of this AD, modify the airplane by separating FQIS wiring that runs between the FQIS processor and the center tank wing spar penetrations, including any circuits that might pass through a main fuel tank, from other airplane wiring that is not intrinsically safe, using methods approved in accordance with the procedures specified in paragraph (i) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), 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 ACO, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-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, Seattle ACO, 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.

(j) Related Information

For more information about this AD, contact Jon Regimbal, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6506; fax: 425–917–6590; email: *Jon.Regimbal@faa.gov.*

Issued in Renton, Washington, on April 15, 2016.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–09793 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6144; Directorate Identifier 2015–NM–088–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A318, A319, and A320 series airplanes; Model A330–200, –200 Freighter, and –300 series airplanes; and Model A340–200, –300, –500, and –600 series airplanes. This proposed AD was prompted by fuel system reviews conducted by the manufacturer. This proposed AD would require modifying the fuel quantity indicating system (FQIS) to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions. This proposed AD would also provide alternative actions for cargo airplanes. We are proposing this AD to prevent ignition sources inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by June 17, 2016.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–

30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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–2016–6144; 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 proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–6144; Directorate Identifier 2015–NM–088–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88''), Amendment 21–78. Subsequently, SFAR 88 was amended by: Amendment 21–82 (67 FR 57490, September 10, 2002; corrected at 67 FR 70809, November 26, 2002) and Amendment 21–83 (67 FR 72830, December 9, 2002; corrected at 68 FR 37735, June 25, 2003, to change ''21–82'' to ''21–83'').

Among other actions, SFAR 88 requires certain type design (*i.e.,* type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, combination of failures, and unacceptable (failure) experience. For all three failure criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this proposed AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Model A320/330/340 FQIS Design

The design of the in-tank FQIS components and wiring has the potential for a latent FQIS electrical fault condition inside the fuel tank combined with an electrical hot short condition connecting a high power source to the FQIS wiring to cause an ignition source in a fuel tank.

Under the policy contained in FAA Policy Memo PS–ANM100–2003–112–15, SFAR 88—Mandatory Action Decision Criteria, dated February 25, 2003 (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgPolicy.nsf/0/dc94c3a46396950386256d5e006aed11/$FILE/Feb2503.pdf*), the FAA determined that this ignition source risk combined with the fleet average flammability for the center wing tank on airplanes affected by this NPRM created an unsafe condition for the center fuel tank. Applying that same policy, the FAA determined that due to a lower fleet average flammability, that same unsafe condition does not exist in the main wing tanks (inner and outer) and tail trim tank of these airplanes.

Related Rulemaking

On March 21, 2016, we issued AD 2016–07–07, Amendment 39–18452 (81 FR 19472, April 5, 2016), for certain Boeing Model 757–200, –200PF, –200CB, and –300 series airplanes. AD 2016–07–07 requires similar actions to those proposed in this NPRM. AD 2016–07–07 addressed the numerous public comments that were submitted on the proposal.

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

In accordance with FAA policy memo SFAR 88—Mandatory Action Decision Criteria, dated February 25, 2003, we have determined that the unsafe condition warrants issuance of an AD to mandate the actions proposed in this NPRM.

Proposed AD Requirements

This proposed AD would require modifying the FQIS to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions. As an alternative for cargo airplanes, this proposed AD would provide the alternative to modify the airplane by separating FQIS wiring routed between the fuel quantity indicating (FQI) computer and the center fuel tank, provided repetitive BITE (built-in test equipment) checks of the FQI computer are also performed.

Costs of Compliance

We estimate that this proposed AD affects 1 airplane of U.S. registry.

We also estimate that it would take about 1,200 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. We have received no definitive data that would enable us to provide cost estimates for the parts needed to do the actions specified in this proposed AD. Based on these figures, we estimate the labor cost of this proposed AD on U.S. operators to be $102,000.

We have not received definitive information on the costs for the alternative wire separation modification specified in this NPRM. The cost for this action in similar rulemaking on other airplanes, however, suggests that this modification could take about 74 work-hours with parts costing about $10,000, for a total estimated cost to U.S. operators of $16,290 per product.

We estimate that the repetitive FQIS tank circuit checks associated with the alternative wire separation modification would take about 1 work-hour per check. We estimate the cost of this check on U.S. operators to be $85 per product, per check.

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.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2016–6144; Directorate Identifier 2015–NM–088–AD.

(a) Comments Due Date

We must receive comments by June 17, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus airplanes, certificated in any category, identified in paragraphs (c)(1) through (c)(6) of this AD, except airplanes equipped with a flammability reduction means (FRM) approved by the FAA as compliant with the Fuel Tank Flammability Reduction (FTFR) rule (73 FR 42444, July 21, 2008) requirements of 14 CFR 25.981(b) or 14 CFR 26.33(c)(1).

(1) Airbus Model A318–111, –112, –121, and –122 airplanes.

(2) Airbus Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Airbus Model A320–211, –212, –214, –231, –232, and –233 airplanes.

(4) Model A330–201, –202, –203, –223, –223F, –243, and –243F airplanes.

(5) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes fitted with a center fuel tank.

(6) Model A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent ignition sources inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Modification

Within 60 months after the effective date of this AD, modify the fuel quantity indicating system (FQIS) to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions, using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA.

(h) Alternative Actions for Cargo Airplanes

For airplanes used exclusively for cargo operations: As an alternative to the requirements of paragraph (g) of this AD, do the actions specified in paragraphs (h)(1) and (h)(2) of this AD. To exercise this alternative, operators must perform the first inspection required under paragraph (h)(1) of this AD within 6 months after the effective date of this AD. To exercise this alternative for airplanes returned to service after conversion of the airplane from a passenger configuration to an all-cargo configuration more than 6 months after the effective date of this AD, operators must perform the first inspection required under paragraph (h)(1) of this AD prior to further flight after the conversion.

(1) Within 6 months after the effective date of this AD, record the existing fault codes stored in the fuel quantity indicating (FQI) computer, and then do a BITE check (check of built-in test equipment) of the FQI computer, using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. If any fault code is recorded prior to the BITE check or as a result of the BITE check, before further flight, do all applicable repairs and repeat the BITE check until a successful test is performed with no fault found, using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Repeat these actions thereafter at intervals not to exceed 650 flight hours. Modification as specified in paragraph (h)(2) of this AD does not terminate the repetitive BITE check requirement of this paragraph.

(2) Within 60 months after the effective date of this AD, modify the airplane by separating FQIS wiring that runs between the FQI computer and the center fuel tank wall penetrations, including any circuits that might pass through a main fuel tank, from other airplane wiring that is not intrinsically safe, using methods approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Branch, ANM–116, 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 ACO, send it to the attention of the person identified in paragraph (j) of this AD.

(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.

(j) Related Information

For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

Issued in Renton, Washington, on April 15, 2016.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–09789 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6145; Directorate Identifier 2015–NM–056–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 747–400, 747–400D, and 747–400F series airplanes. This proposed AD was prompted by fuel system reviews conducted by the manufacturer. This proposed AD would require modifying the fuel quantity indicating system (FQIS) to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions. This proposed AD would also provide alternative actions for cargo airplanes. We are proposing this AD to prevent ignition sources inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by June 17, 2016.

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 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–2016–6145.

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–2016–6145; 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 proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jon Regimbal, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6506; fax: 425–917–6590; email: *Jon.Regimbal@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–6145; Directorate Identifier 2015–NM–056–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88''), Amendment 21–78. Subsequently, SFAR 88 was amended by: Amendment 21–82 (67 FR 57490, September 10, 2002; corrected at 67 FR 70809, November 26, 2002) and Amendment 21–83 (67 FR 72830, December 9, 2002; corrected at 68 FR 37735, June 25, 2003, to change ''21–82'' to ''21–83'').

Among other actions, SFAR 88 requires holders of certain type designs (*i.e.,* type certificates (TCs) and supplemental type certificate (STCs)) to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to

adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, combination of failures, and unacceptable (failure) experience. For all three failure criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this proposed AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Model 747 FQIS Design

The design of the in-tank FQIS components and wiring has the potential for latent faults that could cause arcs, sparks, or resistive heating in the event of a hot short of an FQIS tank circuit to power wiring. The wiring of the FQIS is in some areas cobundled or closely adjacent to power wiring. An ignition source combined with flammable conditions in a center fuel tank could result in ignition of flammable vapor in the fuel tank, causing a structural failure of the wing and inflight breakup of the airplane.

Under the policy contained in FAA Policy Memo PS–ANM100–2003–112–15, SFAR 88—Mandatory Action Decision Criteria, dated February 25, 2003 (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgPolicy.nsf/0/dc94c3a46396950386256d5e006aed11/$FILE/Feb2503.pdf*), the FAA determined that this ignition source risk combined with the fleet average flammability for the center wing tank on Model 747–400, –400D, and –400F series airplanes created an unsafe condition for the center fuel tank. Applying that same policy, the FAA determined that due to a lower fleet average flammability, that same unsafe condition does not exist in the main (wing) or reserve tanks of Model 747–400, –400D, and –400F series airplanes.

Related Rulemaking

On March 21, 2016, we issued AD 2016–07–07, Amendment 39–18452 (81 FR 19472, April 5, 2016), for certain Boeing Model 757–200, –200PF, –200CB, and –300 series airplanes. AD 2016–07–07 requires similar actions to those proposed in this NPRM. AD 2016–07–07 addressed the numerous public comments that were submitted on the proposal.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Service Bulletin 747–28–2340, dated June 6, 2014. The service information describes procedures for a BITE check (check of built-in test equipment) of the FQIS. Refer to this service information for information on the procedures and compliance times. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require modifying the FQIS to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions. As an alternative for cargo airplanes, this proposed AD would provide the alternative to modify the airplane by separating FQIS wiring routed between the FQIS processor and the center fuel tank, provided repetitive BITE checks (checks of built-in test equipment) of the FQIS are also performed.

Costs of Compliance

We estimate that this proposed AD affects 54 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS—REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification	1,200 work-hours × $85 per hour = $102,000	$200,000	$302,000	$16,308,000.

ESTIMATED COSTS—ALTERNATIVE ACTIONS

Action	Labor cost	Parts cost	Cost per product
BITE check	1 work-hour × $85 per hour = $85 per check	$0	$340 per year (4 checks per year).
Wire separation	230 work-hours × $85 per hour = $19,550	$10,000	$29,550.

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.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This

proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2016–6145; Directorate Identifier 2015–NM–056–AD.

(a) Comments Due Date

We must receive comments by June 17, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 747–400, –400D, and –400F series airplanes, certificated in any category, excluding airplanes equipped with a flammability reduction means (FRM) approved by the FAA as compliant with the Fuel Tank Flammability Reduction (FTFR) rule (73 FR 42444, July 21, 2008) requirements of section 25.981(b) or section 26.33(c)(1) of the Federal Aviation Regulations (14 CFR 25.981(b) or 14 CFR 26.33(c)(1)).

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent ignition sources inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Modification

Within 60 months after the effective date of this AD, modify the fuel quantity indicating system (FQIS) to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions, using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(h) Alternative Actions for Cargo Airplanes

For airplanes used exclusively for cargo operations: As an alternative to the requirements of paragraph (g) of this AD, do the actions specified in paragraphs (h)(1) and (h)(2) of this AD. To exercise this alternative, operators must perform the first inspection required under paragraph (h)(1) of this AD within 6 months after the effective date of this AD. To exercise this alternative for airplanes returned to service after conversion of the airplane from a passenger configuration to an all-cargo configuration more than 6 months after the effective date of this AD, operators must perform the first inspection required under paragraph (h)(1) of this AD prior to further flight after the conversion.

(1) Within 6 months after the effective date of this AD, record the existing fault codes stored in the FQIS processor and then do a BITE check (check of built-in test equipment) of the FQIS, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–28–2340, dated June 6, 2014. If any nondispatchable fault code is recorded prior to the BITE check or as a result of the BITE check, before further flight, do all applicable repairs and repeat the BITE check until a successful test is performed with no nondispatchable faults found, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–28–2340, dated June 6, 2014. Repeat these actions thereafter at intervals not to exceed 650 flight hours. Modification as specified in paragraph (h)(2) of this AD does not terminate the repetitive BITE check requirement of this paragraph.

(2) Within 60 months after the effective date of this AD, modify the airplane by separating FQIS wiring that runs between the FQIS processor and the center tank wing spar penetrations, including any circuits that might pass through a main fuel tank, from other airplane wiring that is not intrinsically safe, using methods approved in accordance with the procedures specified in paragraph (i) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), 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 ACO, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-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, Seattle ACO, 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) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(4)(i) and (i)(4)(ii) 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. 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.

(j) Related Information

(1) For more information about this AD, contact Jon Regimbal, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6506; fax: 425–917–6590; email: *Jon.Regimbal@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on April 15, 2016.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–09794 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6143; Directorate Identifier 2015–NM–028–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes), and Model A310 series airplanes. This proposed AD was prompted by fuel system reviews conducted by the manufacturer. This proposed AD would require modifying the fuel quantity indicating system (FQIS) to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions. This proposed AD would also provide alternative actions for cargo airplanes. We are proposing this AD to prevent ignition sources inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by June 17, 2016.

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

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

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–2016–6143; 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 proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–6143; Directorate Identifier 2015–NM–028–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88''), Amendment 21–78. Subsequently, SFAR 88 was amended by: Amendment 21–82 (67 FR 57490, September 10, 2002; corrected at 67 FR 70809, November 26, 2002) and Amendment 21–83 (67 FR 72830, December 9, 2002; corrected at 68 FR 37735, June 25, 2003, to change ''21–82'' to ''21–83'').

Among other actions, SFAR 88 requires certain type design (*i.e.,* type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, combination of failures, and unacceptable (failure) experience. For all three failure criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this proposed AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Model A300–600/A310 FQIS Design

The design of the in-tank FQIS components and wiring has the potential for a latent FQIS electrical fault condition inside the fuel tank combined with an electrical hot short condition connecting a high power source to the FQIS wiring to cause an ignition source in a fuel tank.

Under the policy contained in FAA Policy Memo PS–ANM100–2003–112–15, SFAR 88—Mandatory Action Decision Criteria, dated February 25, 2003 (*http://rgl.faa.gov/Regulatory_*

and_Guidance_Library/rgPolicy.nsf/0/dc94c3a46396950386256d5e006aed11/$FILE/Feb2503.pdf), the FAA determined that this ignition source risk combined with the fleet average flammability for the center wing tank on Model A300–600 and A310 series airplanes created an unsafe condition for the center fuel tank. Applying that same policy, the FAA determined that due to a lower fleet average flammability, that same unsafe condition does not exist in the main wing tanks (inner and outer) and tail trim tank (on certain Model A300–600 series airplanes) of these airplanes.

Related Rulemaking

On March 21, 2016, we issued AD 2016–07–07, Amendment 39–18452 (81 FR 19472, April 5, 2016), for certain Boeing Model 757–200, –200PF, –200CB, and –300 series airplanes. AD 2016–07–07 requires similar actions to those proposed in this NPRM. AD 2016–07–07 addressed the numerous public comments that were submitted on the proposal.

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

In accordance with FAA policy memo SFAR 88—Mandatory Action Decision Criteria, dated February 25, 2003, we have determined that the unsafe condition warrants issuance of an AD to mandating the actions proposed in this NPRM.

Proposed AD Requirements

This proposed AD would require modifying the FQIS to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions. As an alternative for cargo airplanes, this proposed AD would provide the alternative to modify the airplane by separating FQIS wiring routed between the fuel quantity indicating (FQI) computer and the center fuel tank, provided repetitive BITE (built-in test equipment) checks of the FQI computer are also performed.

Costs of Compliance

We estimate that this proposed AD affects 140 airplanes of U.S. registry.

We also estimate that it would take about 1,200 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. We have received no definitive data that would enable us to provide cost estimates for the parts needed to do the actions specified in this proposed AD. Based on these figures, we estimate the labor cost of this proposed AD on U.S. operators to be $14,280,000, or $102,000 per product.

We have not received definitive information on the costs for the alternative wire separation modification specified in this NPRM. The cost for this action in similar rulemaking on other airplanes, however, suggests that this modification could take about 74 work-hours with parts costing about $10,000, for a total estimated cost to U.S. operators of $16,290 per product.

We estimate that the repetitive FQIS tank circuit checks associated with the alternative wire separation modification would take about 1 work-hour per check. We estimate the cost of this check on U.S. operators to be $85 per product, per check.

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.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2016–6143; Directorate Identifier 2015–NM–028–AD.

(a) Comments Due Date

We must receive comments by June 17, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus airplanes, certificated in any category, identified in paragraphs (c)(1) through (c)(5) of this AD.

(1) Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(2) Model A300 B4–605R and B4–622R airplanes.

(3) Model A300 F4–605R and F4–622R airplanes.

(4) Model A300 C4–605R Variant F airplanes.

(5) Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent ignition sources inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Modification

Within 60 months after the effective date of this AD, modify the fuel quantity indicating system (FQIS) to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions, using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA.

(h) Alternative Actions for Cargo Airplanes

For airplanes used exclusively for cargo operations: As an alternative to the requirements of paragraph (g) of this AD, do the actions specified in paragraphs (h)(1) and (h)(2) of this AD. To exercise this alternative, operators must perform the first inspection required under paragraph (h)(1) of this AD within 6 months after the effective date of this AD. To exercise this alternative for airplanes returned to service after conversion of the airplane from a passenger configuration to an all-cargo configuration more than 6 months after the effective date of this AD, operators must perform the first inspection required under paragraph (h)(1) of this AD prior to further flight after the conversion.

(1) Within 6 months after the effective date of this AD, record the existing fault codes stored in the fuel quantity indicating (FQI) computer, and then do a BITE check (check of built-in test equipment) of the FQI computer, using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. If any fault code is recorded prior to the BITE check or as a result of the BITE check, before further flight, do all applicable repairs and repeat the BITE check until a successful test is performed with no fault found, using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Repeat these actions thereafter at intervals not to exceed 650 flight hours. Modification as specified in paragraph (h)(2) of this AD does not terminate the repetitive BITE check requirement of this paragraph.

(2) Within 60 months after the effective date of this AD, modify the airplane by separating FQIS wiring that runs between the FQI computer and the center fuel tank wall penetrations, including any circuits that might pass through a main fuel tank, from other airplane wiring that is not intrinsically safe, using methods approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Branch, ANM–116, 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 ACO, send it to the attention of the person identified in paragraph (j) of this AD.

(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.

(j) Related Information

For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

Issued in Renton, Washington, on April 15, 2016.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–09792 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6146; Directorate Identifier 2014–NM–120–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2008–19–08, for all Dassault Aviation Model Falcon 10 airplanes. AD 2008–19–08 currently requires repetitive replacement of the flexible hoses installed in the wing (slat) anti-icing system with new hoses. Since we issued AD 2008–19–08, additional reports were received of collapse of the flexible hoses installed in the slat anti-icing systems on airplanes equipped with new, improved hoses. This proposed AD would require reducing the life limit of these flexible hoses, which would reduce the repetitive replacement intervals. We are proposing this AD to prevent collapse of the flexible hoses in the slat anti-icing system, which could lead to insufficient anti-icing capability and, if icing is encountered in this situation, could result in reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by June 17, 2016.

ADDRESSES: You may send comments by any of the following methods:

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

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–2016–6146; 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 proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–6146; Directorate Identifier 2014–NM–120–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On September 12, 2008, we issued AD 2008–19–08, Amendment 39–15675 (73

FR 54492, September 22, 2008) (''AD 2008–19–08''). AD 2008–19–08 requires actions intended to address an unsafe condition on all Dassault Aviation Model Falcon 10 airplanes.

Since we issued AD 2008–19–08, additional reports were received of collapse of the flexible hoses installed in the slat anti-icing systems on airplanes equipped with new, improved hoses.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0104, dated May 7, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition on all Dassault Aviation Model Falcon 10 airplanes. The MCAI states:

> Occurrences were reported involving an in-service Falcon 10 aeroplane, where wing anti-ice hoses collapsed. The subsequent investigation revealed that the flexible hose, Part Number (P/N) FAL1005, collapsed because of an internal ply separation.
>
> This condition, if not corrected, could lead to failure of the ice-protection system to remove ice accretion on the wing, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, EASA issued AD 2005–0020 and AD 2006–0114 [which corresponds to AD 2008–19–08], respectively, imposing flight limitations and requiring replacement of the flexible hoses P/N FAL1005 with improved hoses P/N FAL1007.
>
> Since those [EASA] ADs were issued, further occurrences were reported concerning aeroplanes with improved hoses, which led to the conclusion that the life limit of the flexible hose P/N FAL1007 must be reduced.
>
> For the reasons above, this [EASA] AD retains the requirements of EASA AD 2006–0114, which is superseded; supersedes EASA AD 2005–0020; requires replacement of flexible hoses having P/N FAL 1000, P/N 1001, P/N FAL1005, or P/N FAL1005D, and reduces the life limit of the flexible hoses P/N 1007 [which would reduce the repetitive replacement intervals].

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–2016–6146.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

We estimate that this proposed AD affects 124 airplanes of U.S. registry.

The actions that are required by AD 2008–19–08 and retained in this proposed AD take about 8 work-hours per product, at an average labor rate of $85 per work-hour. Required parts cost about $880. Based on these figures, the estimated cost of the actions that are required by AD 2008–19–08 is up to $1,560, per replacement cycle.

We also estimate that it would take about 4 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $936 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $158,224, or $1,276 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.

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2008–19–08, Amendment 39–15675 (73 FR 54492, September 22, 2008), and adding the following new AD:

Dassault Aviation: Docket No. FAA–2016–6146; Directorate Identifier 2014–NM–120–AD.

(a) Comments Due Date

We must receive comments by June 17, 2016.

(b) Affected ADs

This AD replaces AD 2008–19–08, Amendment 39–15675 (73 FR 54492, September 22, 2008) (''AD 2008–19–08'').

(c) Applicability

This AD applies to all Dassault Aviation Model Falcon 10 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 30, Ice and Rain Protection.

(e) Reason

This AD was prompted by reports of collapse of the flexible hoses installed in the slat anti-icing systems on airplanes equipped with new, improved hoses. We are issuing this AD to prevent collapse of the flexible hoses in the slat anti-icing system, which could lead to insufficient anti-icing capability and, if icing is encountered in this situation, could result in reduced controllability of the airplane.

(f) Compliance

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

(g) Retained Repetitive Hose Replacement With Revised Compliance Language

This paragraph restates the requirements of paragraph (h) of AD 2008–19–08, with revised compliance language. As of October 27, 2008 (the effective date of AD 2008–19–08), replace the flexible hoses installed in the slat anti-icing system with new hoses having part number (P/N) FAL1007, in accordance with the Accomplishment Instructions of Dassault Service Bulletin F10–313, Revision 1, dated May 10, 2006, within 700 flight hours since the last replacement or within 100 flight hours after October 27, 2008, whichever occurs later, and thereafter at intervals not to exceed 700 flight hours. Accomplishing the replacement required by paragraph (h) of this AD ends the repetitive inspections required by this paragraph.

(h) New Requirement of This AD: Hose Replacement for Certain Part Numbers

Within 65 days after the effective date of this AD: Replace any flexible hose having part number (P/N) FAL1000, P/N FAL1001, or P/N FAL1005D with a new, improved flexible hose having P/N FAL1007, using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Dassault Aviation's EASA Design Organization Approval (DOA).

(i) Life-limit for P/N FAL1007—Repetitive Replacements

At the later of the times specified in paragraphs (i)(1) and (i)(2) of this AD, replace any flexible hose having part number P/N FAL1007 with a serviceable flexible hose having P/N FAL1007, using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Dassault Aviation's EASA DOA. Thereafter, before the accumulation of 350 flight hours on any flexible hose having P/N FAL1007, replace the flexible hose with a serviceable flexible hose having P/N FAL1007.

(1) Before the accumulation of 350 flight hours on the flexible hose P/N FAL1007 since first installation on an airplane.

(2) At the earlier of the times specified in (i)(2)(i) and (i)(2)(ii) of this AD.

(i) Within 200 flight hours after the effective date of this AD.

(ii) Before the accumulation of 700 flight hours on the flexible hose P/N FAL1007 since first installation on an airplane, or within 65 days after the effective date of this AD, whichever occurs later.

(j) Definition of Serviceable Flexible Hose

For the purpose of this AD, a serviceable flexible hose is a flexible hose having P/N FAL1007 that has accumulated 350 flight hours or less since first installation on an airplane.

(k) Parts Installation Limitation

After accomplishing the replacement required by paragraph (h) of this AD, no person may install a flexible hose in the slat anti-icing system on any airplane, unless that hose is a serviceable flexible hose having P/N FAL1007, and thereafter repetitive hose replacements are done as required by paragraph (i) of this AD.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, 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 Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149. 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. The AMOC approval letter must specifically reference this AD.

(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 Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Dassault Aviation's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(m) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0104, dated May 7, 2014, 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–2016–6146.

Issued in Renton, Washington, on April 20, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–10124 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–4271; Airspace Docket No. 16–AGL–6]

Proposed Amendment of Class E Airspace for the Following Minnesota Towns; Hutchinson, MN; Jackson, MN; Pipestone, MN; Two Harbors, MN; and Waseca, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace extending upward from 700 feet above the surface at Hutchinson Municipal Airport-Butler Field, Hutchinson, MN; Jackson Municipal Airport, Jackson, MN; Pipestone Municipal Airport, Pipestone, MN; Richard B. Helgeson Airport, Two Harbors, MN; and Waseca Municipal Airport, Waseca, MN. Decommissioning of the non-directional radio beacon (NDB), cancellation of NDB approaches, and implementation of area navigation (RNAV) procedures have made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the above airports. This action would also update the geographic coordinates at Hutchinson Municipal-Butler Field, Jackson Municipal Airport, Pipestone Municipal Airport, and Richard B. Helgeson Airport, to coincide with the FAAs aeronautical database.

DATES: Comments must be received on or before June 17, 2016.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2016–4271; Airspace Docket No. 16–AGL–6, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace at Hutchinson Municipal Airport-Butler Field, Hutchinson, MN; Jackson Municipal Airport, Jackson, MN; Pipestone Municipal Airport, Pipestone, MN; Richard B. Helgeson Airport, Two Harbors, MN; and Waseca Municipal Airport, Waseca, MN.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2016–4271/Airspace Docket No. 16–AGL–6.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document would amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Hutchinson Municipal Airport-Butler Field, Hutchinson, MN; within a 6.3-mile radius of Jackson Municipal Airport, Jackson, MN; within a 6.5-mile radius of Pipestone Municipal Airport, Pipestone, MN; within a 7-mile radius of Richard B. Helgeson Airport, Two Harbors, MN; and within a 6.3-mile radius of Waseca Municipal Airport, Waseca, MN. Airspace reconfiguration is necessary due to the decommissioning of non-directional radio beacons (NDB), cancellation of NDB approaches, and implementation of area navigation (RNAV) procedures at the above airports. Controlled airspace is necessary for the safety and management of the standard instrument approach procedures for IFR operations at the airports. Geographic coordinates would be adjusted for the following airports: Hutchinson Municipal-Butler Field, Jackson Municipal Airport, Pipestone Municipal Airport, and Richard B. Helgeson Airport, to coincide with the FAAs aeronautical database.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

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

* * * * *

AGL MN E5 Hutchinson, MN [Amended]

Hutchinson Municipal Airport-Butler Field, MN
(Lat. 44°51′36″ N., long. 94°22′57″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Hutchinson Municipal Airport-Butler Field.

* * * * *

AGL MN E5 Jackson, MN [Amended]

Jackson Municipal Airport, MN
(Lat. 43°39′01″ N., long. 94°59′12″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Jackson Municipal Airport.

* * * * *

AGL MN E5 Pipestone, MN [Amended]

Pipestone Municipal Airport, MN
(Lat. 43°58′56″ N., long. 96°18′02″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Pipestone Municipal Airport.

* * * * *

AGL MN E5 Two Harbors, MN [Amended]

Richard B. Helgeson Airport, MN
(Lat. 47°02′57″ N., long. 91°44′43″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Richard B. Helgeson Airport.

* * * * *

AGL MN E5 Waseca, MN [Amended]

Waseca Municipal Airport, MN
(Lat. 44°04′24″ N., long. 93°33′11″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Waseca Municipal Airport.

Issued in Fort Worth, Texas, on April 19, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–10175 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Docket No. FAA–2016–4291; Airspace Docket No. 16–AGL–7

Proposed Amendment of Class E Airspace for the Following Indiana Towns; Goshen, IN; Greencastle, IN; Huntingburg, IN; North Vernon, IN; Rensselaer, IN; Tell City, IN; and Washington, IN; and Revocation of Class E Airspace; Vincennes, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace extending upward from 700 feet above the surface at Vigil I. Grissom Municipal Airport, Bedford, IN; Goshen Municipal Airport, Goshen, IN; Putnam County Airport, Greencastle, IN; Huntingburg Airport, Huntingburg, IN; North Vernon Airport, North Vernon, IN; Jasper County Airport, Rensselaer, IN; Perry County Municipal Airport, Tell City, IN; and Daviess County Airport, Washington, IN. This action also proposes to remove Class E airspace extending upward from 700 feet above the surface at O'Neal Airport, Vincennes, IN. Decommissioning of non-directional radio beacons (NDB), cancellation of NDB approaches, implementation of area navigation (RNAV) procedures, and closure of O'Neal Airport, have made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the above airports. This action also would update the geographic coordinates of Goshen Municipal Airport, Putnam County Airport, North Vernon Airport, Jasper County Airport, and Perry County Municipal Airport to coincide with the FAAs aeronautical database.

DATES: Comments must be received on or before June 17, 2016.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2016–4291; Airspace Docket No. 16–AGL–7, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace at Vigil I. Grissom Municipal Airport, Bedford, IN; Goshen Municipal Airport, Goshen, IN; Putnam County Airport, Greencastle, IN; Huntingburg Airport, Huntingburg, IN; North Vernon Airport, North Vernon, IN; Jasper County Airport, Rensselaer, IN; Perry County Municipal Airport, Tell City, IN; O'Neal Airport, Vincennes, IN; and Daviess County Airport, Washington, IN.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking

by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2016–4291/Airspace Docket No. 16–AGL–7.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document would amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace extending upward from 700 feet above the surface at the following airports:

Within a 6.5-mile radius of Vigil I. Grissom Municipal Airport, Bedford, IN;

Within a 6.8-mile radius of Goshen Municipal Airport, Goshen, IN, and updating the geographic coordinates of this airport;

Within a 6.5-mile radius of Putnam County Airport, Greencastle, IN, and updating the geographic coordinates of this airport;

Within a 6.5-mile radius of Huntingburg Airport, Huntingburg, IN, with a segment extending from the 6.5 mile radius to 11.2 miles east of the airport;

Within a 6.5-mile radius of North Vernon Airport, North Vernon, IN, and updating the geographic coordinates of this airport;

Within a 6.4-mile radius of Jasper County Airport, Rensselaer, IN, and updating the geographic coordinates of this airport;

Within a 6.4-mile radius of Perry County Municipal Airport, Tell City, IN, and updating the geographic coordinates of this airport; and

Within a 6.4-mile radius of Daviess County Airport, Washington, IN.

Airspace reconfiguration is necessary due to the decommissioning of NDBs, cancellation of NDB approaches, or implementation of RNAV procedures at the above airports. Controlled airspace is necessary for the safety and management of the standard instrument approach procedures for IFR operations at the airports. Additionally, Class E airspace extending upward from 700 feet above the surface would be removed at O'Neal Airport, Vincennes, IN, due to closure of the airport.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

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

* * * * *

AGL IN E5 Bedford, IN [Amended]

Bedford, Virgil I. Grissom Municipal Airport, IN
(Lat. 38°50′24″ N., long. 86°26′43″ W.)

Bedford, Bedford Medical Center Heliport, IN Point In Space
(Lat. 38°51′51″ N., long. 86°31′27″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Virgil I. Grissom Municipal Airport, and within a 6-mile radius of the Bedford Medical Center Heliport point in space coordinates at lat. 38°51′51″ N., long. 86°31′27″ W.

* * * * *

AGL IN E5 Goshen, IN [Amended]

Goshen Municipal Airport, IN

(Lat. 41°31′35″ N., long. 85°47′39″ W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Goshen Municipal Airport.

* * * * *

AGL IN E5 Greencastle, IN [Amended]

Greencastle, Putnam County Airport, IN.
(Lat. 39°38′01″ N., long. 86°48′50″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Putnam County Airport.

* * * * *

AGL IN E5 Huntingburg, IN [Amended]

Huntingburg Airport, IN
(Lat. 38°14′57″ N., long. 86°57′13″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Huntingburg Airport and within 2 miles either side of the 091° bearing from the airport extending from the 6.5-mile radius to 11.2 miles east of the airport.

* * * * *

AGL IN E5 North Vernon, IN [Amended]

North Vernon Airport, IN
(Lat. 39°02′43″ N., long. 85°36′20″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of North Vernon Airport.

* * * * *

AGL IN E5 Rensselaer, IN [Amended]

Rensselaer, Jasper County Airport, IN
(Lat. 40°56′52″ N., long. 87°10′58″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Jasper County Airport.

* * * * *

AGL IN E5 Tell City, IN [Amended]

Tell City, Perry County Municipal Airport, IN
(Lat. 38°01′08″ N., long. 86°41′33″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Perry County Municipal Airport.

* * * * *

AGL IN E5 Vincennes, IN [Removed]

* * * * *

AGL IN E5 Washington, IN [Amended]

Washington, Daviess County Airport, IN
(Lat. 38°42′02″ N., long. 87°07′47″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Daviess County Airport.

Issued in Fort Worth, Texas, on April 19, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–10177 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–4629; Airspace Docket No. 16–AGL–8]

Proposed Amendment of Class E Airspace for the following Michigan Towns; Alma, MI; Bellaire, MI; Cadillac, MI; Drummond Island, MI; Gladwin, MI; Holland, MI; and Three Rivers, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace extending upward from 700 feet above the surface at Gratiot Community Airport, Alma, MI; Antrim County Airport, Bellaire, MI; Wexford County Airport, Cadillac, MI; Drummond Island Airport, Drummond Island, MI; Charles C. Zettel Memorial Airport, Gladwin, MI; Park Township Airport and West Michigan Regional Airport, Holland, MI; and Three Rivers Municipal Dr. Haines Airport, Three Rivers, MI. Decommissioning of non-directional radio beacons (NDB), cancellation of NDB approaches, or implementation of area navigation (RNAV) procedures have made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the above airports. This action would also update the geographic coordinates of Three Rivers Municipal Dr. Haines Airport, and the name change of West Michigan Regional Airport (formerly Tulip City Airport) to coincide with the FAAs aeronautical database.

DATES: Comments must be received on or before June 17, 2016.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2016–4629; Airspace Docket No. 16–AGL–8, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace at Gratiot Community Airport, Alma, MI; Antrim County Airport, Bellaire, MI; Wexford County Airport, Cadillac, MI; Drummond Island Airport, Drummond Island, MI; Charles C. Zettel Memorial Airport, Gladwin, MI; Park Township Airport and West Michigan Regional Airport, Holland, MI; and Three Rivers Municipal Dr. Haines Airport, Three Rivers, MI.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in

developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2016–4629/Airspace Docket No. 16–AGL–8.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX, 76177.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document would amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace extending upward from 700 feet above the surface at the following airports:

Within a 6.5-mile radius of Gratiot Community Airport, Alma, MI;

Within a 6.5-mile radius of Antrim County Airport, Bellaire, MI, with a segment extending from the 6.5-mile radius to 6.9 miles south of the airport;

Within a 6.7-mile radius of Wexford County Airport, Cadillac, MI;

Within a 6.5-mile radius of Drummond Island Airport, Drummond Island, MI, with a segment extending from the 6.5-mile radius to 8.5 miles east of the airport;

Within a 6.5-mile radius of Charles C. Zettel Memorial Airport, Gladwin, MI;

Within a 6.5-mile radius of West Michigan Regional Airport (formerly Tulip City Airport), Holland, MI; Park Township Airport would be removed as it no longer has instrument procedures and no longer requires Class E airspace; and

Within a 6.4 mile radius of Three Rivers Municipal Dr. Haines Airport, Three Rivers, MI, and updating the geographic coordinates of this airport to coincide with the FAAs aeronautical database. These airspace reconfigurations are necessary due to the decommissioning of NDBs, cancellation of NDB approaches, or implementation of RNAV procedures at the above airports. Controlled airspace is necessary for the safety and management of the standard instrument approach procedures for IFR operations at the airports.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

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

* * * * *

AGL MI E5 Alma, MI [Amended]

Alma, Gratiot Community Airport, MI
(Lat. 43°19′20″ N., long. 84°41′17″ W.)
Mount Pleasant VOR/DME
(Lat. 43°37′22″ N., long. 84°44′14″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Gratiot Community Airport, and within 2.0 miles either side of a 270° bearing from the airport extending from the 6.5-mile radius to 10.1 miles west of the airport, and within 1.5 miles either side of the Mount Pleasant VOR/DME 178° radial extending from the 6.5-mile radius to 10.3 miles north of the airport.

* * * * *

AGL MI E5 Bellaire, MI [Amended]

Bellaire, Antrim County Airport, MI

(Lat. 44°59′19″ N., long. 85°11′54″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Antrim County Airport, and within 1.9 miles each side of the 197° bearing from the airport extending from the 6.5-mile radius to 6.9 miles south of the airport.

* * * * *

AGL MI E5 Cadillac, MI [Amended]

Cadillac, Wexford County Airport, MI
(Lat. 44°16′31″ N., long. 85°25′08″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Wexford County Airport.

* * * * *

AGL MI E5 Drummond Island, MI [Amended]

Drummond Island Airport, MI
(Lat. 46° 00′34″ N., long. 83° 44′38″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Drummond Island Airport, and within 4 miles each side of the 072° bearing from the airport extending from the 6.5-mile radius to 8.5 miles east of the airport; that airspace extending upward from 1,200 feet above the surface bounded by long. 83°57′00″ W., on the west; long. 83°26′00″ W., on the east; Lat. 46°05′00″ N., on the north; and Lat. 45°45′00″ N., on the south, excluding that airspace within Canada.

* * * * *

AGL MI E5 Gladwin, MI [Amended]

Charles C. Zettel Memorial Airport, MI
(Lat. 43°58′14″ N., long. 84°28′30″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Charles C. Zettel Memorial Airport.

* * * * *

AGL MI E5 Holland, MI [Amended]

West Michigan Regional Airport, MI
(Lat. 42°44′34″ N., long. 86°06′28″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the West Michigan Regional Airport.

* * * * *

AGL MI E5 Three Rivers, MI [Amended]

Three Rivers Municipal Dr Haines Airport, MI
(Lat. 41°57′35″ N., long. 85°35′35″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Three Rivers Municipal Dr Haines Airport, excluding that airspace within the Sturgis, Kirsch Municipal Airport, MI, Class E airspace area.

Issued in Fort Worth, Texas, on April 19, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, Central Service Center.

[FR Doc. 2016–10174 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–5388; Airspace Docket No. 16–ACE–4]

Proposed Revocation of Class E Airspace; Alliance, NE; and Amendment of Class E Airspace for the Following Nebraska Towns; Albion, NE; Alliance, NE; Gothenburg, NE; Holdrege, NE; Imperial, NE; Lexington, NE; and Millard Airport, Omaha, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to remove Class E surface area airspace at Alliance Municipal Airport, Alliance, NE; and modify Class E airspace extending upward from 700 feet above the surface at Albion Municipal Airport, Albion, NE; Alliance Municipal Airport, Alliance, NE; Quinn Field, Gothenburg, NE; Brewster Field Airport, Holdrege, NE; Imperial Municipal Airport, Imperial, NE; Jim Kelly Field, Lexington, NE; and Millard Airport, Omaha, NE. Decommissioning of non-directional radio beacons (NDB), cancellation of NDB approaches, and implementation of area navigation (RNAV) procedures have made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the above airports. This action would also update the geographic coordinates for Quinn Field, Imperial Municipal Airport, and Jim Kelly Field to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before June 17, 2016.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2016–5388; Airspace Docket No. 16–ACE–4, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would remove Class E surface area airspace at Alliance Municipal Airport, Alliance, NE; and modify Class E airspace extending upward from 700 feet above the surface at Albion Municipal Airport, Albion, NE; Alliance Municipal Airport; Quinn Field, Gothenburg, NE; Brewster Field Airport, Holdrege, NE; Imperial Municipal Airport, Imperial, NE; Jim Kelly Field, Lexington, NE; and Millard Airport, Omaha, NE.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in

developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2016–5388/Airspace Docket No. 16–ACE–4.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document would amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by removing Class E surface area airspace at Alliance Airport, Alliance, NE., as the airspace is no longer needed. This proposal also would modify Class E airspace extending upward from 700 feet above the surface at Albion Municipal Airport, Albion, NE; Alliance Municipal Airport, Alliance, NE; Quinn Field, Gothenburg, NE; Brewster Field Airport, Holdrege, NE; Imperial Municipal Airport, Imperial, NE; Jim Kelly Field, Lexington, NE; and Millard Airport, Omaha, NE. Airspace reconfiguration is necessary due to the decommissioning of NDBs, cancellation of NDB approaches, and implementation of RNAV procedures at the above airports. Controlled airspace is necessary for the safety and management of the standard instrument approach procedures for IFR operations at the airports. The geographic coordinates for Quinn Field, Imperial Municipal Airport, and Jim Kelly Field would also be updated to be in concert with the FAA's aeronautical database.

Class E airspace designations are published in paragraph 6002 and 6005 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas

* * * * *

ACE NE E2 Alliance, NE [Removed]

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

* * * * *

ACE NE E5 Albion, NE [Amended]

Albion Municipal Airport, NE
(Lat. 41°43′43″ N., long. 98°03′21″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Albion Municipal Airport, and within 2.6 miles each side of the 154° bearing from the airport extending from the 6.7-mile radius to 9.7 miles southeast of the airport, and within 3.7 miles each side of the 334° bearing from the airport extending from the 6.7-mile radius to 10.1 miles northwest for the airport.

* * * * *

ACE NE E5 Alliance, NE [Amended]

Alliance Municipal Airport, NE
(Lat. 42°03′12″ N., long. 102°48′14″ W.)

That airspace extending upward from 700 feet above the surface within a 7.2-mile radius of Alliance Municipal Airport.

* * * * *

ACE NE E5 Gothenburg, NE [Amended]

Gothenburg, Quinn Field, NE

(Lat. 40°55′32″ N., long. 100°08′48″ W.)

That airspace extending upward from 700 feet above the surface within an 7.3-mile radius of Quinn Field, and within 4 miles each side of the 030° bearing from the airport extending from the 7.3-mile radius to 11.1 miles northeast of the airport, and within 4 miles each side of the 218° bearing from the airport extending from the 7.3-mile radius to 10.5 miles southwest of the airport.

* * * * *

ACE NE E5 Holdrege, NE [Amended]

Holdrege, Brewster Field Airport, NE
(Lat. 40°27′08″ N., long. 99°20′11″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Brewster Field Airport.

* * * * *

ACE NE E5 Imperial, NE [Amended]

Imperial Municipal Airport, NE
(Lat. 40°30′37″ N., long. 101°37′13″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Imperial Municipal Airport.

* * * * *

ACE NE E5 Lexington, NE [Amended]

Lexington, Jim Kelly Field, NE
(Lat. 40°47′26″ N., long. 99°46′33″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Jim Kelly Field.

* * * * *

ACE NE E5 Omaha, Millard Airport, NE [Amended]

Omaha, Millard Airport, NE
(Lat. 41°11′46″ N., long. 96°06′44″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Millard Airport.

Issued in Fort Worth, Texas, on April 19, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–10176 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–4172; Airspace Docket No. 16–ASW–7]

Proposed Amendment of Class E Airspace for the Following Arkansas Towns; Blytheville, AR; Brinkley, AR; Clarksville, AR; and DeQueen, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace extending upward from 700 feet above the surface at Arkansas International Airport, Blytheville, AR; Blytheville Municipal Airport, Blytheville, AR; Frank Federer Memorial Airport, Brinkley, AR; Clarksville Municipal Airport, Clarksville, AR; and J. Lynn Helms Sevier County Airport, De Queen, AR. Decommissioning of non-directional radio beacons (NDBs), cancellation of NDB approaches, and implementation of area navigation (RNAV) procedures have made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the above airports. This action would also update the name of Arkansas International Airport, and the geographic coordinates for Arkansas International Airport, Blytheville Municipal Airport, and Clarksville Municipal Airport, to coincide with the FAAs aeronautical database.

DATES: Comments must be received on or before June 17, 2016.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2016–4172; Airspace Docket No. 16–ASW–7, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace at Arkansas International Airport, Blytheville, AR; Blytheville Municipal Airport, Blytheville, AR; Frank Federer Memorial Airport, Brinkley, AR; Clarksville Municipal Airport, Clarksville, AR; and J. Lynn Helms Sevier County Airport, De Queen, AR.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2016–4172/Airspace Docket No. 16–ASW–7.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through

the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX, 76177.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document would amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace extending upward from 700 feet above the surface at the following airports:

Within 7-mile radius of Arkansas International Airport (formerly Eaker AFB), and within a 6.5-mile radius of Blytheville Municipal Airport, Blytheville, AR, and updating their geographic coordinates;

Within a 6.4-mile radius of Frank Federer Memorial Airport, Brinkley, AR;

Within a 7.3-mile radius of Clarksville Municipal Airport, Clarksville, AR, and updating the airport's geographic coordinates; and Within a 6.5-mile radius of J. Lynn Helms Sevier County Airport, De Queen, AR.

Airspace reconfiguration is necessary due to the decommissioning of NDBs, cancellation of NDB approaches, or implementation of RNAV procedures at the above airports. Controlled airspace is necessary for the safety and management of the standard instrument approach procedures for IFR operations at the airports.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

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

* * * * *

ASW AR E5 Blytheville, AR [Amended]

Blytheville, Arkansas International Airport, AR
(Lat. 35°57′52″ N., long. 89°56′38″ W.)

Blytheville Municipal Airport, AR
(Lat. 35°56′26″ N., long. 89°49′51″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Arkansas International Airport and within a 6.5-mile radius of Blytheville Municipal Airport.

* * * * *

ASW AR E5 Brinkley, AR [Amended]

Brinkley, Frank Federer Memorial Airport, AR
(Lat. 34°52′49″ N., long. 91°10′35″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Frank Federer Memorial Airport.

* * * * *

ASW AR E5 Clarksville, AR [Amended]

Clarksville Municipal Airport, AR
(Lat. 35°28′15″ N., long. 93°25′38″ W.)

That airspace extending upward from 700 feet above the surface within a 7.3-mile radius of Clarksville Municipal Airport.

* * * * *

ASW AR E5 De Queen, AR [Amended]

De Queen, J. Lynn Helms Sevier County Airport, AR
(Lat. 34°02′49″ N., long. 94°23′58″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of J. Lynn Helms Sevier County Airport.

Issued in Fort Worth, Texas, on April 19, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, Central Service Center.

[FR Doc. 2016–10178 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2016–0003; Notice No. 158]

RIN 1513–AC25

Proposed Establishment of the Appalachian High Country Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to establish the approximately 2,400-square mile ''Appalachian High Country'' viticultural area in all or portions of the following counties: Alleghany, Ashe, Avery, Mitchell, and Watauga Counties in North Carolina; Carter and Johnson Counties in Tennessee; and Grayson County in Virginia. The proposed viticultural area does not lie within, nor does it contain, any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB invites comments on this proposed addition to its regulations.

DATES: Comments must be received by July 5, 2016.

ADDRESSES: Please send your comments on this proposed rule to one of the following addresses (please note that TTB has a new address for comments submitted by U.S. mail):

- *Internet: https://www.regulations.gov* (via the online comment form for this proposed rule as posted within Docket No. TTB–2016–0003 at ''Regulations.gov,'' the Federal e-rulemaking portal);
- *U.S. Mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; or
- *Hand delivery/courier in lieu of mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 400, Washington, DC 20005.

See the Public Participation section of this proposed rule for specific instructions and requirements for submitting comments, and for information on how to request a public hearing or view or request copies of the petition and supporting materials.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01, dated December 10, 2013 (superseding Treasury Department Order 120–01, (Revised), ''Alcohol and Tobacco Tax and Trade Bureau,'' dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these provisions.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth the standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Appalachian High Country Petition

TTB received a petition from Johnnie James, owner of Bethel Valley Farms, on behalf of members of the High Country Wine Growers Association, proposing to establish the approximately 2,400-square mile ''Appalachian High Country'' AVA. Twenty-one commercial vineyards, covering approximately 71 acres, are distributed across the proposed AVA. According to the petition, an additional 8 vineyards comprising approximately 37 acres are planned in the near future. There are also 10 bonded wineries within the proposed AVA.

The distinguishing features of the proposed Appalachian High Country AVA include its topography, climate, and soils. Unless otherwise noted, all information and data pertaining to the proposed AVA contained in this proposed rule come from the petition for the proposed Appalachian High Country AVA and its supporting exhibits.

Name Evidence

The region of the proposed Appalachian High Country AVA is often referred to as the ''High Country'' because of its high elevations, which, according to the petition, are considered to be the highest average elevations east of the Mississippi River. The High Country Wine Growers Association chose to add ''Appalachian'' to the proposed AVA name as a reference to the proposed AVA's location within the Appalachian Mountains, as well as to distinguish the proposed AVA from other regions across the country that are also referred to as ''High Country.''

The petition included evidence that the phrase ''High Country'' applies to the region of the proposed AVA. Several tourism Web sites that feature the region of the proposed AVA include the phrase ''High Country'' in their names, including High Country Host,[1] High Country Journey,[2] and GO NC High Country.[3] The High Country Council of Governments[4] is a planning and development association comprised of county and municipal governments in northwestern North Carolina, including Alleghany, Ashe, Avery, Mitchell, and Watauga Counties. The petition also included a listing of over 100 businesses and organizations within the proposed AVA that use the phrase ''High Country'' in their names, including High Country Wedding and Event Coordinators[5] in Butler, Tennessee (Johnson County); High Country Horse Camp[6] in Troutdale, Virginia (Grayson County); High Country Bottling Company[7] in West Jefferson, North Carolina (Ashe County); High Country Hearth and Chimney[8] in Banner Elk, North Carolina (Avery County); High Country Academy Tutoring Service[9] (Watauga County); and High Country Drywall[10] in Laurel Springs, North Carolina (Alleghany County).

The petition also included a listing of over 40 additional businesses and organizations that routinely use the phrase ''High Country'' in their printed or radio advertisements. For example, Boone Drug, which has locations in all of the Tennessee and North Carolina counties within the proposed AVA, advertises that the pharmacy chain was established in 1919 and ''has proudly been serving the High Country ever since * * *.''[11] Prospect Hill Bed and Breakfast, located in Mountain City, Tennessee and also within the proposed AVA, invites guests to ''enjoy the wonders of the Appalachian High Country.''[12] Red Tail Mountain Resort and Golf, which is also located in Mountain City, Tennessee, advertises itself as ''the finest mountain golf in the High Country.''[13] Finally, Appalachian Blinds and Closet Company, located in Boone, North Carolina, is advertised as the ''High Country's one-stop shop'' for home decorating needs.[14]

Boundary Evidence

The proposed Appalachian High Country AVA includes all or portions of Alleghany, Ashe, Avery, Mitchell, and Watauga Counties in North Carolina; Carter and Johnson Counties in Tennessee; and Grayson County in Virginia. A portion of the proposed eastern boundary follows the Ashe, Alleghany, and Watauga County lines to separate the proposed Appalachian High Country AVA from the adjacent Yadkin Valley AVA (27 CFR 9.174), which has lower elevations. The remainder of the proposed eastern boundary follows the Blue Ridge Parkway to separate the proposed AVA from the Pisgah National Forest, which is unavailable for commercial viticulture due to its status as a National Forest. The proposed southern and southwestern boundaries follow the Mitchell County line, to separate the proposed AVA from the steeper slopes of the Black Mountains. Additionally, the petition states that the phrase ''High Country'' is not commonly used in reference to the region southwest of Mitchell County. A portion of the western boundary follows the 2,000-foot elevation line through Carter County and separates the high elevations of the proposed AVA from the lower elevations to the west. The remainder of the proposed western boundary, along with the proposed northwestern and northern boundary, follows the Johnson and Grayson County lines, to separate the proposed AVA from regions that have shallower slope angles and are not generally referred to as ''High Country.''

Distinguishing Features

The distinguishing features of the proposed Appalachian High Country AVA include its topography, climate, and soils.

Topography

The proposed Appalachian High Country is a mountainous region with high elevations and steep slopes. Elevations range from 1,338 feet to over 6,000 feet, with vineyards planted at elevations between 2,290 and 4,630 feet. According to the petition, 12 of the 21 vineyards within the proposed AVA are located at elevations at or above 3,000 feet. The average slope angle within the proposed AVA is 35.9 degrees, with vineyards planted on slope angles ranging from 9 to 46 degrees. The petition states that 11 of the vineyards within the proposed AVA are planted on slopes with angles of 30 degrees or higher. The following tables compare the elevations and slope angles of the proposed AVA to those of the surrounding areas.

TABLE 1—ELEVATION

[in feet][15]

Region	Minimum	Maximum	Mean
Proposed AVA	1,338	6,259	3,127
Northwest	1,069	5,728	2,050
Northeast	774	3,960	2,313
Southeast	177	5,754	1,012
Southwest	961	6,660	2,846

[1] *www.highcountryhost.com.*
[2] *www.highcountryjourney.com.*
[3] *www.youtube./user/GoNCHighCountry.*
[4] *www.regiond.org.*
[5] *www.highcountryweddingplanners.com.*
[6] *www.highcountryhorsecampva.net.*
[7] *www.highcountrywater.com.*
[8] *www.highcountryhearth.com.*
[9] *www.highcountryacademync.com.*
[10] No Web site available.
[11] *www.boonedrug.com.*
[12] *www.prospect-hill.com/activities.*
[13] *www.redtailmountain.com.*
[14] *www.appblinds.com.*
[15] Elevations calculated using the U.S. Geological Survey's Digital Elevation Models.
[16] Slope angles calculated using the US Geological Survey's Digital Elevation Models. All regions in the survey area have a minimum slope angle of 0 degrees.

TABLE 2—SLOPE ANGLE

[percent] [16]

Region	Maximum	Mean
Proposed AVA	78.2	35.9
Northwest	78.4	31
Northeast	77.7	28.1
Southeast	82.3	16.9
Southwest	80.1	37.3

The data in the tables indicates that the proposed Appalachian High Country AVA has higher minimum and mean elevations than all of the surrounding regions, as well as a maximum elevation that is higher than every region except the region to the southwest, within the Black Mountains. The data also indicates that although some of the surrounding areas have greater maximum slope angles, the proposed AVA has a greater mean slope angle than all of the surrounding regions except the southwestern region.

The high elevations and steep slope angles affect viticulture within the proposed Appalachian High Country AVA. Vineyards on the steepest slopes are terraced to reduce erosion. The steep slopes are also unsuitable for large-scale mechanized tilling, harvesting, and spraying. Therefore, instead of planting a single large vineyard, a vineyard owner within the proposed AVA will often plant multiple small vineyards, which can be more easily tended by hand.

The high elevations of the proposed AVA expose the vineyards to greater amounts of solar irradiance than that received by lower surrounding regions. The following table shows the minimum, maximum, and mean amount of solar irradiance received in the proposed AVA and the surroundingregions.

TABLE 3—SOLAR IRRADIANCE

[Watt hours per acre] [17]

Region	Minimum	Maximum	Mean
Proposed AVA	18.4	395.4	233.6
Northwest	13.7	383.3	221.0
Northeast	17.1	329.0	240.0
Southeast	9.2	372.7	231.9
Southwest	11.3	404.9	219.1

The mean amount of solar irradiance the proposed AVA receives is greater than the amount received in three of the four surrounding areas; only the northeast region receives a higher mean amount of solar irradiance. According to the petition, the high amounts of solar irradiation received in the proposed AVA compensate for the low temperatures and allow grapes to mature successfully within a short growing season.

Climate

According to the petition, temperatures within the proposed Appalachian High Country AVA are cooler than the surrounding regions. The petition included the following tables that show the average annual and growing season temperatures for the proposed AVA and the surrounding regions.

TABLE 4—AVERAGE ANNUAL TEMPERATURES

[In degrees Fahrenheit] [18]

Location	Maximum	Minimum	Mean
Proposed AVA	62.0	40.9	51.5
Northwest	65.9	43.2	54.6
Northeast	63.6	42.5	53.1
Southeast	70.1	47.1	58.6
Southwest	64.9	42.3	53.6

TABLE 5—AVERAGE ANNUAL GROWING SEASON TEMPERATURES

[In degrees Fahrenheit] [19]

Location	Maximum	Minimum	Mean
Proposed AVA	72.0	50.5	61.3
Northwest	76.7	53.1	64.9

[17] Solar irradiance calculated using ArcGIS software.

[18] Annual climate indices were calculated using the PRISM Spatial Climatic Dataset. The PRISM climate data mapping system combines climate normals gathered from weather stations, along with other factors such as elevation, longitude, slope angles, and solar aspect to estimate the general climate patterns for the proposed AVA and the surrounding regions. Climate normals are only calculated every 10 years, using 30 years of data, and at the time the petition was submitted, the most recent climate normals available were from the period of 1981–2010.

TABLE 5—AVERAGE ANNUAL GROWING SEASON TEMPERATURES—Continued

[In degrees Fahrenheit] [19]

Location	Maximum	Minimum	Mean
Northeast	74.2	52.4	63.3
Southeast	80.2	57.2	68.7
Southwest	74.4	51.7	63.1

The petition also included information on the growing degree days (GDDs),[20] Winkler regions,[21] growing season length, and plant hardiness zones of locations both within and outside of the proposed Appalachian High Country AVA. The growing season length, GDDs, and Winkler regions are all based on the 1981–2010 climate normals, which were the most recent climate normals available at the time the petition was submitted. The plant hardiness zone information was gathered from the United States Department of Agriculture's 2012 Plant Hardiness Zone interactive map.[22] The information is included in the following table.

TABLE 6—GDDS, WINKLER REGIONS, GROWING SEASON LENGTH, AND PLANT HARDINESS ZONES

Location	Growing degree days	Winkler region	Growing season length (in days)	Plant hardiness zone
Proposed AVA	2,635	I/II	139.2	6a/6b (−10 to 0 degrees Fahrenheit).
Northwest	3,507	III/IV	153.6	6b (−5 to 0 degrees Fahrenheit).
Northeast	3,114	III	157.3	6b (−5 to 0 degrees Fahrenheit).
Southeast	3,762	IV/V	161.3	7a/7b (0 to 10 degrees Fahrenheit).
Southwest	3,341	III	148.3	6b/7a (−5 to 5 degrees Fahrenheit).

The climate data presented in the three tables shows that the proposed Appalachian High Country AVA is a cool region with a shorter growing season and fewer GDDs than the surrounding regions. According to the petition, the cool climate, small accumulation of GDDs, and short growing season within the proposed viticulture area have an effect on viticulture. For instance, varieties of grapes that require warm temperatures and a long period of time to mature successfully do not grow well within the proposed AVA. Instead, vineyard owners within the proposed AVA choose to plant cold-hardy hybrid varietals of grapes such as Marquette, traminette, seyval blanc, cabernet franc, vidal blanc, and Frontenac. These varieties require less time to reach full maturity and can withstand the colder winter temperatures of the proposed AVA. The petition also notes that the temperatures of the proposed AVA are well-suited for the production of ice wine, which must be produced from grapes that have been naturally frozen on the vine. According to the petition, temperatures within the proposed AVA can easily drop low enough to freeze the mature grapes before they rot.

The petition also included information about the average annual and growing season precipitation amounts for the proposed Appalachian High Country AVA and the surrounding areas. The information is included in the following table.

TABLE 7—PRECIPITATION

[In inches] [23]

Location	Average annual precipitation	Average growing season precipitation
Proposed AVA	48.6	29.5
Northwest	45.3	27.0
Northeast	46.4	28.6
Southeast	47.2	28.2
Southwest	53.0	30.9

[19] Growing season indices were also calculated using the PRISM Spatial Climatic Dataset and climate normal from 1981–2010. ''Growing season'' is defined as the period from April 1–October 31.

[20] In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual growing degree days (GDDs), defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees, the minimum temperature required for grapevine growth. See Albert J. Winkler, *General Viticulture* (Berkeley: University of California Press, 1974), pages 61–64.

[21] In the Winkler climate classification system, geographical areas are divided into five climate zones based on growing degree days (GDDs), with Region I being the coolest and Region V being the hottest. The zone ranges are as follows: Region I = 2,500 GDDs or less; Region II = 2,501–3,000 GDDs; Region III = 3,001–3,500 GDDs; Region IV = 3,501–4,000 GDDs; Region V = 4,001 GDDs or more. See Albert J. Winkler, *General Viticulture* (Berkeley: University of California Press, 1974), pages 61–64.

[22] The plant hardiness zone scale is based on average annual minimum winter temperatures, divided into 10-degree Fahrenheit zones ranging from a low of 1 to a high of 13. Each zone is further divided into two 5-degree sub-zones labeled ''a'' and ''b,'' with the ''a'' zone being the colder zone. See *www.planthardiness.ars.usda.gov/PHZMWeb.*

[23] Data collected using the PRISM Spatial Climate Dataset and the 1981–2010 climate normals.

The data shows that the proposed AVA receives more rainfall than all the surrounding regions except the region to the southwest. According to the petition, the high rainfall amounts of the proposed AVA affect viticulture. High rainfall amounts, particularly during the growing season, can promote disease and fungus in grapevines. However, the cold-hardy hybrid varietals prevalent within the proposed AVA have also been bred for disease resistance. Therefore, the petition states, the grapes grown in the proposed AVA are well-suited to withstand both cold and wet climates.

Soils

The soils of the proposed Appalachian High Country AVA are derived from igneous and metamorphic rocks such as gneiss and granite. The soils are described as well-drained soils with a fine, loamy texture. In environments with high annual precipitation amounts, such as the proposed AVA, well-drained soils help reduce the risk of fungus and rot in grapevines. The petition states that organic matter comprises up to 14 percent of the soils in the proposed AVA, providing an excellent source of nutrients for grapevines. The soils are also considered very deep, with 60 inches or more to bedrock, which provides ample room for root growth.

The petition states that there are 26 soil series associations represented within the proposed AVA. Eight of these soil series associations comprise 82 percent of the total soils of the proposed AVA. The following table sets out the eight major soil series associations and the percentage each series makes up of the total proposed AVA soils.

TABLE 8—MAJOR SOIL SERIES ASSOCIATIONS WITHIN THE PROPOSED AVA [24]

Soil series association	Percentage of total proposed AVA soils
Tusquitee-Edneyville	24
Hayesville	17
Tate-Maymead-Ditney	9
Tusquitee-Porters-Fannin-Evard-Brevard-Ashe	9
Chester-Ashe	7
Watauga-Clifton-Chandler	7
Clifton-Chester	5
Tusquitee-Porters-Codorus-Chester	4
Total	82

The soils of the proposed Appalachian High Country AVA distinguish it from the surrounding regions. According to the petition, two of the eight most prevalent soil series associations within the proposed AVA (Watauga—Clifton—Chandler and Clifton–Chester) are not found in the surrounding regions. Other soil series associations found within the proposed AVA are also found in the regions outside the proposed AVA to the northeast and southwest, but in greater amounts. For example, to the northeast of the proposed AVA, the Hayesville soil series association is the most prevalent soil series association, comprising 43 percent of the soils. By contrast, this soil series association makes up only 17 percent of the soils of the proposed AVA. Two other major soil series associations are prevalent to the northeast of the proposed AVA. The Myersville—Catoctin and the Wallen–Lilly—Drypond—Dekalb soil series associations comprise 15 and 12 percent of the soils in those regions, respectively. These two soil series associations combined only account for 3 percent of the soils within the proposed AVA. Southwest of the proposed AVA the Chester–Ashe soil series association is the most prevalent association, comprising 27 percent of the soils, compared to only 7 percent of the soils within the proposed AVA.

The soil series associations that are most prevalent in the areas southeast and northwest of the proposed AVA are present only in miniscule amounts within the proposed AVA. The most common soil series association in the region to the southeast of the proposed AVA is the Hiwassee—Cecil association, which makes up 30 percent of that region's soils. The region to the northwest of the proposed AVA is dominated by the Frederick—Carbo soil series association, which comprises 22 percent of that region's soils.

Summary of Distinguishing Features

In summary, the evidence provided in the petition indicates that the geographic features of the proposed Appalachian High Country AVA distinguish it from the surrounding regions in each direction. The following table summarizes the distinguishing features of the proposed AVA and the surrounding regions.

Location	Distinguishing features
Proposed Appalachian High Country AVA	• Elevations between 1,338 and 6,259 feet. • Mean slope angle of 35.9 percent. • High levels of solar irradiance. • Cool Region I/II climate with short growing season. • Average annual precipitation total of 48.6 inches. • Soils primarily of the Tusquitee—Edneyville soil series association.
Northwest	• Elevations between 1,069 and 5,728 feet. • Mean slope angle of 31 percent. • Lower levels of solar irradiance. • Warm Region III/IV climate with long growing season. • Average annual precipitation total of 45.3 inches. • Soils primarily of the Frederick—Carbo soil series association.
Northeast	• Elevations between 774 and 3,906 feet. • Mean slope angle of 28.1 percent. • Lower levels of solar irradiance. • Warm Region III climate with long growing season. • Average annual precipitation total of 46.4 inches. • Soils primarily of the Hayesville soil series association.
Southeast	• Elevations between 177 and 5,754 feet. • Mean slope angle of 16.9 percent. • Lower levels of solar irradiance. • Hot Region IV/V climate with long growing season.

[24] Source: 2013 USDA Natural Resources Conservation Service Web Soil Survey (*www.websoilsurvey.nrcs.usda.gov*).

Location	Distinguishing features
Southwest	• Average annual precipitation total of 47.2 inches. • Soils primarily of the Hiwassee—Cecil soil series association. • Elevations between 961 and 6,660 feet. • Mean slope angle of 37.3 percent. • Lower levels of solar irradiance. • Warm Region III climate with long growing season. • Average annual precipitation total of 53 inches. • Soils primarily of the Chester—Ashe soil series association.

TTB Determination

TTB concludes that the petition to establish the approximately 2,400-square mile Appalachian High Country AVA merits consideration and public comment, as invited in this proposed rule.

Boundary Description

See the narrative description of the boundary of the petitioned-for AVA in the proposed regulatory text published at the end of this proposed rule.

Maps

The petitioner provided the required maps, and they are listed below in the proposed regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in § 4.25(e)(3) of the TTB regulations (27 CFR 4.25(e)(3)). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See § 4.39(i)(2) of the TTB regulations (27 CFR 4.39(i)(2)) for details.

If TTB establishes this proposed AVA, its name, ''Appalachian High Country,'' will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the proposed regulation clarifies this point. Consequently, if this proposed rule is adopted as a final rule, wine bottlers using the name ''Appalachian High Country'' in a brand name, including a trademark, or in another label reference as to the origin of the wine, would have to ensure that the product is eligible to use the AVA name as an appellation of origin.

Public Participation

Comments Invited

TTB invites comments from interested members of the public on whether it should establish the proposed AVA. TTB is also interested in receiving comments on the sufficiency and accuracy of the name, boundary, soils, climate, and other required information submitted in support of the petition. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Appalachian High Country AVA on wine labels that include the term ''Appalachian High Country,'' as discussed above under Impact on Current Wine Labels, TTB is particularly interested in comments regarding whether there will be a conflict between the proposed area name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any anticipated negative economic impact that approval of the proposed AVA will have on an existing viticultural enterprise. TTB is also interested in receiving suggestions for ways to avoid conflicts, for example, by adopting a modified or different name for the AVA.

Submitting Comments

You may submit comments on this proposed rule by using one of the following three methods (please note that TTB has a new address for comments submitted by U.S. Mail):

• *Federal e-Rulemaking Portal:* You may send comments via the online comment form posted with this proposed rule within Docket No. TTB–2016–0003 on ''Regulations.gov,'' the Federal e-rulemaking portal, at *https://www.regulations.gov.* A direct link to that docket is available under Notice No. 158 on the TTB Web site at *https://www.ttb.gov/wine/wine-rulemaking.shtml.* Supplemental files may be attached to comments submitted via Regulations.gov. For complete instructions on how to use Regulations.gov, visit the site and click on the ''Help'' tab.

• *U.S. Mail:* You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.

• *Hand Delivery/Courier:* You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 400, Washington, DC 20005.

Please submit your comments by the closing date shown above in this proposed rule. Your comments must reference Notice No. 158 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments, and TTB considers all comments as originals.

In your comment, please clearly indicate if you are commenting on your own behalf or on behalf of an association, business, or other entity. If you are commenting on behalf of an entity, your comment must include the entity's name, as well as your name and position title. If you comment via Regulations.gov, please enter the entity's name in the ''Organization'' blank of the online comment form. If you comment via postal mail or hand delivery/courier, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

TTB will post, and you may view, copies of this proposed rule, selected supporting materials, and any online or mailed comments received about this proposal within Docket No. TTB–2016–0003 on the Federal e-rulemaking portal, Regulations.gov, at *https://www.regulations.gov.* A direct link to that docket is available on the TTB Web site at *https://www.ttb.gov/wine/wine-rulemaking.shtml* under Notice No. 158. You may also reach the relevant docket through the Regulations.gov search page at *https://www.regulations.gov.* For information on how to use Regulations.gov, click on the site's ''Help'' tab.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including email addresses. TTB may omit voluminous attachments or material that the Bureau considers unsuitable for posting.

You may also view copies of this proposed rule, all related petitions, maps and other supporting materials, and any electronic or mailed comments that TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Please note that TTB is unable to provide copies of USGS maps or any similarly-sized documents that may be included as part of the AVA petition. Contact TTB's information specialist at the above address or by telephone at 202–453–2265 to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this proposed rule.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, TTB proposes to amend title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding § 9.____to read as follows:

§ 9. Appalachian High Country.

(a) *Name.* The name of the viticultural area described in this section is ''Appalachian High Country''. For purposes of part 4 of this chapter, ''Appalachian High Country'' is a term of viticultural significance.

(b) *Approved maps.* The 46 United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Appalachian High Country viticultural area are titled:

(1) Unicoi, Tenn.—N.C, 1939; photorevised 1978;

(2) Iron Mountain gap, Tenn.—N.C., 1960; photorevised 1968;

(3) Johnson City, Tenn., 1959; photorevised 1968;

(4) Elizabethton, Tenn., 1959; photorevised 1968;

(5) Watauga Dam, Tenn., 1960;

(6) Carter, Tenn., 1938; photorevised 1969;

(7) Keenburg, Tenn., 1960;

(8) Doe, Tenn., 1938; photorevised 1969;

(9) Shady Valley, Tenn.—VA., 1960; photorevised 1970; photoinspected 1988;

(10) Laurel Bloomery, Tenn.—VA., 1938; photorevised 1969;

(11) Grayson, Tenn.—N.C.—VA., 1959; photoinspected 1976;

(12) Park, N.C.—VA., 1959; photorevised 1978;

(13) Whitetop Mountain, VA., 1959; photorevised 1978;

(14) Trout Dale, VA., 1959; photorevised 1978; photoinspected 1988;

(15) Middle Fox Creek, VA., 1959; photoinspected 1988;

(16) Cedar Springs, VA., 1959; photorevised 1978; photoinspected 1988;

(17) Speedwell, VA., 1968; photorevised 1979;

(18) Cripple Creek, VA., 1968; photoinspected 1988;

(19) Austinville, VA., 1965; photorevised 1979; photoinspected 1982;

(20) Galax, VA., 1965; photorevised 1984;

(21) Cumberland Knob, N.C.—VA., 1965; photorevised 1977;

(22) Lambsburg, VA.—N.C., 1965; photorevised 1977;

(23) Roaring Gap, N.C., 1971;

(24) Glade Valley, N.C., 1968;

(25) Traphill, N.C., 1968;

(26) Whitehead, N.C., 1968;

(27) McGrady, N.C., 1968; photoinspected 1984;

(28) Horse Gap, N.C., 1968;

(29) Laurel Springs, N.C., 1968;

(30) Glendale Springs, N.C., 1967;

(31) Maple Springs, N.C., 1966;

(32) Deep Gap, N.C., 1967;

(33) Buffalo Cove, N.C., 1967;

(34) Globe, N.C., 1959;

(35) Grandfather Mountain, N.C., 1960; photorevised 1978;

(36) Newland, N.C., 1960; photorevised 1978;

(37) Linville Falls, N.C., 1994;

(38) Ashford, N.C., 1994;

(39) Little Switzerland, N.C., 1994;

(40) Spruce Pine, N.C., 1994;

(41) Celo, N.C., 1994;

(42) Micaville, N.C., 1960; photorevised 1978;

(43) Bakersville, N.C.,—Tenn., 1960; photorevised 1978;

(44) Burnsville, N.C., 1998;

(45) Huntdale, N.C.—Tenn., 1939; and

(46) Chestoa, Tenn.—N.C., 1939; photorevised 1978.

(c) *Boundary.* The Appalachian High Country viticultural area is located in all or portions of Alleghany, Ashe, Avery, Mitchell, and Watauga Counties in North Carolina; Carter and Johnson Counties in Tennessee; and Grayson County in Virginia. The boundary of the Appalachian High Country viticultural area is as described below:

(1) The beginning point is on the Unicoi map, at the point where the Unicoi/Mitchell County line intersects with an unnamed road known locally as Unaka Mountain Road near Beauty Spot Gap, Tennessee. From the beginning point, proceed northeasterly approximately 7.3 miles along the Unicoi/Mitchell County line, crossing onto the Iron Mountain Gap map, to the intersection of the Unicoi/Mitchell County line with the Carter County line; then

(2) Proceed northerly along the Unicoi/Carter County line

approximately 9.3 miles, crossing back onto the Unicoi map and then onto the Johnson City map, to the intersection of the Unicoi/Carter County line with the 2,000-foot elevation contour, southeast of an unnamed road known locally as Whispering Pine Road; then

(3) Proceed southeasterly along the meandering 2,000-foot elevation contour, crossing onto the Unicoi map and then back onto the Johnson City map, and continuing onto the Elizabethton map for approximately 19 miles to the intersection of the elevation contour with an unnamed road known locally as Brimer Road near Bremer Hollow; then

(4) Proceed northwesterly approximately 1,500 feet along Brimer Road to an unnamed road known locally as Jenkins Hollow Road; then

(5) Proceed easterly approximately 1.4 miles along Jenkins Hollow Road, crossing the Doe River, to U.S. Route 321 in the town of Valley Forge, Tennessee; then

(6) Proceed north approximately 400 feet along U.S. Route 321 to an unnamed road known locally as Ruby Harmon Road; then

(7) Proceed northeasterly approximately 360 feet along Ruby Harmon Road to an unnamed road known locally as Nanny Goat Hill Road; then

(8) Proceed easterly approximately 0.2 mile along Nanny Goat Hill Road to the 1,800-foot elevation contour, east of an unnamed road known locally as Gene Mathes Road; then

(9) Proceed northeasterly approximately 0.4 mile along the 1,800-foot elevation contour to an unnamed road known locally as Franklin Lane; then

(10) Proceed southerly approximately 0.3 mile along Franklin Lane to the 2,000-foot elevation contour; then

(11) Proceed northeasterly along the meandering 2,000-foot elevation contour, crossing over Hardin Branch, Clover Branch, South Pierce Branch, and North Pierce Branch, to a fifth, unnamed stream; then

(12) Proceed northerly approximately 0.47 mile along the unnamed stream to an unnamed road known locally as Wilbur Dam Road; then

(13) Proceed southeasterly approximately 0.25 mile along Wilbur Dam Road to Wilbur Dam; then

(14) Proceed northeasterly across Wilbur Dam to the marked transmission line; then

(15) Proceed northerly approximately 0.5 mile along the transmission line to the 2,000-foot elevation contour; then

(16) Proceed northeasterly approximately 19 miles along the meandering 2,000-foot elevation contour, crossing over the Watauga Dam map and onto the Carter map, and continuing along the 2,000-foot elevation contour as it crosses over State Route 91 near Sadie, Tennessee, and turns southwesterly, and continuing southwesterly for approximately 22.2 miles along the 2,000-foot elevation contour, crossing onto the Keenburg map and circling Carter Knob, to the intersection of the 2,000-foot elevation contour with the Carter/Sullivan County line; then

(17) Proceed southeasterly, then northeasterly, approximately 7 miles along the Carter/Sullivan County line to an unnamed road known locally as National Forest Road 56, near Low Gap, Tennessee; then

(18) Proceed easterly approximately 0.75 miles along National Forest Road 56, crossing onto the Carter map, to the Carter/Sullivan County line; then

(19) Proceed easterly approximately 10.4 miles along the Carter/Sullivan County line, crossing over the Doe map (northwestern corner) and onto the Shady Valley Map, to the intersection of the Carter/Sullivan County line with the Johnson County line at Rich Knob, Tennessee; then

(20) Proceed northeasterly approximately 13.4 miles along the Johnson/Sullivan County line, crossing onto the Laurel Bloomery map, to the intersection of the Johnson/Sullivan County line with the Washington County line at the Virginia/Tennessee State line; then

(21) Proceed easterly approximately 10 miles along the Johnson/Washington County line, crossing onto the Grayson map, to the intersection of the Johnson/Washington County line with the Grayson County line; then

(22) Proceed east, then northeasterly, then southeasterly, along the Grayson County line, crossing over the Park, Whitetop Mountain, Trout Dale, Middle Fox Creek, Cedar Springs, Speedwell, Cripple Creek, Austinville, Galax, and Cumberland Knob maps and onto the Lambsburg map, to the intersection of the Grayson County line with the Surry County line and an unnamed road known locally as Fisher's Peak Road, at the Virginia/North Carolina State line; then

(23) Proceed west along the Grayson/Surry County line, crossing back onto the Cumberland Knob map, to Alleghany County line; then

(24) Proceed southerly, then northwesterly, then southwesterly along the Alleghany County line, crossing over the Roaring Gap, Glade Valley, Traphill (northeastern corner), Whitehead, McGrady (northwestern corner), Horse Gap, and Laurel Springs map, then back onto the Horse Gap map and continuing along the Alleghany County line on the Horse Gap map to the Ashe/Wilkes County line at Mulberry Gap, North Carolina; then

(25) Proceed westerly, then southwesterly along the Ashe/Wilkes County line, crossing over the Glendale Springs and onto the Maple Springs map, then back onto the Glendale Springs map, then back onto the Maple Springs map, and continuing along the Ashe/Wilkes County line on the Maple Springs map to the intersection of the Ashe/Wilkes County line and the Watauga County line at Thomkins Knob, North Carolina; then

(26) Proceed southwesterly along the Watauga/Wilkes County line, crossing over the Deep Gap map (southeastern corner) and onto the Buffalo Cove map, to the intersection of the Watauga/Wilkes County line and the Caldwell County line at White Rock Mountain, North Carolina; then

(27) Proceed west along the Watauga/Caldwell County line, crossing over the Globe map and onto the Grandfather Mountain map, to the intersection of the Watauga/Caldwell County line with the Avery County line at Calloway Peak, North Carolina; then

(28) Proceed southeasterly approximately 1.8 miles along the Caldwell/Avery County line to the boundary of the Blue Ridge Parkway at Pilot Knob, North Carolina; then

(29) Proceed southwesterly approximately 11.6 miles along the Blue Ridge Parkway boundary, crossing over the Newland map (southeastern corner) and onto the Linville Falls map, to the intersection of the parkway boundary with the Avery/Burke County line; then

(30) Proceed northwesterly, then southwesterly, for a total of approximately 4.2 miles along the Avery/Burke County line to the McDowell County line; then

(31) Proceed southerly approximately 5 miles along the Avery/McDowell County line to the Mitchell County line; then

(32) Proceed southerly, then southwesterly, along the McDowell/Mitchell County line, crossing over the Ashford (northwestern corner) and Little Switzerland (northeastern corner) maps and onto the Spruce Pine map, then back onto the Little Switzerland map and continuing along the McDowell/Mitchell County line, crossing onto the Celo map, to the intersection of the McDowell/Mitchell County line with the Yancey County line; then

(33) Proceed west then northerly along the Mitchell/Yancey County line,

crossing over the Micaville, Bakersville, Huntdale (southeastern corner), and Burnsville maps, then back onto the Huntdale map and continuing along the Mitchell/Yancy County line, crossing onto the Chestoa map, to the intersection of the Mitchell/Yancey County line with the Mitchell/Unicoi County line, which is concurrent with the Tennessee/North Carolina State line; then

(34) Proceed northeasterly along the Mitchell/Unicoi County line, crossing back over the Huntsdale (northwestern corner) map and onto the Unicoi map, and returning to the beginning point.

Signed: April 25, 2016.

Mary G. Ryan,

Deputy Administrator.

[FR Doc. 2016–10291 Filed 5–2–16; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2015–0839; FRL–9945–89–Region 4]

Determination of Attainment; Atlanta, Georgia; 2008 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the Atlanta, Georgia, 2008 Ozone National Ambient Air Quality Standard (NAAQS) Moderate Nonattainment Area (''Atlanta Area'' or the ''Area'') has attained the 2008 8-hour ozone NAAQS. This proposed determination is based upon complete, quality-assured, and certified ambient air monitoring data showing that the Area has monitored attainment of the 2008 8-hour ozone NAAQS for the 2013–2015 monitoring period. If EPA finalizes this proposed action, the requirement for this Area to submit an attainment demonstration and associated reasonably available control measures (RACM), reasonable further progress (RFP) plans, contingency measures, and other planning state implementation plans (SIPs) related to attainment of the 2008 8-hour ozone NAAQS will be suspended until EPA redesignates the Area to attainment, approves a redesignation substitute, or determines that the Area has violated the 2008 8-hour ozone NAAQS. This proposed attainment determination does not constitute a redesignation to attainment. The Atlanta Area will remain in nonattainment status for the 2008 8-hour ozone NAAQS until such time as the State requests a redesignation to attainment and EPA determines that the Atlanta Area meets the Clean Air Act (CAA or Act) requirements for redesignation, including an approved maintenance plan.

DATES: Comments must be received on or before June 2, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2015–0839, at *http://www.regulations.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, 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: Jane Spann, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Spann can be reached via phone at (404) 562–9029 or via electronic mail at *spann.jane@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 2008, EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 parts per million (ppm) (annual fourth-highest daily maximum 8-hour average concentration, averaged over three years) to provide increased protection of public health and the environment. *See* 73 FR 16436 (March 27, 2008). The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997, but is set at a more protective level. Effective July 20, 2012, EPA designated any area that was violating the 2008 8-hour ozone NAAQS based on the three most recent years (2008–2010) of air monitoring data as a nonattainment area. *See* 77 FR 30088 (May 21, 2012). The Atlanta Area, consisting of Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale counties, was designated as a marginal ozone nonattainment area. *See* 40 CFR 81.311. Areas that were designated as marginal ozone nonattainment areas were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2015, based on 2012–2014 monitoring data. The Atlanta Area did not attain the 2008 8-hour ozone NAAQS by July 20, 2015, and therefore on April 11, 2016, the EPA Administrator signed a final rule reclassifying the Atlanta Area from a marginal nonattainment area to a moderate nonattainment area for the 2008 8-hour ozone standard. A pre-publication version of the final rule can be found at EPA's Web site at: *https://www.epa.gov/sites/production/files/2016-04/documents/20160411fr.pdf.* Moderate areas are required to attain the 2008 8-hour ozone NAAQS by no later than July 20, 2018, six years after the effective date of the initial nonattainment designations. *See* 40 CFR 51.1103. Air quality monitoring data from the 2013–2015 monitoring period show that the Atlanta Area is now attaining the 2008 8-hour ozone NAAQS.

Under the provisions of EPA's ozone implementation rule for the 2008 8-hour ozone NAAQS (40 CFR part 51, subpart AA), if EPA issues a determination that an area is attaining the relevant standard, also known as a Clean Data Determination, the area's obligations to submit an attainment demonstration and associated RACM, RFP, contingency measures, and other planning SIPs related to attainment of the 2008 8-hour ozone NAAQS are suspended until EPA: (i) Redesignates the area to attainment for the standard or approves a redesignation substitute, at which time those requirements no longer apply; or (ii) EPA determines that the area has violated the standard, at which time the area is again required to submit such plans. *See* 40 CFR 51.1118. While these requirements are suspended, EPA is not precluded from acting upon these elements at any time if submitted to EPA for review and approval.

An attainment determination is not equivalent to a redesignation under section 107(d)(3) of the CAA. The designation status of the Atlanta Area will remain nonattainment for the 2008

8-hour ozone NAAQS until such time as EPA determines that the Area meets the CAA requirements for redesignation to attainment, including an approved maintenance plan, and redesignates the Area. Additionally, the determination of attainment is separate from, and does not influence or otherwise affect, any future designation determination or requirements for the Atlanta Area based on any new or revised ozone NAAQS, and the determination of attainment remains in effect regardless of whether EPA designates this Area as a nonattainment area for purposes of any new or revised ozone NAAQS.

II. EPA's Analysis

The 2008 8-hour ozone NAAQS are met at a monitor when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations at the ozone monitor is less than or equal to 0.075 ppm based on complete, consecutive calendar years of certified, quality-assured ambient air monitoring data. *See* 40 CFR 50.15; 40 CFR part 50, appendix P. This 3-year average is referred to as the design value. When the design value is less than or equal to 0.075 ppm at each monitor within the area, then the area is attaining the NAAQS. Also, the data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than or equal to 90 percent, and no single year has less than 75 percent data completeness as determined in 40 CFR part 50, appendix P. The data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA Air Quality System (AQS).

EPA has reviewed the complete, quality-assured, and certified ozone ambient air monitoring data for the 2013–2015 monitoring period for the Atlanta Area. The design values for each monitor for this period are less than or equal to 0.075 ppm, and all of the monitors meet the data completeness requirements (*see* Table 1, below). Based on this data and consistent with the requirements contained in 40 CFR part 50, EPA has preliminarily concluded that this Area has attained the 2008 8-hour ozone NAAQS.

TABLE 1—ATLANTA AREA 4TH HIGHEST DAILY MAXIMUM OZONE 8-HOUR AVERAGES AND 8-HOUR OZONE DESIGN VALUES FOR 2013–2015

County	Monitor ID	4th Highest daily maximum value			Design value (2013–2015)
		2013	2014	2015	
Cobb	130670003	67	*63	66	*65
Coweta	130770002	53	67	66	62
Dawson	130850001	63	66	63	64
DeKalb	130890002	62	70	71	67
Douglas	130970004	63	65	70	66
Fulton	131210055	69	73	77	73
Gwinnett	131350002	69	68	71	69
Henry	131510002	70	75	70	71
Paulding	132230003	62	59	65	62
Pike	132319991	64	66	68	66
Rockdale	132470001	71	79	68	72

*Georgia temporarily shut down the monitor during a portion of the 2014 monitoring season due to construction at the National Guard Depot.

The data in Table 1 are taken from EPA's AQS database, available at: *https://www.epa.gov/aqs.* The AQS report with this data is available in the docket for this rulemaking.

III. Proposed Action

EPA is proposing to determine that the Atlanta Area has attained the 2008 8-hour ozone NAAQS. This proposed determination is based upon complete, quality assured, and certified ambient air monitoring data showing that the Atlanta Area has monitored attainment of the 2008 8-hour ozone NAAQS for the 2013–2015 monitoring period. If EPA finalizes this proposal, the requirement for this Area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and other planning SIPs related to attainment of the 2008 8-hour ozone NAAQS will be suspended until EPA redesignates the Area to attainment, approves a redesignation substitute, or determines that the Area has violated the standard.

IV. Statutory and Executive Order Reviews

This proposed attainment determination would, if finalized, result in the suspension of certain federal requirements and would not impose any additional requirements. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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
- Will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) and will not impose substantial direct costs on tribal governments or preempt tribal law

because it merely makes a determination based on air quality data.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

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

Dated: April 20, 2016.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2016–10167 Filed 5–2–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[Docket No. 16–08]

RIN 3072–AC64

Rules of Practice and Procedure; Presentation of Evidence in Commission Proceedings

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission is proposing to reorganize several subparts of its Rules of Practice and Procedure and revise its rules regarding presentation of evidence in Commission proceedings.

DATES: Submit comments on or before July 5, 2016.

ADDRESSES: You may submit comments, identified by the docket number in the heading of this document, by any of the following methods:

- *Email: secretary@fmc.gov.* Include in the subject line: ''Docket No. 16–08, Commenter/Company Name.'' Comments should be attached to the email as a Microsoft Word or text-searchable PDF document. Comments containing confidential information should not be submitted by email.
- *Mail:* Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001.
- *Docket:* For access to the docket to read background documents or comments received, go to: *http://www.fmc.gov/16-08.*

FOR FURTHER INFORMATION CONTACT: Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001, Phone: (202) 523–5725, Email: *secretary@fmc.gov.*

SUPPLEMENTARY INFORMATION: The Commission is proposing to update or reorganize several subparts of 46 CFR part 502, its Rules of Practice and Procedure, and to substantively revise the subpart regarding how hearings are conducted to improve guidance concerning the presentation of evidence in Commission proceedings. Certain current rules would also be removed to clarify current practice and eliminate duplication.

Reorganization of Part 502

Part 502 sets out the rules governing procedure in all types of Commission proceedings. However, after years of revisions, some users find the grouping and ordering of the subparts confusing. The Commission proposes to reorder and rename certain subparts to better reflect the chronology of a typical adjudication, and to distinguish other types of proceedings, as enumerated in this table:

Current 46 CFR part 502	Proposed New 46 CFR part 502	Revisions
Subpart A, General Information		Redesignate § 502.141 as § 502.14.
Subpart E, Proceedings; Pleadings; Motions; Replies.	Subpart E, Private Complaints and Commission Investigations.	Separate subpart E in to subparts E and F, relocate and regroup rules within both subparts.
Subpart F, Settlement; Prehearing Procedure	Subpart F, Petitions, Exemptions and Orders to Show Cause.	Separate subpart E in to subparts E and F, relocate and regroup rules within both subparts.
Subpart J, Hearings; Presiding Officers; Evidence.	Subpart L, Presentation of Evidence	Revise several sections and relocate all (see Table below).
Subpart K, Shortened Procedure	Subpart K [Reserved]	Remove subpart K in its entirety.
Subpart L, Disclosures and Discovery	Subpart J, Disclosures and Discovery	Relocate and redesignate all rules to subpart J.
Subpart M, Briefs; Requests for Findings; Decisions; Exceptions.	Subpart M; Decisions, Appeals, Exceptions	Relocate § 502.153, remove § 502.222 and retitle.

Subpart A

In subpart A several cross references would be corrected and current § 502.141 that establishes the Commission may hold hearings that are not part of an adjudicatory process, would be moved to this subpart as general information and retitled.

Subpart D

Cross references are corrected in subpart D.

Subpart E

Subpart E, currently ''Proceedings, Pleading, Motions, Replies'' would apply only to adjudications of private complaints and Commission investigations and would be renamed ''Private Complaints and Commission Investigations.'' Revised subpart E would contain the procedures for institution of those proceedings, motions practice, opportunity for settlement, and other related rules. Section 502.61 which opens the subpart would be revised by moving and amending a rule on notice of hearings from subpart J.

Subpart F

Current subpart F addresses Settlement and Prehearing Procedure. Inasmuch as those subject areas are part of the process in adjudicatory proceedings, they would be divided and moved into subpart E and a revised subpart L governing presentation of evidence.

Subpart F would be revised to apply to proceedings other than private complaints and Commission investigations, titled: ''Petitions, Exemptions, and Orders to Show Cause.'' These types of proceedings are generally distinct from complaint and investigation proceedings. With clear headings, the proposed rules are intended to be easier for the user to locate. Revised subpart F would encompass current §§ 502.73 through 502.77.

Subparts J, and L

The Commission proposes changes to subpart J, ''Hearings; Presiding Officers; Evidence'', and subpart L, ''Disclosure and Discovery'' to more logically and chronologically group the processes

conducted in a formal adjudication. Subpart L, Disclosure and Discovery would be moved in its entirety to subpart J. Current subpart J, Hearings, would be revised to encompass all rules governing the presentation of evidence and presented in revised subpart L titled ''Presentation of Evidence.'' The proposed revisions to subpart J are discussed more extensively below.

Subpart K

The Commission proposes to remove and reserve subpart K, ''Shortened Procedure.'' Shortened procedure provides that, if the respondent consents, after briefing by the parties, the record is closed and a decision may be issued without discovery or an oral hearing. The procedure has rarely been requested, although parts of the procedure have become standard practice (*e.g.* not requiring an oral hearing). The procedure has not resulted in an ALJ decision in recent history, as the three proceedings utilizing shortened procedure since 1998 have resulted in settlement. The Commission has made several rule revisions in the past five years that have enhanced the efficiency of formal complaint proceedings including the requirement for initial disclosures in discovery, (current § 502.201), and the establishment of default rules in the absence of an answer, § 502.62(b)(6). Shortened procedure rules are not consistent with the requirement for initial disclosures, which help expedite all proceedings. If parties want to further limit discovery, that is possible without the provisions of Subpart K. Moreover the subparts S and T small claims proceedings may offer a solution to litigants seeking faster resolution of their disputes. The rules governing small claims proceedings are designed to make the litigation process faster and simpler for litigants seeking reparations of $50,000 or less.

Subpart M

The Commission proposes to revise subpart M to cover only matters that occur after conclusion of the parties' presentations in proceedings (*i.e.,* decisions, appeals and exceptions). The rules concerning briefs would be moved into revised subpart L, ''Presentation of Evidence.'' However, rules governing briefs to accompany exceptions will remain in subpart M. Current § 502.153, Appeal from ruling of presiding officer other than orders or dismissal in whole or in part, would be moved into subpart M as it concerns an appeal.

Subpart M current section	Proposed new section	Revisions
§ 502.221, Briefs; requests for findings	Subpart L, § 502.214, Briefs	Revised for clarity.
§ 502.222, Requests for enlargement of time for filing briefs.	Subpart L, § 502.215	Revised for clarity.
§§ 502.223 through 502.229	Text unchanged	
§ 502.230, Reopening by presiding officer or Commission.	§ 502.230, Reopening by Commission	Rule concerning supplementing evidence prior to an initial decision would be moved to § 502.216, Supplementing the record.

Subpart J, Hearings—Presentation of Evidence

Currently subpart J, Hearings, presents the Commission's rules on hearings and presentation of evidence. The Commission proposes that these rules governing presentation of evidence be revised and presented in revised subpart L. The proposed revisions are intended to reflect the procedures currently used by the Commission, to utilize current language and standards set by the Federal Rules of Civil Procedure where appropriate, and to clarify and simplify rules where possible. Several rules currently in the subpart would be removed in their entirety to eliminate duplication and reflect current practice. The proposed revisions to subpart J are enumerated in the table below:

Subpart J current section	Proposed new subpart L	Revisions
§ 502.141, Hearings not required by statute	Move to subpart A	Does not pertain to adjudicatory hearings.
§ 502.142, Hearings required by statute	§ 502.201, Applicability and Scope	Revised to define ''hearing''.
§ 502.143, Notice of nature of hearing, jurisdiction and issues.	Moved to § 502.61(c), Proceedings	
§ 502.144, Notice of time and place of hearing; postponement of hearing.	§ 502.211	Regroup with other rules pertaining only to oral hearings.
§§ 502.145 through 502.149 [Reserved]		
§ 502.150, Further evidence required by presiding officer during hearing.	Remove	Within presiding officer's authority to regulate a hearing in § 502.25(b)(3).
§ 502.151, Exceptions to rulings of presiding officer unnecessary.	§ 502.212	Regroup with other rules pertaining only to oral hearings.
§ 502.152, Offer of Proof	§ 502.204(b)	Moved because related to admissibility.
§ 502.153, Appeal from ruling of presiding officer other than orders of dismissal in whole or in part.	Subpart M, § 502.221	Revised and moved to subpart M as it concerns an appeal.
§ 502.154, Rights of parties as to presentation of evidence.	§ 502.202	Revised to mirror APA.
§ 502.155, Burden of proof	§ 502.203	Revised for clarity.
§ 502.156, Evidence admissible	§ 502.204	Revised to clarity.
§ 502.157, Written evidence	Removed	Within presiding officer's authority to regulate a hearing in § 502.25(b)(3).
§ 502.158, Documents containing matter not material.	Removed	Within presiding officer's authority to regulate a hearing in § 502.25(b)(3).
§ 502.159 [Reserved]		
§ 502.160, Records in other proceedings	§ 502.205	
§ 502.161, Commission's files	§ 502.206, Incorporation by reference	Revised for clarity.
§ 502.162, Stipulations	§ 502.207	Revised for clarity.

Subpart J current section	Proposed new subpart L	Revisions
§ 502.163, Receipt of documents after hearing	Removed	Covered by proposed § 502.216, Supplementing the record.
§ 502.164, Oral argument at hearing	Removed	Within presiding officer's authority to regulate a hearing in § 502.25(b)(3).
§ 502.165, Official Transcript	§ 502.213	Revised and modernized.
§ 502.166, Correction of transcript	§ 502.213	
§ 502.167, Objection to public disclosure of information.	§ 502.208	Revised to cross reference § 502.5.
§ 502.168, Copies of data or evidence	Removed	Covered by proposed § 502.212.
§ 502.169, Record of decision	§ 502.217	Revised for clarity.

Following is a more detailed description of each proposed rule that would appear in revised subpart L.

Proposed § 502.201, Applicability and Scope

Proposed § 502.201 is derived and moved from current § 502.142 and sets out the proceedings for which the rules in the subpart will apply. The term hearing would be defined as ''a formal adjudicatory proceeding in which evidence is presented orally, or through written statement, or by combination thereof'' to reflect the broader and more inclusive meaning of the term in current administrative practice.

Proposed § 502.202, Rights of Parties as to Presentation of Evidence

Proposed § 502.202 is derived and moved from current § 502.154 but would be revised to reflect that the presiding officer may limit introduction of evidence if it is ''irrelevant, immaterial, or unduly repetitious'' mirroring the Administrative Procedure Act.

Proposed § 502.203, Burden of Proof

Proposed § 502.203 is derived and moved from current § 502.155 and clarifies the language to include reference to motions for ease of understanding the burden of proof.

Proposed § 502.204, Evidence Admissible

Currently § 502.156 states ''[u]nless inconsistent with the requirements of the Administrative Procedure Act and these Rules, the Federal Rules of Evidence . . . will also be applicable.'' The proposed revision would simplify the standard. Proposed § 502.204 would revise § 502.156 by restating the Administrative Procedure Act (APA) standard for admissibility that allows admission of all evidence which is relevant, material, reliable, and probative, and not unduly repetitious or cumulative, and by stating that the Presiding Officer may also look to the Federal Rules of Evidence (FRE) for guidance. The Commission is particularly interested to receive comment from the public on this particular revision and the applicability of the Federal Rules of Evidence.

The Commission adopted the original language in § 502.156 in 1976, shortly after the FRE went into effect. 41 FR 20585, 20588 (May 19, 1976). In the 1975 notice proposing the language, the Commission stated that the FRE could be of great use to the Commission's ALJs in disposing of evidentiary issues that arise in Commission proceedings, so long as they were consistent with the requirements of the APA. 40 FR 43295, 43927 (September 24, 1975). The Commission went on to assert that, as a general matter, the FRE did not appear to be inconsistent with the APA. *Id.*

In the years since the Commission promulgated this section, however, it has been generally acknowledged that there are, in fact, meaningful distinctions between the FRE and the APA. Specifically, the FRE are exclusionary in nature and were designed for jury trials in order to allow a presiding officer to determine what evidence a body of lay jurors should consider. *See, e.g.,* Richard J. Pierce, Jr., 2 Admin. Law Treatise 909, Section 10, Evidence, 5th Ed. (2010). The APA, on the other hand, is founded on the principle that the presiding officer who is the decision maker is qualified to determine what evidence is relevant, probative and substantial.

The inconsistences between the FRE and APA standards were evidently not apparent to the Commission when it adopted the language in § 502.156 in 1976. The rulemaking notices and the regulatory text reflect the assumption that both the APA and FRE could be applied in most circumstances without issue. Since promulgation of the section, however, the Commission ''has recognized the liberal standards of admissibility of evidence in administrative proceedings and has repeatedly '. . . identified the need for considerable relaxation of the rules of evidence followed by the federal courts in proceedings before the Commission.' '' *Eurousa Shipping, Inc., et al—Possible Violations,* 31 S.R.R. 540, 547 (FMC 2008) (quoting *Pacific Champion Express Co., Ltd.—Possible Violations,* 28 S.R.R. 1102, 1105–06 (ALJ 1999). Given the divergence between the FRE and APA standards, the section's attempt to apply both standards simultaneously creates a tension in the regulation and could be confusing to parties.

In 1986, the Administrative Conference of the United States (ACUS) published recommendations regarding the use of the FRE in administrative proceedings. ACUS compared three general categories of agency evidentiary rules. 1986 ACUS 6, 51 FR 25642. The category that is most analogous to § 502.156 included ''rules that require presiding officers to apply the [FRE] 'so far as practicable.' '' *Id.* ACUS identified four significant disadvantages with respect to this standard including:

> (1) Courts seem confused as to what it means or how to enforce it; (2) instructing presiding officers to exclude evidence based on the standard forces them to undertake a difficult and hazardous task; (3) excluding evidence on the basis that it is inadmissible in a jury trial is totally unnecessary to insure that agencies act only on the basis of reliable evidence; and (4) agencies, like other experts, should be permitted to rely on classes of evidence broader than those that can be considered by lay jurors.

Id. Accordingly, ACUS recommended that ''Congress should not require agencies to apply the [FRE], with or without the qualification 'so far as practicable,' to limit the discretion of presiding officers to admit evidence in formal adjudications.'' *Id.* ACUS also recognized, however, the disadvantages of relying on the APA standard alone, and the Commission has tentatively concluded that the FRE can be useful as a guide for litigants and presiding officers. Accordingly, the Commission is proposing to explicitly provide that presiding officers may look to the FRE for guidance when determining the admissibility of evidence.

The text of current § 502.152 has been modernized to clarify the procedures governing when and how to make an offer of proof. The rule is moved into revised § 502.204 as paragraph (b) as a

logical part of the rule governing admissibility of evidence.

Proposed §§ 502.205 and 502.206, Documents Incorporated Into the Record by Reference

Revising current § 502.160 (proposed § 502.205) allows documents in another Commission proceeding to be incorporated into the record by reference. Proposed § 502.206 would allow material in any document on file with the Commission that is also available to the public to be incorporated into the record by reference.

Proposed § 502.207, Stipulations

Current § 502.162 allows for stipulation. The Commission proposes to move the rule to § 502.207 and to revise the language of that rule for clarity.

Proposed § 502.208, Objection to Public Disclosure of Information

Proposed § 502.208 would revise current § 502.167, Objection to public disclosure of information. The proposed change would add a cross reference to § 502.5 where the Commission recently spelled out its requirements for submission of confidential material in a final rule. 80 FR 14318 (March 19, 2015).

Proposed §§ 502.209 and 502.210, Prehearing Conference and Statements

Current §§ 502.94 and 502.95 would be moved from subpart E as they pertain to hearings. No substantive revisions would be made to the content of these rules.

Proposed §§ 502.211 Through 502.213, Oral Hearings

Proposed §§ 502.211 through 502.213 would deal with oral hearings and would consist of the provisions found in current §§ 502.144, 502.151, and 502.165. Current § 502.165, Official transcript, requires revision as it currently contains a description of section 11 of the Federal Advisory Committee Act (FACA) and the Office of Management and Budget's (OMB) interpretation of that section, which are the basis for the Commission's regulations with respect to obtaining copies of transcripts. In order to simplify these provisions, the Commission is proposing to include in the new § 502.213 only the relevant requirements and to delete the aforementioned references to FACA and OMB's interpretation.

Proposed §§ 502.214 and 502.215, Briefs

Sections 502.221 and 502.222 concerning briefs would be included in this subpart and renumbered as §§ 502.214 and 502.215. The last sentence of § 502.221(a), which requires that the period of time for filing briefs will be the same for both parties, would be removed as setting time is within the powers of the presiding officer as established in recently revised § 502.25. Section 502.221(c) would be deleted as it is not current practice for the Presiding Officer to ''require the Bureau of Enforcement to file a request for findings of fact and conclusions within a reasonable time prior to the filing of briefs.'' Generally, the Commission's Bureau of Enforcement (BOE) files the first brief unless concurrent briefs are appropriate for the particular case; this is more appropriate to address in the scheduling order issued in each particular proceeding.

Proposed § 502.216, Supplementing the Record

Current § 502.230(a), Motion to Reopen, would be renumbered, renamed and revised to provide instructions concerning submission of evidence after final presentations in a proceeding and prior to issuance of an initial decision. The language of the proposed rule and the proposed heading ''Supplementing the record'' is more descriptive of the current practice before the Commission's Administrative Law Judges but does not substantively revise the process or rights of a party to a proceeding.

§ 502.217, Record of Decision

Current § 502.169 would be moved to subpart L and the reference to ''filing and motions'' instead of ''paper and requests.''

Rulemaking Analyses and Notices

Regulatory Flexibility Act

The Regulatory Flexibility Act (codified as amended at 5 U.S.C. 601–612) provides that whenever an agency is required to publish a notice of proposed rulemaking under the Administrative Procedure Act (APA) (5 U.S.C. 553), the agency must prepare and make available for public comment an initial regulatory flexibility analysis (IRFA) describing the impact of the proposed rule on small entities. 5 U.S.C. 603. An agency is not required to publish an IRFA, however, for the following types of rules, which are excluded from the APA's notice-and-comment requirement: Interpretative rules; general statements of policy; rules of agency organization, procedure, or practice; and rules for which the agency for good cause finds that notice and comment is impracticable, unnecessary, or contrary to public interest. *See* 5 U.S.C. 553.

Although the Commission has elected to seek public comment on its proposed regulatory amendments to part 502, these amendments concern the Commission's and procedures. Therefore, the APA does not require publication of a notice of proposed rulemaking in this instance, and the Commission is not required to prepare an IRFA.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) requires an agency to seek and receive approval from the Office of Management and Budget (OMB) before collecting information from the public. 44 U.S.C. 3507. The agency must submit collections of information in proposed rules to OMB in conjunction with the publication of the notice of proposed rulemaking. 5 CFR 1320.11. The Commission is not proposing any collections of information, as defined by 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), as part of this proposed rule.

Regulation Identifier Number

The Commission assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda, available at *http://www.reginfo.gov/public/do/eAgendaMain.*

List of Subjects in 46 CFR Part 502

Administrative practice and procedure, Archives and records, Business and industry, Classified information, Confidential business information, Consumer protection, Freedom of information, Government in the Sunshine Act, Government publications, Health records, Information, Newspapers and magazines, Paperwork requirements, Printing, publications, Privacy, Public meetings, Record retention, Records, Reporting and recordkeeping requirements, Trade names, Trade practices.

For the reasons stated in the preamble, the Federal Maritime

Commission proposes to amend 46 CFR part 502 as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 502 continues to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561–569, 571–596, 18 U.S.C. 207; 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. 305, 40103–40104, 40304, 40306, 40501–40503, 40701–40706, 41101–41109, 41301–41309, 44101–44106; E.O. 11222 of May 8, 1965.

§ 502.5 [Amended]

■ 2. Amend § 502.5:

■ a. In the introductory text, by removing the phrase ''502.167, 502.201(j)(1)(vii)'' and adding in its place the phrase ''502.141(j)(1)(vii), 502.208'', and by removing the reference ''§ 502.201(j)'' and adding in its place the reference ''§ 502.141(j)''; and

■ b. In paragraph (b) by removing the reference ''§ 502.201(j)(1)(vii)'' and adding in its place the reference ''§ 502.141(j)(1)(vii)''.

§ 502.6 [Amended]

■ 3. Amend § 502.6(c) by removing the phrase ''§ 502.203 or § 502.204'' and adding in its place the phrase ''§ 502.143 or § 502.144''.

§ 501.10 [Amended]

■ 4. Amend § 502.10 by removing the reference ''502.153'' and adding in its place the reference ''502.221''.

Subpart D—Rulemaking

§ 502.52 [Amended]

■ 5. Amend § 502.52 by removing the citation ''§ 502.143'' and adding in its place the citation ''§ 502.61(c)''.

§ 502.53 [Amended]

■ 6. Amend § 502.53(a) by removing the reference ''subpart J'' and adding in its place the reference ''subpart L''.

Subpart E—Private Complaints and Commission Investigations

■ 7. Revise the subpart E heading to read as set forth above.

■ 8. Amend § 502.61 by removing the words ''under normal or shortened procedures (subpart K)'' and the last sentence from paragraph (a); redesignating paragraph (b) as paragraph (d) and adding a new paragraph (b) and paragraph (c) to read as follows:

§ 502.61 Proceedings.

* * * * *

(b) The Commission may commence a proceeding for a rulemaking, for an adjudication (including Commission enforcement action under § 502.63), or a non-adjudicatory investigation upon petition or on its own initiative by issuing an appropriate order.

(c) Persons entitled to notice of hearings, except those notified by complaint service under § 502.113, will be duly and timely informed of the nature of the proceeding, the legal authority and jurisdiction under which the proceeding is conducted, and the terms, substance, and issues involved, or the matters of fact and law asserted, as the case may be. Such notice will be published in the **Federal Register** unless all persons subject thereto are named and either are served or otherwise have notice thereof in accordance with law.

* * * * *

§ 502.69 [Amended]

■ 9. Amend § 502.69(f) by removing ''shortened procedure (subpart K of this part)'' and removing the citation ''§ 502.221'' and adding in its place the citation ''§ 502.214''.

Subpart F—Petitions, Exemptions, and Orders To Show Cause

■ 10. Revise the subpart F heading to read as set forth above.

§§ 502.91 through 502.95 [Removed]

■ 11. Remove §§ 502.91 through 502.95.

§§ 502.73 through 502.77 [Redesignated as §§ 502.91 through 502.95]

■ 12. Redesignate §§ 502.73 through 502.77 as §§ 502.91 through 502.95, respectively, and place them under subpart F.

§§ 502.78 and 502.79 [Redesignated as §§ 502.73 and 502.74]

■ 13. Redesignate §§ 502.78 and 502.79 as §§ 502.73 and 502.74, respectively, in subpart E.

■ 14. Add a new § 502.75 to subpart E to read as follows:

§ 502.75 Opportunity for informal settlement.

(a) Parties are encouraged to make use of all the procedures of this part that are designed to simplify or avoid formal litigation, and to assist the parties in reaching settlements whenever it appears that a particular procedure would be helpful.

(b) Where time, the nature of the proceeding, and the public interest permit, all interested parties will have the opportunity for the submission and consideration of facts, argument, offers of settlement, or proposal of adjustment, without prejudice to the rights of the parties.

(c) No settlement offer, or proposal will be admissible in evidence over the objection of any party in any hearing on the matter.

(d) As soon as practicable after the commencement of any proceeding, the presiding officer will direct the parties or their representatives to consider the use of alternative dispute resolution, including but not limited to mediation, and may direct the parties or their representatives to consult with the Federal Maritime Commission Alternative Dispute Resolution Specialist about the feasibility of alternative dispute resolution.

(e) Any party may request that a mediator or other neutral be appointed to assist the parties in reaching a settlement. If such a request or suggestion is made and is not opposed, the presiding officer will appoint a mediator or other neutral who is acceptable to all parties, coordinating with the Federal Maritime Commission Alternative Dispute Resolution Specialist. The mediator or other neutral will convene and conduct one or more mediation or other sessions with the parties and will inform the presiding officer, within the time prescribed by the presiding officer, whether the dispute resolution proceeding resulted in a resolution or not, and may make recommendations as to future proceedings. If settlement is reached, it will be submitted to the presiding officer who will issue an appropriate decision or ruling. All such dispute resolution proceedings are subject to the provisions of subpart U of this part.

(f) Any party may request that a settlement judge be appointed to assist the parties in reaching a settlement. If such a request or suggestion is made and is not opposed, the presiding officer will advise the Chief Administrative Law Judge who may appoint a settlement judge who is acceptable to all parties. The settlement judge will convene and preside over conferences and settlement negotiations and will report to the presiding officer within the time prescribed by the Chief Administrative Law Judge, on the results of settlement discussions with appropriate recommendations as to future proceedings. If settlement is reached, it must be submitted to the presiding officer who will issue an appropriate decision or ruling. [Rule 75.]

■ 15. Revise the newly redesignated § 502.91 to read as follows:

§ 502.91 Order to show cause.

The Commission may institute a proceeding by order to show cause. The order will be served upon all persons named therein, will include the information specified in § 502.221, will

require the person named therein to answer, and may require such person to appear at a specified time and place and present evidence upon the matters specified. [Rule 91.]

Exhibit No. 1 to Subpart F of Part 502 [Removed]

■ 16. Remove heading, ''Exhibit No. 1 to Subpart F of Part 502''.

Subpart H—Service of Documents

§ 502.114 [Amended]

■ 17. Amend § 502.114(a) by removing the citation ''§ 502.145'' and adding in its place the citation ''§ 502.131''.

§ 502.118 [Removed]

■ 18. Remove § 502.118.

Subpart I—Subpoenas

§ 502.132 [Amended]

■ 19. Amend § 502.132(c) by removing the citation ''§ 502.203'' and adding in its place the citation ''§ 502.143''.

§ 502.136 [Amended]

■ 20. Amend § 502.136 by removing the citation ''§ 502.210(b)'' and adding in its place the citation ''§ 502.150(b)''.

Subpart J—Disclosures and Discovery

■ 21. Revise the subpart J heading to read as set forth above.

■ 22. Redesignate § 502.141 as § 502.14, place it under subpart A, and revise the section heading to read as follows:

§ 502.14 Public hearings.

* * * * *

§§ 502.142 through 502.150 [Removed]

■ 23. Remove §§ 502.142 through 502.150.

§§ 502.201 through 502.210 [Redesignated as §§ 502.141 through 502.150]

■ 24. Redesignate §§ 502.201 through 502.210 as §§ 502.141 through 502.150, respectively, and place them under subpart J.

§ 502.143 [Amended]

■ 25. Amend newly redesignated § 502.143:

■ a. In paragraph (a)(1) by removing the citation ''§ 502.203(a)(2)'' and adding in its place the citation ''§ 502.143(a)(2);

■ b. In paragraph (a)(2)(i) by removing the citation ''§ 502.204'' and adding in its place the citation ''§ 502.144'';

■ c. In paragraph (b)(2) by removing the citation ''§ 502.206'' and adding in its place the citation ''§ 502.146'';

■ d. In paragraph (b)(5)(i) by removing the citation ''§ 502.202'' and adding in its place the citation''§ 502.142'';

■ e. In paragraph (b)(5)(ii) by removing the citation ''§ 502.203(b)(5)(i)(A)'' and adding in its place the citation ''§ 502.143(b)(5)(i)(A)'';

■ f. In paragraph (c)(1) by removing the citation ''§ 502.154'' and adding in its place the citation ''§ 502.202'' and by removing the citation ''§ 502.203(b)(3)'' and adding in its place the citation ''§ 502.143(b)(3)'';

■ g. In paragraph (c)(2) by removing the citation ''§ 502.203(d)(2)'' and adding in its place the citation ''§ 502.143(d)(2)'';

■ h. In paragraph (d)(1) by removing the citation ''§ 502.201(e)(2)'' and adding in its place the citation ''§ 502.141(e)'';

■ i. In paragraph (d)(2)(ii) by removing the citation ''§ 502.201(j)'' and adding in its place the citation ''§ 502.141(j)''; and

■ j. In paragraph (e)(2) by removing the citation ''§ 502.203(f)(1)'' and adding in its place the citation ''§ 502.143(f)(1)''.

§ 502.144 [Amended]

■ 26. Amend newly redesignated § 502.144:

■ a. In paragraph (a)(2)(i) by removing the citation''§ 502.203'' and adding in its place the citation ''§ 502.143'';

■ b. In paragraph (1)(4) by removing the citation ''§ 502.203(b)(6)'' and adding in its place the citation ''§ 502.143(b)(6)''.

§ 502.145 [Amended]

■ 27. Amend newly redesignated § 502.145:

■ a. In paragraph (a)(1) by removing the citation ''§ 502.201(e)(2)'' and adding in its place the citation ''§ 502.141(e)(2)'';

■ b. In paragraph (a)(2) by removing the citation ''§ 502.201(e) and (f)'' and adding in its place the citation ''§ 502.141(e) and (f)'' ; and

■ c. In paragraph (b)(2) by removing the citation ''§ 502.201(l)'' and adding in its place the citation ''§ 502.141(l)''.

§ 502.146 [Amended]

■ 28. Amend newly redesignated § 502.146:

■ a. In paragraph (a) by removing the citation ''§ 502.201(e) and (f)'' and adding in its place the citation ''§ 502.141(e) and (f)''; and

■ b. In paragraph (b)(2) by removing the citation ''§ 502.201(l)'' and adding in its place the citation ''§ 502.141(l)''.

§ 502.147 [Amended]

■ 29. Amend newly redesignated § 502.147(a)(3) by removing the citation ''§ 502.201(l)'' and adding in its place the citation ''§ 502.141(l)''.

§ 502.148 [Amended]

■ 30. Amend newly redesignated § 502.148(a) by removing the citation ''§§ 502.202 through 502.207'' and adding in its place the citation ''§§ 502.142 through 502.147''.

§ 502.149 [Amended]

■ 31. Amend newly redesignated § 502.149:

■ a. In paragraph (a)(1)(iii) by removing the citation ''§ 502.209(a)(2) through (7)'' and adding in its place the citation''§ 502.149(a)(2) through (7)'';

■ b. In paragraph (a)(2) by removing the citation ''§ 502.156 of subpart J'' and adding in its place the citation ''§ 502.204 of subpart L'';

■ c. In paragraph (a)(3) by removing the phrase ''§ 502.203(b)(6) or § 502.204(a)(4)'' and adding in its place the phrase ''§ 502.143(b)(6) or § 502.144(a)(4);

■ d. In paragraph (a)(7) by removing the citation ''§ 502.156 of subpart J'' and adding in its place the citation ''§ 502.204 of subpart L'';

■ e. In paragraph (b) by removing the phrase ''§ 502.202(b) and § 502.209(d)(3)'' and adding in its place the phrase ''§ 502.142(b) and § 502.149(d)(3)''; and

■ f. In paragraph (d)(3)(iii) by removing the citation ''§ 502.204'' and adding in its place the citation ''§ 502.144''.

§ 502.150 [Amended]

■ 32. Amend newly redesignated § 502.150(a)(1) by removing the citation ''§ 502.201'' and adding in its place the citation ''§ 502.141'' and by removing the citation ''§ 502.206'' and adding in its place the citation ''§ 502.146''.

§§ 502.151 through 502.169 [Removed and reserved]

■ 33. Remove and reserve §§ 502.151 through 502.169.

Subpart K [Removed and reserved]

■ 34. Remove and reserve subpart K, consisting of §§ 502.181 through 502.187.

■ 35. Revise subpart L to read as follows:

Subpart L—Presentation of Evidence

Sec.

502.201 Applicability and scope.
502.202 Right of parties to present evidence.
502.203 Burden of proof.
502.204 Evidence admissible.
502.205 Records in other proceedings.
502.206 Documents incorporated into the record by reference.
502.207 Stipulations.
502.208 Objection to public disclosure of information.
502.209 Prehearing conference.
502.210 Prehearing statements.
502.211 Notice of time and place of oral hearing; postponement of hearing.
502.212 Exceptions to rulings of presiding officer unnecessary.
502.213 Official transcript.
502.214 Briefs; requests for findings.

502.215 Requests for enlargement of time for filing briefs.
502.216 Supplementing the record.
502.217 Record of decision.

§ 502.201 Applicability and scope.

(a) The rules in this subpart apply to adjudicatory proceedings conducted under the statutes administered by the Commission involving matters which require determination after notice and opportunity for hearing. Adjudicatory proceedings are formal proceedings commenced upon the filing of a sworn complaint or by Order of the Commission. Such proceedings will be conducted pursuant to the Administrative Procedure Act, 5 U.S.C. 554, and the rules in this subpart.

(b) The term hearing means a formal adjudicatory proceeding in which evidence is presented orally, or through written statements, or by combination thereof. The term oral hearing means a hearing at which evidence is presented through oral testimony of a witness. [Rule 201].

§ 502.202 Right of parties to present evidence.

Every party has the right to present its case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The presiding officer, however, has the right and duty to limit the introduction of evidence and the examination and cross-examination of witnesses when, in his or her judgment, such evidence or examination is irrelevant, immaterial, or unduly repetitious. [Rule 202.]

§ 502.203 Burden of proof.

In all cases governed by the requirements of the Administrative Procedure Act, 5 U.S.C. 556(d), the burden of proof is on the proponent of the motion or the order. [Rule 203.]

§ 502.204 Evidence admissible.

(a) In any proceeding under the rules in this part and in accordance with the Administrative Procedure Act, all evidence which is relevant, material, reliable and probative, and not unduly repetitious or cumulative, will be admissible. All other evidence will be excluded. The Presiding Officer may look to the Federal Rules of Evidence for guidance.

(b) A party who objects to a ruling of the presiding officer rejecting or excluding proffered evidence may make an offer of proof. If the ruling excludes proffered oral testimony, an offer of proof may consist of a statement by counsel of the substance of the evidence that would be adduced, or in the discretion of the presiding officer, testimony of the witness. If the ruling excludes documentary evidence or reference to documents or records, the evidence shall be marked for identification and will constitute the offer of proof. [Rule 204.]

§ 502.205 Records in other proceedings.

Portions of the record of other proceedings may be received in evidence. A true copy of such portion must be presented for the record in the form of an exhibit unless the presiding officer accepts the parties' stipulation that such portion may be incorporated by reference. [Rule 205.]

§ 502.206 Documents incorporated into the record by reference.

Any matter contained in a document on file with the Commission that is available to the public may be received in evidence through incorporation by reference without producing such document, provided that the matter so offered is specified in such manner as to be clearly identified, with sufficient particularity, and readily located electronically. [Rule 206.]

§ 502.207 Stipulations.

The parties may, and are encouraged, to stipulate any facts involved in the proceeding and include them in the record with the consent of the presiding officer. A stipulation may be admitted even if all parties do not agree, provided that any party who does not agree to the stipulation has the right to cross-examine and offer rebuttal evidence. [Rule 207.]

§ 502.208 Objection to public disclosure of information.

(a) If any party wishes to present confidential information or upon objection to public disclosure of any information sought to be elicited, the requirements and procedures in § 502.5 will apply.

(b) In an oral hearing, the presiding officer may in his or her discretion order that a witness will disclose such information only in the presence of the parties and those designated and authorized by the presiding officer. Any transcript of such testimony will be held confidential to the extent the presiding officer determines. Copies of transcripts will be served only to authorized parties or their representatives or other parties as the presiding officer may designate.

(c) Any information given pursuant to this section may be used by the presiding officer or the Commission if deemed necessary to a correct decision in the proceeding. [Rule 208.]

§ 502.209 Prehearing conference.

(a)(1) Prior to any hearing, the Commission or presiding officer may direct all interested parties, by written notice, to attend one or more prehearing conferences for the purpose of considering any settlement under § 502.91, formulating the issues in the proceeding and determining other matters to aid in its disposition. In addition to any offers of settlement or proposals of adjustment, the following may be considered:

(i) Simplification of the issues;

(ii) The necessity or desirability of amendments to the pleadings;

(iii) The possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;

(iv) Limitation of the number of witnesses;

(v) The procedure to be used at the hearing;

(vi) The distribution to the parties prior to the hearing of written testimony and exhibits;

(vii) Consolidation of the examination of witnesses by counsel;

(viii) Such other matters as may aid in the disposition of the proceeding.

(2) Prior to the hearing, the presiding officer may require, exchange of exhibits and any other material that may expedite the hearing. The presiding officer will assume the responsibility of accomplishing the purposes of the notice of prehearing conference so far as this may be possible without prejudice to the rights of any party.

(3) The presiding officer will rule upon all matters presented for decision, orally upon the record when feasible, or by subsequent ruling in writing. If a party determines that a ruling made orally does not cover fully the issue presented, or is unclear, such party may petition for a further ruling within ten (10) days after receipt of the transcript.

(b) In any proceeding under the rules in this part, the presiding officer may call the parties together for an informal conference prior to the taking of testimony, or may recess the hearing for such a conference, with a view to carrying out the purposes of this section.

(c) At any prehearing conference, consideration may be given to whether the use of alternative dispute resolution would be appropriate or useful for the disposition of the proceeding whether or not there has been previous consideration of such use. [Rule 209.]

§ 502.210 Prehearing statements.

(a) Unless a waiver is granted by the presiding officer, it is the duty of all parties to a proceeding to prepare a statement or statements at a time and in

the manner to be established by the presiding officer provided that there has been reasonable opportunity for discovery. To the extent possible, joint statements should be prepared.

(b) The prehearing statement must state the name of the party or parties on whose behalf it is presented and briefly set forth the following matters, unless otherwise ordered by the presiding officer:

(1) Issues involved in the proceeding.

(2) Facts stipulated pursuant to the procedures together with a statement that the party or parties have communicated or conferred in a good faith effort to reach stipulation to the fullest extent possible.

(3) Facts in dispute.

(4) Witnesses and exhibits by which disputed facts will be litigated.

(5) A brief statement of applicable law.

(6) The conclusion to be drawn.

(7) Suggested time and location of hearing and estimated time required for presentation of the party's or parties' case.

(8) Any appropriate comments, suggestions, or information which might assist the parties in preparing for the hearing or otherwise aid in the disposition of the proceeding.

(c) The presiding officer may, for good cause shown, permit a party to introduce facts or argue points of law outside the scope of the facts and law outlined in the prehearing statement. Failure to file a prehearing statement, unless waiver has been granted by the presiding officer, may result in dismissal of a party from the proceeding, dismissal of a complaint, judgment against respondents, or imposition of such other sanctions as may be appropriate under the circumstances.

(d) Following the submission of prehearing statements, the presiding officer may, upon motion or otherwise, convene a prehearing conference for the purpose of further narrowing issues and limiting the scope of the hearing if, in his or her opinion, the prehearing statements indicate lack of dispute of material fact not previously acknowledged by the parties or lack of legitimate need for cross-examination and is authorized to issue appropriate orders consistent with the purposes stated in this section. [Rule 210.]

§ 502.211 Notice of time and place of oral hearing; postponement of hearing.

(a) The notice of an oral hearing will designate the time and place the person or persons who will preside, and the type of decision to be issued. The date or place of a hearing for which notice has been issued may be changed when warranted. Reasonable notice will be given to the parties or their representatives of the time and place of the change thereof, due regard being had for the public interest and the convenience and necessity of the parties or their representatives. Notice may be served by mail, facsimile transmission, or electronic mail.

(b) Motions for postponement of any hearing date must be filed in accordance with § 502.104. [Rule 211.]

§ 502.212 Exceptions to rulings of presiding officer unnecessary.

A formal exception to a ruling or order is unnecessary. When the ruling or order is requested or made, the party doing so need only state the action that it wants the presiding officer to take or that it objects to, along with the grounds for the request or objection. Failing to object does not prejudice a party who had no opportunity to do so when the ruling or order was made. [Rule 212.]

§ 502.213 Official transcript.

(a) The Commission will designate the official reporter for all hearings. The official transcript of testimony taken, together with any exhibits and any briefs or memoranda of law filed therewith, will be filed with the Commission. Transcripts of testimony will be available in any proceeding under the rules in this part, at actual cost of duplication.

(b)(1) Where the Commission does not request daily copy service, any party requesting such service must bear the incremental cost of transcription above the regular copy transcription cost borne by the Commission, in addition to the actual cost of duplication. Where the party applies for and properly shows that the furnishing of daily copy is indispensable to the protection of a vital right or interest in achieving a fair hearing, the presiding officer in the proceeding in which the application is made will order that daily copy service be provided the applying party at the actual cost of duplication, with the full cost of transcription being borne by the Commission.

(2) In the event a request for daily copy is denied by the presiding officer, the requesting party, in order to obtain daily copy, must pay the cost of transcription over and above that borne by the Commission, *i.e.*, the incremental cost between that paid by the Commission when it requests regular copy and when it requests daily copy. The decision of the presiding officer in this situation is interpreted as falling within the scope of the functions and powers of the presiding officer, as defined in § 502.25(a).

(c) Motions made at the hearing to correct the transcript will be acted upon by the presiding officer. Motions made after an oral hearing to correct the record must be filed with the presiding officer within twenty-five (25) days after the last day of hearing or any session thereof, unless otherwise directed by the presiding officer, and must be served on all parties. If no objections are received within ten (10) days after date of service, the transcript will, upon approval of the presiding officer, be changed to reflect such corrections. If objections are received, the motion will be acted upon with due consideration of the stenographic record of the hearing. [Rule 213.]

§ 502.214 Briefs; requests for findings.

(a) The presiding officer will determine the time and manner of filing briefs and any enlargement of time.

(b) Briefs will be served upon all parties pursuant to subpart H of this part.

(c) Unless otherwise ordered by the presiding officer, opening or initial briefs must contain the following matters in separately captioned sections:

(1) Introductory section describing the nature and background of the case;

(2) Proposed findings of fact in serially numbered paragraphs with reference to exhibit numbers and pages of the transcript;

(3) Argument based upon principles of law with appropriate citations of the authorities relied upon; and

(4) Conclusions.

(d) All briefs must contain a subject index or table of contents with page references and a list of authorities cited.

(e) All briefs filed pursuant to this section must ordinarily be limited to eighty (80) pages in length, exclusive of pages containing the table of contents, table of authorities, and certificate of service, unless the presiding officer allows the parties to exceed this limit for good cause shown and upon application filed not later than seven (7) days before the time fixed for filing of such a brief or reply. [Rule 214.]

§ 502.215 Requests for enlargement of time for filing briefs.

Requests for enlargement of time to file briefs must conform to the requirements of § 502.102. [Rule 215.]

§ 502.216 Supplementing the record.

A motion to supplement the record, pursuant to § 502.69, should be filed if submission of evidence is desired after the parties' presentation in a proceeding, but before issuance by the

presiding officer of an initial decision. [Rule 216.]

§ 502.217 Record of decision.

The transcript of testimony and exhibits, together with all filings and motions filed in the proceeding, will constitute the exclusive record for decision. [Rule 217.]

Subpart M—Decisions; Appeals; Exceptions

■ 36. Revise the subpart M heading to read as set forth above.

■ 37. Revise § 502.221 to read as follows:

§ 502.221 Appeal from ruling of presiding officer other than orders of dismissal in whole or in part.

(a) Rulings of the presiding officer may not be appealed prior to or during the course of the hearing, or subsequent thereto, if the proceeding is still before him or her, except where the presiding officer finds it necessary to allow an appeal to the Commission to prevent substantial delay, expense, or detriment to the public interest, or undue prejudice to a party.

(b) Any party seeking to appeal must file a motion for leave to appeal no later than fifteen (15) days after written service or oral notice of the ruling in question, unless the presiding officer, for good cause shown, enlarges or shortens the time. Any such motion must contain the grounds for leave to appeal and the appeal itself.

(c) Replies to the motion for leave to appeal and the appeal may be filed within fifteen (15) days after date of service thereof, unless the presiding officer, for good cause shown, enlarges or shortens the time. If the motion is granted, the presiding officer must certify the appeal to the Commission.

(d) Unless otherwise provided, the certification of the appeal will not operate as a stay of the proceeding before the presiding officer.

(e) The provisions of § 502.10 do not apply to this section. [Rule 221.]

§ 502.222 [Removed and reserved]

■ 38. Remove and reserve § 502.222.

■ 39. Revise § 502.230 to read as follows:

§ 502.230 Reopening by Commission.

(a) *Reopening by the Commission.* After an initial decision by the presiding officer, or in a matter otherwise pending before the Commission, but before issuance of a Commission decision, the Commission may, after petition and reply in conformity with paragraphs (b) and (c) of this section, or upon its own motion, reopen a proceeding for the purpose of taking further evidence.

(b) *Motion to reopen.* A motion to reopen shall be served in conformity with the requirements of subpart H and will set forth the grounds requiring reopening of the proceeding, including material changes of fact or law alleged to have occurred.

(c) *Reply.* Within ten (10) days following service of a motion to reopen, any party may reply to such motion.

(d) *Remand by the Commission.* Nothing contained in this rule precludes the Commission from remanding a proceeding to the presiding officer for the taking of addition evidence or determining points of law. [Rule 230.]

By the Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2016–09759 Filed 5–2–16; 8:45 am]

BILLING CODE 6731–AA–P

Notices

Federal Register

Vol. 81, No. 85

Tuesday, May 3, 2016

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

Forest Service

Black Hills National Forest Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Black Hills National Forest Advisory Board (Board) will meet in Rapid City, South Dakota. The Board is established consistent with the Federal Advisory Committee Act of 1972 (5 U.S.C. App. II), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 *et seq.*), the National Forest Management Act of 1976 (16 U.S.C. 1612), and the Federal Public Lands Recreation Enhancement Act (Pub. L. 108–447). Board information can be found at the following Web site: *http://www.fs.usda.gov/main/blackhills/workingtogether/advisorycommittees.*

DATES: The meeting will be held on Wednesday, May 18, 2016, at 1:00 p.m.

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

ADDRESSES: The meeting will be held at the Mystic Ranger District, 8221 South Highway 16, Rapid City, South Dakota.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses, when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the Black Hills National Forest Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Scott Jacobson, Board Coordinator, by phone at 605–440–1409 or by email at *sjjacobson@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

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

(1) Annual Ethics Training;

(2) Recreation Facility Working Group update;

(3) Black Hills Resilient Landscapes Project update;

(4) Motorized Trails and Permit Fees 2017;

(5) Sturgis Trail Proposal; and

(6) Non-Motorized Trails (Mountain Bike Trails).

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing by May 9, 2016, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Board may file written statements with the Board's staff before or after the meeting. Written comments and time requests for oral comments must be sent to Scott Jacobson, Black Hills National Forest Supervisor's Office, 1019 North Fifth Street, Custer, South Dakota 57730; by email to *sjjacobson@fs.fed.us,* or via facsimile to 605–673–9208.

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

Dated: April 28, 2016.

Jerry Krueger,

Deputy Forest Supervisor.

[FR Doc. 2016–10283 Filed 5–2–16; 8:45 am]

BILLING CODE 3411–15–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: Fisheries Certificate of Origin.

OMB Control Number: 0648–0335.

Form Number(s): NOAA 370.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 430.

Average Hours per Response: 25 minutes.

Burden Hours: 5,417.

Needs and Uses: This request is for an extension of a current information collection.

The information required by the International Dolphin Conservation Program Act, amendment to the Marine Mammal Protection Act, is needed to: (1) Document the dolphin-safe status of tuna import shipments; (2) verify that import shipments of fish were not harvested by large scale, high seas driftnets; and (3) verify that tuna was not harvested by an embargoed nation or one that is otherwise prohibited from exporting tuna to the United States. Forms are submitted by importers and processors.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: April 27, 2016.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2016–10249 Filed 5–2–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Multistakeholder Process To Develop Best Practices for Privacy, Transparency, and Accountability Regarding Commercial and Private Use of Unmanned Aircraft Systems

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Telecommunications and Information Administration (NTIA) will convene a meeting of a multistakeholder process concerning privacy, transparency, and accountability issues regarding commercial and private use of unmanned aircraft systems on May 18, 2016.

DATES: The meeting will be held on May 18, 2016 from 2:00 p.m. to 5:00 p.m., Eastern Time. See **SUPPLEMENTARY INFORMATION** for details.

ADDRESSES: The meeting will be held in the Boardroom at the American Institute of Architects, 1735 New York Avenue NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Travis Hall, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4725, Washington, DC 20230; telephone (202) 482–3522; email *thall@ntia.doc.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002; email *press@ntia.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background: Congress recognized the potential wide-ranging benefits of Unmanned Aircraft Systems (UAS) operations within the United States in the Federal Aviation Administration (FAA) Modernization and Reform Act of 2012 (Pub. L. 112–95), which requires a plan to safely integrate civil UAS into the National Airspace System (NAS) by 2015. On February 15, 2015, President Obama issued the Presidential Memorandum ''Promoting Economic Competitiveness While Safeguarding Privacy, Civil Rights, and Civil Liberties in Domestic Use of Unmanned Aircraft Systems.'' [1] The Presidential Memorandum establishes a ''multi-stakeholder engagement process to develop and communicate best practices for privacy, accountability, and transparency issues regarding commercial and private UAS use in the NAS.'' [2] The process includes stakeholders from industry, civil society, and academia, and will be initiated by the Department of Commerce, through NTIA, and in consultation with other interested agencies. On August 3, 2015, NTIA convened the first meeting of the multistakeholder process, followed by additional meetings through February 2016.

Matters to Be Considered: The May 18, 2016 meeting is a continuation of a series of NTIA-convened multistakeholder discussions concerning privacy, transparency, and accountability issues regarding commercial and private use of UAS. Additional meetings may be scheduled as needed. Stakeholders will engage in an open, transparent, consensus-driven process to develop best practices for privacy, accountability, and transparency issues regarding commercial and private UAS use in the NAS. The May 18, 2016 meeting will build on stakeholders' previous work. More information about stakeholders' work is available at: *https://www.ntia.doc.gov/other-publication/2015/multistakeholder-process-unmanned-aircraft-systems.*

Time and Date: NTIA will convene a meeting of the multistakeholder process regarding unmanned aircraft systems on May 18, 2016 from 2:00 p.m. to 5:00 p.m., Eastern Time. The meeting date and time are subject to change. The meeting is subject to cancellation if stakeholders complete their work developing best practices. Please refer to NTIA's Web site, *https://www.ntia.doc.gov/other-publication/2015/multistakeholder-process-unmanned-aircraft-systems,* for the most current information.

Place: The meeting will be held in the Boardroom at the American Institute of Architects, 1735 New York Avenue NW., Washington, DC 20006. The location of the meeting is subject to change. Please refer to NTIA's Web site, *https://www.ntia.doc.gov/other-publication/2015/multistakeholder-process-unmanned-aircraft-systems,* for the most current information.

Other Information: The meeting is open to the public and the press. The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Travis Hall at (202) 482–3522 or *thall@ntia.doc.gov* at least seven (7) business days prior to the meeting. The meeting will also be live webcast. Requests for real-time captioning of the webcast should be directed to Travis Hall at (202) 482–3522 or *thall@ntia.doc.gov* at least seven (7) business days prior to the meeting. There will be an opportunity for stakeholders viewing the webcast to participate remotely in the meeting through a moderated conference bridge, including polling functionality. Access details for the meeting are subject to change. Please refer to NTIA's Web site, *https://www.ntia.doc.gov/other-publication/2015/multistakeholder-process-unmanned-aircraft-systems,* for the most current information.

Dated: April 28, 2016.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2016–10359 Filed 5–2–16; 8:45 am]

BILLING CODE 3510–60–P

[1] Presidential Memorandum, *Promoting Economic Competitiveness While Safeguarding Privacy, Civil Rights, and Civil Liberties in Domestic Use of Unmanned Aircraft Systems,* (Feb. 15, 2015), *available at: http://www.whitehouse.gov/the-press-office/2015/02/15/presidential-memorandum-promoting-economic-competitiveness-while-safegua.*

[2] Presidential Memorandum at 4.

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Digital Economy Board of Advisors Meeting

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Digital Economy Board of Advisors. The Board advises and provides recommendations to the Secretary of Commerce, through the Assistant Secretary of Commerce for Communications and Information and the National Telecommunications and Information Administration (NTIA), on a broad range of issues concerning the digital economy and Internet policy.

DATES: The meeting will be held on May 16, 2016, from 8:30 a.m. to 2:30 p.m., Eastern Daylight Time.

ADDRESSES: The meeting will be held at the Commerce Research Library, 1401 Constitution Avenue NW., Washington, DC 20230. Public comments may be mailed to: Digital Economy Board of

Advisors, National Telecommunications and Information Administration, 1401 Constitution Avenue NW., Room 4725, Washington, DC 20230 or emailed to *DEBA@ntia.doc.gov.*

FOR FURTHER INFORMATION CONTACT: Evelyn Remaley, Designated Federal Officer (DFO), at (202) 482–3821 or *DEBA@ntia.doc.gov;* and/or visit NTIA's Web site at *https://www.ntia.doc.gov/category/digital-economy-board-advisors.*

SUPPLEMENTARY INFORMATION:

Background: Economic prosperity is increasingly tied to the digital economy, which is a key driver of job creation, business expansion, and innovation. Indeed, virtually every modern company relies on the Internet to grow and thrive. As a result, the Department of Commerce (Department) has made technology and Internet policy a top priority, investing resources to address challenges and opportunities businesses face in a global economy.

On November 9, 2015, the Secretary of Commerce unveiled the Department's new Digital Economy Agenda, which will help businesses and consumers realize the potential of the digital economy to advance growth and opportunity. The Agenda focuses on four key objectives: Promoting a free and open Internet worldwide; promoting trust online; ensuring access for workers, families, and companies; and promoting innovation. To support the Agenda, the Secretary directed the creation of a Digital Economy Board of Advisors to enable the Department to have a mechanism for receiving regular advice from leaders in industry, academia, and civil society. See Committee Charter at *https://www.ntia.doc.gov/files/ntia/publications/deba_charter_12222015.pdf.* This Board is subject to the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, and is consistent with the National Telecommunications and Information Administration Act, 47 U.S.C. 904(b). The Board functions solely as an advisory body in compliance with the FACA. For more information about the Board, visit *https://www.ntia.doc.gov/category/digital-economy-board-advisors.*

Matters to be Considered: The Board provides independent advice and recommendations to the Secretary, through the Assistant Secretary, on a broad range of policy issues impacting the digital economy. The Board serves as a centralized forum gathering consensus input from a wide range of stakeholders and experts. The Board's mission is to provide advice in furtherance of increasing domestic prosperity, improving education, and facilitating participation in political and cultural life through the application and expansion of digital technologies.

The Board's advice focuses on ensuring the Internet continues to thrive as an engine of growth, innovation, and free expression. In carrying out its duties, the Board's activities may include, but are not limited to:

- Gathering information and providing an analysis of challenges related to the global free flow of information over the Internet, including policies that could restrict cross-border information flows;
- Providing advice on other policy matters that impact the digital economy, such as expanding broadband capacity, enhancing cybersecurity, protecting privacy, and examining the role of intermediaries;
- Promoting the development of new digital technologies; and
- Analyzing the impact of the Internet on job growth and the economy as a whole.

The Department will use the advice provided by the Board to inform its decision-making processes and to advance administration goals.

NTIA will post a detailed agenda on its Web site, *https://www.ntia.doc.gov/category/digital-economy-board-advisors,* prior to the meeting. To the extent that the meeting time and agenda permit, any member of the public may speak to or otherwise address the Board regarding the agenda items during the public portion of the meeting.

Time and Date: The meeting will be held on May 16, 2016 from 8:30 a.m. to 2:30 p.m., Eastern Daylight Time. The date, times and agenda topics are subject to change. The public portion of the meeting, from 8:30 a.m. to 12:00 p.m., will be available via two-way audio link and may be webcast. The remainder of the meeting, from 12:00 to 2:30 p.m., will consist solely of preparatory and/or administrative work by the Board and will not be open to the public. See 41 CFR 102–3.160. Please refer to NTIA's Web site, *https://www.ntia.doc.gov/category/digital-economy-board-advisors,* for the most up-to-date meeting agenda and access information for the public portion of the meeting.

Pursuant to 41 CFR 102–3.150(b), the **Federal Register** notice for this meeting is being published fewer than 15 calendar days prior to the meeting as exceptional circumstances exist. It is imperative that the Board hold its inaugural meeting on May 16, 2016, to accommodate the scheduling priorities of key participants so that they may begin work in support of the Department's Digital Economy Agenda. Notice of the meeting is also posted on NTIA's Web site at *https://www.ntia.doc.gov/category/digital-economy-board-advisors.*

Place: The meeting will be held at the Commerce Research Library, 1401 Constitution Avenue NW., Washington, DC 20230. Public comments may be mailed to: Digital Economy Board of Advisors, National Telecommunications and Information Administration, 1401 Constitution Avenue NW., Room 4725, Washington, DC 20230. The meeting's morning session will be open to the public and press on a first-come, first-served basis. Space is limited. The public portion of the meeting is physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Ms. Remaley at (202) 482–3821 or *DEBA@ntia.doc.gov* at least five (5) business days before the meeting.

Status: Interested parties are invited to attend and to submit written comments to the Board at any time before or after the meeting. Parties wishing to submit written comments for consideration by the Board in advance of the meeting must send them to NTIA at the above-listed address. Comments must be received five (5) business days before the scheduled meeting date to provide sufficient time for review. Comments received after this date will be distributed to the Board, but may not be reviewed prior to the meeting. It would be helpful if paper submissions also include a compact disc (CD) in Word or PDF format, labeled with the name and organizational affiliation of the filer. Alternatively, comments may be submitted electronically to *DEBA@ntia.doc.gov* with the subject: ''DEBA First Meeting Comment.'' Comments provided via electronic mail also may be submitted in one or more of the formats specified above.

Records: NTIA maintains records of all Board proceedings. Board records are available for public inspection at NTIA's Washington, DC office at the address above. Documents, including the Board's charter, member list, agendas, minutes, and any reports are available on NTIA's Web page at *https://www.ntia.doc.gov/category/digital-economy-board-advisors.*

Dated: April 28, 2016.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2016–10322 Filed 4–28–16; 4:15 pm]

BILLING CODE 3510–60–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2016–0018]

Request for Information Regarding Student Loan Borrower Communications

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for information.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau or CFPB) is seeking comments from the public related to consumer decision-making when repaying student loans, including the presentation of information about alternative repayment options. The submissions to this request for information will assist policymakers and market participants when considering potential options to enhance, supplement, or revise written communications made to student loan borrowers by student loan servicers, related to repayment options. The Bureau is seeking public comments about how these communications could reduce defaults, improve borrower outcomes, and spur innovation.

DATES: Comments must be received on or before June 12, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2016–0018, by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: FederalRegisterComments@cfpb.gov.* Include Docket No. CFPB–2016–0018 in the subject line of the message.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1275 First Street NE., Washington, DC 20002.

Instructions: All submissions should include the agency name and docket number for this proposal. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1275 First Street NE., Washington, DC 20002, on official business days between the hours of 10 a.m. and 5 p.m. eastern time. You can make an appointment to inspect the documents by telephoning (202) 435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or social security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: For general inquiries, submission process questions, or any additional information, please contact Monica Jackson, Office of the Executive Secretary, at 202–435–7275.

Authority: 12 U.S.C. 5511(c).

SUPPLEMENTARY INFORMATION: This *Request for Information Regarding Student Loan Borrower Communications* seeks feedback from the public on a series of potential borrower communications—*Student Loan Payback Playbooks*—developed by the Bureau in coordination with the Department of Education and the Department of the Treasury. The Bureau also seeks public comment about the role that written communications play in enabling successful student loan repayment.

The submissions to this request for information may assist market participants and policymakers when considering potential options to enhance, supplement, or revise written communications provided to student loan borrowers, related to repayment options. Submissions will further inform stakeholders' understanding of the relationship between written communications and borrower decision-making related to student loan repayment, particularly as a means to reduce delinquencies and defaults. Comments submitted in response to this request for information may also be used to inform the development of certain disclosures required of the Department of Education by the Presidential Memorandum on a Student Aid Bill of Rights, signed on March 10, 2015.[1] The deadline for submission of comments is June 12, 2016.

The Bureau encourages comments from the public, including:

- Student loan borrowers;
- Organizations representing students and student loan borrowers;
- Innovators, technology providers, and recent entrants into the student loan market;
- Institutions of higher education and affiliated parties;
- Financial services providers, including but not limited to lenders and servicers in the student loan market;
- State law enforcement agencies and regulators;
- Participants in the consumer data industry, including credit reporting agencies;
- Debt collectors;
- Organizations promoting financial education;
- Civil rights groups; and
- Nationally recognized statistical rating organizations.

Please note that the Bureau is not soliciting individual student account information in response to this notice and request for information, nor is the Bureau seeking personally identifiable information (PII) regarding student accounts.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or social security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information.

Part A: Accurate and Actionable Information Related to Student Loan Repayment

In May 2015, the Bureau, in coordination with the Department of Education and the Department of the Treasury, launched a public inquiry into student loan servicing practices that sought input from the public related to potential barriers to student loan repayment. A broad cross-section of respondents, including consumers, student loan servicers, consumer advocates, and others, highlighted the lack of information regarding student loan repayment options as one of the potential barriers to borrower success.[2] Commenters emphasized that accurate and actionable information about various consumer protections and borrower benefits could improve borrower decision-making.[3]

[1] *See* The White House, *Presidential Memorandum—Student Aid Bill of Rights* (Mar. 10, 2015), *available at https://www.whitehouse.gov/the-press-office/2015/03/10/presidential-memorandum-student-aid-bill-rights.*

[2] *See, e.g., Borrower Comment,* CFPB–2015–0021–0076 (''[M]onthly statements are the most convoluted statements I've ever seen in my entire life. I work in the banking industry and I struggle each month to figure out what I'm supposed to be paying.''); *Comment from Axis Financial Services,* CFPB–2015–0021–0374 (''Most defaulted borrowers need to hear about the opportunity and benefits of rehabilitation, affordable income-based repayment options, procedures for setting up a rehabilitation and answers to any questions the borrowers may

Continued

Approximately 42 million Americans owe student loan debt.[4] In less than a decade, the volume of outstanding federal student loan debt has more than doubled, rising from $516 billion in 2007 to greater than $1.2 trillion in the first quarter of 2016,[5] surpassing all other categories of consumer debt aside from mortgages.

Unlike other types of consumer debt, which have realized reduced levels of delinquency and default compared to highs reached following the Great Recession, the student loan market continues to show signs of distress.[6] The Bureau estimates that a quarter of student loan borrowers are, collectively, either delinquent or in default on approximately $200 billion in student debt.[7] Elevated levels of student loan borrower distress exist despite the availability of a range of protections for borrowers that are designed to mitigate delinquency and default, including income-driven repayment plans provided for by law for the vast majority of borrowers with federal student loans.[8] Given the growing share of consumers managing student loan debt, consumers, policymakers, consumer advocates, market participants, policy experts, and other stakeholders have recognized the critical importance of consistent, accurate, and actionable information in order to facilitate successful repayment.[9]

According to data recently released by the Department of Education regarding Direct Loans, borrowers in Pay As You Earn (PAYE) and Income-Based Repayment (IBR) (the most generous income-driven repayment plans at the time of the snapshot) had the lowest delinquency rates. In contrast, borrowers enrolled in a standard 10-year repayment plan had delinquency rates nearly seven times higher than borrowers enrolled in PAYE (Figure 1).

have.''); *Comment from The Institute for College Access & Success,* CFPB–2015–0021–0356 ''[B]orrowers cannot count on servicers to provide information and assistance that could help them make affordable payments and stay out of default.''); *Comment from Pennsylvania Higher Education Assistance Agency,* CFPB–2015–0021–0974 (''While most borrowers are served well by customer service agents that are versed in a wide variety of student loan programs and options, some borrowers need the assistance of specially trained teams of representatives who can provide specialized information and counseling.'').

[3] *See, e.g., Borrower Comment,* CFPB–2015–0021–0996 (''Re-payment options are not clearly stated . . . Servicers should include what my monthly bill payments would be if I'm considering different payment options.''); *Borrower Comment,* CFPB–2015–0021–6521 (''I have dealt with several loan servicers and received inconsistent and erroneous answers to common questions. . . . [R]epresentatives would scream at me over the phone that I owed a substantial amount of money immediately, more than I could possibly afford to pay. I would have to hang up and call again hoping to get a representative that was more reasonable. The next representative would tell me something completely different. . . . They told me I do not qualify for Income-Based Repayment because I have Grad Plus Loans . . . This information is completely false, this restriction only applies to Parent Plus loans which I do not have and I do not exceed any income restrictions . . . . This false and inconsistent information led me to defer payments when I could have been making them under IBR.'').

[4] *See* U.S. Department of Education, *Federal Student Aid Portfolio Summary* (accessed on Apr. 12, 2016), *available at https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/PortfolioSummary.xls.*

[5] *See* U.S. Department of Education, *Federal Student Aid Portfolio Summary* (accessed on Apr. 12, 2016), *available at https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/PortfolioSummary.xls.*

[6] *See* Federal Reserve Bank of New York, *Quarterly Report on Household Debt and Credit* (Aug. 2015), *available at http://www.newyorkfed.org/householdcredit/2015-q2/data/pdf/HHDC_2015Q2.pdf.*

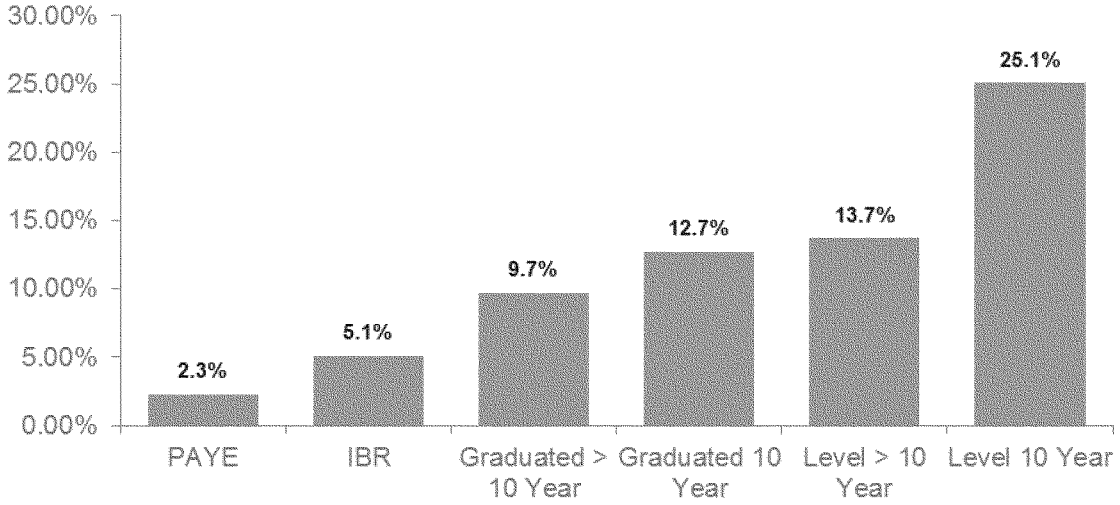
[7] U.S. Department of Education, *Federal Student Loan Portfolio: Direct Loan and Federal Family Education Loan Portfolio by Loan Status* (accessed on Apr. 12, 2016), *available at https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/PortfoliobyLoanStatus.xls;* U.S. Department of Education, *Federal Perkins Loan Program Status of Default as of June 30, 2015* (Mar. 17, 2016), *available at https://ifap.ed.gov/eannouncements/031716PerkinsCDR1415.html;* U.S. Department of Education and Consumer Financial Protection Bureau, *Private Student Loans* (July 2012), *available at http://www.consumerfinance.gov/reports/private-student-loans-report/;* U.S. Department of Education, *Federal Student Loan Portfolio: Direct Loan Portfolio by Delinquency Status* (accessed on Apr. 12, 2016), *available at https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/DLPortfoliobyDelinquencyStatus.xls;* U.S. Department of Education, *Federal Student Loan Portfolio: ED-Held FFEL Portfolio by Delinquency Status* (accessed on Apr. 12, 2016), *available at https://studentaid.ed.gov/sa/sites/default/files/fsawg/datacenter/library/EDHeldFFELPortfoliobyDelinquencyStatus.xls.*

[8] Readers should note that access to Income-Based Repayment (IBR), Pay As You Earn (PAYE), and Revised Pay As You Earn (REPAYE) is limited to borrowers with federal loans used to finance their own education. Parents with federal student loans made under the Parent PLUS program may use another income-driven repayment plan, Income-Contingent Repayment (ICR), but must first refinance any parent loans into a new Direct Consolidation Loan in order to be eligible. *See* U.S. Department of Education, *Income-Driven Plans, available at https://studentaid.ed.gov/sa/repay-loans/understand/plans/income-driven.*

[9] *See* Consumer Financial Protection Bureau, U.S. Department of Education, U.S. Department of the Treasury, *Joint Statement of the Principles on Student Loan Servicing,* 80 FR 67389 (Nov. 2, 2015), *available at http://files.consumerfinance.gov/f/201509_cfpb_treasury_education-joint-statement-of-principles-on-student-loan-servicing.pdf; see also Comment from the National Consumer Law Center,* CFPB–2015–0021–6840 (''Student loan borrowers lack information about the current status of their accounts and options for restructuring payments.); *Comment from the National Association of Student Financial Aid Administrators,* CFPB–2015–0021–0806 (''NASFAA advocates . . . for making the consumption of the disclosure more efficient and user-friendly by simplifying, refining, and consolidating all consumer information requirements . . .''); *Borrower Comment,* CFPB–2015–0021–0996 (''Re-payment options are not clearly stated . . . Servicers should include what my monthly bill payments would be if I'm considering different repayment options.''); *Borrower Comment,* CFPB–2015–0021–0076 (''[My servicer's] monthly statements are the most convoluted statements I've ever seen in my entire life. I work in the banking industry and I struggle each month to figure out what I'm supposed to be paying.''); *Comment from Axis Financial Services,* CFPB–2015–0021–0374 (''Borrowers who have recently rehabilitated loans, have fallen behind in payments or otherwise need special counseling need more support than just a monthly bill or occasional phone call. . . . Some borrowers may benefit from additional contact such as reminders via email, additional letters, invoices or call campaigns.'').

FIGURE 1:

DELINQUENCY RATES BY REPAYMENT PLAN (FEDERAL DIRECT LOANS)[10]



Delinquency Rate is calculated by: $ [31-270 days past due]/$ [all repayment], as reflected in a December 2014 presentation prepared by Federal Student Aid.[11] This figure does not consider use of forbearance or deferment.

However, evidence suggests that borrowers who could benefit from these arrangements may end up in delinquency or default instead. One recent analysis by the Government Accountability Office found that 70 percent of borrowers in default had income that would entitle them to a reduced monthly payment under one of these plans.[12] Additionally, borrowers told us how inconsistent and incomplete information from servicers can be a direct impediment to successful repayment,[13] noting that current written communications do not provide the information necessary to make informed decisions about various repayment options.[14] Student loan servicers note that the expansion of income-driven repayment plans and other alternative options has introduced new challenges for servicers seeking to counsel borrowers about how to navigate loan repayment.[15] One trade association representing the student loan servicing industry observed that the breadth of options available to consumers is ''so confusing as to be counter-productive,'' noting that this may lead to borrowers ''giving up or not taking action at all.'' [16]

These observations, taken together with other academic research,[17] findings by state law enforcement agencies,[18] and public comments from consumers reporting servicing problems,[19] raise serious questions about the adequacy of current servicing practices related to enrollment in income-driven repayment plans.

In response, the Bureau engaged in a joint effort with the Department of Education and the Department of the

[10] *See* U.S. Department of Education, *Federal Student Aid, Servicing Summit Portfolio Overview* (Dec. 2014), *available at http://fsaconferences.ed.gov/conferences/library/2014/servicing/2014ServicingSummitPortfolio Overview.ppt.*

[11] *Id.*

[12] *See* U.S. Government Accountability Office, GAO–15–663, *Federal Student Loans: Education could do more to help ensure borrowers are aware of repayment and forgiveness options* (Aug. 2015), *available at http://www.gao.gov/products/GAO–15–663.*

[13] *See Request for Information on Student Loan Servicing,* CFPB–2015–0021–0001 (May 21, 2015), *available at http://www.regulations.gov/#!document Detail;D=CFPB–2015–0021–0001; Borrower Comment,* CFPB–2015–0021–4023 (''I was originally with [my servicer] when I heard about a new program . . . that would let me consolidate my loan and . . . since I am a teacher, I could have my loan forgiven after 10 years. I naturally signed right up and at the time they told me that the standard plan would be eligible for forgiveness. It turns out I received the wrong information. I would have to use a different [repayment] plan which would be income sensitive. . . . It's not fair that I got bad advice from the [servicer] and that I will now be paying my loan well into retirement.'').

[14] *See, e.g., Borrower Comment,* CFPB–2015–0021–2288 (''I was given wrong information about a lower payment plan. I am paying more on my loans, rather than a lower payment, which is causing financial distress. The employees of the company have given me false information and I'm not sure if I am on the correct repayment plan.'').

[15] *See, e.g., Comment from Pennsylvania Higher Education Assistance Agency,* CFPB–2015–0021–0974 (''Student loan borrowers and student loan servicers must both cope with the complex nature of student loans and the wide variety of terms and conditions attached to these loans. . . . This situation makes navigating student loans difficult for borrowers and presents challenges to student loan servicers as they attempt to counsel and assist these borrowers.'').

[16] *Comment from Student Loan Servicing Alliance,* CFPB–2015–0021–0357 (''We believe the number of plans and the variety in their terms have become so confusing as to be counter-productive. Given the number and complexity of the plans, it is increasingly difficult for consumers to understand and can lead to borrowers giving up or not taking action at all.'').

[17] *See generally* Adam Looney & Constantine Yannelis, *A Crisis in Student Loans? How Changes in the Characteristics of Borrowers and in the Institutions they Attend Contributed to Rising Loan Defaults,* BPEA Conference Draft, The Brookings Institution (Sept. 2015), *available at http://www.brookings.edu/~/media/projects/bpea/fall-2015_embargoed/conferencedraft_looneyyannelis_studentloandefaults.pdf* (finding that 70 percent of defaulted borrowers in the authors' sample were formerly enrolled at for-profit or two-year colleges, and that these borrowers' median wages were between $20,900–$23,900). Based on the Bureau's calculation, depending on a borrower's family size, the average borrower with these characteristics would likely be eligible to make a $0 monthly payment under an income-driven repayment plan.

[18] *See, e.g., Letter from State Attorneys General Lisa Madigan et al.,* CFPB–2015–0021–0376, *available at https://www.regulations.gov/#!documentDetail;D=CFPB-2015-0021-0376.*

[19] For a complete collection of comments received in response to the Bureau's May 2015 Request for Information on Student Loan Servicing, *see* CFPB–2015–0021–0001, *available at http://www.regulations.gov/#!docketDetail;D=CFPB-2015-0021.* Public comments and other qualitative inputs described in this report are not necessarily representative of the experience of over 41 million borrowers in the student loan market; however, comments help to illustrate where there may be a mismatch between borrower needs and actual service delivered.

Treasury to develop a vision for market-wide reform, including an emphasis on the importance of accurate and actionable information for borrowers seeking to make decisions about student loan repayment.[20] In early 2016, in support of this effort, the Bureau engaged in a series of structured interviews with individual student loan borrowers in order to better understand the barriers student loan borrowers face when repaying their loans, and to identify opportunities for improving borrower communications about repayment options. The Bureau's initial observations include:

- Borrowers respond more favorably to actionable information. Borrowers explained that they are seeking actionable information regarding available repayment options. Borrowers stated that billing statements are difficult to understand, and not indicative of available alternative repayment options.
- Personalized communications may be more effective. Borrowers indicated that they would respond most favorably to personalized billing written communications that provide actionable repayment information reflective of a borrower's actual income and family size.
- Routine electronic communications may present an opportunity for targeted outreach. Borrowers described that they may be more likely to take action in response to monthly email communications containing personalized repayment information, rather than written statements instructing borrowers to log in to review their account or to call a customer service representative to discuss available options.
- Once borrowers fall behind, they may be less likely to engage with their debt. Delinquent borrowers described how they need some prompting to re-engage with a past-due debt; written communications that suggest ''business as usual'' are often ignored.

These observations, along with other qualitative and quantitative inputs, including responses to our May 2015 *Request for Information on Student Loan Servicing,* consumer complaints, consultation with state law enforcement officials, and discussions with consumer advocates, individual market participants, and organizations representing participants in the student loan servicing market, informed the development of a series of potential borrower Payback Playbooks developed by the Bureau, in coordination with the Department of Education and the Department of the Treasury.[21] The Bureau is seeking comments discussing how these Playbooks could affect borrowers when evaluating available alternative repayment plans and facilitate enrollment in alternative repayment plans, when appropriate.[22] The Bureau requests comments in response to three documents:

- Payback Playbook A: Personalized information about alternative repayment options (.pdf attachment or image).
- Payback Playbook B (variant of Payback Playbook A): Alternate approach to personalized information about alternative repayment options (.pdf attachment or image).
- Payback Playbook C: Information about income-driven repayment options for borrowers likely at risk of default (.pdf attachment or image).

Part B: Questions About Written Communications to Student Loan Borrowers

The Bureau is seeking general feedback on a series of draft Payback Playbooks that student loan servicers would send to borrowers, developed in collaboration with the Department of Education and the Department of the Treasury, as well as responses to the specific questions below. Section I of this Part provides a set of questions for respondents related to these draft Playbooks. Section II of this Part provides a set of questions directed to student loan borrowers related to Playbooks A and C. Section III of this Part provides a set of questions for respondents about the general communication of information related to student loans.

Section I: Specific Questions About Elements of Payback Playbooks A, B, and C

The Bureau, in coordination with the Department of Education and the Department of the Treasury, developed three potential Payback Playbooks designed to assist student loan borrowers when selecting between alternative repayment plans. Playbooks A and B present three options to consumers: (1) Their current repayment arrangement; (2) one alternative repayment arrangement with an amortizing payment schedule (*e.g.,* graduated repayment, extended repayment, extended-graduated repayment); and (3) one income-driven repayment plan (*e.g.,* Pay As You Earn, Income-Based Repayment, Income-Contingent Repayment). In contrast, Playbook C presents a single income-driven repayment plan to consumers. Policymakers and market participants may wish to consider whether a combination of these approaches is appropriate in order to best serve a broad cross-section of student loan borrowers in various stages of repayment, experiencing varying levels of distress, and reflecting variations in risk levels between different segments of servicers' loan portfolios.

Payback Playbooks A and B

Playbooks A and B are identical, other than the description of income information and estimated payment amount under an income-driven repayment plan. These designs present two approaches to personalization. One approach offers a more precise estimate of a monthly payment under this plan and informs the borrower that this estimate was derived from actual information about his or her income and family size. The alternative approach provides a rounded estimate of a borrower's likely monthly payment, based on similar information about income and family size used to populate Playbook A. Estimated payment amounts indicated in either communication require that the borrower's servicer have access to information about the borrower's income and family size. The Bureau understands that such information could potentially be available through various channels, including other government agencies. The Bureau encourages respondents to provide general feedback related to both approaches, as well as responses to any of the specific questions included below.

1. Please provide general feedback related to Playbook A and Playbook B,

[20] Consumer Financial Protection Bureau, U.S. Department of Education, U.S. Department of the Treasury, *Joint Statement of the Principles on Student Loan Servicing,* 80 FR 67389 (Nov. 2, 2015), *available at http://files.consumerfinance.gov/f/201509_cfpb_treasury_education-joint-statement-of-principles-on-student-loan-servicing.pdf.*

[21] In December 2015, the Department of Education announced a new set of student loan billing statement disclosure requirements designed to provide clear and direct information to borrowers. In addition to enhanced disclosures while borrowers are in school, in a grace period, or entering repayment, borrowers will receive monthly statements with specific information. Additionally, delinquent borrowers will receive increased outreach efforts to help facilitate repayment. Submissions provided in response to this RFI may also inform the development of these disclosures. *See* U.S. Department of Education, *Advancing the Student Aid Bill of Rights—An Update on Deliverables* (Dec. 22, 2015), *available at http://sites.ed.gov/ous/2015/12/advancing-the-student-aid-bill-of-rights-an-update-on-deliverables/.*

[22] *http://www.consumerfinance.gov/payback-playbook.*

including any relevant information related to how these written communications could affect consumer decision-making regarding student loan repayment options and mitigate defaults.

2. Please provide feedback related to specific elements of Playbook A and Playbook B, including, for example, feedback related to:

a. The language used to introduce the communication;

b. The number and selection of repayment plans presented to consumers;

c. The relative emphasis on specific repayment plans;

d. The emphasis on lowering the borrower's monthly payment amount;

e. The presentation of the advantages and disadvantages to student loan borrowers associated with an alternative repayment plan with an amortizing repayment schedule (*e.g.,* graduated, extended, or extended-graduated plans);

f. The presentation of the advantages and disadvantages to student loan borrowers associated with income-driven repayment plans (*e.g.,* Income-Based Repayment, Pay As You Earn, and Revised Pay As You Earn);

g. The presentation of information about the terms and conditions of specific repayment plans;

h. The presentation of information regarding how borrowers can obtain more information about repayment options;

i. The presentation of current and future monthly payment amounts for each repayment plan;

j. The description of the costs associated with each repayment plan, including the depiction of future monthly payment levels and description of the impact of repayment plan selection on total lifetime loan costs;

k. The visual representation of information contained in these communications; and

l. The means by which a borrower is provided with this information (*e.g.,* periodic statement, routine email communication, standalone written communication, online payment portal, etc.).

3. The Bureau seeks feedback on the appropriate audience for these Playbooks. In particular, please provide feedback related to the efficacy and applicability of these Playbooks to specific populations of student loan borrowers, including, for example:

a. Borrowers who are current on their student loans (*i.e.,* have no past-due student loan balance);

b. Borrowers who are at risk of delinquency;

c. Borrowers who are delinquent on one or more student loans;

d. Borrowers who have missed multiple monthly student loan payments;

e. Borrowers who are at imminent risk of default;

f. Borrowers who have previously been in default, including borrowers who have successfully rehabilitated defaulted loans;

g. Borrowers who have high levels of student loan indebtedness;

h. Borrowers who have not completed a program of study;

i. Borrowers who attended certain categories of institutions of higher education (*e.g.,* four-year college, community college, for-profit college, vocational school);

j. Borrowers who are currently enrolled in an income-driven repayment plan;

k. Borrowers who are in school or in a grace period;

l. Borrowers with Direct Loans;

m. Borrowers with Federal Family Education Loan Program (FFELP) loans;

n. Borrowers with Perkins loans;

o. Parents with loans made through the PLUS program; and

p. Borrowers with Federal Consolidation Loans or Direct Consolidation Loans.

Payback Playbook C

Payback Playbook C provides borrowers with information on a single income-driven repayment plan, including a personalized description of the estimated monthly payment under this arrangement, similar to the approach used to describe income-driven repayment plans in Playbook A. Respondents are encouraged to evaluate this communication in the context of the specific needs of borrowers who are at risk of default, potentially including borrowers who have missed multiple monthly payments, borrowers who have not completed a program of study, or borrowers who exhibit other criteria predictive of future financial distress. When evaluating this communication, including the proposed approach to personalization, respondents are encouraged to consider the advantages, disadvantages, and risks associated with enrollment in an income-driven repayment plan, as well as the potential costs to borrowers resulting from delinquency and default.

1. Please provide general feedback related to Playbook C, including any relevant information related to the extent to which these written communications could affect consumer decision-making regarding student loan repayment options and mitigate delinquencies or defaults.

2. Please provide feedback related to specific elements of Playbook C, including, for example, feedback related to:

a. The language used to introduce the communication;

b. The number and selection of the repayment plan(s) presented to consumers;

c. The relative emphasis on a specific repayment plan;

d. The emphasis on lowering the borrower's monthly payment amount;

e. The presentation of the advantages and disadvantages to student loan borrowers associated with income-driven repayment plans (*e.g.,* Income-Based Repayment, Pay As You Earn, and Revised Pay As You Earn);

f. The presentation of information regarding how borrowers can obtain more information about repayment options;

g. The presentation of the current and future monthly amount for the repayment plan;

h. The description of the cost associated with the repayment plan, including the depiction of future monthly payment amount and description of the impact of repayment plan selection on total lifetime loan costs;

i. The visual representation of information contained in these written communications; and

j. The means by which a borrower is provided with this information (*e.g.,* periodic statement, routine email communication, stand-alone written communication, online payment portal, etc.).

3. The Bureau seeks feedback on the appropriate audience for this Playbook. In particular, please provide feedback related to the efficacy and applicability of this Playbook to specific populations of student loan borrowers, including, for example:

a. Borrowers who are current on their student loans (*i.e.,* have no past-due student loan balance);

b. Borrowers who are at risk of delinquency;

c. Borrowers who are delinquent on one or more student loans;

d. Borrowers who have missed multiple monthly student loan payments;

e. Borrowers who are at imminent risk of default;

f. Borrowers who have previously been in default, including borrowers who have successfully rehabilitated defaulted loans;

g. Borrowers who have high levels of student indebtedness;

h. Borrowers who have not completed a program of study;

i. Borrowers who attend certain categories of institutions of higher

education (*e.g.,* four-year college, community college, for-profit college, vocational school);

j. Borrowers who are currently enrolled in an income-driven repayment plan;

k. Borrowers who are in school or in a grace period;

l. Borrowers with Direct Loans;

m. Borrowers with Federal Family Education Loan Program (FFELP) loans;

n. Borrowers with Perkins loans;

o. Parents with loans made through the PLUS program; and

p. Borrowers with Federal Consolidation Loans or Direct Consolidation Loans.

Section II. Specific Questions to Borrowers About Elements of Payback Playbooks A and C

To supplement this request for information, the Bureau launched a consumer-facing landing page soliciting feedback on these prototype Payback Playbooks.[23] The Bureau developed the following specific questions for individual student loan borrowers, in order to better understand how the Playbook could most effectively serve their needs. Although all commenters are encouraged to review this request for information in its entirety, consumers should consider following questions when evaluating these prototype borrower communications:

1. How would the Playbook help you understand and evaluate the options you have to pay your student loan if it reflected your likely payments based on your actual income?

2. How could the Playbook better provide you with important information about your repayment options?

3. How would it be best to see the Playbook (*e.g.,* in monthly billing statements, when you log on to your account online, etc.)?

4. At what point during repayment would you like to receive personalized information about available repayment options (*e.g.,* during your grace period, during repayment, etc.)?

Section III: General Questions About the Communication of Information to Student Loan Borrowers in Repayment

The following questions solicit input from the public about the effects of increased disclosure of information regarding repayment options in written communications to student loan borrowers from student loan servicers.

1. How could personalized information related to repayment options, including income-driven repayment plans, affect consumer decision-making? Personalized information means repayment information based on a borrower's personal information, including income and family size.

2. Please provide any additional relevant information related to written communications with student loan borrowers regarding repayment options, including, for example:

a. Examples of existing written communications provided to student loan borrowers;

b. Information about the advantages and disadvantages of such communications, including any relevant information related to implementation, operations, and maintenance associated with dissemination of these communications;

c. Information related to privacy and data security considerations when populating and disseminating information about borrowers' loans, income information, or other sensitive financial or personal information, including protecting the privacy of borrowers in electronic communications like email or text message;

d. Feedback about information systems and other technical considerations when populating and disseminating personalized information about student loans, including any feedback about existing information systems that provide accurate, personalized information to consumers with student loans;

e. Information about the availability, cost, and accuracy of potential data sources that include the income and family size of student loan borrowers; and

f. Information about the use of consumer data, in order to populate information contained in personalized communications.

3. How could the communication channel (*e.g.,* U.S. Mail, email, SMS, online portal) used to deliver borrower communications affect borrower engagement (*e.g.,* email open rates, click-through rates, inbound telephone calls)?

4. How could personalized information obtained to populate written communications be adapted to enhance oral communications with consumers?

5. Please provide any relevant information about the applicability of personalized communications to different segments of the student loan market (*i.e.,* private student loans, guaranteed loans made under the Federal Family Education Loan Program, and Direct Loans).

6. How could the visual presentation of information, including the presentation of additional or supplemental information in electronic communications, affect consumer decision-making when repaying student loans?

Dated: April 25, 2016.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2016–10327 Filed 5–2–16; 8:45 am]

BILLING CODE 4810–AM–P

[23] *http://www.consumerfinance.gov/payback-playbook.*

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent To Grant Partially Exclusive Patent License to 3D-sensIR, Inc.; Stevenson Ranch, CA

AGENCY: Department of the Army, DoD.

ACTION: Notice of intent.

SUMMARY: In compliance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i), the Department of the Army hereby gives notice of its intent to grant to 3D-sensIR, Inc.; a corporation having its principle place of business at 25762 Hawthorne Place, Stevenson Ranch, CA 91381, a partially exclusive license, for their design and development of handheld 3D smart cameras with specific application in the areas of photorealistic 3D measurements in the fields of Architecture, Engineering, Construction (AEC), Utility Assets Management, Law Enforcement (*i.e.,* crime and accident scene investigations), Real-Estate, Arts and Entertainment, Commercial Drones, Commercial Robotics and Logistics. The proposed license would be relative to the following:

• U.S. Patent Number 8,081,301 entitled ''LADAR Transmitting and Receiving System and Method'', Inventors Stann, Giza and Lawler, Issue Date Dec. 20, 2011.

DATES: The prospective partially exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the U.S. Army Research Laboratory receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by the U.S. Army Research Laboratory within fifteen (15) days from the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

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: Send written objections to U.S. Army Research Laboratory Technology Transfer and Outreach Office, RDRL–DPT/Thomas Mulkern, Building 321 Room 110, Aberdeen Proving Ground, MD 21005–5425.

FOR FURTHER INFORMATION CONTACT: Thomas Mulkern, (410) 278–0889, email: *ORTA@arl.army.mil*

SUPPLEMENTARY INFORMATION: None.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2016–10264 Filed 5–2–16; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Department of the Army, U.S. Army Corps of Engineers

Notice of Availability of Supplemental Information Report for Berryessa Creek Element, Coyote and Berryessa Creek, Flood Control Project, Santa Clara County, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Public notice.

SUMMARY: The U.S. Army Corps of Engineers (USACE) has prepared a Supplemental Information Report (SIR) to update and clarify the General Reevaluation Report/Environmental Impact Statement (GRR/EIS) for the Berryessa Creek Element of the Coyote and Berryessa Creek, California, Flood Control Project (Project) to account for the fact that the Project will remove an existing exercise ''pocket park'' and paved trail within the Project footprint and will involve in-channel work year-round in the absence of substantial rainfall (defined as 0.5 inch or greater precipitation forecast by the National Weather Service in their 72-hour forecast for the Project area). The removal of the existing exercise pocket park facilities was omitted from the original GRR/EIS and the clarification regarding in-channel work year-round when weather permits (*i.e.*, in the absence of substantial rainfall) is in response to informal comments. The USACE has determined that these elements do not amount to substantial changes to the proposed action and do not constitute significant new circumstances or information bearing upon the proposed action or its impacts. Therefore, a supplement to the GRR/EIS is not necessary.

ADDRESSES: To obtain a copy of the SIR send requests to Ms. Amanda Cruz, U.S. Army Corps of Engineers, San Francisco District, 1455 Market Street, 17th Floor, San Francisco, CA 94103–1398 or email: *Amanda.B.Cruz@usace.army.mil.*

FOR FURTHER INFORMATION CONTACT: Amanda Cruz, (415) 503–6955.

SUPPLEMENTARY INFORMATION: The March 2014 Final GRR/EIS for the Berryessa Creek Element, and its accompanying CWA § 404(b)(1) alternatives analysis, recommended an earthen trapezoidal channel section with varying bottom width and 2H:1V side slopes that provides protection against the one-percent annual chance exceedance flood event from I–680 in San Jose to Calaveras Boulevard in Milpitas (hereinafter ''Project''). These environmental analyses determined the Project to be the National Economic Development Plan (NED), the National Environmental Policy Act (NEPA) environmentally preferable alternative, the California Environmental Quality Act (CEQA) § 15126.6(e)(2) environmentally superior alternative, and the CWA § 404 Least Environmentally Damaging Practicable Alternative (LEDPA). The USACE Director of Civil Works signed the Record of Decision (ROD) on May 29, 2014.

The SIR serves to update the Project description and impact analysis in the GRR/EIS to include the removal of the pocket exercise park facilities and clarify that in-channel construction may occur year-round in the absence of substantial rainfall. The Project as described in the GRR/EIS would remove an existing pocket park with permanent outdoor exercise equipment and about 460 linear feet of paved trail located on property owned by the Project's non-Federal sponsor, the Santa Clara Valley Water District, in order to allow for construction of the widened channel. The existence of these features and the fact that they would be removed by the Project were inadvertently omitted from the GRR–EIS. Additionally, the GRR–EIS stated that ''construction activities would occur primarily during the dry season from May to the end of October'' and included a mitigation measure stating that best management practices for the Project would include preparation and implementation of ''an Erosion and Sediment Control Plan consistent with RWQCB policy and guidelines'' that would require contractors to ''limit in-channel construction to the low-flow period between April 15 and October 31 to minimize soil erosion.'' This SIR clarifies the measure to specifically state that construction activities may occur year-round with suspension of in-channel work and implementation of a Project-specific Rain Event Action Plan (REAP) if 0.5 inch or greater precipitation is forecast by the National Weather Service in their 72-hour forecast for the Project area.

The SIR evaluates the potential effects on environmental resources of removing the exercise pocket park and allowing in-channel work year-round in the absence of substantial rainfall. Effects on the following environmental resources were considered: Air quality; climate change; water resources and quality; fisheries; biological resources; topography and soils; geology and seismicity; cultural resources; land use and socioeconomics; traffic and circulation; noise; recreation and public access; aesthetics and visual resources; hazardous, toxic, and radiological waste; growth-inducing effects; and cumulative effects. Based on this analysis, the USACE has determined that removing the exercise pocket park and allowing in-channel work year-round in the absence of substantial rainfall will not result in new significant environmental impacts not already identified in the GRR/EIS.

Because removing the exercise pocket park features and allowing in-channel work year-round in the absence of substantial rainfall will not result in new significant environmental impacts, these elements do not amount to substantial changes to the proposed action and do not constitute significant new circumstances or information bearing upon the proposed action or its impacts. Therefore, the USACE concludes that preparation of a supplement to the GRR/EIS, as defined in section 1502.9(c) of the CEQ Regulations, is not necessary. The Project remains the environmentally preferable alternative.

John C. Morrow,

Lieutenant Colonel, U.S. Army, District Engineer.

[FR Doc. 2016–10263 Filed 5–2–16; 8:45 am]

BILLING CODE 3720–58–P

DELAWARE RIVER BASIN COMMISSION

Notice of Public Hearing and Business Meeting

May 11 and June 15, 2016.

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 11, 2016. A business meeting will be held the following month, on

Wednesday, June 15, 2016. The hearing and business meeting are open to the public and will be conducted at the Washington Crossing Historic Park Visitor Center, 1112 River Road, Washington Crossing, Pennsylvania.

Public Hearing. The public hearing on May 11, 2016 will begin at 1:30 p.m. Hearing items will include: Draft dockets for the withdrawals, discharges and other water-related projects subject to the Commission's review; and resolutions (1) adopting procedural guidelines for certain determinations made pursuant to the Commission's *Water Quality Regulations;* (2) approving the Commission's annual current expense and capital budgets for the fiscal year ending June 30, 2017; and (3) apportioning among the signatory parties the amounts required for support of the current expense and capital budgets for the fiscal year ending June 30, 2017.

The list of projects scheduled for hearing, including project descriptions, will be posted on the Commission's Web site, *www.drbc.net,* in a long form of this notice at least ten days before the hearing date. Draft resolutions scheduled for hearing also will be posted at *www.drbc.net* ten or more days prior to the hearing.

Written comments on matters scheduled for hearing on May 11 will be accepted through 5:00 p.m. on May 12. After the hearing on all scheduled matters has been completed, and as time allows, an opportunity for Open Public Comment will also be provided.

The public is advised to check the Commission's Web site periodically prior to the hearing date, as items scheduled for hearing may be postponed if additional time is deemed necessary to complete the Commission's review, and items may be added up to ten days prior to the hearing date. In reviewing docket descriptions, the public is also asked to be aware that project details commonly change in the course of the Commission's review, which is ongoing.

Public Meeting. The public business meeting on June 15, 2016 will begin at 10:30 a.m. and will include: Adoption of the Minutes of the Commission's March 16, 2016 business meeting, announcements of upcoming meetings and events, a report on hydrologic conditions, reports by the Executive Director and the Commission's General Counsel, and consideration of any items for which a hearing has been completed or is not required. Items expected to be considered on June 15 for which no hearing is required include: A resolution for the Minutes providing for the election of Commission officers for fiscal year 2017 (ending June 30, 2017); and a resolution for the Minutes to amend the *Administrative Manual—Bylaws, Management and Personnel* concerning the timing of annual salary adjustments.

After all scheduled business has been completed and as time allows, the meeting will also include up to one hour of Open Public Comment.

There will be no opportunity for additional public comment for the record at the June 15 business meeting on items for which a hearing was completed on May 11 or a previous date. Commission consideration on June 15 of items for which the public hearing is closed may result in approval of the item (by docket or resolution) as proposed, approval with changes, denial, or deferral. When the Commissioners defer an action, they may announce an additional period for written comment on the item, with or without an additional hearing date, or they may take additional time to consider the input they have already received without requesting further public input. Any deferred items will be considered for action at a public meeting of the Commission on a future date.

Advance Sign-Up for Oral Comment. Individuals who wish to comment on the record during the public hearing on May 11 or to address the Commissioners informally during the Open Public Comment portion of the meeting on either May 11 or June 15 as time allows, are asked to sign up in advance by contacting Ms. Paula Schmitt of the Commission staff, at *paula.schmitt@drbc.nj.gov.*

Addresses for Written Comment. Written comment on items scheduled for hearing may be delivered by hand at the public hearing or: By hand, U.S. Mail or private carrier to: Commission Secretary, P.O. Box 7360, 25 State Police Drive, West Trenton, NJ 08628; by fax to Commission Secretary, DRBC at 609–883–9522; or by email (preferred) to *paula.schmitt@drbc.nj.gov.* If submitted by email, written comments on a docket should also be sent to Mr. David Kovach, Manager, Project Review Section at *david.kovach@drbc.nj.gov.*

Accommodations for Special Needs. Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the Commission Secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how we can accommodate your needs.

Additional Information, Contacts. Additional public records relating to hearing items may be examined at the Commission's offices by appointment by contacting Carol Adamovic, 609–883–9500, ext. 249. For other questions concerning hearing items, please contact the Project Review Section assistant at 609–883–9500, ext. 216.

Dated: April 27, 2016.

Pamela M. Bush,

Commission Secretary and Assistant General Counsel.

[FR Doc. 2016–10300 Filed 5–2–16; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0049]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Applications for New Grants Under the Rehabilitation Services Administration (RSA) (1894–0001)

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before June 2, 2016.

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–2016–ICCD–0049. 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 2E–115, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kerrie Clark, 202–245–7281.

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: Applications for New Grants under the Rehabilitation Services Administration (RSA) (1894–0001).

OMB Control Number: 1820–0018.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 40.

Total Estimated Number of Annual Burden Hours: 1,600.

Abstract: The Rehabilitation Services Administration (RSA) is seeking approval to extend the current Information Collection package, OMB #1820–0018 (streamlined discretionary grants 1894–0001) in order to solicit applications for RSA's Discretionary Grant Awards authorized by the Rehabilitation Act of 1973, as amended and the Consolidated Appropriations Act, 2014 (Pub. L. 113–76) and the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235). The discretionary program areas include Rehabilitation Long Term and Short Term Training, Demonstrations, Capacity Building projects, Interpreter Training, In-Service Training, National Clearinghouse, National Leadership Institute, Technical Assistance and Continuing Education (TACE) Centers, Service Programs, the Helen Keller National Center, Disability Innovation Fund and other discretionary grant programs approved by the Secretary. The current application package expires July 31, 2016 and in order to provide application packages to applicants, RSA is requesting an extension of the currently approved package for an additional three years.

Dated: April 27, 2016.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–10275 Filed 5–2–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

New Opportunities and Challenges in U.S. Energy Security: Notice of Public Workshop

AGENCY: Office of Energy Policy and Systems Analysis, Department of Energy.

ACTION: Notice of public workshop.

SUMMARY: To support implementation of the 2015 Highway Bill (the FAST Act, Pub. L. 114–94), the U.S. Department of Energy (DOE or Department) will convene a public workshop to discuss new opportunities and challenges in U.S. energy security, covering both the electricity sector and the oil and gas sector. A mixture of panel discussions and an open comment/Q&A period will frame multi-stakeholder discourse around the meaning of energy security in a 21st century context, given record levels of U.S. fossil fuel production, ongoing changes to the U.S. electricity fuel mix and grid, and shifting geopolitical alignments related to energy development and provision.

DATES: The public workshop will be held on Friday, May 13, 2016, beginning at 9:00 a.m. Eastern Time and ending at 12:30 p.m. Eastern Time. Written comments are welcome and should be submitted at the public workshop or electronically by May 13, 2016 at 5:00 p.m. Eastern Time.

ADDRESSES: The meeting will be held in Room GE–086 (Large Auditorium) in the U.S. Department of Energy Forrestal Building, located at 1000 Independence Ave. SW., in Washington, DC 20585–0121. You may submit written comments electronically to the Office of Energy Policy and Systems Analysis, Energy Security Meeting Comments, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC using the email address: *energysecuritycomments@hq.doe.gov*

FOR FURTHER INFORMATION CONTACT: Andrew Stocking, U.S. Department of Energy, Office of Energy Policy and Systems Analysis, 1000 Independence Avenue SW., Washington, DC 20585–0121. *Telephone:* 202–586–6072 *Email: Andrew.Stocking@hq.doe.gov.* To register, visit: *https://doeenergysecurity.eventbrite.com*

SUPPLEMENTARY INFORMATION:

Summary and Text of Section 61005 of Public Law 114–94, the FAST Act

Summary: Within 1 year, the Secretary of Energy must transmit to Congress, after public notice and comment, a report recommending energy security valuation methods for use across the Federal government. The report will assess the U.S. energy security posture, identify metrics for evaluating energy-related actions with respect to their effects on energy security, and include an implementation strategy for ensuring that metrics are applied consistently throughout the government. The Secretary of Energy will collaborate with the Secretary of State, and any other government, private, or international participants as necessary.

May 13, 2016: U.S. Energy Security Public Workshop

On May 13, 2016, DOE will hold a public workshop in Washington, DC on ''New Opportunities and Challenges in U.S. Energy Security.'' The meeting will feature facilitated panel discussions, followed by an open microphone session. People who would like to speak during the open microphone session at the public workshop should come prepared to speak for no more than five minutes and will be accommodated on a first-come, first-served basis, according to the order in which they register to speak on a sign-in sheet available at the meeting location, on the morning of the meeting.

Submitting comments in writing. Do not submit information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). That is, do not submit CBI.

Include contact information when you submit comments, data, documents, and other information to DOE. If you submit via hand delivery/courier at the public workshop, please also provide all items electronically, if feasible, in which case it is not necessary to submit printed

copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Issued in Washington, DC, on April 27, 2016.

Melanie Kenderdine,

Director, Office of Energy Policy and Systems Analysis, Energy Counselor to the Secretary, U.S. Department of Energy.

[FR Doc. 2016–10318 Filed 5–2–16; 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: ER10–3117–007; ER10–3115–005; ER13–445–008; ER14–2823–006; ER11–4060–008; ER11–4061–008; ER15–1170–004; ER15–1171–004; ER15–1172–004; ER15–1173–004; ER10–3300–012; ER15–1308–002.

Applicants: Badger Creek Limited, Bear Mountain Limited, Chalk Cliff Limited, Double C Generation Limited Partnership, High Sierra Limited, Kern Front Limited, Kingfisher Wind, LLC, La Paloma Generating Company, LLC, Lea Power Partners, LLC, Live Oak Limited, McKittrick Limited, Waterside Power, LLC.

Description: Notice of Change in Status Lea Power Partners, LLC, et. al.

Filed Date: 4/25/16.

Accession Number: 20160425–5357.

Comments Due: 5 p.m. ET 5/16/16.

Docket Numbers: ER12–161–016; ER12–2068–012; ER12–645–018; ER10–2460–012; ER10–2461–012; ER12–2159–008; ER12–682–013; ER10–2463–012; ER11–2201–016; ER10–2464–010; ER10–1821–013; ER13–1139–015; ER13–1585–009; ER12–2205–009; ER10–2465–008; ER11–2657–009; ER13–17–010; ER14–25–013; ER14–2630–008; ER12–919–007; ER12–1311–012; ER10–2466–013; ER11–4029–012.

Applicants: Bishop Hill Energy LLC, Blue Sky East, LLC, California Ridge Wind Energy LLC, Canandaigua Power Partners, LLC, Canandaigua Power Partners II, LLC, Canadian Hills Wind, LLC, Erie Wind, LLC, Evergreen Wind Power, LLC, Evergreen Wind Power III, LLC, First Wind Energy Marketing, LLC, Goshen Phase II LLC, Imperial Valley Solar 1, LLC, Longfellow Wind, LLC, Meadow Creek Project Company LLC, Milford Wind Corridor Phase I, LLC, Milford Wind Corridor Phase II, LLC, Niagara Wind Power, LLC, Prairie Breeze Wind Energy LLC, Rockland Wind Farm LLC, Stetson Holdings, LLC, Stetson Wind II, LLC, Vermont Wind, LLC, Regulus Solar, LLC.

Description: Notice of Change in Status of Bishop Hill Energy LLC, et. al.

Filed Date: 4/25/16.

Accession Number: 20160425–5358.

Comments Due: 5 p.m. ET 5/16/16.

Docket Numbers: ER12–2399–006.

Applicants: FirstEnergy Service Company.

Description: Settlement Agreement and Offer of Settlement [including Pro Forma sheets] of FirstEnergy Service Company on behalf of the Settling Parties.

Filed Date: 4/25/16.

Accession Number: 20160425–5362.

Comments Due: 5 p.m. ET 5/16/16.

Docket Numbers: ER16–767–001.

Applicants: California Independent System Operator Corporation.

Description: Compliance filing: 2016–04–25 Competitive Solicitation Enhancements Compliance to be effective 3/28/2016.

Filed Date: 4/25/16.

Accession Number: 20160425–5293.

Comments Due: 5 p.m. ET 5/16/16.

Docket Numbers: ER16–854–001.

Applicants: Southwest Power Pool, Inc.

Description: Compliance filing: 1628R8 Substitute Western Farmers Electric Cooperative NITSA—Compliance Filing to be effective 1/1/2016.

Filed Date: 4/26/16.

Accession Number: 20160426–5068.

Comments Due: 5 p.m. ET 5/17/16.

Docket Numbers: ER16–1254–001.

Applicants: MMP SCO, LLC.

Description: Tariff Amendment: Amendment to Application for Market-Based Rate Authorization to be effective 4/26/2016.

Filed Date: 4/26/16.

Accession Number: 20160426–5082.

Comments Due: 5 p.m. ET 5/17/16.

Docket Numbers: ER16–1500–000.

Applicants: South Carolina Electric & Gas Company.

Description: Section 205(d) Rate Filing: Attachment H—Depreciation Update to be effective 6/1/2016.

Filed Date: 4/25/16.

Accession Number: 20160425–5294.

Comments Due: 5 p.m. ET 5/5/16.

Docket Numbers: ER16–1501–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Section 205(d) Rate Filing: 2016–04–26_SA 2406 NSP-Prairie Rose 2nd Rev. GIA (J183) to be effective 4/27/2016.

Filed Date: 4/26/16.

Accession Number: 20160426–5106.

Comments Due: 5 p.m. ET 5/17/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 26, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–10255 Filed 5–2–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2805–005; ER10–2600–006; ER10–2564–006; ER10–2289–006; EL16–37–000.

Applicants: Central Hudson Gas & Electric Corp., Tucson Electric Power Company, UNS Electric, Inc., UniSource Energy Development Company.

Description: Response to the February 22, 2016 Show Cause Order of Tucson Electric Power Company, et al.

Filed Date: 4/22/16.

Accession Number: 20160422–5110.

Comments Due: 5 p.m. ET 5/13/16.

Docket Numbers: ER10–3300–013.

Applicants: La Paloma Generating Company, LLC.

Description: Notice of Change in Status of La Paloma Generating Company, LLC.

Filed Date: 4/26/16.
Accession Number: 20160426–5332.
Comments Due: 5 p.m. ET 5/17/16.

Docket Numbers: ER15–1905–004.
Applicants: Amazon Energy LLC.
Description: Notice of Change in Status of Amazon Energy LLC.
Filed Date: 4/27/16.
Accession Number: 20160427–5156.
Comments Due: 5 p.m. ET 5/18/16.

Docket Numbers: ER16–651–000; ER16–652–000; ER16–653–000; ER16–654–000; ER16–655–000.
Applicants: Milo Wind Project, LLC, Roosevelt Wind Project, LLC, Slate Creek Wind Project, LLC, Spearville 3, LLC, Spinning Spur Wind LLC.
Description: Supplement to December 29, 2015 Milo Wind Project, LLC, et al. Triennial Filing, et al.
Filed Date: 4/26/16.
Accession Number: 20160426–5297.
Comments Due: 5 p.m. ET 5/17/16.

Docket Numbers: ER16–1218–001.
Applicants: BE CA LLC.
Description: Tariff Amendment: Supplement to Notice of Market-Based Rate Schedule Revisions to be effective 5/17/2016.
Filed Date: 4/27/16.
Accession Number: 20160427–5196.
Comments Due: 5 p.m. ET 5/18/16.

Docket Numbers: ER16–1219–001.
Applicants: J.P. Morgan Ventures Energy Corporation.
Description: Tariff Amendment: Supplement to Notice of Market-Based Rate Schedule Revisions to be effective 5/17/2016.
Filed Date: 4/27/16.
Accession Number: 20160427–5198.
Comments Due: 5 p.m. ET 5/18/16.

Docket Numbers: ER16–1220–001.
Applicants: Utility Contract Funding, L.L.C.
Description: Tariff Amendment: Supplement to Notice of Market-Based Rate Schedule Revisions to be effective 5/17/2016.
Filed Date: 4/27/16.
Accession Number: 20160427–5200.
Comments Due: 5 p.m. ET 5/18/16.

Docket Numbers: ER16–1502–000.
Applicants: Southwest Power Pool, Inc.
Description: Section 205(d) Rate Filing: 3194 Prairie Breeze Wind Energy GIA; Cancellation of 2221R1 to be effective 3/29/2016.
Filed Date: 4/27/16.
Accession Number: 20160427–5059.
Comments Due: 5 p.m. ET 5/18/16.

Docket Numbers: ER16–1503–000.
Applicants: Public Service Company of New Mexico.
Description: Notice of Cancellation of Public Service Company of New Mexico of Network Integration Transmission Service and related Network Operating Agreement (No. 254–PNM).
Filed Date: 4/26/16.
Accession Number: 20160426–5315.
Comments Due: 5 p.m. ET 5/17/16.

Docket Numbers: ER16–1504–000.
Applicants: Oregon Clean Energy, LLC.
Description: Petition for Waiver and Request for Expedited Action of Oregon Clean Energy, LLC.
Filed Date: 4/26/16.
Accession Number: 20160426–5331.
Comments Due: 5 p.m. ET 5/3/16.

Docket Numbers: ER16–1505–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Section 205(d) Rate Filing: 2016–04–27 Ramp Product Posting Filing to be effective 5/1/2016.
Filed Date: 4/27/16.
Accession Number: 20160427–5245.
Comments Due: 5 p.m. ET 5/18/16.

Docket Numbers: ER16–1506–000.
Applicants: Nevada Power Company.
Description: Section 205(d) Rate Filing: OATT Attachment G Revision Network Operating Agreement to be effective 6/28/2016.
Filed Date: 4/27/16.
Accession Number: 20160427–5246.
Comments Due: 5 p.m. ET 5/18/16.

Docket Numbers: ER16–1507–000.
Applicants: Idaho Power Company.
Description: Section 205(d) Rate Filing: IPC–PAC JOOA—True-up Changes and Correction of Clerical Errors to be effective 10/30/2015.
Filed Date: 4/27/16.
Accession Number: 20160427–5251.
Comments Due: 5 p.m. ET 5/18/16.

Docket Numbers: ER16–1508–000.
Applicants: Southern California Edison Company.
Description: Section 205(d) Rate Filing: 2016 Revised Added Facilities Rate under WDAT—Filing No. 10 to be effective 1/1/2016.
Filed Date: 4/27/16.
Accession Number: 20160427–5254.
Comments Due: 5 p.m. ET 5/18/16.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES16–29–000.
Applicants: DTE Electric Company.
Description: Application for Authorization to Issue Securities and Request for Exemption from Competitive bidding Requirement of DTE Electric Company.
Filed Date: 4/26/16.
Accession Number: 20160426–5268.
Comments Due: 5 p.m. ET 5/17/16.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM16–1–000.
Applicants: Nebraska Public Power District.
Description: Response to April 19, 2016 Deficiency Letter on behalf of the Nebraska Public Power District.
Filed Date: 4/26/16.
Accession Number: 20160426–5311.
Comments Due: 5 p.m. ET 5/24/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 27, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–10315 Filed 5–2–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meetings related to the transmission planning activities of the New York Independent System Operator, Inc.

The New York Independent System Operator, Inc. Joint Electric System Planning Working Group and Transmission Planning Advisory Meeting

May 5, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=bic_espwg&directory=2016-05-05.*

The New York Independent System Operator, Inc. Business Issues Committee Meeting

May 18, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=bic&directory=2016-05-18.*

The New York Independent System Operator, Inc. Operating Committee Meeting

May 19, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=oc&directory=2016-05-19.*

The New York Independent System Operator, Inc. Management Committee Meeting

May 25, 2016, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=mc&directory=2016-05-25.*

The discussions at the meetings described above may address matters at issue in the following proceedings:

New York Independent System Operator, Inc., Docket No. ER13–102.

New York Independent System Operator, Inc., Docket No. ER15–2059.

New York Independent System Operator, Inc., Docket No. ER16–120.

New York Independent System Operator, Inc., Docket No. ER13–1942.

New York Transco, LLC, Docket No. ER15–572.

New York Independent System Operator, Inc., Docket No. ER16–966.

For more information, contact James Eason, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8622 or *James.Eason@ferc.gov.*

Dated: April 27, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–10313 Filed 5–2–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP16–873–000.

Applicants: Elba Express Company, L.L.C.

Description: Section 4(d) Rate Filing: Fuel Tracker Filing—2016 to be effective 6/1/2016.

Filed Date: 4/26/16.

Accession Number: 20160426–5081.

Comments Due: 5 p.m. ET 5/9/16.

Docket Numbers: RP16–874–000.

Applicants: Questar Overthrust Pipeline Company.

Description: Section 4(d) Rate Filing:—14.7—Imbalances on Inactive Contracts Version 1.0.0 to be effective 5/26/2016.

Filed Date: 4/26/16.

Accession Number: 20160426–5115.

Comments Due: 5 p.m. ET 5/9/16.

Docket Numbers: RP16–875–000.

Applicants: Cameron Interstate Pipeline, LLC.

Description: Annual Report of Interruptible Transportation Revenue Sharing of Cameron Interstate Pipeline, LLC under RP16–875.

Filed Date: 4/26/16.

Accession Number: 20160426–5138.

Comments Due: 5 p.m. ET 5/9/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 27, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–10316 Filed 5–2–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12486–008– Idaho]

Twin Lakes Canal Company; Notice of Availability of the Final Environmental Impact Statement for the Bear River Narrows Hydroelectric Project

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission or FERC) regulations contained in the Code of Federal Regulations (CFR) (18 CFR part 380 [FERC Order No. 486, 52 FR 47897]), the Office of Energy Projects has reviewed the application for license for the Bear River Narrows Hydroelectric Project (FERC No. 12486) and prepared a final environmental impact statement (EIS) for the project.

The proposed project would be located on the Bear River, near the city of Preston, in Franklin County, Idaho. The project would occupy 243 acres of federal land managed by the Bureau of Land Management.

The final EIS contains staff's evaluation of the applicant's proposal and the alternatives for licensing the Bear River Narrows Hydroelectric Project. The final EIS documents the views of governmental agencies, non-governmental organizations, affected Indian tribes, the public, the license applicant, and Commission staff.

A copy of the final EIS is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the ''e-Library'' link. Enter the docket number, excluding the last three digits, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, please contact Kenneth Hogan at (202) 502–8434 or at *kenneth.hogan@ferc.gov.*

Dated: April 27, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–10314 Filed 5–2–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2437–005.
Applicants: Arizona Public Service Company.
Description: Notice of Non-Material Change in Status of Arizona Public Service Company.
Filed Date: 4/26/16.
Accession Number: 20160426–5191.
Comments Due: 5 p.m. ET 5/17/16.

Docket Numbers: ER15–2256–004.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2016–04–26 Order 809 Gas Day Compliance Filing to be effective 11/5/2016.
Filed Date: 4/26/16.
Accession Number: 20160426–5181.
Comments Due: 5 p.m. ET 5/17/16.

Docket Numbers: ER16–1501–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Section 205(d) Rate Filing: 2016–04–26_SA 2406 NSP-Prairie Rose 2nd Rev. GIA (J183) to be effective 4/27/2016.
Filed Date: 4/26/16.
Accession Number: 20160426–5106.
Comments Due: 5 p.m. ET 5/17/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 26, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–10256 Filed 5–2–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2457–041]

Public Service Company of New Hampshire: Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.
b. *Project No.:* 2457–041.
c. *Date filed:* December 18, 2015.
d. *Applicant:* Public Service Company of New Hampshire (PSNH).
e. *Name of Project:* Eastman Falls Hydroelectric Project (Eastman Falls Project).
f. *Location:* The existing project is located on the Pemigewasset River in Merrimack and Belknap Counties, New Hampshire. The project boundary includes approximately 476 acres of federal land.
g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. *Applicant Contact:* Curtis R. Mooney, Project Manager, Public Service Company of New Hampshire, 780 North Commercial Street, P.O. Box 330, Manchester, NH 03105–0330; Telephone: (603) 744–8855 or *curtis.mooney@eversource.com*
i. *FERC Contact:* Steve Kartalia, (202) 502–6131 or *stephen.kartalia@ferc.gov.*
j. *Deadline for filing motions to intervene, protests, comments, recommendations, preliminary terms and conditions, and preliminary prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, recommendations, preliminary terms and conditions, and preliminary prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2457–041.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. *The Project Description:* The Eastman Falls Project has a total installed capacity of 6.4-megawatts (MW). The project's average annual generation is 27,871 megawatt-hours. The power generated by the project is sold to PSNH's electrical distribution customers.

The dam for the Eastman Falls Project is located approximately 1.5 miles downstream of the U.S. Army Corps of Engineers' (Corps) Franklin Falls Flood Control Dam (Franklin Falls Dam). While the project boundary for the Eastman Falls Project extends through and upstream of Franklin Falls Dam, it does not encompass Franklin Falls Dam or any Corps facilities.

The existing project consists of: (1) A 341-foot-long, 37-foot-high concrete gravity dam that includes: (i) A 341-foot-wide spillway with a crest elevation of 301 feet above mean sea level (msl) (ii) 6-foot-high steel flashboards with a crest elevation of 307 feet msl; and (iii) a concrete waste gate with a 16-foot-high, 30-foot-wide steel slide gate; (2) a 582-acre impoundment with a normal maximum pool elevation of 307 feet msl; (3) a 342-foot-long, 8-foot-deep floating louver array; (4) generating facility No. 1 that includes: (i) A 12.5-foot-high, 15-foot-wide headgate structure with a 23.75-foot-high, 17-foot-wide trashrack with 3.5-inch clear-bar spacing; (ii) a 12.5-foot-high, 12.5-foot-wide, 21-foot-long concrete penstock; (iii) a 40-foot-high, 20-foot-wide stop log slot; (iv) a 29-foot-long, 29-foot-wide, 34-foot-high concrete and masonry powerhouse containing a single 1.8–MW turbine-generator unit; and (v) a 23-foot-wide, 14.5-foot-high, 60-foot-long draft tube; (5) generating facility No. 2 facility that includes: (i) An intake structure with a

20-foot-high, 21-foot-wide headgate with two 12.3-foot-wide, 9.3-foot-high trashracks with 3.5-inch clear-bar spacing; (ii) a 20.8-foot-high, 22.4-foot-wide stop log slot; (iii) an 88-foot-long, 78-foot-wide, 56-foot-high concrete and masonry powerhouse containing a single 4.6 MW turbine-generator unit; and (iv) a 23-foot-wide, 14.5-foot-high, 60-foot-long draft tube; (6) two 245-foot-long, 2.4-kilovolt (kV) generator leads that connect the turbine-generator in generating facility No. 1 to a generator bus in generating facility No. 2; (7) four 110-foot-long, 2.4-kV generator leads that connect the turbine-generator in generating facility No. 2 to a generator bus in generating facility No. 2; (8) a 100-foot-long, 2.4-kV transmission line that connects the generator bus in generating facility No.2 to the regional grid; and (9) appurtenant facilities.

The Eastman Falls Project operates in a run-of-river mode. The existing license (Article 401) requires that the project release a continuous minimum flow of 410 cubic feet per second, or inflow (whichever is less). PSNH proposes to continue run-of-river operation and to eliminate the requirement to release a minimum flow.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport. A copy of the application is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''PRELIMINARY TERMS AND CONDITIONS,'' or ''PRELIMINARY PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

o. Procedural Schedule:

The application will be processed according to the following revised Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Filing of recommendations, preliminary terms and conditions, and preliminary prescriptions.	June 2016.
Commission issues Environmental Assessment.	October 2016.
Comments on Environmental Assessment.	November 2016.
Modified terms and conditions.	December 2016.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

q. A license applicant must file no later than 60 days following the date of issuance of the notice of acceptance and ready for environmental analysis provided for in 5.22: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: April 26, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–10246 Filed 5–2–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP16–865–000.
Applicants: Kinder Morgan Louisiana Pipeline LLC.
Description: § 4(d) Rate Filing: Rate Schedule PALS Cleanup to be effective 5/25/2016.
Filed Date: 4/25/16.
Accession Number: 20160425–5082.
Comments Due: 5 p.m. ET 5/9/16.

Docket Numbers: RP16–866–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: § 4(d) Rate Filing: ETNG 2016 Negotiated Rate Cleanup Filing to be effective 5/26/2016.
Filed Date: 4/25/16.
Accession Number: 20160425–5084.
Comments Due: 5 p.m. ET 5/9/16.

Docket Numbers: RP16–867–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—May 2016 Chevron TEAM 2014 Release to be effective 5/1/2016.
Filed Date: 4/25/16.
Accession Number: 20160425–5089.
Comments Due: 5 p.m. ET 5/9/16.

Docket Numbers: RP16–868–000.
Applicants: Cameron Interstate Pipeline, LLC.
Description: Annual Report of Penalty Revenues of Cameron Interstate Pipeline, LLC.
Filed Date: 4/25/16.
Accession Number: 20160425–5212.
Comments Due: 5 p.m. ET 5/9/16.

Docket Numbers: RP16–869–000.
Applicants: Cameron Interstate Pipeline, LLC.
Description: Annual Report of Transportation Imbalances and Cash-out Activity of Cameron Interstate Pipeline, LLC.
Filed Date: 4/25/16.
Accession Number: 20160425–5213.
Comments Due: 5 p.m. ET 5/9/16.

Docket Numbers: RP16–870–000.
Applicants: Cameron Interstate Pipeline, LLC.

Description: Annual Report of Operational Imbalances and Cash-out Activity of Cameron Interstate Pipeline, LLC.

Filed Date: 4/25/16.

Accession Number: 20160425–5214.

Comments Due: 5 p.m. ET 5/9/16.

Docket Numbers: RP16–871–000.

Applicants: Cameron Interstate Pipeline, LLC.

Description: Annual Report of Operational Imbalances and Cash-out Activity of Cameron Interstate Pipeline, LLC.

Filed Date: 4/25/16.

Accession Number: 20160425–5217.

Comments Due: 5 p.m. ET 5/9/16.

Docket Numbers: RP16–872–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Non-Conforming Negotiated Rate Service Agreement Filing (Anadarko) to be effective 5/25/2016.

Filed Date: 4/25/16.

Accession Number: 20160425–5292.

Comments Due: 5 p.m. ET 5/9/16.

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.

Filings in Existing Proceedings

Docket Numbers: RP15–1026–001.

Applicants: Maritimes & Northeast Pipeline, L.L.C.

Description: Compliance filing MNUS Settlement Filing to be effective 5/1/2016.

Filed Date: 4/25/16.

Accession Number: 20160425–5216.

Comments Due: 5 p.m. ET 5/9/16.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 26, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–10257 Filed 5–2–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD16–4–000]

Proposed Agency Information Collection

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) invites public comment in Docket No. RD16–4–000 on a proposed change to a collection of information (FERC–725M) that the Commission is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this proposed information collection must be received on or before July 5, 2016.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION: The Commission will submit the reporting and recordkeeping requirements of proposed Reliability Standard FAC–003–4 (Transmission Vegetation Management) to OMB for review. Proposed Reliability Standard FAC–003–4 replaces the requirements from the previous version of the Reliability Standard (FAC–003–3),[1] which is approved under FERC–725M (Mandatory Reliability Standards: Generator Requirements at the Transmission Interface, OMB Control No. 1902–0263).

Type of Request: Three-year approval of the revised FERC–725M information collection requirements with the stated changes to the current reporting and record retention requirements.

Abstract: The Commission requires the information collected by the FERC–725M to implement the statutory provisions of section 215 of the Federal Power Act (FPA).[2] On August 8, 2005, Congress enacted into law the Electricity Modernization Act of 2005, which is Title XII, Subtitle A, of the Energy Policy Act of 2005 (EPAct 2005).[3] EPAct 2005 added a new section 215 to the FPA, which requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO subject to Commission oversight, or the Commission can independently enforce Reliability Standards.[4]

On February 3, 2006, the Commission issued Order No. 672, implementing section 215 of the FPA.[5] Pursuant to Order No. 672, the Commission certified one organization, the North American Electric Reliability Corporation (NERC),

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[1] Reliability Standard FAC–003–3 was approved in Order No. 785 in Docket No. RM12–16–000. *Revisions to Reliability Standard for Transmission Vegetation Management,* Order No. 777, 142 FERC ¶ 61,208 (2013). The associated reporting and recordkeeping requirements in FAC–003–3 were approved by OMB on Dec. 17, 2013, under FERC–725M.

[2] 16 U.S.C. 824*o* (2012).

[3] Energy Policy Act of 2005, Pub. L. 109–58, Title XII, Subtitle A, 119 Stat. 594, 941 (codified at 16 U.S.C. 824*o*).

[4] 16 U.S.C. 824*o*(e)(3).

[5] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

as the ERO.[6] The Reliability Standards developed by the ERO and approved by the Commission apply to users, owners and operators of the Bulk-Power System as set forth in each Reliability Standard.

On March 14, 2016, NERC filed a petition for Commission approval of proposed Reliability Standard FAC–003–4 (Transmission Vegetation Management). NERC states in its petition that proposed Reliability Standard FAC–003–4 reflects revisions to the current Minimum Vegetation Clearance Distances (MVCDs) in Reliability Standard FAC–003–3 based on additional testing regarding the appropriate gap factor to be used to calculate clearance distances for vegetation. NERC explains that in response to the Commission's directive as part of its approval of an earlier version of the Reliability Standard, FAC–003–2, NERC contracted with the Electric Power Research Institute (EPRI) to conduct this testing.[7] As NERC notes, when the Commission approved Reliability Standard FAC–003–2, the Commission stated that ''it is important that NERC develop empirical evidence that either confirms assumptions used in calculating the MVCD values based on the Gallet equation, or gives reason to revisit the Reliability Standard.'' [8]

NERC states in its petition that preliminary testing conducted by EPRI indicated that the gap factor used to calculate MVCDs should be adjusted. NERC further explains that proposed Reliability Standard FAC–003–4 proposes higher and more conservative MVCD values, and therefore maintains that these revisions will ''enhance reliability and provide additional confidence by applying a more conservative approach to determining the vegetation clearing distances.'' [9] NERC states that the revised clearances as reflected in Table 2 were moved into the text of the proposed Reliability Standard, and that MVCD values were added for elevations up to 15,000 feet, but that no other substantive changes were made to the currently-effective Reliability Standard FAC–003–3.[10]

Type of Respondents: Transmission Owner (TO); and Generator Owner (GO).

Estimate of Annual Burden.[11] The burden and cost estimates below are based on the number of transmission owners and generator owners as reflected in NERC's current registry (*i.e.,* updated since the Commission's approval of earlier versions of FAC–003).

Transmission owners and applicable generator owners have a one-time burden to review and modify existing documentation, plans and procedures, as well as an ongoing burden to retain records. Our estimate of the number of respondents affected is based on the NERC Compliance Registry as of February 25, 2016. According to the Compliance Registry, NERC has registered 320 transmission owners and 940 generator owners within the United States, and we estimate that approximately 10 percent (or 94) of the registered generator owners have interconnection facilities that meet the requirements for applicability under the new standard. The estimated annual burden and cost of the new standard follow.[12]

FERC–725M, CHANGES DUE TO FAC–003–4 IN DOCKET NO. RD16–4–000

Requirements/ Measures [13]	Number of respondents [14]	Number of responses per respondent	Total number of responses	Average burden hours and cost per response	Total annual burden hours and cost	Total annual cost per respondent
	(1)	(2)	(1)*(2)=(3)	(4)	(3)*(4)=(5)	($)
Strategies, documentation, processes, & procedures (M3) [one-time].	414	1	414	4 hrs.; $248.64	1,656 hrs.; $102,936.96 [@ $62.16/hr.].	$248.64
Record Retention (Compliance 1.2) [ongoing].	414	1	414	1 hr.; $31.76	414 hrs.; $13,148.64 [@$31.76/hr.].	$31.76
Total Net Change, due to RD16–4.			828		2,070 hrs.; $116,085.60.	

[6] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g and compliance,* 117 FERC ¶ 61,126 (2006), *order on compliance,* 118 FERC ¶ 61,190, *order on reh'g,* 119 FERC ¶ 61,046 (2007), *aff'd sub nom. Alcoa Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

[7] NERC Petition at 7 (citing Order No. 777, 142 FERC ¶ 61,208 (2013)).

[8] Order No. 777, 142 FERC ¶ 61,208 at P 3.

[9] NERC Petition at 3.

[10] *Id.* at 12, and n. 37 (describing certain non-substantive edits to the standard and implementation plan as compared to the currently-effective version of the standard).

[11] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. See 5 CFR 1320 for additional information on the definition of information collection burden.

[12] The estimates for cost per hour (for salary plus benefits) are derived from the Bureau of Labor and Statistics' figures for May 2015 (at *http://www.bls.gov/oes/current/naics2_22.htm#11-0000* and benefits [updated March 10, 2016] at *http://www.bls.gov/news.release/ecec.nr0.htm*), as follows:

- $62.16/hour for salary plus benefits [based on the average for an electrical engineer (code 17–2071, at $64.20/hour), a first-line supervisor of forestry workers (code 45–1011, at $33.34/hour), and a manager (code 11–0000, at $88.94/hour)]
- $31.76/hour, salary plus benefits for an information and record clerk (code 43–4000).

[13] The Order in Docket No. RD16–4 does not modify the following requirements. However, due to normal fluctuations in industry, the number of respondents (TOs and GOs), in the submittal to OMB will be updated as follows.

- The Quarterly Reporting (Compliance 1.4) is required of 102 respondents (94 GOs and 8 Regional Entities), rather than 96 respondents.
- The requirements for Annual Vegetation Inspection Document (M6), annual vegetation work plan (M7), evidence of management of vegetation (M1 and M2), confirmed vegetation condition (M4), and corrective action (M5) are required of 94 respondents (rather than 88).

[14] We estimate a total of 414 respondents (320 TOs and 94 GOs) are affected.

Dated: April 26, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–10259 Filed 5–2–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–1398–001]

Provision Power & Gas, LLC; 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 of Provision Power & Gas, LLC'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 May 16, 2016.

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 Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 26, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–10258 Filed 5–2–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10624–025]

French Paper Company; Notice of Intent To File License Application, Filing of Pre-Application Document (Pad), Commencement of Pre-Filing Process, and Scoping; Request for Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Pre-filing Process.

b. *Project No.:* 10624–025.

c. *Dated Filed:* February 26, 2016.

d. *Submitted By:* French Paper Company.

e. *Name of Project:* French Paper Project.

f. *Location:* The French Paper Project is located on the St. Joseph River in the City of Niles, Michigan. The project does not occupy federal land.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Potential Applicant Contact:* Shane Fenske, Vice President of Operations, French Paper Company, 100 French Street, Niles, Michigan 49120; (269) 683–1100; *fenske@frenchpaper.com.*

i. *FERC Contact:* Jay Summers at (202) 502–8764 or email at *jay.summers@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in paragraph o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. *With this notice, we are initiating informal consultation with:* (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402 and (b) the State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating French Paper Company as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. French Paper Company filed with the Commission a Pre-Application Document (PAD; including a proposed process plan and schedule), pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and Commission's staff Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application must be filed with the Commission.

The Commission strongly encourages electronic filing. Please file all documents using the Commission's

eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov.* In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–10624–025.

All filings with the Commission must bear the appropriate heading: ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by June 25, 2016.

p. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Daytime Scoping Meeting

Date and Time: Thursday, May 12, 2016 at 9:00 a.m.

Location: Four Flags Area Chamber of Commerce, 321 E. Main Street, Niles, Michigan 49120.

Phone Number: (269) 683–3720.

Evening Scoping Meeting

Date and Time: Wednesday, May 11, 2016 at 6:30 p.m.

Location: Four Flags Area Chamber of Commerce, 321 E. Main Street, Niles, Michigan 49120.

Phone Number: (269) 683–3720.

Scoping Document 1 (SD1), which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the web at *http://www.ferc.gov,* using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Environmental Site Review

The potential applicant and Commission staff will conduct an *Environmental Site Review* of the project on Wednesday, May 11, 2016, starting at 2:00 p.m. All participants should meet at French Paper Dam, located at 100 French Street, Niles, Michigan 49120. All participants are responsible for their own transportation. Please notify Shane Fenske at (269) 683–1100, or *fenske@frenchpaper.com* by May 6, 2016, if you plan to attend the environmental site review.

Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the appropriateness of any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in paragraph n of this document.

Meeting Procedures

The meetings will be recorded by a stenographer and will be placed in the public records of the project.

Dated: April 26, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–10247 Filed 5–2–16; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9946–03–OECA]

Proposed Information Collection Request; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit the below listed information collection requests (ICR) (See item specific ICR title, EPA ICR Number and OMB Control Number provided in the text) 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. These are proposed extensions of the currently approved ICRs. 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 July 5, 2016.

ADDRESSES: Submit your comments, referencing the Docket ID numbers provided for each item in the text, online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@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: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@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 PRA, 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. Burden is defined at 5 CFR 1320.03(b). 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.

General Abstract: For all the listed ICRs in this notice, owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the general provisions of 40 CFR part 60, subpart A or Part 63, Subpart A, as well as the applicable specific standards. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

(1) Docket ID Number: EPA–HQ–OECA–2013–0336; Title: NESHAP for Off-Site Waste and Recovery Operations (40 CFR part 63, subpart DD); EPA ICR Number 1717.10, OMB Control Number 2060–0313; Expiration Date: October 31, 2016.

Respondents: Waste management and recovery facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart DD).

Estimated number of respondents: 236 (total).

Frequency of response: Initially, occasionally and semiannually.

Estimated annual burden: 179,000 hours.

Estimated annual cost: $17,500,000, includes $5,810 annualized capital or operation & maintenance (O&M) costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(2) Docket ID Number: EPA–HQ–OECA–2012–0679; Title: NESHAP for Petroleum Refineries: Catalytic Cracking Units, Reforming and Sulfur Units (40 CFR part 63, subpart UUU); EPA ICR Number 1844.07, OMB Control Number 2060–0554; Expiration Date: October 31, 2016.

Respondents: Petroleum refineries with catalytic cracking units, catalytic reforming units and/or sulfur recovery units.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart UUU).

Estimated number of respondents: 123 (total).

Frequency of response: Initially, occasionally, and semiannually.

Estimated annual burden: 10,200 hours.

Estimated annual cost: $9,400,000, includes $8,400,000 annualized capital or O&M costs.

Changes in Estimates: There is an expected increase in burden hours due to expected modification of existing facilities.

(3) Docket ID Number: EPA–HQ–OECA–2013–0338; Title: NESHAP for the Manufacture of Amino/Phenolic Resins (40 CFR part 63, subpart OOO); EPA ICR Number 1869.08, OMB Control Number 2060–0434; Expiration Date: October 31, 2016.

Respondents: Facilities that manufacture amino/phenolic resins.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart OOO).

Estimated number of respondents: 37 (total).

Frequency of response: Initially, occasionally, and semiannually.

Estimated annual burden: 22,400 hours.

Estimated annual cost: $2,200,000, includes $14,800 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(4) Docket ID Number: EPA–HQ–OECA–2013–0341; Title: NESHAP for Plywood and Composite Products (40 CFR parts 63, Subpart DDDD); EPA ICR Number 1984.06, OMB Control Number 2060–0552; Expiration Date: October 31, 2016.

Respondents: Plywood and composite wood products (PCWP) facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart DDDD).

Estimated number of respondents: 228 (total).

Frequency of response: Initially, occasionally, and semiannually.

Estimated annual burden: 11,700 hours.

Estimated annual cost: $1,160,000, includes $16,000 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(5) Docket ID Number: EPA–HQ–OECA–2013–0318; Title: NSPS for Magnetic Tape Coating Facilities (40 CFR part 60, subpart SSS); EPA ICR Number 1135.12, OMB Control Number 2060–0171; Expiration Date: November 30, 2016.

Respondents: Magnetic tape coating facilities constructed or modified after January 22, 1986.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart SSS).

Estimated number of respondents: 6 (total).

Frequency of response: Initially, occasionally and semiannually.

Estimated annual burden: 2,020 hours.

Estimated annual cost: $283,000, includes $86,400 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(6) Docket ID Number: EPA–HQ–OECA–2013–0334; Title: NSPS for Secondary Brass and Bronze Production, Primary Copper Smelters, Primary Zinc Smelters, Primary Lead Smelters, Primary Aluminum Reduction Plants, and Ferroalloy Production Facilities (40 CFR part 60, subparts M, P, Q, R, S, Z); EPA ICR Number 1604.11, OMB Control Number 2060–0110; Expiration Date: November 30, 2016.

Respondents: Secondary brass or bronze production facilities; primary

copper, primary zinc, and primary lead facilities; primary aluminum reduction facilities; and ferroalloy production facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subparts M, P, Q, R, S, and Z).

Estimated number of respondents: 19 (total).

Frequency of response: Initially, occasionally, semiannually, and annually.

Estimated annual burden: 4,960 hours.

Estimated annual cost: $612,000 includes $127,000 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(7) Docket ID Number: EPA–HQ–OECA–2013–0339; Title: NESHAP for Boat Manufacturing (40 CFR part 63, subpart VVVV); EPA ICR Number 1966.06, OMB Control Number 2060–0546; Expiration Date: November 30, 2016.

Respondents: Boat manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart VVVV);

Estimated number of respondents: 144 (total).

Frequency of response: Initially, occasionally, and semiannually.

Estimated annual burden: 23,500 hours.

Estimated annual cost: $2,300,000, includes $800 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(8) Docket ID Number: EPA–HQ–OECA–2013–0345; Title: NESHAP for Metal Can Manufacturing Surface Coating (40 CFR part 63, subpart KKKK); EPA ICR Number 2079.06, OMB Control Number 2060–0541; Expiration Date: November 30, 2016.

Respondents: Metal can manufacturing facilities that use 1,500 gallons or more of surface coatings.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart KKKK).

Estimated number of respondents: 5 (total).

Frequency of response: Initially, occasionally and semiannually.

Estimated annual burden: 1,940 hours.

Estimated annual cost: $196,000, includes $6,000 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(9) Docket ID Number: EPA–HQ–OECA–2013–0313; Title: NSPS for Stationary Gas Turbines (40 CFR part 60, subpart GG); EPA ICR Number 1071.12, OMB Control Number 2060–0028; Expiration Date: December 31, 2016.

Respondents: Stationary gas turbines.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart GG).

Estimated number of respondents: 535 (total).

Frequency of response: Initially and semiannually.

Estimated annual burden: 68,400 hours.

Estimated annual cost: $6,700,000, includes $0 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(10) Docket ID Number: EPA–HQ–OECA–2013–0333; Title: Standards of Performance for Air Emission Standards for Tanks, Surface Impoundments and Containers (40 CFR part 264, subpart CC and 40 CFR part 265, subpart CC); EPA ICR Number 1593.10, OMB Control Number 2060–0318; Expiration Date: December 31, 2016.

Respondents: Facilities that treat, store, or dispose of hazardous wastes in tanks, surface impoundments, and containers.

Respondent's obligation to respond: Mandatory (40 CFR part 264, subpart CC and 40 CFR part 265, subpart CC).

Estimated number of respondents: 6,200 (total).

Frequency of response: Occasionally.

Estimated annual burden: 712,000 hours.

Estimated annual cost: $82,100,000, includes $12,400,000 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(11) Docket ID Number: EPA–HQ–OECA–2013–0335; Title: NESHAP for Aerospace Manufacturing and Rework Facilities (40 CFR part 63, subpart GG); EPA ICR Number 1687.10, OMB Control Number 2060–0314; Expiration Date: December 31, 2016.

Respondents: Aerospace manufacturing and rework facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart GG).

Estimated number of respondents: 136 (total).

Frequency of response: Initially, occasionally, and semiannually.

Estimated annual burden: 141,000 hours.

Estimated annual cost: $13,900,000, includes $136,000 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(12) Docket ID Number: EPA–HQ–OECA–2013–0340; Title: NESHAP for Stationary Reciprocating Internal Combustion Engines (40 CFR part 63, subpart ZZZZ); EPA ICR Number 1975.10, OMB Control Number 2060–0548; Expiration Date: December 31, 2016.

Respondents: Stationary reciprocating internal combustion engines.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart ZZZZ).

Estimated number of respondents: 903,000 (total).

Frequency of response: Initially, occasionally, semiannually, and annually.

Estimated annual burden: 3,430,000 hours.

Estimated annual cost: $425,000,000, includes $27,900,000 annualized capital or O&M costs.

Changes in Estimates: There is an expected increase in burden hours due to an increase in the respondent universe.

(13) Docket ID Number: EPA–HQ–OECA–2013–0346; Title: NESHAP for Acrylic/Modacrylic Fibers Prod., Carbon Black Prod., Chemical Mfg: Chromium Compounds, Flexible Polyurethane Foam Production/Fabrication, Lead Acid Battery Mfg, Wood Preserving (40 CFR part 63, subparts LLLLLL, MMMMMM, NNNNNN, OOOOOO, PPPPPP, and QQQQQQ); EPA ICR Number 2256.05, OMB Control Number 2060–0598; Expiration Date: December 31, 2016.

Respondents: Acrylic or modacrylic fibers production plants, carbon black production plants, chemical manufacturing that use chromite ore as the basic feedstock, flexible polyurethane foam manufacturing or fabrication facilities, lead acid battery manufacturing facilities, and wood preserving facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subparts LLLLLL, MMMMMM, NNNNNN, OOOOOO, PPPPPP, and QQQQQQ).

Estimated number of respondents: 956 (total).

Frequency of response: Initially, occasionally, and semiannually.

Estimated annual burden: 3,220 hours.

Estimated annual cost: $315,000, includes $0 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(14) Docket ID Number: EPA–HQ–OECA–2013–0301; Title: NESHAP for Beryllium (40 CFR part 61, subpart C); EPA ICR Number 0193.12, OMB Control Number 2060–0092; Expiration Date: January 31, 2017.

Respondents: Facilities processing beryllium and its derivatives.

Respondent's obligation to respond: Mandatory (40 CFR part 61, subpart C).

Estimated number of respondents: 33 (total).

Frequency of response: Initially, occasionally, and monthly.

Estimated annual burden: 2,630 hours.

Estimated annual cost: $292,000, includes $35,000 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(15) Docket ID Number: EPA–HQ–OECA–2013–0310; Title: NSPS for Sewage Sludge Treatment Plants (40 CFR part 60, subpart O); EPA ICR Number 1063.13, OMB Control Number 2060–0035; Expiration Date: January 31, 2017.

Respondents: Sewage sludge treatment plants.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart O).

Estimated number of respondents: 112 (total).

Frequency of response: Initially, occasionally and semiannually.

Estimated annual burden: 12,500.

Estimated annual cost: $5,180,000, includes $3,960,000 annualized capital or O&M costs.

Changes in Estimates: There is an increase in burden due to expected construction of new facilities or modifications of existing facilities.

(16) Docket ID Number: EPA–HQ–OECA–2013–0314; Title: NSPS for Phosphate Rock Plants (40 CFR part 60, subpart NN); EPA ICR Number 1078.11, OMB Control Number 2060–0111; Expiration Date: January 31, 2017.

Respondents: Phosphate rock facilities that commenced construction or reconstruction after September 21, 1979.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart NN).

Estimated number of respondents: 14 (total).

Frequency of response: Initially, occasionally and semiannually.

Estimated annual burden: 1,720 hours.

Estimated annual cost: $302,000, includes $133,000 annualized capital or O&M costs.

Changes in Estimates: There is an expected increase in burden due to an increase in the number of new or modified sources.

(17) Docket ID Number: EPA–HQ–OECA–2013–0329; Title: NSPS for Rubber Tire Manufacturing (40 CFR part 60, subpart BBB); EPA ICR Number 1158.12, OMB Control Number 2060–0156; Expiration Date: January 31, 2017.

Respondents: Rubber tire manufacturing plants that commenced construction or modification after January 20, 1983.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart BBB).

Estimated number of respondents: 41 (total).

Frequency of response: Initially, occasionally, semiannually, and annually.

Estimated annual burden: 17,700 hours.

Estimated annual cost: $1,750,000, includes $16,400 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(18) Docket ID Number: EPA–HQ–OECA–2013–0331; Title: NSPS for New Residential Wood Heaters (40 CFR part 60, subpart AAA); EPA ICR Number 1176.12, OMB Control Number 2060–0161; Expiration Date: January 31, 2017.

Respondents: Manufacturers, retailers, and certification laboratories of new residential wood heaters.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart AAA).

Estimated number of respondents: 947 (total).

Frequency of response: Initially and occasionally.

Estimated annual burden: 11,700 hours.

Estimated annual cost: $2,890,000, includes $1,740,000 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(19) Docket ID Number: EPA–HQ–OECA–2013–0342; Title: NESHAP for Lime Manufacturing (40 CFR part 63, subpart AAAAA); EPA ICR Number 2072.06, OMB Control Number 2060–0544; Expiration Date: January 31, 2017.

Respondents: Lime manufacturing plants.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart AAAAA).

Estimated number of respondents: 65 (total).

Frequency of response: Initially, occasionally, and semiannually.

Estimated annual burden: 15,400 hours.

Estimated annual cost: $1,820,000, includes $312,000 annualized capital or O&M costs.

Changes in Estimates: There is an increase in burden hours from the previous ICR due to an expected increase in the number of respondents.

(20) Docket ID Number: EPA–HQ–OECA–2013–0302; Title: NSPS for Graphic Arts Industry (40 CFR part 60, subpart QQ); EPA ICR Number 0657.12, OMB Control Number 2060–0105; Expiration Date: February 28, 2017.

Respondents: Graphics arts facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart QQ).

Estimated number of respondents: 20 (total).

Frequency of response: Initially, occasionally and semiannually.

Estimated annual burden: 1,800 hours.

Estimated annual cost: $176,000, includes $0 annualized capital or O&M costs.

Changes in Estimates: There is an increase in burden hours from the previous ICR due to an expected increase in respondent universe.

(21) Docket ID Number: EPA–HQ–OECA–2013–0325; Title: NESHAP for Benzene Emission from Benzene Storage Vessels and Coke-By-Product Recovery Plants (40 CFR part 61, subparts L and Y); EPA ICR Number 1080.15, OMB Control Number 2060–0185; Expiration Date: March 31, 2017.

Respondents: Owners or operators of benzene storage vessels and coke by-product recovery plants.

Respondent's obligation to respond: Mandatory (40 CFR part 61, subparts L and Y).

Estimated number of respondents: 21 (total).

Frequency of response: Initially, occasionally, semiannually, and annually.

Estimated annual burden: 3,190 hours.

Estimated annual cost: $312,000, includes $0 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(22) Docket ID Number: EPA–HQ–OECA–2013–0319; Title: NSPS for VOC Emissions from Petroleum Refinery Wastewater Systems (40 CFR part 60, subpart QQQ); EPA ICR Number

1136.12, OMB Control Number 2060–0172; Expiration Date: March 31, 2017.

Respondents: Petroleum refineries with wastewater systems.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart QQQ).

Estimated number of respondents: 135 (total).

Frequency of response: Initially, occasionally, and semiannually.

Estimated annual burden: 9,240 hours.

Estimated annual cost: $922,000, includes $17,600 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(23) Docket ID Number: EPA–HQ–OECA–2013–0353; Title: NSPS for Stationary Spark Ignition Internal Combustion Engines (40 CFR part 60, subpart JJJJ); EPA ICR Number 2227.05, OMB Control Number 2060–0610; Expiration Date: March 31, 2017.

Respondents: Stationary spark ignition internal combustion engines.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart JJJJ).

Estimated number of respondents: 17,600 (total).

Frequency of response: Initially and annually.

Estimated annual burden: 23,300 hours.

Estimated annual cost: $4,640,000, includes $2,360,000 annualized capital or O&M costs.

Changes in Estimates: There is an expected increase in burden hours from the previous ICR due to growth in the respondent universe.

(24) Docket ID Number: EPA–HQ–OECA–2013–0321; Title: NSPS for Sewage Sludge Incinerators (40 CFR part 60, subpart LLLL); EPA ICR Number 2369.04, OMB Control Number 2060–0658; Expiration Date: March 31, 2017.

Respondents: New or modified sewage sludge incinerators.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart LLLL).

Estimated number of respondents: 4 (total).

Frequency of response: Initially, occasionally, and annually.

Estimated annual burden: 798 hours.

Estimated annual cost: $448,000, includes $370,000 annualized capital or O&M costs.

Changes in Estimates: There is an expected increase in burden hours from the previous ICR due to growth in the respondent universe.

(25) Docket ID Number: EPA–HQ–OECA–2013–0317; Title: NESHAP for Gold Mine Ore Processing (40 CFR part 63, subpart EEEEEEE); EPA ICR Number 2383.04, OMB Control Number 2060–0659; Expiration Date: March 31, 2017.

Respondents: Gold mine ore processing and production facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart EEEEEEE).

Estimated number of respondents: 21 (total).

Frequency of response: Initially, occasionally, semiannually, and annually.

Estimated annual burden: 2,360 hours.

Estimated annual cost: $445,000, includes $227,000 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(26) Docket ID Number: EPA–HQ–OECA–2016–0009; Title: NESHAP for Group IV Polymers and Resins (40 CFR part 63, subpart JJJ); EPA ICR Number 2457.03, OMB Control Number 2060–0682; Expiration Date: March 31, 2017.

Respondents: Thermoplastic resin production facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart JJJ).

Estimated number of respondents: 31 (total).

Frequency of response: Semiannually.

Estimated annual burden: 459 hours.

Estimated annual cost: $1,110,000, includes $542,000 annualized capital or O&M costs.

(27) Docket ID Number: EPA–HQ–OECA–2014–0063; Title: NESHAP for Polyether Polyols Production (40 CFR part 63, subpart PPP); EPA ICR Number 1811.10, OMB Control Number 2060–0415; Expiration Date: May 31, 2017.

Respondents: Polyether polyols production facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart PPP).

Estimated number of respondents: 23 (total).

Frequency of response: Occasionally and semiannually.

Estimated annual burden: 3,700 hours.

Estimated annual cost: $433,000, includes $226,000 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(28) Docket ID Number: EPA–HQ–OECA–2013–0303; Title: NSPS for Equipment Leaks of VOC in Petroleum Refineries (40 CFR part 60, subparts GGG and GGGa); EPA ICR Number 0983.15, OMB Control Number 2060–0067; Expiration Date: June 30, 2017.

Respondents: Petroleum refineries.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subparts GGG and GGGa).

Estimated number of respondents: 130 (total).

Frequency of response: Initially, occasionally, and semiannually.

Estimated annual burden: 24,900 hours.

Estimated annual cost: $2,430,000, includes $0 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

(29) Docket ID Number: EPA–HQ–OECA–2013–0350; Title: The Consolidated Air Rule (CAR) for the Synthetic Organic Chemical Manufacturing Industry (SOCMI); EPA ICR Number 1854.10, OMB Control Number 2060–0443; Expiration Date: June 30, 2017.

Respondents: Synthetic organic chemical manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 65).

Estimated number of respondents: 4,620 (total).

Frequency of response: Initially, occasionally, semiannually and annually.

Estimated annual burden: 2,130,000 hours.

Estimated annual cost: $309,000,000, includes $101,000,000 annualized capital or O&M costs.

Changes in Estimates: There is an expected increase in burden hours from the previous ICR due to growth in the respondent universe.

(30) Docket ID Number: EPA–HQ–OECA–2013–0315; Title: NSPS for Commercial and Industrial Solid Waste Incineration (CISWI) Units (40 CFR part 60, subpart CCCC); EPA ICR Number 2384.04, OMB Control Number 2060–0662; Expiration Date: June 30, 2017.

Respondents: Commercial and industrial solid waste incineration units.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart CCCC).

Estimated number of respondents: 4 (total).

Frequency of response: Initially, occasionally, semiannually, and annually.

Estimated annual burden: 1,040 hours.

Estimated annual cost: $451,000, includes $350,000 annualized capital or O&M costs.

Changes in Estimates: There is an expected increase in burden hours from the previous ICR due to growth in the respondent universe.

(31) Docket ID Number: EPA–HQ–OECA–2014–0034; Title: NSPS for Kraft Pulp Mills (40 CFR part 60, subpart BB); EPA ICR Number 2485.03, OMB Control Number 2060–0690; Expiration Date: June 30, 2017.

Respondents: Kraft pulp mills.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart BB).

Estimated number of respondents: 4 (total).

Frequency of response: Initially, occasionally, and semiannually.

Estimated annual burden: 1,910 hours.

Estimated annual cost: $753,000, includes $567,000 annualized capital or O&M costs.

Changes in Estimates: There is an expected increase in burden hours from the previous ICR due to growth in the respondent universe.

(32) Docket ID Number: EPA–HQ–OECA–2013–0316; Title: NSPS for Onshore Natural Gas Processing Plants (40 CFR part 60, subparts KKK and LLL); EPA ICR Number 1086.12, OMB Control Number 2060–0120; Expiration Date: August 31, 2017.

Respondents: Onshore natural gas processing plants.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subparts KKK and LLL).

Estimated number of respondents: 577 (total).

Frequency of response: Initially, occasionally, and semiannually.

Estimated annual burden: 122,000 hours.

Estimated annual cost: $12,000,000, includes $68,400 annualized capital or O&M costs.

Changes in Estimates: There is no change in burden hours from the previous ICR.

Dated: April 18, 2016.

Edward J. Messina,

Director, Monitoring, Assistance and Media Programs Division.

[FR Doc. 2016–10393 Filed 5–2–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9945–99–OA]

Notification of a Public Meeting and Public Teleconference of the Chartered Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting and a public teleconference of the chartered SAB to conduct a quality review of a draft SAB report on an assessment of potential impacts of hydraulic fracturing on drinking water resources and to receive briefings on topics of interest for possible future SAB advice.

DATES: The public meeting will be held on Tuesday, June 14, 2016, from 8:30 a.m. to 5:00 p.m. and Wednesday, June 15, 2016, from 8:30 a.m. to 1:00 p.m. The teleconference, if needed to accommodate registered public speakers, will be held on June 8, 2016 from 2:00 p.m. to 5:00 p.m. (Eastern Time).

ADDRESSES: The meeting will be held at the Westin Alexandria, 400 Courthouse Square, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning the meeting may contact Mr. Thomas Carpenter, Designated Federal Officer (DFO), EPA Science Advisory Board (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; via telephone/voice mail (202) 564–4885, or email at *carpenter.thomas@epa.gov.* General information concerning the SAB can be found on the EPA Web site at *http://www.epa.gov/sab.*

Technical Contact for EPA's Draft Report: Any technical questions concerning EPA's draft report, Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources (May 2015 External Review Draft, EPA/600/R–15/047), should be directed to Dr. Jeffrey Frithsen, National Center for Environmental Assessment, Office of Research and Development, U.S. EPA, 1200 Pennsylvania Avenue NW., Mail Code 8601P, Washington, DC 20460, telephone (703) 347–8623 or via email at *frithsen.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the scientific and technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the SAB will hold a public meeting to discuss and deliberate on the topics below.

(1) Quality review of the SAB Draft *4–26–16* Review of EPA's draft Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources. The EPA's Office of Research and Development (ORD) requested the SAB to conduct a peer review of the draft assessment report concerning the relationship between hydraulic fracturing and drinking water in the United States. The purpose of the report, Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources (May 2015 External Review Draft, EPA/600/R–15/047), is to synthesize available scientific literature and data to assess the potential for hydraulic fracturing for oil and gas to impact the quality or quantity of drinking water resources, and identify factors affecting the frequency or severity of any potential impacts.

The SAB Hydraulic Fracturing Research Advisory Panel conducted a peer review of the EPA draft assessment and the chartered SAB will conduct a quality review of the panel's draft report. Quality review is a key function of the chartered SAB. Draft reports prepared by SAB committees, panels, or work groups must be reviewed and approved by the chartered SAB before transmittal to the EPA Administrator. Consistent with FACA, the chartered SAB makes a determination in a public meeting about each draft report and determines whether the report is ready to be transmitted to the EPA Administrator.

Background on the current advisory activity, Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources, can be found on the SAB Web site at *https://yosemite.epa.gov/sab/sabproduct.nsf//LookupWebProjectsCurrentBOARD/F7A9DB9ABBAC015785257E540052DD54?OpenDocument.*

(2) Briefings from representatives of the EPA and other EPA advisory Committees on topics of interest for possible future SAB advice.

If the SAB Staff Office determines that there will be insufficient time during the June 14–15, 2016 meeting to accommodate the members of the public who registered in advance to provide oral public comments, the teleconference will be held on June 8, 2016 to provide additional time for oral public comments.

Availability of Meeting Materials: A meeting agenda and other materials for the meeting will be placed on the SAB Web site at *http://epa.gov/sab.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to the EPA. Members of the public can submit relevant comments pertaining to the EPA's charge, meeting materials, or the group providing advice. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for the SAB to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the DFO directly.

Oral Statements: In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes. Persons interested in providing oral statements at the June 14–15, 2016 meeting should contact Mr. Thomas Carpenter, DFO, in writing (preferably via email) at the contact information noted above by June 1, 2016 to be placed on the list of registered speakers. *Written Statements:* Written statements for the June 14–15, 2016 meeting should be received in the SAB Staff Office by June 7, 2016 so that the information can be made available to the SAB for its consideration prior to the meeting. Written statements should be supplied to the DFO at the contact information above via email (preferred) or in hard copy with original signature. Submitters are requested to provide a signed and unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Carpenter at the phone number or email address noted above, preferably at least ten days prior to the meeting, to give the EPA as much time as possible to process your request.

Dated: April 27, 2016.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2016–10392 Filed 5–2–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9945–94–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Connecticut's request to revise its National Primary Drinking Water Regulations Implementation EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective June 2, 2016 for the State of Connecticut's National Primary Drinking Water Regulations Implementation program, if no timely request for a public hearing is received and accepted by the Agency.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On April 11, 2016, the Connecticut Department of Public Health (CT DPH) submitted an application titled Compliance Monitoring Data Portal for revision to its EPA-approved drinking water program under title 40 CFR to allow new electronic reporting. EPA reviewed CT DPH's request to revise its EPA-authorized program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Connecticut's request to revise its Part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting under 40 CFR part 141 is being published in the **Federal Register**.

CT DPH was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Also, in today's notice, EPA is informing interested persons that they may request a public hearing on EPA's action to approve the State of Connecticut's request to revise its authorized public water system program under 40 CFR part 142, in accordance with 40 CFR 3.1000(f). Requests for a hearing must be submitted to EPA within 30 days of publication of today's **Federal Register** notice. Such requests should include the following information:

(1) The name, address and telephone number of the individual, organization or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in EPA's determination, a brief explanation as to why EPA should hold a hearing, and any other information that the requesting person wants EPA to consider when determining whether to grant the request;

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

In the event a hearing is requested and granted, EPA will provide notice of the hearing in the **Federal Register** not less than 15 days prior to the scheduled hearing date. Frivolous or insubstantial requests for hearing may be denied by EPA. Following such a public hearing, EPA will review the record of the hearing and issue an order either affirming today's determination or rescinding such determination. If no timely request for a hearing is received and granted, EPA's approval of the State of Connecticut's request to revise its Part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting will become effective 30 days after today's notice is published, pursuant to CROMERR section 3.1000(f)(4).

Matthew Leopard,

Director, Office of Information Collection.

[FR Doc. 2016–10251 Filed 5–2–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9945–00–OA]

Notice of Meeting of the EPA Children's Health Protection Advisory Committee (CHPAC)

AGENCY: Environmental Protection Agency.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the next meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held May 24 and May 25, 2016 at the George Washington University Milken Institute School of Public Health, located at 950 New Hampshire Avenue NW., Washington, DC 20037. The CHPAC advises the Environmental Protection Agency on science, regulations, and other issues relating to children's environmental health.

DATES: May 24 from 1:00 p.m. to 5:30 p.m. and May 25 from 9:00 a.m. to 4:00 p.m., 2016.

ADDRESSES: 950 New Hampshire Avenue NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Martha Berger, Office of Children's Health Protection, USEPA, MC 1107T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 564–2191 or berger. *martha(@epa.gov.*

SUPPLEMENTARY INFORMATION: The meetings of the CHPAC are open to the public. An agenda will be posted to epa.gov/children.

Access And Accommodations: For information on access or services for individuals with disabilities, please contact Martha Berger at 202–564–2191 or *berger.martha@epa.gov.*

Dated: April 26, 2016.

Martha Berger,

Designated Federal Official.

[FR Doc. 2016–10252 Filed 5–2–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS16–05]

Appraisal Subcommittee Notice of Meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of meeting.

Description: In accordance with section 1104(b) of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) will meet in open session for its regular meeting:

Location: Federal Reserve Board—International Square location, 1850 K Street NW., Washington, DC 20006.

Date: May 11, 2016.

Time: 10:00 a.m.

Status: Open

Reports

Chairman
Executive Director
Delegated State Compliance Reviews
Financial Report

Action and Discussion Items

March 9, 2016 Open Session Minutes
ASC 2015 Annual Report
Notice of Proposed Rulemaking on AMC Fees

How To Attend and Observe an ASC Meeting

If you plan to attend the ASC Meeting in person, we ask that you send an email to *meetings@asc.gov.* You may register until close of business four business days before the meeting date. You will be contacted by the Federal Reserve Law Enforcement Unit on security requirements. You will also be asked to provide a valid government-issued ID before being admitted to the Meeting. The meeting space is intended to accommodate public attendees. However, if the space will not accommodate all requests, the ASC may refuse attendance on that reasonable basis. The use of any video or audio tape recording device, photographing device, or any other electronic or mechanical device designed for similar purposes is prohibited at ASC meetings.

Dated: April 27, 2016.

James R. Park,

Executive Director.

[FR Doc. 2016–10292 Filed 5–2–16; 8:45 am]

BILLING CODE 6700–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. FFIEC–2016–0001]

Uniform Interagency Consumer Compliance Rating System

AGENCY: Federal Financial Institutions Examination Council (FFIEC).

ACTION: Notice and request for comment.

SUMMARY: Pursuant to 12 U.S.C. 3301, the Federal Financial Institutions Examination Council (FFIEC), established in 1979, is a formal interagency body empowered to prescribe principles and standards for the federal examination of financial institutions and to make recommendations to promote consistency and coordination in the supervision of institutions.

The six members of the FFIEC represent the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), the State Liaison Committee (SLC), and the Consumer Financial Protection Bureau (CFPB) (Agencies).

The FFIEC promotes compliance with federal consumer protection laws and regulations through each agency's supervisory and outreach programs. Through compliance supervision, the FFIEC Agencies determine whether an institution is meeting its responsibility to comply with applicable requirements.

The FFIEC requests comment on a proposal to revise the Uniform Interagency Consumer Compliance Rating System, more commonly known as the ''CC Rating System,'' to reflect the regulatory, examination (supervisory), technological, and market changes that have occurred in the years since the current rating system was established. The FFIEC is proposing to revise the existing CC Rating System to better reflect current consumer compliance supervisory approaches. The revisions are designed to more fully align the rating system with the FFIEC Agencies' current risk-based, tailored examination

approaches. The proposed revisions to the CC Rating System were not developed to set new or higher supervisory expectations for financial institutions and their adoption will represent no additional regulatory burden.

The proposed revisions emphasize the importance of institutions' compliance management systems (CMS), in particular, risk control processes designed to manage consumer compliance risk which are needed to support compliance and prevent consumer harm. The CC Rating System has provided a general framework for evaluating compliance factors in order to assign a consumer compliance rating to each federally regulated financial institution.[1]

DATES: Comments must be received on or before July 5, 2016.

ADDRESSES: Because paper mail received by the FFIEC is subject to delay due to heightened security precautions in the Washington, DC area, you are encouraged to submit comments by the Federal eRulemaking Portal, if possible. Please use the title ''Consumer Compliance Rating System'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

Federal eRulemaking Portal (Regulations.gov): Go to *http://www.regulations.gov.* Under the ''More Search Options'' tab, click next to the ''Advanced Docket Search'' option where indicated, select ''FFIEC'' from the agency drop-down menu, then click ''Submit.'' In the ''Docket ID'' column, select ''Docket Number FFIEC–2016–0001'' to submit or view public comments and to view supporting and related materials for this notice of proposed rulemaking. The ''How to Use This Site'' link on the Regulations.gov home page provides information on using Regulations.gov, including instructions for submitting or viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.

Mail: Judith Dupre, Executive Secretary, Federal Financial Institutions Examination Council, L. William Seidman Center, Mailstop: 7081a, 3501 Fairfax Drive, Arlington, VA 22226–3550.

Hand delivery/courier: Judith Dupre, Executive Secretary, Federal Financial Institutions Examination Council, L. William Seidman Center, Mailstop: B–7081a, 3501 Fairfax Drive, Arlington, VA 22226–3550.

Instructions: You must include ''FFIEC'' as the agency name and ''Docket Number FFIEC–2016–0001'' in your comment. In general, the FFIEC will enter all comments received into the docket and publish them on the Regulations.gov Web site without change, including any business or personal information that you provide such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Docket: You may also view or request available background documents and project summaries using the methods described above.

FOR FURTHER INFORMATION CONTACT: *OCC:* Ronald A. Dice, Compliance Specialist, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219, (202) 649–5470; or Kimberly Hebb, Director of Compliance Policy, (202) 649–5470.

Board: Lanette Meister, Senior Supervisory Consumer Financial Services Analyst, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551, (202) 452–2705.

FDIC: Ardie Hollifield, Senior Policy Analyst, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429–0002, (202) 898–6638; John Jackwood, Senior Policy Analyst, (202) 898–3991; or Faye Murphy, Chief, Consumer Compliance and UDAP Examination Section, (202) 898–6613.

NCUA: Jamie Goodson, Director, Division of Consumer Compliance Policy and Outreach, Office of Consumer Protection, National Credit Union Administration, 1775 Duke Street Alexandria, VA 22314–3428, (703) 518–1140.

CFPB: Kathleen Conley, Senior Consumer Financial Protection Analyst, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552, (202) 435–7459.

SLC: Matthew Lambert, Policy Counsel, Conference of State Bank Supervisors, 1129 20th Street NW., 9th Floor, Washington, DC 20036, (202) 407–7130.

SUPPLEMENTARY INFORMATION:

Background

The current CC Rating System, adopted in 1980, is a supervisory policy for evaluating financial institutions'[2] adherence to consumer compliance requirements. The CC Rating System provides a framework for evaluating institutions based on assessment factors to assign a consumer compliance rating to each institution.

The CC Rating System is based upon a scale of 1 through 5, in increasing order of supervisory concern. Thus, 1 represents the highest rating and consequently the lowest level of supervisory concern, while 5 represents the lowest rating and consequently the most critically deficient level of performance and the highest degree of supervisory concern. When using the CC Rating System to assess an institution, the Agencies do not consider an institution's record of lending performance under the Community Reinvestment Act (CRA) because institutions are evaluated separately for CRA.

Factors Supporting a Revised CC Rating System

The FFIEC is proposing revisions to the existing CC Rating System, recognizing that there have been legislative, regulatory, supervisory, technological, and market changes since the adoption of the current CC Rating System. Since 1980, the regulatory landscape has evolved considerably. Over the past 30 years, changes include:

- The consolidation of financial institutions and resultant changed risk profiles of entities prompted by factors such as legal changes that allowed interstate banking;
- New and revised regulatory requirements;
- Major transformations in technology, business models, and consumers' banking habits which have resulted in a broader set of risks to consumers; and
- The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),[3] which substantially altered the regulatory landscape by creating the CFPB and reshaping the responsibilities of the prudential regulators.[4] As a result, large institutions over a certain

[1] NCUA integrates the principles and standards of the current CC Rating System into the existing CAMEL rating structure, in place of a separate rating. When finalized, the revised CC Rating System will be incorporated into NCUA's risk-focused examination program. Using the principles and standards contained in the revised CC Rating System, NCUA examiners will assess a credit union's ability to effectively manage its compliance risk and reflect that ability in the Management component rating and the overall CAMEL rating used by NCUA.

[2] The term *financial institutions* is defined in 12 U.S.C. 3302(3).

[3] 12 U.S.C. 5481 *et seq.*

[4] The *prudential regulators* are the FRB, FDIC, NCUA, and OCC.

asset threshold now have more than one FFIEC consumer compliance supervisor.

Purpose of the Revisions

The Agencies are proposing to revise the current CC Rating System to better reflect current consumer compliance supervisory approaches. The revisions are designed to more fully align the rating system with the Agencies' current risk-based, tailored examination approaches. The proposed revisions to the CC Rating System were not developed to set new or higher supervisory expectations for financial institutions and their adoption will represent no additional regulatory burden.

When the current CC Rating System was adopted in 1980, examinations focused more on transaction testing for regulatory compliance rather than evaluating the sufficiency of an institution's CMS to ensure compliance with regulatory requirements and to prevent consumer harm. In the intervening years, each of the FFIEC Agencies has adopted a risk-based consumer compliance examination approach to promote strong compliance risk management practices and consumer protection within supervised financial institutions. Risk-based consumer compliance supervision evaluates whether an institution's CMS effectively manages the compliance risk in the products and services offered to its customers. Under risk-based supervision, examiners tailor supervisory activities to the size, complexity, and risk profile of each institution and adjust these activities over time. While compliance management programs vary based on the size, complexity, and risk profile of supervised institutions, all institutions should maintain an effective CMS. The sophistication and formality of the CMS typically will increase commensurate with the size, complexity, and risk profile of the entity.

As the Agencies drafted the proposed rating system definitions, one objective was to develop a rating system appropriate for evaluating institutions of all sizes. Therefore, the first principle discussed within the CC Rating System conveys that the system is *risk-based* to recognize and communicate clearly that compliance management programs vary based on the size, complexity, and risk profile of supervised institutions. This principle is reinforced in the Consumer Compliance Rating Definitions by conveying to examiners that assessment factors associated with an institution's CMS should be evaluated commensurate with the institution's size, complexity, and risk profile.

In developing the revised CC Rating System, the Agencies believe it is also important for the new rating system to establish incentives for institutions to promote consumer protection by preventing, self-identifying, and addressing compliance issues in a proactive manner. The proposed rating system would also create a framework for the Agencies to recognize institutions that consistently adopt these compliance strategies.

Another benefit of the proposed CC Rating System is to promote coordination, communication, and consistency among the Agencies, consistent with the Agencies' respective supervisory authorities. Pursuant to the proposal, each of the Agencies would use the same CC Rating System to assign a consumer compliance rating to all supervised institutions, including banks and non-banks. Further, revising the rating system definitions responds to requests from industry representatives who have asked that the CC Rating System be updated.

Proposed Consumer Compliance Rating System

The primary purpose of the proposed CC Rating System is to ensure that all institutions are evaluated in a comprehensive and consistent manner, and that supervisory resources are appropriately focused on areas exhibiting risk of consumer harm and on institutions that warrant elevated supervisory attention. The Agencies are recommending retention of the current CC Rating System's five-scale framework for the proposed System while also recommending revisions to the current CC Rating System to enhance its effectiveness.

The proposed CC Rating System is based upon a numeric scale of 1 through 5 in increasing order of supervisory concern. Thus, 1 represents the highest rating and consequently the lowest degree of supervisory concern, while 5 represents the lowest rating and the most critically deficient level of performance, and therefore, the highest degree of supervisory concern. Ratings of 1 or 2 represent satisfactory or better performance. Ratings of 3, 4, or 5 indicate performance that is less than satisfactory.

The proposed CC Rating System reflects risk-based expectations commensurate with the size, complexity and risk profile of institutions and incents institutions to prevent, self-identify, and address compliance issues.

Pursuant to the proposed System, each institution would be assigned a consumer compliance rating based primarily on the adequacy of its CMS, which is designed to ensure compliance on a continuing basis.

The proposed CC Rating System is composed of guidance and definitions. The guidance would provide examiners with direction on how to use the definitions when assigning a consumer compliance rating to an institution. The definitions consist of qualitative descriptions for each rating category and factors regarding violations of laws and consumer harm.

The proposed System is based on a set of key principles. The Agencies agreed that the proposed ratings should be: (1) Risk-based; (2) Transparent; (3) Actionable; and (4) an Incentive for Compliance. Each principle is discussed in detail in the guidance.

The Agencies are proposing a CC Rating System that includes three categories of assessment factors:

- Board and Management Oversight
- Compliance Program
- Violations of Law and Consumer Harm

When assigning a rating under the proposed CC Rating System, examiners would consider each of the assessment factors in each category. Further, the categories would allow examiners to distinguish between varying levels of supervisory concern when rating institutions for compliance with federal consumer protection laws. The consumer compliance rating reflects a comprehensive evaluation of the institution's performance under the CC Rating System by considering the categories and assessment factors in the context of the size, complexity, and risk profile of an institution. It is not based on a numeric average or any other quantitative calculation. Specific numeric ratings will not be assigned to any of the twelve assessment factors. Thus, an institution need not achieve a satisfactory rating in all categories in order to be assigned an overall satisfactory rating. Conversely, an institution may be assigned a less than satisfactory rating even if some of its assessments were rated as satisfactory.

All institutions, regardless of size, should maintain an effective CMS. The sophistication and formality of the CMS typically will increase commensurate with the size, complexity, and risk profile of the entity. The articulation of CMS assessment factors is not intended to create new expectations for lower risk institutions.

Board and Management Oversight

The first category of the proposed CC Rating System would be used to analyze an institution's CMS and the role of its board and management officials. The four assessment factors would be:

- Oversight and Commitment
- Change Management
- Comprehension, Identification and Management of Risk
- Corrective Action and Self-Identification

The Agencies believe the above factors would provide examiners with an effective and consistent framework for evaluating whether or not board and management are engaged to a satisfactory degree at a particular institution. All institutions, regardless of size, should maintain an effective CMS. However, each institution should be evaluated based on its size, complexity and risk profile.

Compliance Program

The second category of the proposed CC Rating System would be used to analyze other elements of an effective CMS. The assessment factors for Compliance Program are:

- Policies and Procedures
- Training
- Monitoring and/or Audit
- Consumer Complaint Response

The Agencies believe these factors, along with Board and Management Oversight, would provide an effective and consistent framework to evaluate an institution's CMS. Each of these assessment factors would be considered in evaluating risk and assigning a consumer compliance rating. As explained above, each institution would be evaluated based on its size, complexity and risk profile.

Violations of Law and Consumer Harm

The third category of the proposed CC Rating System is Violations of Law and Consumer Harm. This category would provide examiners with a framework for considering the broad range of violations of consumer protection laws and evidence of consumer harm.

The current CC Rating System was adopted in 1980. Since that time, the industry has become more complex, and the broad array of risks in the market that can cause consumer harm has become increasingly clear. Violations of various laws, including, for example, the Servicemembers Civil Relief Act [5] and Section 5 of the Federal Trade Commission Act,[6] as well as fair lending violations, may potentially cause significant consumer harm and raise serious supervisory concerns. Recognizing this broad array of risks, the proposed guidance directs examiners to consider all violations of consumer laws, based on the root cause, severity, duration, and pervasiveness of the violation. This approach emphasizes the importance of a range of consumer protection laws and is intended to reflect the broader array of risks and the potential harm caused by consumer protection related violations.

Specifically, in conjunction with assessing an institution's CMS based on the first two categories, examiners will evaluate the consumer protection violations and related consumer harm based on the four assessment factors below:

- Root cause, or causes, of any violations of law identified
- Severity of any consumer harm resulting from violations
- Duration of time over which the violations occurred
- Pervasiveness of violations

Consumer harm may occur as a result of a violation of law. While many instances of consumer harm can be quantified as a dollar amount associated with financial loss, such as charging higher fees for a product than was initially disclosed, consumer harm may also result from a denial of an opportunity. For example, a consumer could be harmed when an institution denies the consumer credit or discourages an application in violation of the Equal Credit Opportunity Act,[7] whether or not financial harm occurred.

Assignment of Ratings by Supervisor(s)

The prudential regulators will continue to assign and update, as appropriate, consumer compliance ratings for institutions they supervise, including those with total assets of more than $10 billion.[8] As a member of the FFIEC, the CFPB will also use the CC Rating System to assign a consumer compliance rating, as appropriate, for institutions with total assets of more than $10 billion, as well as to nonbanks for which it has jurisdiction regarding the enforcement of *Federal consumer financial laws* as defined under the Dodd-Frank Act.[9] When assigning a consumer compliance rating, as well as in other supervisory situations as appropriate, the prudential regulators will take into consideration any material supervisory information provided by the CFPB, as that information relates to covered supervisory activities or covered examinations.[10] Similarly, the CFPB will take into consideration any material supervisory information provided by prudential regulators in appropriate supervisory situations, including when assigning consumer compliance ratings.

State regulators maintain supervisory authority to conduct examinations of state-chartered depository institutions and licensed entities. As such, states may assign consumer compliance ratings to evaluate compliance with both state and federal laws and regulations. States will collaborate and consider material supervisory information from other state and federal regulatory agencies during the course of examinations.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) (PRA), the Agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The proposed CC Rating System would not involve any new collections of information pursuant to the PRA. Consequently, no information will be submitted to the OMB for review.

FFIEC Guidance on Updating the Uniform Interagency Consumer Compliance Rating System

Uniform Interagency Consumer Compliance Rating System

The Federal Financial Institutions Examination Council (FFIEC) member agencies (Agencies) promote compliance with federal consumer protection laws and regulations through supervisory and outreach programs.[11] The Agencies engage in consumer compliance supervision to assess

[5] 50 U.S.C. App. 501–697b.

[6] 15 U.S.C. 45 *et seq.*

[7] 15 U.S.C. 1691 *et seq.*

[8] Section 1025 of the Dodd-Frank Act (12 U.S.C. 5515) applies to federally insured institutions with more than $10 billion in total assets. This section granted the CFPB exclusive authority to examine insured depository institutions and their affiliates for compliance with Federal consumer financial laws. The prudential regulators retained authority for examining insured depository institutions with more than $10 billion in total assets for compliance with certain other laws related to consumer financial protection, including the Fair Housing Act, the Servicemembers Civil Relief Act, and section 5 of the Federal Trade Commission Act.

[9] 12 U.S.C. 5481 *et seq.* A financial institution with assets over $10 billion may receive a consumer compliance rating by both its primary prudential regulator and the CFPB. The rating is based on each agency's review of the institution's CMS and compliance with the federal consumer protection laws falling under each agency's jurisdiction.

[10] The prudential regulators and the CFPB signed a Memorandum of Understanding on Supervisory Coordination dated May 16, 2012 (MOU) intended to facilitate the coordination of supervisory activities involving financial institutions with more than $10 billion in assets as required under the Dodd-Frank Act.

[11] The FFIEC members are the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Consumer Financial Protection Bureau, and the State Liaison Committee.

whether a financial institution is meeting its responsibility to comply with these requirements.

This Uniform Interagency Consumer Compliance Rating System (CC Rating System) provides a general framework for assessing risks during the supervisory process using certain compliance factors and assigning an overall consumer compliance rating to each federally-regulated financial institution.[12] The primary purpose of the CC Rating System is to ensure that regulated financial institutions are evaluated in a comprehensive and consistent manner, and that supervisory resources are appropriately focused on areas exhibiting risk of consumer harm and on institutions that warrant elevated supervisory attention.

The CC Rating System is composed of guidance and definitions. The guidance provides examiners with direction on how to use the definitions when assigning a consumer compliance rating to an institution. The definitions consist of qualitative descriptions for each rating category and include compliance management system (CMS) elements reflecting risk control processes designed to manage consumer compliance risk and considerations regarding violations of laws, consumer harm, and the size, complexity, and risk profile of an institution. The consumer compliance rating reflects the effectiveness of an institution's CMS to ensure compliance with consumer protection laws and regulations and reduce the risk of harm to consumers.

Principles of the Interagency CC Rating System

The Agencies developed the following principles to serve as a foundation for the CC Rating System.

Risk-based. Recognize and communicate clearly that compliance management programs vary based on the size, complexity, and risk profile of supervised institutions.

Transparent. Provide clear distinctions between rating categories to support consistent application by the Agencies across supervised institutions. Reflect the scope of the review that formed the basis of the overall rating.

Actionable. Identify areas of strength and direct appropriate attention to specific areas of weakness, reflecting a risk-based supervisory approach. Convey examiners' assessment of the effectiveness of an institution's compliance risk management program, including its ability to prevent consumer harm and ensure compliance with consumer protection laws and regulations.

Incent Compliance. Incent the institution to establish an effective consumer compliance program across the institution and to identify and address issues promptly, including self-identification and correction of consumer compliance weaknesses. Reflect the potential impact of any consumer harm identified in examination findings.

Five-Level Rating Scale

The CC Rating System is based upon a numeric scale of 1 through 5 in increasing order of supervisory concern. Thus, 1 represents the highest rating and consequently the lowest degree of supervisory concern, while 5 represents the lowest rating and the most critically deficient level of performance, and therefore, the highest degree of supervisory concern.[13] Ratings of 1 or 2 represent satisfactory or better performance. Ratings of 3, 4, or 5 indicate performance that is less than satisfactory. Consistent with the previously described Principles, the rating system incents a financial institution to establish an effective compliance management system across the institution, to self-identify risks, and take the necessary actions to reduce the risk of non-compliance and consumer harm.

- The highest rating of 1 is assigned to a financial institution that maintains a strong CMS and takes action to prevent violations of law and consumer harm.
- A rating of 2 is assigned to a financial institution that maintains a CMS that is satisfactory at managing consumer compliance risk in the institution's products and services and at substantially limiting violations of law and consumer harm.
- A rating of 3 reflects a CMS deficient at managing consumer compliance risk in the institution's products and services and at limiting violations of law and consumer harm.
- A rating of 4 reflects a CMS seriously deficient at managing consumer compliance risk in the institution's products and services and at preventing violations of law and consumer harm. A rating of *seriously deficient* indicates fundamental and persistent weaknesses in crucial CMS elements and severe inadequacies in core compliance areas necessary to operate within the scope of statutory and regulatory consumer protection requirements and to prevent consumer harm.
- A rating of 5 reflects a CMS critically deficient at managing consumer compliance risk in the institution's products and services and at preventing violations of law and consumer harm. A rating of *critically deficient* indicates an absence of crucial CMS elements and a demonstrated lack of willingness or capability to take the appropriate steps necessary to operate within the scope of statutory and regulatory consumer protection requirements and to prevent consumer harm.

CC Rating System Categories and Assessment Factors

CC Rating System—Categories

The CC Rating System is organized under three broad categories:

1. Board and Management Oversight,
2. Compliance Program, and
3. Violations of Law and Consumer Harm.

The *Consumer Compliance Rating Definitions* below list the assessment factors considered within each category, along with narrative descriptions of performance.

The first two categories, *Board and Management Oversight* and *Compliance Program,* are used to assess a financial institution's CMS. As such, examiners should evaluate the assessment factors within these two categories commensurate with the institution's size, complexity, and risk profile. All institutions, regardless of size, should maintain an effective CMS. The sophistication and formality of the CMS typically will increase commensurate with the size, complexity, and risk profile of the entity.

Additionally, compliance expectations contained within the narrative descriptions of these two categories extend to third-party relationships into which the financial institution has entered. There can be certain benefits to financial institutions engaging in relationships with third parties, including gaining operational efficiencies or an ability to deliver additional products and services, but such arrangements also may expose financial institutions to risks if not managed effectively. The prudential agencies, the CFPB, and some states

[12] The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3302(3)) defines *financial institution.* Additionally, as a member of the FFIEC, the CFPB will also use the Rating System to assign a consumer compliance rating, as appropriate for nonbanks, for which it has jurisdiction regarding the enforcement of *Federal consumer financial laws* as defined under the Dodd-Frank Act (12 U.S.C. 5481 *et seq.).*

[13] The Agencies do not consider an institution's record of performance under the Community Reinvestment Act (CRA) in conjunction with assessing an institution under the CC Rating System since institutions are evaluated separately under the CRA.

have issued guidance describing expectations regarding oversight of third-party relationships. While an institution's management may make the business decision to outsource some or all of the operational aspects of a product or service, the institution cannot outsource the responsibility for complying with laws and regulations or managing the risks associated with third-party relationships.

As noted in the *Consumer Compliance Rating Definitions,* examiners should evaluate activities conducted through third-party relationships as though the activities were performed by the institution itself. Examiners should review a financial institution's management of third-party relationships and servicers as part of its overall compliance program.

The third category, *Violations of Law and Consumer Harm,* includes assessment factors that evaluate the dimensions of any identified violation or consumer harm. Examiners should weigh each of these four factors—root cause, severity, duration, and pervasiveness—in evaluating relevant violations of law and any resulting consumer harm.

Board and Management Oversight—Assessment Factors

Under Board and Management Oversight, the examiner should assess the financial institution's board of directors and senior management, as appropriate for their respective roles and responsibilities, based on the following assessment factors:

- Oversight of and commitment to the institution's compliance risk management program;
- effectiveness of the institution's change management processes, including responding timely and satisfactorily to any variety of change, internal or external, to the institution;
- comprehension, identification, and management of risks arising from the institution's products, services, or activities; and
- any corrective action undertaken as consumer compliance issues are identified.

Compliance Program—Assessment Factors

Under Compliance Program, the examiner should assess other elements of an effective CMS, based on the following assessment factors:

- Whether the institution's policies and procedures are appropriate to the risk in the products, services, and activities of the institution;
- the degree to which compliance training is current and tailored to risk and staff responsibilities;
- the sufficiency of the monitoring and, if applicable, audit to encompass compliance risks throughout the institution; and
- the responsiveness and effectiveness of the consumer complaint resolution process.

Violations of Law and Consumer Harm—Assessment Factors

Under Violations of Law and Consumer Harm, the examiner should analyze the following assessment factors:

- The root cause, or causes, of any violations of law identified during the examination;
- the severity of any consumer harm resulting from violations;
- the duration of time over which the violations occurred; and
- the pervasiveness of the violations.

As a result of a violation of law, consumer harm may occur. While many instances of consumer harm can be quantified as a dollar amount associated with financial loss, such as charging higher fees for a product than was initially disclosed, consumer harm may also result from a denial of an opportunity. For example, a consumer could be harmed when a financial institution denies the consumer credit or discourages an application in violation of the Equal Credit Opportunity Act,[14] whether or not there is resulting financial harm.

This category of the *Consumer Compliance Rating Definitions* defines four factors by which examiners can assess violations of law and consumer harm.

Root Cause. Root cause analyzes the degree to which weaknesses in the CMS gave rise to the violations. In many instances, the root cause of a violation is tied to a weakness in one or more elements of the CMS. Violations that result from critical deficiencies in the CMS evidence a critical absence of management oversight and are of the highest supervisory concern.

Severity. The severity dimension of the *Consumer Compliance Rating Definitions* weighs the type of consumer harm, if any, that resulted from violations of law. More severe harm results in a higher level of supervisory concern under this factor. For example, some consumer protection violations may cause significant financial harm to a consumer, while other violations may cause negligible harm, based on the specific facts involved.

Duration. Duration describes the length of time over which the violations occurred. Violations that persist over an extended period of time will raise greater supervisory concerns than violations that occur for only a brief period of time. When violations are brought to the attention of an institution's management and management allows those violations to remain unaddressed, such violations are of the highest supervisory concern.

Pervasiveness. Pervasiveness evaluates the extent of the violation(s) and resulting consumer harm, if any. Violations that affect a large number of consumers will raise greater supervisory concern than violations that impact a limited number of consumers. If violations become so pervasive that they are considered to be widespread or present in multiple products or services, the institution's performance under this factor is of the highest supervisory concern.

Self-Identification of Violations of Law and Consumer Harm

Strong compliance programs are proactive. They promote consumer protection by preventing, self-identifying, and addressing compliance issues in a proactive manner. Accordingly, the CC Rating System provides incentives for such practices through the definitions associated with a 1 rating.

The Agencies believe that self-identification and prompt correction of violations of law reflect strengths in an institution's CMS. A robust CMS appropriate for the size, complexity and risk profile of an institution's business often will prevent violations or will facilitate early detection of potential violations. This early detection can limit the size and scope of consumer harm. Moreover, prompt self-reporting of serious violations represents concrete evidence of an institution's commitment to responsibly address underlying risks. In addition, appropriate corrective action, including both correction of programmatic weaknesses and full redress for injured parties, limits consumer harm and prevents violations from recurring in the future. Thus, the CC Rating System recognizes institutions that consistently adopt these strategies as reflected in the *Consumer Compliance Rating Definitions.*

Evaluating Performance Using the CC Rating Definitions

The consumer compliance rating is derived through an evaluation of the financial institution's performance under each of the assessment factors

[14] 15 U.S.C. 1691 *et seq.*

described above. The consumer compliance rating reflects the effectiveness of an institution's CMS to identify and manage compliance risk in the institution's products and services and to prevent violations of law and consumer harm, as evidenced by the financial institution's performance under each of the assessment factors.

The consumer compliance rating reflects a comprehensive evaluation of the financial institution's performance under the CC Rating System by considering the categories and assessment factors in the context of the size, complexity, and risk profile of an institution. It is not based on a numeric average or any other quantitative calculation. Specific numeric ratings will not be assigned to any of the twelve assessment factors. Thus, an institution need not achieve a satisfactory assessment in all categories in order to be assigned an overall satisfactory rating. Conversely, an institution may be assigned a less than satisfactory rating even if some of its assessments were satisfactory.

The relative importance of each category or assessment factor may differ based on the size, complexity, and risk profile of an individual institution. Accordingly, one or more category or assessment factor may be more or less relevant at one financial institution as compared to another institution. While the expectations for compliance with consumer protection laws and regulations are the same across institutions of varying sizes, the methods for accomplishing an effective CMS may differ across institutions.

The evaluation of an institution's performance within the Violations of Law and Consumer Harm category of the CC Rating Definitions considers each of the four assessment factors: Root Cause, Severity, Duration, and Pervasiveness. At the levels of 4 and 5 in this category, the distinctions in the definitions are focused on the root cause assessment factor rather than Severity, Duration, and Pervasiveness. This approach is consistent with the other categories where the difference between a 4 and a 5 is driven by the institution's capacity and willingness to maintain a sound consumer compliance system.

In arriving at the final rating, the examiner must balance potentially differing conclusions about the effectiveness of the financial institution's CMS over the individual products, services, and activities of the organization. Depending on the relative materiality of a product line to the institution, an observed weakness in the management of that product line may or may not impact the conclusion about the institution's overall performance in the associated assessment factor(s). For example, serious weaknesses in the policies and procedures or audit program of the mortgage department at a mortgage lender would be of greater supervisory concern than those same gaps at an institution that makes very few mortgage loans and strictly as an accommodation. Greater weight should apply to the financial institution's management of material products with significant potential consumer compliance risk.

An institution may receive a less than satisfactory rating even when no violations were identified, based on deficiencies or weaknesses identified in the institution's CMS. For example, examiners may identify weaknesses in elements of the CMS in a new loan product. Because the presence of those weaknesses left unaddressed could result in future violations of law and consumer harm, the CMS deficiencies could impact the overall consumer compliance rating, even if no violations were identified.

Similarly, an institution may receive a 1 or 2 rating even when violations were present, if the CMS is commensurate with the risk profile and complexity of the institution. For example, when violations involve limited impact on consumers, were self-identified, and resolved promptly, the evaluation may result in a 1 or 2 rating. After evaluating the institution's performance in the two CMS categories, *Board and Management Oversight* and *Compliance Program,* and the dimensions of the violations in the third category, the examiner may conclude that the overall strength of the CMS and the nature of observed violations viewed together do not present significant supervisory concerns.

CONSUMER COMPLIANCE RATING DEFINITIONS

Assessment factors to be considered	1	2	3	4	5
Board and Management Oversight					
Board and management oversight factors should be evaluated commensurate with the institution's size, complexity, and risk profile. Compliance expectations below extend to third-party relationships					
Oversight and Commitment.	Board and management demonstrate strong commitment and oversight to the financial institution's compliance risk management program.	Board and management provide satisfactory oversight of the financial institution's compliance risk management program.	Board and management oversight of the financial institution's compliance risk management program is deficient.	Board and management oversight, resources, and attention to the compliance risk management program are seriously deficient.	Board and management oversight, resources, and attention to the compliance risk management program are critically deficient.

CONSUMER COMPLIANCE RATING DEFINITIONS—Continued

Assessment factors to be considered	1	2	3	4	5
	Substantial compliance resources are provided, including systems, capital, and human resources commensurate with the institution's size, complexity, and risk profile. Staff is knowledgeable, empowered and held accountable for compliance with consumer laws and regulations.	Compliance resources are adequate and staff is generally able to ensure the financial institution is in compliance with consumer laws and regulations.	Compliance resources and staff are inadequate to ensure the financial institution is in compliance with consumer laws and regulations.	Compliance resources and staff are seriously deficient and are ineffective at ensuring the financial institution's compliance with consumer laws and regulations.	Compliance resources are critically deficient in supporting the financial institution's compliance with consumer laws and regulations, and management and staff are unwilling or incapable of operating within the scope of consumer protection laws and regulations.
	Management conducts comprehensive and ongoing due diligence and oversight of third parties consistent with agency expectations to ensure that the financial institution complies with consumer protection laws, and exercises strong oversight of third parties' policies, procedures, internal controls, and training to ensure consistent oversight of compliance responsibilities.	Management conducts adequate and ongoing due diligence and oversight of third parties to ensure that the financial institution complies with consumer protection laws, and adequately oversees third parties' policies, procedures, internal controls, and training to ensure appropriate oversight of compliance responsibilities.	Management does not adequately conduct due diligence and oversight of third parties to ensure that the financial institution complies with consumer protection laws, nor does it adequately oversee third parties' policies, procedures, internal controls, and training to ensure appropriate oversight of compliance responsibilities.	Management oversight and due diligence over third party performance, as well as management's ability to adequately identify, measure, monitor, or manage compliance risks, is seriously deficient.	Management oversight and due diligence of third party performance is critically deficient.
Change Management	Management anticipates and responds promptly to changes in applicable laws and regulations, market conditions and products and services offered.	Management responds timely and adequately to changes in applicable laws and regulations, market conditions, products and services offered by evaluating the change and implementing responses across impacted lines of business.	Management does not respond adequately and/or timely in adjusting to changes in applicable laws and regulations, market conditions, and products and services offered.	Management's response to changes in applicable laws and regulations, market conditions, or products and services offered is seriously deficient.	Management fails to monitor and respond to changes in applicable laws and regulations, market conditions, or products and services offered.
	Management conducts due diligence in advance of product changes, considers the entire life cycle of a product or service in implementing change, and reviews the change after implementation to determine that actions taken have achieved planned results.	Management evaluates product changes before and after implementing the change.			

CONSUMER COMPLIANCE RATING DEFINITIONS—Continued

Assessment factors to be considered	1	2	3	4	5
Comprehension, Identification and Management of Risk.	Management has a solid comprehension of and effectively identifies compliance risks, including emerging risks, in the financial institution's products, services, and other activities. Management actively engages in managing those risks, including through comprehensive self-assessments.	Management comprehends and adequately identifies compliance risks, including emerging risks, in the financial institution's products, services, and other activities. Management adequately manages those risks, including through self-assessments.	Management has an inadequate comprehension of and ability to identify compliance risks, including emerging risks, in the financial institution's products, services, and other activities.	Management exhibits a seriously deficient comprehension of and ability to identify compliance risks, including emerging risks, in the financial institution.	Management does not comprehend nor identify compliance risks, including emerging risks, in the financial institution.
Corrective Action and Self-Identification.	Management proactively identifies issues and promptly responds to compliance risk management deficiencies and any violations of laws or regulations, including remediation.	Management adequately responds to and corrects deficiencies and/or violations, including adequate remediation, in the normal course of business.	Management does not adequately respond to compliance deficiencies and violations including those related to remediation.	Management response to deficiencies, violations and examination findings is seriously deficient.	Management is incapable, unwilling and/or fails to respond to deficiencies, violations or examination findings.
Compliance Program Compliance Program factors should be evaluated commensurate with the institution's size, complexity, and risk profile. Compliance expectations below extend to third-party relationships.					
Policies and Procedures.	Compliance policies and procedures and third-party relationship management programs are strong, comprehensive and provide standards to effectively manage compliance risk in the products, services and activities of the financial institution.	Compliance policies and procedures and third-party relationship management programs are adequate to manage the compliance risk in the products, services and activities of the financial institution.	Compliance policies and procedures and third-party relationship management programs are inadequate at managing the compliance risk in the products, services and activities of the financial institution.	Compliance policies and procedures and third-party relationship management programs are seriously deficient at managing compliance risk in the products, services and activities of the financial institution.	Compliance policies and procedures and third-party relationship management programs are critically absent.
Training	Compliance training is comprehensive, timely, and specifically tailored to the particular responsibilities of the staff receiving it, including those responsible for product development, marketing and customer service.	Compliance training outlining staff responsibilities is provided timely to appropriate staff.	Compliance training is not adequately comprehensive, timely, updated, or appropriately tailored to the particular responsibilities of the staff.	Compliance training is seriously deficient in its comprehensiveness, timeliness, or relevance to staff with compliance responsibilities, or has numerous major inaccuracies.	Compliance training is critically absent.

CONSUMER COMPLIANCE RATING DEFINITIONS—Continued

Assessment factors to be considered	1	2	3	4	5
	The compliance training program is updated proactively in advance of the introduction of new products or new consumer protection laws and regulations to ensure that all staff are aware of compliance responsibilities before rolled out.	The compliance training program is updated to encompass new products and to comply with changes to consumer protection laws and regulations.			
Monitoring and/or Audit.	Compliance monitoring practices, management information systems, compliance audit, and internal control systems are comprehensive, timely, and successful at identifying and measuring material compliance risk management throughout the financial institution. Programs are monitored proactively to identify procedural or training weaknesses to preclude regulatory violations. Program modifications are made expeditiously to minimize compliance risk.	Compliance monitoring practices, management information systems, compliance audit, and internal control systems adequately address compliance risks throughout the financial institution.	Compliance monitoring practices, management information systems, compliance audit, and internal control systems do not adequately address risks involving products, services or other activities including timing and scope.	Compliance monitoring practices, management information systems, compliance audit, and internal controls are seriously deficient in addressing risks involving products, services or other activities.	Compliance monitoring practices, management information systems, compliance audit, or internal controls are critically absent.
Consumer Complaint Response.	Processes and procedures for addressing consumer complaints are strong. Consumer complaint investigations and responses are prompt and thorough. Management monitors consumer complaints to identify risks of potential consumer harm, program deficiencies, and customer service issues and takes appropriate action.	Processes and procedures for addressing consumer complaints are adequate. Consumer complaint investigations and responses are generally prompt and thorough. Management adequately monitors consumer complaints and responds to issues identified.	Processes and procedures for addressing consumer complaints are inadequate. Consumer complaint investigations and responses are not thorough or timely. Management does not adequately monitor consumer complaints.	Processes and procedures for addressing consumer complaints and consumer complaint investigations are seriously deficient. Management monitoring of consumer complaints is seriously deficient.	Processes and procedures for addressing consumer complaints are critically absent. Meaningful investigations and responses are absent. Management exhibits a disregard for complaints or preventing consumer harm.

Violations of Law and Consumer Harm

CONSUMER COMPLIANCE RATING DEFINITIONS—Continued

Assessment factors to be considered	1	2	3	4	5
Root Cause	The violations are the result of minor weaknesses, if any, in the compliance risk management system.	Violations are the result of modest weaknesses in the compliance risk management system.	Violations are the result of material weaknesses in the compliance risk management system.	Violations are the result of serious deficiencies in the compliance risk management system.	Violations are the result of critical deficiencies in the compliance risk management system.
Severity	The type of consumer harm, if any, resulting from the violations would have a minimal impact on consumers.	The type of consumer harm resulting from the violations would have a limited impact on consumers.	The type of consumer harm resulting from the violations would have a considerable impact on consumers.	The type of consumer harm resulting from the violations would have a serious impact on consumers.	The type of consumer harm resulting from the violations would have a serious impact on consumers.
Duration	The violations and resulting consumer harm, if any, occurred over a brief period of time.	The violations and resulting consumer harm, if any, occurred over a limited period of time.	The violations and resulting consumer harm, if any, occurred over an extended period of time.	The violations and resulting consumer harm, if any, have been long standing or repeated.	The violations and resulting consumer harm, if any, have been long standing or repeated.
Pervasiveness	The violations and resulting consumer harm, if any, are isolated in number.	The violations and resulting consumer harm, if any, are limited in number.	The violations and resulting consumer harm, if any, are numerous.	The violations and resulting consumer harm, if any, are widespread or in multiple products or services.	The violations and resulting consumer harm, if any, are widespread or in multiple products or services.

[End of proposed text.]

Dated: April 28, 2016.

Federal Financial Institutions Examination Council.

Judith E. Dupre,

FFIEC Executive Secretary.

[FR Doc. 2016–10289 Filed 5–2–16; 8:45 a.m.]

BILLING CODE 7535–01–P 6714–01–P; 6210–01–P 4810–33–P; 4810–AM–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 18, 2016.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Fanny Dascal, Miami Beach, Florida, as Trustee, Cesar R. Camacho, Miami, Florida, individually and as Trustee, of The Fanny Dascal Grantor Retained Annuity Trust, Miami, Florida, Jacqueline Dascal Chariff, Miami Beach, Florida, and Ana Marie Camacho,* Miami, Florida; to acquire voting shares of Continental Bancorp, and directly acquire voting shares of Continental National Bank, both in Miami, Florida.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Todd Allen Cook, Laverne, Oklahoma;* to acquire voting shares of Laverne Bancshares, Inc., and thereby indirectly acquire voting shares of Bank of Laverne, both in Laverne, Oklahoma.

In connection with this application, Sheldon Olis Cook, McAlester, Oklahoma, as a member of the Cook Family Group, and acting individually, has applied to retain voting shares of Laverne Bancshares, Inc., and thereby indirectly retain voting shares of Bank of Laverne, both in Laverne, Oklahoma.

Board of Governors of the Federal Reserve System, April 28, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–10332 Filed 5–2–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank

indicated or the offices of the Board of Governors not later than May 27, 2016.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *County Bank Corporation,* Lapeer, Michigan; to merge with Capac Bancorp, Inc., and thereby indirectly acquire CSB Bank, both in Capac, Michigan.

Board of Governors of the Federal Reserve System, April 28, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–10331 Filed 5–2–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 2016–09498) published on page 24101 of the issue for Monday, April 25, 2016.

Under the Federal Reserve Bank of New York heading, the entry for Basswood Capital Management, LLC, New York, New York, is revised to read as follows:

1. *Basswood Capital Management, LLC, New York, New York; funds for which Basswood Partners, LLC serves as General Partner and for which Basswood Capital Management, LLC serves as Investment Manager (Basswood Opportunity Partners, LP; Basswood Financial Fund, LP; Basswood Financial Long Only Fund, LP); a fund for which Basswood Enhanced Long Short GP, LLC serves as General Partner and for which Basswood Capital Management, LLC serves as Investment Manager (Basswood Enhanced Long Short Fund, LP); funds for which Basswood Capital Management, LLC serves as Investment Manager (Basswood Opportunity Fund, Inc.; Basswood Financial Fund, Inc.; BCM Select Equity I Master, Ltd.; Main Street Master, Ltd.); Basswood Capital Management, LLC as investment adviser to two managed accounts; Matthew Lindenbaum, and Bennett Lindenbaum,* both of *New York City, New York;* to collectively acquire voting shares of Suffolk Bancorp, and thereby indirectly acquire Suffolk County National Bank, both in Riverhead, New York.

Comments on this application must be received by May 10, 2016.

Board of Governors of the Federal Reserve System, April 28, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–10330 Filed 5–2–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0147; Docket 2016–0053; Sequence 17]

Information Collection; Pollution Prevention and Right-to-Know Information

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning pollution prevention and right-to-know information.

DATES: Submit comments on or before July 5, 2016.

ADDRESSES: Submit comments identified by Information Collection 9000–0147, Pollution Prevention and Right-to-Know Information by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0147, Pollution Prevention and Right-to-Know Information''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0147, Pollution Prevention and Right-to-Know Information'' on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0147, Pollution Prevention and Right-to-Know Information.

Instructions: Please submit comments only and cite Information Collection 9000–0147, Pollution Prevention and Right-to-Know Information, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Charles Gray, Procurement Analyst, Office of Acquisition Policy, GSA, 202–208–6726 or email *charles.gray@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001–11050) and the Pollution Prevention Act of 1990 (PPA), (42 U.S.C. 13101–13109); and Executive Order 13693, Planning for Federal Sustainability in the Next Decade, dated March 25, 2015, require that Federal facilities maintain reports on hazardous materials and toxic chemicals and pollution prevention efforts. In keeping with this mandate, Federal contractors performing at a Federal facility must provide sufficient information to the Federal Government to ensure that the facility is compliant with the E.O., PPA, and EPCRA. This information collection is carried out by means of Federal Acquisition Regulation (FAR) clause 52.223–5, Pollution Prevention and Right-To-Know Information.

B. Annual Reporting Burden

Number of Respondents: 3,035.
Responses per Respondent: 1.6.
Total Annual Responses: 4,713.
Hours per Response: 3.7.
Estimated Total Burden Hours: 17,498.

Needs and uses: This information collection supports the Government's need to collect from contractors the information needed to assure that Federal facilities are compliant with the Emergency Planning and Community right-to-Know Act of 1985, (42 U.S.C. 11001–11050), the Pollution Prevention Act of 1990, (42 U.S.C. 13101–13109), and Executive Order 13693, Planning for Federal Sustainability in the Next Decade, dated March 25, 2015.

Affected Public: Businesses or other-for-profit entities and not-for-profit institutions.

Frequency: On occasion.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulations (FAR), and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control Number 9000–0147, Pollution Prevention and Right-to-Know Information, in all correspondence.

Dated: April 28, 2016.

Lorin S. Curit,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2016–10325 Filed 5–2–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3333–N]

Medicare Program; Announcement of Requirements and Registration for the MIPS Mobile Challenge

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice launches a challenge related to the new Merit-based Incentive Payment System (MIPS) program, which will assist the Centers for Medicare & Medicaid Services (CMS) in accelerating the transition from the traditional fee-for-service payment model to a system that rewards health care providers for giving better care, not just more care. This challenge will address one of the most important aspects of our programs, which is educating and providing outreach to the potential 1.2 million MIPS eligible clinicians.

DATES: Important dates concerning the Challenge include the following:

MIPS Mobile Challenge: To be announced on *www.challenge.gov* and opened for submissions in *https://jira.oncprojectracking.org,* April 25, 2016.

Deadline for Phase I Submissions: July 15, 2016.

HHS announces top three-five challenge applicants and launches Phase II. Applicants that did not win Phase I will be permitted to compete for Phase II: July 30, 2016.

Deadline for Phase II Submissions: September 30, 2016.

HHS announces grand prize winner: October 15, 2016 (tentative).

FOR FURTHER INFORMATION CONTACT: Mindy Hangsleben, (410) 786–6954 for general information. Stan Ostrow, (410) 786–7207 for inquiry on Information Systems Group.

SUPPLEMENTARY INFORMATION:

I. Background

The Medicare Access and CHIP Reauthorization Act of 2015 (Pub. L. 114–10, enacted April 16, 2015) (MACRA) requires the Secretary to establish a new Merit-based Incentive Payment System (MIPS) program, which will assist the Centers for Medicare & Medicaid Services (CMS) in accelerating the transition from the traditional fee-for-service payment model to a system that rewards health care providers for value rather than volume of services provided. The MIPS program combines parts of the Physician Quality Reporting System, the Value Modifier (VM or Value-based Payment Modifier), and the Medicare Electronic Health Record (EHR) Incentive Program into one single program that assesses the performance of MIPS eligible clinicians based on four performance categories: (1) Quality, (2) Resource use, (3) Clinical practice improvement activities, and (4) Meaningful use of certified EHR technology. This program has the potential of impacting 1.2 million MIPS clinicians.

One of the most important aspects and challenges of our program is educating and providing outreach to the potential 1.2 million MIPS clinicians. Feedback we have received from our customers/end users is that they want more real-time information and access to assistance so they can successfully report to our programs. Therefore, we are launching a MIPS mobile challenge to find innovative ways of improving communication to educate physicians, support staff, health organization leadership, data vendors, and others impacted parties. Due to the multiple user types and facets of the MIPS program we are looking at utilizing a mobile platform, which could be a mobile site or application to determine how to best keep our customers/end users informed and meet their specific needs. We also want to provide the capability to access assistance to help MIPS clinicians learn and get help with specific areas. This challenge has the potential to make a significant impact as not only are there 1.2 million MIPS clinicians but also millions of people who support the success of these MIPS clinicians. Having key information and access to the right support at the right time reduces burden and provides increased satisfaction for the MIPS clinicians and their supporting entities. The challenge will run in the two phases listed below in this section. Phase I participants can move onto phase II even if their phase I design was not selected. The focus of the two phases are as follows:

- Phase I: Creation of an initial mobile platform that will feature innovative ways of transmitting educational materials or fostering collaboration amongst users to provide meaningful education. This will entail creating wireframes, storyboards, mobile screen mock-ups and initial usability testing focused on the design and user experience. In addition, participants will co-design with users to understand their needs to influence their submission.

- Phase II: Development and functional integration of any features from Phase I, and user experience testing. During this phase, the participants must submit the object and source code, as well as a detailed description showing that the output meets section 508 compliance per the Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (Pub. L. 105–220, enacted August 7, 1998) (WIA) including at least instructions on how to install and operate, and system requirements for running the mobile platform. Participants may submit, as part of the submission, additional software documentation, if they believe it provides a more complete description of the mobile platforms.

II. Provisions of the Notice

A. Subject of Challenge Competition: MIPS Mobile Challenge

1. Eligibility Rules for Participating in the Competition

To be eligible to win a prize under this challenge, participants (individual or entity) must comply with each and every rule set forth in this section:

1. Shall register to participate in the competition under the rules promulgated below by the Department of Health and Human Services (HHS).
2. In the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating individually or in a group, shall be a citizen or permanent resident of the United States.
3. HHS Employees may participate in the MIPS Mobile Challenge, but may not submit in the scope of their employment and may not pursue an application while in the federal workplace or while on duty.
4. Shall not be an employee of the CMS.
5. Federal grantees may not use federal funds to develop the America COMPETES Reauthorization Act of 2010 (Pub. L. 111–358, enacted January 4, 2011) (COMPETES Act) challenge applications unless consistent with the purpose of their grant award.
6. Federal contractors may not use federal funds from a contract to develop COMPETES Act challenge applications or to fund efforts in support of a COMPETES Act challenge submission.
7. Applicants must agree to provide the federal government an irrevocable, royalty-free, non-exclusive worldwide license in the winning work(s) or component parts thereof, in the event that they are prize winner(s). HHS shall be granted the rights to reproduce, distribute copies to the public, publicly display, create derivative works, and publicly post, link to, and share the winning work(s) or parts thereof.

A submission may be disqualified if, in CMS's sole judgment:

- Fails to function as expressed in the detailed description,
- The detailed description is significantly inaccurate or incomplete, or
- Malware or other security threats are present.

Participants agree that we may conduct testing on the submitted code to determine whether malware or other security threats may be present such that they may damage the equipment or operating environments of the Federal Government or those acting on its behalf.

An individual or entity shall not be deemed ineligible because the individual or entity used federal facilities or consulted with federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

Challenge participants will sign a liability release as part of the contest registration process. The liability release will use the following language:

By participating in this competition, I agree to assume any and all risks and waive claims against the federal government and its related entities, except in the case of willing misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from my participation in this prize contest, whether the injury, death, damage, or loss arises through negligence or otherwise.

B. Registration Process for Participants

1. Amount of the Prize

The top 3 to 5 winners for phase I of the challenge will be provided a monetary cash prize totaling $10,000 per winner. The Phase II final challenge winner will be provided a monetary cash prize totaling $25,000.

2. How Winners Are Selected

Challenge submissions will be judged by a panel selected by CMS with relevant expertise in current CMS reporting systems. The expert panel of judges, qualified by training and experience, will evaluate the submissions on the criteria identified below in this section. Judges will be fair and impartial, may not have a personal or financial interest in, or be an employee, officer, director, or agent of, any entity that is a registered participant in the competition, and may not have a personal or financial relationship with an individual who is a registered contestant. The panel will provide expert advice on the merits of each submission to CMS officials responsible for final selections for award. Awardees will be notified on or around the dates listed in the ''Date'' section. Winners will be selected based on the following criteria:

- Phase 1

++ Ease in which a user can navigate Usability and Design;
++ Evidence of design with User feedback;
++ Innovation in Design; and
++ Look and Feel.

- Phase 2

++ Ease in which a user can navigate Usability and Design;
++ Evidence of design with User feedback;
++ Innovation in Design;
++ Functionality/Accuracy; and
++ Look and Feel.

C. Additional Information

Challenge participants will draw from existing information provided on *www.cms.gov* and collaborate directly with health professionals and/or end users to build their application. The participants will have access to *www.cms.gov* and to end users. Challenge details and registration are located at *www.challenge.gov.*

III. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: April 20, 2016.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2016–10301 Filed 5–2–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of New System of Records

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

ACTION: Notice of New System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new SOR titled, ''CMS Risk Adjustment Data Validation System (RAD–V),'' System No. 09–70–0511. Under § 1343 of the Patient Protection and Affordable Care Act (Pub. L. 111–148) as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152), (hereinafter, the ACA), and the implementing regulations at 45 CFR part 153, data collected and maintained in this system will be used to support the audit functions of the risk adjustment

program, including validation activities under the risk adjustment data validation program.

The goal of the risk adjustment program is to provide payments to non-grandfathered health insurance issuers in the individual and small group markets that attract higher-risk populations, including a validation program to ensure the reliability of data used as a basis for risk adjustment payments and charges. Non-grandfathered plans are health plans that came into existence after March 23, 2010. Insurers offering these plans were required to modify them to follow the ACA rules as of January 1, 2014.

The RAD–V system will contain personally identifiable information (PII) about individuals who are current or former enrollees in non-grandfathered health plans, including information obtained through the risk adjustment data validation process to establish the relative deviation from the average. The program and the system of record are more thoroughly described in the **SUPPLEMENTARY INFORMATION** section and System of Records Notice below.

At this time, the only personally identifiable information that will be collected under this System will be through the RAD–V, part of the risk adjustment program.

DATES: This action will be effective without further notice 30 days after publication in the **Federal Register** or 40 days after providing a report of this Notice to the Office of Management and Budget and Congress, whichever is later. Written comments should be submitted within 30 days of publication in the **Federal Register**. HHS may publish an amended system of records notice (SORN) in light of any comments received.

ADDRESSES: Written comments can be sent to: CMS Privacy Act Officer, Division of Security, Privacy Policy & Governance, Information Security & Privacy Group, Office of Enterprise Information, CMS, 7500 Security Boulevard, Baltimore, MD 21244–1870, Mailstop: N1–24–08, or by E-Mail to: *walter.stone@cms.hhs.gov.* Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9:00 a.m.–3:00 p.m., Eastern Time zone.

FOR INFORMATION CONTACT: Catherine Anderson, RAD–V Mailbox Coordinator, Division of Risk Adjustment Operations, CCIIO, CMS, 7500 Security Boulevard, Baltimore, Maryland 21244. The email address is *CCIIOACARADataValidation@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 1343(b) of the ACA requires the Secretary to establish criteria and methods to carry out a risk adjustment program. Section 1321(a)(1)(C) of the ACA directs the Secretary to issue regulations and set standards to establish the risk adjustment program. Consistent with § 1321(c)(1) of the ACA, 45 CFR 153.310(a) provides that HHS will operate risk adjustment where a State does not elect to administer the risk adjustment program. The primary goals of the risk adjustment program are to assist health plans that provide coverage to individuals with higher health care costs and will help ensure that those who are sick have access to the coverage they need. The ACA's risk adjustment program also serves to level the playing field inside and outside of the individual and small group markets in each state by stabilizing premiums.

Under 45 CFR 153.620(b), issuers of risk adjustment covered plans must maintain documents and records to enable such evaluation, and must make such records available to HHS upon request for purposes of verification, investigation, audit or other review. As part of the risk adjustment data validation program, HHS may audit an issuer of a risk adjustment covered plan to assess its compliance with the risk adjustment requirements.

The state, or HHS on behalf of the state, must ensure proper validation of a statistically valid sample of risk adjustment data from each issuer that offers at least one risk adjustment covered plan in that state, as well as an administrative process to appeal findings from the risk adjustment data validation process. When HHS is conducting the risk adjustment data validation program, 45 CFR 153.620(a) and 153.630(a), requires issuers of risk adjustment covered plans to comply with any request for data for any audit or validation preformed, including relevant source enrollment documentation, all claims and encounter data, and medical record documentation.

Existing information privacy and security standards, such as standards under HIPAA and those detailed at 45 CFR 153.630(f)(2), which governs the risk adjustment data validation program, will apply to issuers and their initial validation auditors. In order to minimize the amount of individually identifiable information collected, CMS will use the smallest possible sample size that will provide a statistically valid sample, in accordance with the regulations at 45 CFR 153.350(a).

The Privacy Act

The Privacy Act governs the collection, maintenance, use, and dissemination of certain information about individuals by agencies of the federal government. A system of records is a group of any records under the control of a federal agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act requires each agency to publish notice in the **Federal Register** of the existence and character of each system of records that the agency maintains, including the name and location of the system; the categories of individuals whom records are maintained; the categories, routine uses, and sources of the records; the agencies policies and practices regarding storage retrieval, access controls, and retention and disposal of the records; and the title and business address of the agency official to contact with notification, access, and amendment requests.

SYSTEM NUMBER:

09–70–0511.

SYSTEM NAME:

Risk Adjustment Data Validation System (RAD–V), HHS/CMS/CCIIO.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The RAD–V will be physically located at the CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, MD 21244–1850, and at various contractor sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will contain information about individuals currently or previously enrolled in a risk adjustment covered plan as defined at 45 CFR 153.20, and individual providers of medical or health care services.

CATEGORIES OF RECORDS IN THE SYSTEM:

CMS will collect demographic, geographic, medical and/or health care information, date of birth, gender, dates of service about individuals that are currently and previously enrolled in risk adjustment covered plans. In addition, CMS will collect identifiable information about individual health care providers, including but not limited to name, ITIN or EIN, and NPI numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for the maintenance of the RAD–V is given under the provisions of §§ 1321 and 1343 of the Patient

Protection and Affordable Care Act (Pub. L. 111–148) as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152), and the Regulations at 45 CFR 153.350, 153.620, 153.630.

PURPOSE(S) OF THE SYSTEM:

The primary purpose of this system is to collect and maintain necessary to support the audit functions of the risk adjustment programs, including validation activities under the risk adjustment data validation system (RAD–V).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

A. Entities Who May Receive Disclosures under Routine Uses Records about an individual may be disclosed from this system of records to the following parties outside the agency, without the individual's consent, for these purposes:

1. To CMS contractors who have been engaged by the agency to assist in the performance of a service related to this collection and who need to have access to the records in order to perform the activity.

2. To a health insurance issuer participating in the risk adjustment data validation program or any agent, contractor, sub-contractor or entity of that health insurance issuer that has entered into an agreement or contract with the issuer to assist in compliance with the risk adjustment data validation program.

3. The Department of Justice (DOJ), a court or an adjudicatory body when: a. The agency or any component thereof, or b. Any employee of the agency in his/her official capacity, or c. Any employee of the agency in his/her individual capacity where the DOJ has agreed to represent the employee, or d. The United States Government is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, a court or an adjudicatory body is compatible for the purpose for which the agency collected the records.

4. To a CMS contractor that assists in the administration of a CMS administered health benefits program, when disclosure is deemed reasonably necessary by CMS, to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

5. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate, potential fraud in the health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

6. To appropriate federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, if the information disclosed is relevant to and necessary for that assistance; and information from this system may become available to U.S. Department of Homeland Security (DHS) cyber security personnel if captured in an intrusion detection system used by HHS and DHS pursuant to a DHS cyber security program that monitors internet traffic to and from federal government computer networks to prevent a variety of types of cybersecurity incidents.

Records may also be disclosed to parties outside the agency, without the individual's consent, for any of the purposes authorized directly in the Privacy Act at 5 U.S.C § 552(a)(b)(1), (2) and (b)(4)–(b)(12).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Archived records for the risk adjustment data validation program will be stored in electronic form in the HHS–RADV Audit Tool maintained in the Acumen Web Portal.

RETRIEVABILITY:

The data collected is retrieved by the name of an individual, or by some other identifying number, symbol, or other identifying particular assigned to an individual.

SAFEGUARDS:

CMS has safeguards in place for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the RAD–V have been trained in the Privacy Act information privacy and security requirements. Employees who maintain records in this system are instructed not to release data unless the intended recipient agrees to implement appropriate physical, technical, and administrative safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems, and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulation and Federal, HHS and CMS policies and standards as they relate to information security and data privacy. These laws and regulation mat apply but are not limited to: the Privacy Act of 1974; the Federal Information Security Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the e-Government Act of 2002; the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and their corresponding implementing regulations. OMB Circular A–130, *Management of Federal Resources,* Appendix III Security of Federal Automated Information Resources also applies, as well as Federal, HHS, and CMS information system security and privacy policies.

RETENTION AND DISPOSAL:

Records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with published records schedules of CMS, as approved by the National Archives and Records Administration, and following the guidelines in National Institutes of Science and Technology (NIST) Special Publication 800–88, Guidelines for Media Sanitation. Enrollee claims records subject to a document preservation order will be preserved consistent with the terms of the court's order.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Risk Adjustment Operations, Payment Policy & Financial Management Group, CCIIO, CMS, 7500 Security Boulevard, Baltimore, MD 21244.

NOTIFICATION PROCEDURE:

Individuals wishing to know if this system contains records about them should write to the System Manager and include pertinent personally identifiable information (which CMS recommends be encrypted and properly transmitted) to be used for retrieval of their records.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about them in this system should follow the same instructions indicated under ''Notification Procedure'' and reasonably specify the record content being sought. (These procedures are in accordance with HHS regulations at 45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest the content of information about them in this system should follow the same instructions indicated under ''Notification Procedure.'' The request should: Reasonably identify the record and specify the information being contested; state the corrective action sought; and provide the reasons for the correction, with supporting justification. (These procedures are in accordance with HHS regulations at 45 CFR 5b.7.)

RECORD SOURCE CATEGORIES:

The RAD–V will contain individually identifiable enrollment and demographic information, claims and encounter information and enrollees' medical records provided by issuers of risk adjustment covered plans. The issuers will provide the information as requested by CMS or a contractor on CMS' behalf.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: April 26, 2016.

Emery Csulak,

CMS Senior Official for Privacy, Centers for Medicare & Medicaid Services.

[FR Doc. 2016–10253 Filed 5–2–16; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Procedures for Requests from Tribal Lead Agencies to use Child Care and Development Fund (CCDF) Funds for Construction or Major Renovation of Child Care Facilities.

OMB No.: 0970–0160.

Description: The Child Care and Development Block Grant Act, as amended, allows Indian Tribes to use Child Care and Development Fund (CCDF) grant awards for construction and renovation of child care facilities. A tribal grantee must first request and receive approval from the Administration for Children and Families (ACF) before using CCDF funds for construction or major renovation. This information collection contains the statutorily-mandated uniform procedures for the solicitation and consideration of requests, including instructions for preparation of environmental assessments in conjunction with the National Environmental Policy Act. The proposed draft procedures update the procedures that were originally issued in August 1997 and last updated in April 2013. Respondents will be CCDF tribal grantees requesting to use CCDF funds for construction or major renovation.

Respondents: Tribal Child Care Lead Agencies acting on behalf of Tribal Governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Construction or Major Renovation of Tribal Child Care Facilities	5	1	20	100

Estimated Total Annual Burden Hours: 100.

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, Washington, DC 20201, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

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 recommendation for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2016–10293 Filed 5–2–16; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Extension With No Changes of a Currently Approved Collection; Comment Request; State Program Report

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. 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 of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to an extension with no changes of a currently approved collection of the Title III and VII State Program Report.

DATES: Submit written or electronic comments on the collection of information by July 5, 2016.

ADDRESSES: Submit electronic comments on the collection of information to: *Elena.Fazio@acl.hhs.gov.*

Submit written comments on the collection of information to: U.S. Department of Health and Human Services: Administration for Community Living, Washington, DC 20201, Attention: Elena Fazio.

FOR FURTHER INFORMATION CONTACT: Elena Fazio by telephone: (202) 795–7343 or by email: *Elena.Fazio@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of

information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency request or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, ACL is publishing notice of the proposed extension with no changes of a currently approved collection of information set forth in this document. With respect to the following collection of information, ACL invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility; (2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

The Older Americans Act (OAA) requires annual program performance reports from States, the District of Columbia, and Territories. In compliance with this OAA provision, ACL developed a State Program Report (SPR) in 1996 as part of its National Aging Program Information System (NAPIS). The SPR collects information about how State Agencies on Aging expend their OAA funds as well as funding from other sources for OAA authorized supportive services. The SPR also collects information on the demographic and functional status of the recipients, and is a key source for ACL performance measurement. This collection is an extension with no changes of the 2013 approved version. The proposed version will be in effect for the FY 2017 reporting year and thereafter. The proposed FY 2017 version may be found on the ACL Web site link entitled Proposed State Program Report (SPR) Form 2016 Extension With No Changes available at *http://www.aoa.acl.gov/Program_Results/OAA_Performance.aspx.*

ACL estimates the burden of this collection of information as follows: 2750 hours.

Dated: April 28, 2016.

Kathy Greenlee,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2016–10323 Filed 5–2–16; 8:45 am]

BILLING CODE 4154–01P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01).

Date: May 24, 2016.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Thomas F. Conway, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Actives, Room 3G51, National Institutes of Health, NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, 240–507–9685, *thomas.conway@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Peer Review Meeting.

Date: May 26, 2016.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIAID/DEA/SRP, Room 3F100, 5601 Fishers Lane, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Susana Mendez, DVM, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G53B, National Institutes of Health, NIAID, 5601 Fishers Lane Dr. MSC 9823, Bethesda, MD 20892–9823, (240) 669–5077, *mendezs@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Peer Review Meeting.

Date: May 31, 2016.

Time: 1:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Room 3F100, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Kelly Y. Poe, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3F40B, National Institutes of Health, NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, 240–669–5036, *poeky@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 27, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–10262 Filed 5–2–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute: Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Short-Term Experience in Research.

Date: May 23, 2016.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7194, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Charles Joyce, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, 301–435–0288, *cjoyce@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel;

Short-Term Research Education to Increase Diversity.

Date: May 23, 2016.

Time: 12:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Stephanie L. Constant, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892, 301–443–8784, *constantsl@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 27, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–10261 Filed 5–2–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); and on April 30, 2010 (75 FR 22809).

A notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.samhsa.gov/workplace.*

FOR FURTHER INFORMATION CONTACT: Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, 5600 Fishers Lane, Room 16N03A, Rockville, Maryland 20857; 240–276–2600 (voice).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. The ''Mandatory Guidelines for Federal Workplace Drug Testing Programs,'' as amended in the revisions listed above, requires strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on urine specimens for federal agencies.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated November 25, 2008 (73 FR 71858), the following HHS-certified laboratories and IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

HHS-Certified Instrumented Initial Testing Facilities

Dynacare
6628 50th Street NW
Edmonton, AB Canada T6B 2N7
780–784–1190
(Formerly: Gamma-Dynacare Medical Laboratories)

HHS-Certified Laboratories

ACM Medical Laboratory, Inc.
160 Elmgrove Park
Rochester, NY 14624
585–429–2264

Aegis Analytical Laboratories, Inc.
345 Hill Ave.
Nashville, TN 37210
615–255–2400
(Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc., Aegis Analytical Laboratories)

Alere Toxicology Services
1111 Newton St.
Gretna, LA 70053
504–361–8989/800–433–3823
(Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services
450 Southlake Blvd.
Richmond, VA 23236
804–378–9130
(Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Baptist Medical Center-Toxicology Laboratory
11401 I–30
Little Rock, AR 72209–7056
501–202–2783
(Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Reference Lab
8433 Quivira Road
Lenexa, KS 66215–2802
800–445–6917

DrugScan, Inc.
200 Precision Road, Suite 200
Horsham, PA 19044
800–235–4890

Dynacare *
245 Pall Mall Street
London, ONT, Canada N6A 1P4
519–679–1630
(Formerly: Gamma-Dynacare Medical Laboratories)

ElSohly Laboratories, Inc.
5 Industrial Park Drive
Oxford, MS 38655
662–236–2609

Fortes Laboratories, Inc.
25749 SW Canyon Creek Road, Suite 600
Wilsonville, OR 97070
503–486–1023

Laboratory Corporation of America Holdings
7207 N. Gessner Road
Houston, TX 77040
713–856–8288/800–800–2387

Laboratory Corporation of America Holdings
69 First Ave.
Raritan, NJ 08869
908–526–2400/800–437–4986
(Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings
1904 Alexander Drive

Research Triangle Park, NC 27709
919–572–6900/800–833–3984
(Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings
1120 Main Street
Southaven, MS 38671
866–827–8042/800–233–6339
(Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

LabOne, Inc. d/b/a Quest Diagnostics
10101 Renner Blvd.
Lenexa, KS 66219
913–888–3927/800–873–8845
(Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.)

MedTox Laboratories, Inc.
402 W. County Road D
St. Paul, MN 55112
651–636–7466/800–832–3244

MetroLab-Legacy Laboratory Services
1225 NE 2nd Ave.
Portland, OR 97232
503–413–5295/800–950–5295

Minneapolis Veterans Affairs Medical Center
Forensic Toxicology Laboratory
1 Veterans Drive
Minneapolis, MN 55417
612–725–2088
Testing for Veterans Affairs (VA) Employees Only

National Toxicology Laboratories, Inc.
1100 California Ave.
Bakersfield, CA 93304
661–322–4250/800–350–3515

One Source Toxicology Laboratory, Inc.
1213 Genoa-Red Bluff
Pasadena, TX 77504
888–747–3774
(Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)

Pacific Toxicology Laboratories
9348 DeSoto Ave.
Chatsworth, CA 91311
800–328–6942
(Formerly: Centinela Hospital Airport Toxicology Laboratory)

Pathology Associates Medical Laboratories
110 West Cliff Dr.
Spokane, WA 99204
509–755–8991/800–541–7891x7

Phamatech, Inc.
15175 Innovation Drive
San Diego, CA 92128
888–635–5840

Quest Diagnostics Incorporated
1777 Montreal Circle
Tucker, GA 30084
800–729–6432
(Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated
400 Egypt Road
Norristown, PA 19403
610–631–4600/877–642–2216
(Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated
8401 Fallbrook Ave.
West Hills, CA 91304
818–737–6370
(Formerly: SmithKline Beecham Clinical Laboratories)

Redwood Toxicology Laboratory
3700650 Westwind Blvd.
Santa Rosa, CA 95403
800–255–2159

Southwest Laboratories
4625 E. Cotton Center Boulevard
Suite 177
Phoenix, AZ 85040
602–438–8507/800–279–0027

STERLING Reference Laboratories
2617 East L Street
Tacoma, Washington 98421
800–442–0438

U.S. Army Forensic Toxicology Drug Testing Laboratory
2490 Wilson St.
Fort George G. Meade, MD 20755–5235
301–677–7085
Testing for Department of Defense (DoD) Employees Only

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 30, 2010 (75 FR 22809). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Summer King,
Statistician.

[FR Doc. 2016–10260 Filed 5–2–16; 8:45 am]
BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2015–0757]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0041

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval for reinstatement, with change, of the following collection of information: 1625–0041, Various International Agreement Pollution Prevention Certificates and Documents, and Equivalency Certificates. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before June 2, 2016.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2015–0757] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email: OIRA-submission@omb.eop.gov.*

(2) *Mail:* OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Fax:* 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–612), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE. SE., STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2015–0757], and must be received by June 2, 2016.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005 issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0041.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (80 FR 72446, November 19, 2015) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments. Accordingly, no changes have been made to the Collections.

Information Collection Request

Title: Various International Agreement Pollution Prevention Certificates and Documents, and Equivalency Certificates.

OMB Control Number: 1625–0041.

Summary: Required by the adoption of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78) and other international treaties, these certificates and documents are evidence of compliance for U.S. vessels on international voyages. Without the proper certificates or documents, a U.S. vessel could be detained in a foreign port.

Need: Compliance with treaty requirements aids in the prevention of pollution from ships.

Forms: CG–5352, International Oil Pollution Prevention Certificates; CG–5352A, Supplement to the International Oil Pollution Prevention Certificate (IOPP Certificate); CG–5352B, Supplement to the International Oil pollution Prevention Certificate (IOPP Certificate); CG–6047, International Sewage Pollution Prevention Equivalency Certificate; CG–6047A, Statement of Voluntary Compliance for Sewage Pollution Prevention; CG–6056, International Air Pollution Prevention Certificate; CG–6056A, Supplement to International Air Pollution Prevention Certificate (IAPP Certificate); CG–6056B, Statement of Voluntary Compliance for ANNEX VI of MARPOL 73/78; CG–6056C, Supplement to Statement of Voluntary Compliance for ANNEX VI of MARPOL 73/78, CG–6057, Statement of Voluntary Compliance, CG–6059, International Anti-Fouling Systems Certificate; CG–6059A, Record of Anti-Fouling Systems; CG–6060, International Energy Efficiency (IEE Certificate); and CG–6060A, Supplement to the International Energy Efficiency Certificate (IEE Certificate).

Respondents: Owners, operators, or masters of vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 2,738 hours to 73,900 hours a year due to an increase in the estimated annual number of responses of the initial one year burden for the Ship-to-Ship Operations Plan.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: April 26, 2016.

Thomas P. Michelli,

U.S. Coast Guard, Deputy Chief Information Officer.

[FR Doc. 2016–10311 Filed 5–2–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Commercial Truck Single-Crossing User Fee Automation and Prepayment Pilot

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

ACTION: General notice.

SUMMARY: This document announces that U.S. Customs and Border Protection (CBP) intends to conduct a pilot test program pursuant to its authority under 19 CFR 101.9(a) to allow a new payment option for commercial truck single-crossing user fees. The CBP regulations specify the applicable user fee for commercial trucks upon arrival into the United States and the methods of payment, which include payment on an

annual basis or on a per crossing basis. Although commercial truck carriers can electronically prepay the user fees on an annual basis, carriers who opt for the single-crossing user fee must pay the fee upon arrival at a U.S. port of entry. This pilot will enable the owner, agent, or person in charge of a commercial truck to prepay the single-crossing user fee online prior to arrival at a port of entry. This notice describes the pilot, its purpose, how it will be implemented, the duration of the pilot, and invites public comment on any aspect of the pilot. This pilot will not affect the annual commercial truck user fee payment option.

DATES: The pilot will begin at the Buffalo, Detroit and El Paso ports of entry starting on June 2, 2016. If it is determined that the pilot is working successfully at these initial ports, the pilot would be expanded to all U.S. land border ports of entry that process commercial trucks. The exact date of the expansion to all U.S. land border ports of entry would be announced on the CBP Web site, *http://www.cbp.gov.* The pilot will run for approximately one year. Comments concerning this notice and all aspects of the pilot may be submitted at any time during the pilot period.

ADDRESSES: Written comments concerning any aspect of the pilot should be submitted to James Pattan, Program Manager, Office of Field Operations, U.S. Customs and Border Protection, via email at *James.Pattan@dhs.gov.* In the subject line of your email, please indicate ''Comment on Commercial Truck Single-Crossing User Fee Pilot''.

FOR FURTHER INFORMATION CONTACT: James Pattan, Program Manager, Office of Field Operations, U.S. Customs and Border Protection, by telephone at (202) 344–2293 or by email at *James.Pattan@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Commercial Truck User Fees

CBP collects user fees to pay for the costs incurred in providing customs services. These user fees offset inspection costs that were previously funded solely by general taxpayer revenue. Pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), § 13031, Public Law 99–272, 110 Stat. 82 (1986), codified at 19 U.S.C. 58c, CBP shall charge and collect certain processing fees for air and sea passengers, commercial trucks, rail cars, private vessels, dutiable mail packages, and Customs broker permits.

Sections 24.22(b)–(e) and (g) of the CBP implementing regulations (19 CFR 24.22(b)–(e) and (g)) provide that, under certain circumstances, user fees must be paid upon arrival into the United States of certain commercial vessels, barges, and other bulk carriers from Canada or Mexico; commercial trucks; railroad cars; certain private vessels or private aircraft; and passengers aboard commercial vessels and commercial aircraft.

Section 24.22(c) sets forth the regulations pertaining to the user fees for commercial trucks upon arrival into the United States. The total commercial truck user fee consists of an Animal and Plant Health Inspection Service/Agricultural Quarantine Inspection (APHIS/AQI) fee collected on behalf of the U.S. Department of Agriculture and a CBP fee.[1] CBP collects the APHIS/AQI user fee and the CBP user fee together as one commercial truck user fee.

Current Payment Options

Section 24.22(c) provides commercial truck carriers with two alternatives to pay the required user fee. The commercial truck carrier may either prepay the fee for all arrivals of that truck during a calendar year (annual commercial truck user fee)[2] or pay a per crossing fee each time the truck enters the United States (single-crossing user fee).

The owner, agent, or person in charge of the commercial truck can prepay the annual commercial truck user fee online through the Internet portal, ''Decal and Transponder Online Procurement System (DTOPS)'',[3] or by mail.[4] After the annual user fee is paid, a transponder is issued, which is affixed to the vehicle's windshield to reflect the prepayment.

Carriers that have not prepaid the annual commercial truck user fee are required to pay a per crossing fee each time the truck enters the United States. The user fee is collected when the truck arrives at the U.S. port of entry. The driver or other person in charge of the commercial truck is required to pay the user fee during primary processing or during referral to the administrative office.[5] Payment may be by cash or credit card.

Commercial Truck Single-Crossing User Fee Automation and Prepayment Pilot

Purpose of the Pilot

The purpose of the pilot is to streamline the payment of the commercial truck single-crossing user fees by introducing a new payment option. Specifically, CBP is working towards the elimination of cash and credit card collections of the commercial truck single-crossing user fee during commercial truck primary processing by automating and allowing prepayment of the fee.

This will provide benefits to both CBP and to commercial truck carriers. Cash and credit card collection at the port of entry is a manual, burdensome, and time-consuming process. The automation and prepayment option for the single-crossing user fee will reduce wait times, improve primary processing, save costs to truck carriers associated with idling time (such as gas and lost driving hours), and alleviate CBP officers of the administrative functions pertaining to the collection, accounting and transmittal of user fee collections.

Description and Implementation of the Pilot

Currently, when a commercial truck arrives at a U.S. port of entry and the annual user fee has not been prepaid, the driver or other person in charge of the truck pays the single-crossing user fee upon arrival. This pilot provides an additional payment option that will allow the owner, agent, or person in charge of a commercial truck to prepay the single-crossing user fee online via the DTOPS portal prior to the truck arriving at a U.S. port of entry.[6] This pilot will allow the owner, agent, or person in charge of a commercial truck to access the DTOPS portal via a desktop computer (*https://dtops.cbp.dhs.gov/)* or a smartphone app to pay the required single-crossing user fee before arriving at the U.S. port of entry. After accessing the DTOPS portal, the Vehicle Identification Number (VIN) must be registered and the required user fee paid by credit card for each truck that will transit the U.S. border. After payment is accepted, DTOPS will provide an electronic

[1] The APHIS/AQI fee collected on behalf of the U.S. Department of Agriculture is authorized by 21 U.S.C. 136a. The APHIS/AQI fee amount is set forth in Section 354.3 of title 7 of the Code of Federal Regulations (7 CFR 354.3).

[2] For user fee collection purposes, a ''transponder'' is a plastic card which contains a chip that electronically transmits confirmation that applicable user fees for commercial trucks have been paid for the calendar year.

[3] The DTOPS portal allows CBP to process user fee prepayment requests and accept electronic payments.

[4] CBP Form 339C (Annual User Fee Decal Request—Commercial Vehicle).

[5] The method of payment for the commercial truck single-crossing user fee is currently dependent on the logistics of the particular U.S. port of entry.

[6] The prepayment of the annual commercial truck user fee is already automated via the DTOPS portal.

receipt that may be printed. When the commercial truck arrives at primary processing, the CBP officer will check the Automated Commercial Environment (ACE) system to ensure that the user fee was prepaid. If the user fee was not prepaid, the driver or other person in charge of the truck will be required to pay the fee at the port of entry using cash or a credit card.

Duration of the Pilot

The pilot will begin at the Buffalo, Detroit and El Paso land ports of entry starting on June 2, 2016. If it is determined that the pilot is working successfully at these initial ports, the pilot would be expanded to all U.S. land border ports of entry that process commercial trucks. The exact date of the expansion to all U.S. land border ports of entry would be announced on the CBP Web site, *http://www.cbp.gov.* The pilot will run for approximately one year. Any owner, agent, or person in charge of a commercial truck can participate in the pilot. No application is needed to participate in the pilot. When sufficient pilot analysis has been conducted, and the comments analyzed, CBP will then consider whether to begin rulemaking to add the single-crossing commercial truck user fee prepayment option to 19 CFR 24.22(c).

Privacy

CBP will ensure that all Privacy Act requirements and applicable policies are adhered to during the implementation of this pilot.

Paperwork Reduction Act

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. The collections of information in this notice will be submitted for OMB approval 1651–0052 (User Fees).

Authorization for the Pilot

This pilot adds a payment option for commercial truck single-crossing user fees in addition to the payment method specified in 19 CFR 24.22(c). It is being conducted in accordance with § 101.9(a) of the CBP regulations (19 CFR 101.9(a)), which authorizes the Commissioner to impose requirements different from those specified in the CBP regulations for the purposes of conducting a test program or procedure designed to evaluate the effectiveness of new technology or operational procedures regarding the processing of passengers, vessels, or merchandise.

Dated: April 28, 2016.

R. Gil Kerlikowske,

Commissioner.

[FR Doc. 2016–10348 Filed 5–2–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5885–N–05]

Final Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program Fiscal Year 2016; Revised

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Final Fiscal Year (FY) 2016 Fair Market Rents (FMRs), update.

SUMMARY: Today's notice updates the FY 2016 FMRs for Burlington-South Burlington, VT Metropolitan Statistical Area (MSA), based on a survey of rents conducted in February, 2016, by the area public housing agencies (PHAs). The FY 2016 FMRs for these areas reflect the estimated 40th percentile rent levels trended to April 1, 2016.

DATES: *Effective Date:* The FMRs published in this notice are effective on May 3, 2016.

FOR FURTHER INFORMATION CONTACT: For technical information on the methodology used to develop FMRs or a listing of all FMRs, please call the HUD USER information line at 800–245–2691 or access the information on the HUD USER Web site: *http://www.huduser.gov/portal/datasets/fmr.html.* FMRs are listed at the 40th or 50th percentile in Schedule B. For informational purposes, 40th percentile recent-mover rents for the areas with 50th percentile FMRs will be provided in the HUD FY 2016 FMR documentation system at *http://www.huduser.gov/portal/datasets/fmr/fmrs/docsys.html?data=fmr16* and 50th percentile rents for all FMR areas are published *http://www.huduser.gov/portal/datasets/50per.html.*

Questions related to use of FMRs or voucher payment standards should be directed to the respective local HUD program staff. Questions on how to conduct FMR surveys or concerning further methodological explanations may be addressed to Marie L. Lihn or Peter B. Kahn, Economic and Market Analysis Division, Office of Economic Affairs, Office of Policy Development and Research, telephone 202–402–2409. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339. (Other than the HUD USER information line and TDD numbers, telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The FMRs appearing in the following table supersede the values found in Schedule B that became effective on December 11, 2015, and were printed in the December 11, 2015 (80 FR 77124) **Federal Register** (available from HUD at: *http://www.huduser.gov/portal/datasets/fmr.html).*

The FMRs for the affected area are revised as follows:

2016 Fair market rent area	FMR by number of bedrooms in unit				
	0 BR	1 BR	2 BR	3 BR	4 BR
Burlington-South Burlington, VT MSA	868	1038	1356	1796	1988

Dated: April 19, 2016.

Katherine M. O'Regan,

Assistant Secretary for Policy Development & Research.

[FR Doc. 2016–10333 Filed 5–2–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5930–N–01]

Section 8 Housing Assistance Payments Program—Annual Adjustment Factors, Fiscal Year 2016

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Fiscal Year (FY) 2016 Annual Adjustment Factors (AAFs).

SUMMARY: The United States Housing Act of 1937 requires that certain assistance contracts signed by owners participating in the Department's Section 8 housing assistance payment programs provide annual adjustments to monthly rentals for units covered by the contracts. This notice announces FY 2016 AAFs for adjustment of contract rents on the anniversary of those assistance contracts. The factors are based on a formula using residential rent and utility cost changes from the most recent annual Bureau of Labor Statistics Consumer Price Index (CPI) survey. Beginning with the FY 2014 AAFs and continuing with these FY 2016 AAFs, the Puerto Rico CPI is used in place of the South Region CPI for all areas in Puerto Rico. These factors are applied at the anniversary of Housing Assistance Payment (HAP) contracts for which rents are to be adjusted using the AAF for those calendar months commencing after the effective date of this notice. A separate **Federal Register** Notice published on April 15, 2016 (81 FR 22296) identifies the inflation factors that will be used to adjust tenant-based rental assistance funding for FY 2016.

DATES: *Effective date:* May 3, 2016.

FOR FURTHER INFORMATION CONTACT: Contact Becky Primeaux, Director, Management and Operations Division, Office of Housing Voucher Programs, Office of Public and Indian Housing, 202–708–1380, for questions relating to the Project-Based Certificate and Moderate Rehabilitation programs (not the Single Room Occupancy program); Ann Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, 202–708–4300, for questions regarding the Single Room Occupancy (SRO) Moderate Rehabilitation program; Catherine Brennan, Director, Office of Housing Assistance and Grant Administration, Office of Housing, 202–708–3000, for questions relating to all other Section 8 programs; and Marie Lihn, Economist, Economic and Market Analysis Division, Office of Policy Development and Research, 202–402–5866, for technical information regarding the development of the schedules for specific areas or the methods used for calculating the AAFs. The mailing address for these individuals is: Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410. Hearing- or speech-impaired persons may contact the Federal Information Relay Service at 800–877–8339 (TTY). (Other than the ''800'' TTY number, the above-listed telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION: Tables showing AAFs will be available electronically from the HUD data information page at *http://www.huduser.gov/portal/datasets/aaf.html.*

I. Applying AAFs to Various Section 8 Programs

AAFs established by this Notice are used to adjust contract rents for units assisted in certain Section 8 housing assistance payment programs during the initial (*i.e.,* pre-renewal) term of the HAP contract and for all units in the Project-Based Certificate program. There are three categories of Section 8 programs that use the AAFs:

Category 1: The Section 8 New Construction, Substantial Rehabilitation, and Moderate Rehabilitation programs;

Category 2: The Section 8 Loan Management (LM) and Property Disposition (PD) programs; and

Category 3: The Section 8 Project-Based Certificate (PBC) program.[1]

Each Section 8 program category uses the AAFs differently. The specific application of the AAFs is determined by the law, the HAP contract, and appropriate program regulations or requirements.

AAFs are not used in the following cases:

Renewal Rents. With the exception of the Project-Based Certificate program, AAFs are not used to determine renewal rents after expiration of the original Section 8 HAP contract (either for projects where the Section 8 HAP contract is renewed under a restructuring plan adopted under 24 CFR part 401; or renewed without restructuring under 24 CFR part 402). In general, renewal rents are established in accordance with the statutory provision in the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA), as amended, under which the HAP is renewed. After renewal, annual rent adjustments will be provided in accordance with MAHRA.

Budget-based Rents. AAFs are not used for budget-based rent adjustments. For projects receiving Section 8 subsidies under the LM program (24 CFR part 886, subpart A) and for projects receiving Section 8 subsidies under the PD program (24 CFR part 886, subpart C), contract rents are adjusted, at HUD's option, either by applying the AAFs or by budget-based adjustments in accordance with 24 CFR 886.112(b) and 24 CFR 886.312(b). Budget-based adjustments are used for most Section 8/202 projects.

Tenant-based Certificate Program. In the past, AAFs were used to adjust the contract rent (including manufactured home space rentals) in both the tenant-based and project-based certificate programs. The tenant-based certificate program has been terminated and all tenancies in the tenant-based certificate program have been converted to the Housing Choice Voucher Program, which does not use AAFs to adjust rents. All tenancies remaining in the project-based certificate program continue to use AAFs to adjust contract rent for outstanding HAP contracts.

Voucher Program. AAFs are not used to adjust rents in the Tenant-Based or the Project-Based Voucher programs.

II. Adjustment Procedures

This section of the notice provides a broad description of procedures for adjusting the contract rent. Technical details and requirements are described in HUD notices H 2002–10 (Section 8 New Construction and Substantial Rehabilitation, Loan Management, and Property Disposition) and PIH 97–57 (Moderate Rehabilitation and Project-Based Certificates).

Because of statutory and structural distinctions among the various Section 8 programs, there are separate rent adjustment procedures for the three program categories:

Category 1: Section 8 New Construction, Substantial Rehabilitation, and Moderate Rehabilitation Programs

In the Section 8 New Construction and Substantial Rehabilitation programs, the published AAF factor is applied to the pre-adjustment contract

[1] As of February, 2016, all PBC contracts should be completed since the program has been merged with the Housing Choice Voucher program. For completeness, HUD is continuing to list Category 3 uses of AAFs for this FY 2016 AAF publication, but intends to discontinue listing Category 3 in FY 2017.

rent. In the Section 8 Moderate Rehabilitation program (both the regular program and the single room occupancy program) the published AAF is applied to the pre-adjustment base rent.

For Category 1 programs, the Table 1 AAF factor is applied before determining comparability (rent reasonableness). Comparability applies if the pre-adjustment gross rent (pre-adjustment contract rent plus any allowance for tenant-paid utilities) is above the published Fair Market Rent (FMR).

If the comparable rent level (plus any initial difference) is lower than the contract rent as adjusted by application of the Table 1 AAF, the comparable rent level (plus any initial difference) will be the new contract rent. However, the pre-adjustment contract rent will not be decreased by application of comparability.

In all other cases (*i.e.,* unless the contract rent is reduced by comparability):

- Table 1 AAF is used for a unit occupied by a new family since the last annual contract anniversary.
- Table 2 AAF is used for a unit occupied by the same family as at the time of the last annual contract anniversary.

Category 2: Section 8 Loan Management Program (24 CFR Part 886, Subpart A) and Property Disposition Program (24 CFR Part 886, Subpart C)

At this time Category 2 programs are not subject to comparability. Comparability will again apply if HUD establishes regulations for conducting comparability studies under 42 U.S.C. 1437f(c)(2)(C).

The applicable AAF is determined as follows:

- Table 1 AAF is used for a unit occupied by a new family since the last annual contract anniversary.
- Table 2 AAF is used for a unit occupied by the same family as at the time of the last annual contract anniversary.

Category 3: Section 8 Project-Based Certificate Program

The following procedures are used to adjust contract rent for outstanding HAP contracts in the Section 8 PBC program:

- Table 2 AAF is always used. The Table 1 AAF is not used.
- Table 2 AAF is always applied before determining comparability (rent reasonableness).
- Comparability always applies. If the comparable rent level is lower than the rent to owner (contract rent) as adjusted by application of the Table 2 AAF, the comparable rent level will be the new rent to owner.
- The new rent to owner will not be reduced below the contract rent on the effective date of the HAP contract.

III. When To Use Reduced AAFs (From AAF Table 2)

In accordance with Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)), the AAF is reduced by 0.01:

- For all tenancies assisted in the Section 8 Project-Based Certificate program.
- In other Section 8 programs, for a unit occupied by the same family at the time of the last annual rent adjustment (and where the rent is not reduced by application of comparability (rent reasonableness)).

The law provides that:

> Except for assistance under the certificate program, for any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type and age in the market area. 42 U.S.C. 1437f(c)(2)(A).

Legislative history for this statutory provision states that ''the rationale [for lower AAFs for non-turnover units is] that operating costs are less if tenant turnover is less . . .'' (see Department of Veteran Affairs and Housing and Urban Development, and Independent Agencies Appropriations for 1995, Hearings Before a Subcommittee of the Committee on Appropriations 103d Cong., 2d Sess. 591 (1994)). The Congressional Record also states the following:

> Because the cost to owners of turnover-related vacancies, maintenance, and marketing are lower for long-term stable tenants, these tenants are typically charged less than recent movers in the unassisted market. Since HUD pays the full amount of any rent increases for assisted tenants in section 8 projects and under the Certificate program, HUD should expect to benefit from this 'tenure discount.' Turnover is lower in assisted properties than in the unassisted market, so the effect of the current inconsistency with market-based rent increases is exacerbated. (140 Cong. Rec. 8659, 8693 (1994)).

To implement the law, HUD publishes two separate AAF Tables, Table 1 and Table 2. The difference between Table 1 and Table 2 is that each AAF in Table 2 is 0.01 less than the corresponding AAF in Table 1. Where an AAF in Table 1 would otherwise be less than 1.0, it is set at 1.0, as required by statute; the corresponding AAF in Table 2 will also be set at 1.0, as required by statute.

IV. How To Find the AAF

AAF Table 1 and Table 2 are posted on the HUD User Web site at *http://www.huduser.gov/portal/datasets/aaf.html.* There are two columns in each AAF table. The first column is used to adjust contract rent for rental units where the highest cost utility is included in the contract rent, *i.e.,* where the owner pays for the highest cost utility. The second column is used where the highest cost utility is not included in the contract rent, *i.e.,* where the tenant pays for the highest cost utility.

The applicable AAF is selected as follows:

- Determine whether Table 1 or Table 2 is applicable. In Table 1 or Table 2, locate the AAF for the geographic area where the contract unit is located.
- Determine whether the highest cost utility is or is not included in contract rent for the contract unit.
- If highest cost utility is included, select the AAF from the column for ''Highest Cost Utility Included.'' If highest cost utility is not included, select the AAF from the column for ''Highest Cost Utility Excluded.''

V. Methodology

AAFs are rent inflation factors. Two types of rent inflation factors are calculated for AAFs: Gross rent factors and shelter rent factors. The gross rent factor accounts for inflation in the cost of both the rent of the residence and the utilities used by the unit; the shelter rent factor accounts for the inflation in the rent of the residence, but does not reflect any change in the cost of utilities. The gross rent inflation factor is designated as ''Highest Cost Utility Included'' and the shelter rent inflation factor is designated as ''Highest Cost Utility Excluded.''

AAFs are calculated using CPI data on ''rent of primary residence'' and ''fuels and utilities.'' [2] The CPI inflation index for rent of primary residence measures the inflation of all surveyed units regardless of whether utilities are included in the rent of the unit or not. In other words, it measures the inflation of the ''contract rent'' which includes units with all utilities included in the

[2] CPI indexes CUUSA103SEHA and CUSR0000SAH2 respectively.

rent, units with some utilities included in the rent, and units with no utilities included in the rent. In producing a gross rent inflation factor and a shelter rent inflation factor, HUD decomposes the contract rent CPI inflation factor into parts to represent the gross rent change and the shelter rent change. This is done by applying data from the Consumer Expenditure Survey (CEX) on the percentage of renters who pay for heat (a proxy for the percentage of renters who pay shelter rent) and also American Community Survey (ACS) data on the ratio of utilities to rents. For Puerto Rico, the Puerto Rico Community Survey (PRCS) is used to determine the ratio of utilities to rents, resulting in different AAFs for some metropolitan areas in Puerto Rico.[3]

Survey Data Used To Produce AAFs

The rent and fuel and utilities inflation factors for large metropolitan areas and Census regions are based on changes in the rent of primary residence and fuels and utilities CPI indices from 2013 to 2014. The CEX data used to decompose the contract rent inflation factor into gross rent and shelter rent inflation factors come from a special tabulation of 2013 CEX survey data produced for HUD for the purpose of computing AAFs. The utility-to-rent ratio used to produce AAFs comes from 2013 ACS median rent and utility costs.

Geographic Areas

AAFs are produced for all Class A CPI cities (CPI cities with a population of 1.5 million or more) and for the four Census Regions. They are applied to core-based statistical areas (CBSAs), as defined by the Office of Management and Budget (OMB), according to how much of the CBSA is covered by the CPI city-survey. If more than 75 percent of the CBSA is covered by the CPI city-survey, the AAF that is based on that CPI survey is applied to the whole CBSA and to any HUD-defined metropolitan area, called the ''HUD Metro FMR Area'' (HMFA), within that CBSA. If the CBSA is not covered by a CPI city-survey, the CBSA uses the relevant regional CPI factor. Almost all non-metropolitan counties use regional CPI factors.[4] For areas assigned the Census Region CPI factor, both metropolitan and non-metropolitan areas receive the same factor.

Each metropolitan area that uses a local CPI update factor is listed alphabetically in the tables and each HMFA is listed alphabetically within its respective CBSA. Each AAF applies to a specific geographic area and to units of all bedroom sizes. AAFs are provided:

- For separate metropolitan areas, including HMFAs and counties that are currently designated as non-metropolitan, but are part of the metropolitan area defined in the local CPI survey.
- For the four Census Regions (to be used for those metropolitan and non-metropolitan areas that are not covered by a CPI city-survey).

AAFs use the same OMB metropolitan area definitions, as revised by HUD, that are used for the FY 2016 FMRs.

Area Definitions

To make certain that they are using the correct AAFs, users should refer to the Area Definitions Table section at *http://www.huduser.gov/portal/datasets/aaf.html.* The Area Definitions Table lists CPI areas in alphabetical order by state, and the associated Census region is shown next to each state name. Areas whose AAFs are determined by local CPI surveys are listed first. All metropolitan areas with local CPI surveys have separate AAF schedules and are shown with their corresponding county definitions or as metropolitan counties. In the six New England states, the listings are for counties or parts of counties as defined by towns or cities. The remaining counties use the CPI for the Census Region and are not separately listed in the Area Definitions Table at *http://www.huduser.gov/portal/datasets/aaf.html.*

Puerto Rico uses its own AAFs calculated from the Puerto Rico CPI as adjusted by the PRCS, the Virgin Islands uses the South Region AAFs and the Pacific Islands uses the West Region AAFs. All areas in Hawaii use the AAFs listed next to ''Hawaii'' in the Tables which are based on the CPI survey for the Honolulu metropolitan area. The Pacific Islands use the West Region AAFs.

Dated: April 25, 2016.

Katherine M. O'Regan,

Assistant Secretary for Policy Development and Research.

[FR Doc. 2016–10328 Filed 5–2–16; 8:45 am]

BILLING CODE 4210–67–P

[3] The formulas used to produce these factors can be found in the Annual Adjustment Factors overview and in the FMR documentation at *www.HUDUSER.gov.*

[4] There are four non-metropolitan counties that continue to use CPI city updates: Ashtabula County, OH, Henderson County, TX, Island County, WA, and Lenawee County, MI. BLS has not updated the geography underlying its survey for new OMB metropolitan area definitions and these counties, are no longer in metropolitan areas, but they are included as parts of CPI surveys because they meet the 75 percent standard HUD imposes on survey coverage. These four counties are treated the same as metropolitan areas using CPI city data.

DEPARTMENT OF THE INTERIOR

Office of the Assistant Secretary Water and Science; Notice of Availability of the Revised Central Utah Water Conservancy District National Environmental Policy Act Handbook

AGENCY: Central Utah Project Completion Act Office, Interior.

ACTION: Notice.

SUMMARY: The Central Utah Project Completion Act Office and the Central Utah Water Conservancy District are announcing the availability of their revised National Environmental Policy Act (NEPA) Handbook. Revisions were made to this handbook in response to new requirements and practices contained in the Department of the Interior's 2008 NEPA Regulations and Council on Environmental Quality guidance issued in support of the Administration's efforts to modernize Federal agency implementation of NEPA. The revisions were made to improve the process for preparing efficient and timely environmental reviews under NEPA.

ADDRESSES: Copies of the NEPA Handbook are available for inspection at the following locations:

- Central Utah Water Conservancy District, 355 West University Parkway, Orem, Utah 84058–7303.
- Department of the Interior, Central Utah Project Completion Act Office, 302 East 1860 South, Provo, Utah 84606.

In addition, the document is available at *www.cuwcd.com* and *www.cupcao.gov.*

FOR FURTHER INFORMATION CONTACT: Additional information may be obtained by contacting Mr. W. Russ Findlay, Central Utah Project Completion Act Office, 302 East 1860 South, Provo, Utah 84606–7317; by email to *wfindlay@usbr.gov;* or by phone at 801–379–1084.

SUPPLEMENTARY INFORMATION: The passage of the Central Utah Project Completion Act in 1992 required the Central Water Conservancy District (District) to enter into an agreement with the Secretary of the Department of the Interior (Interior) allowing them to be considered a ''Federal Agency'' for the purposes of compliance with all

Federal fish, wildlife, recreation, and environmental laws. Accordingly, the District and Interior entered into a Compliance Agreement on August 11, 1993. The Compliance Agreement required the development of a NEPA Handbook. The revised NEPA Handbook provides guidance in environmental law and NEPA processes and establishes District policy and procedures for complying with NEPA.

Reed R. Murray,

Program Director, Central Utah Project Completion Act Office, Department of the Interior.

[FR Doc. 2016–10294 Filed 5–2–16; 8:45 am]

BILLING CODE 4332–90–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTB07900 15XL1109AF L10100000 PH0000 LXSIANMS0000 MO# 4500092548]

Notice of Public Meeting; Western Montana Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Western Montana Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Western Montana Resource Advisory Council meeting will be held May 18, 2016 in Dillon, Montana. The meeting will begin at 9:00 a.m. in the Dillon Field Office conference room, with a 30-minute public comment period starting at 11:30 a.m., and will adjourn at 3:00 p.m.

ADDRESSES: BLM's Dillon Field Office, 1005 Selway Drive, Dillon, MT.

FOR FURTHER INFORMATION CONTACT: David Abrams, Western Montana Resource Advisory Council Coordinator, Butte Field Office, 106 North Parkmont, Butte MT 59701, 406–533–7617, *dabrams@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This 15-member council advises the Secretary of the Interior through the BLM on a variety of management issues associated with public land management in Montana. During this meeting the council will discuss several topics, including updates from the BLM's Butte, Missoula and Dillon field offices. All RAC meetings are open to the public. The public may present written comments to the RAC. Each formal RAC meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

Authority: 43 CFR 1784.4–2.

Richard M. Hotaling,

District Manager, Western Montana District.

[FR Doc. 2016–10282 Filed 5–2–16; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOF02000 L14400000.EU0000 16X]

Notice of Realty Action: Second Notice of Segregation of Land for a Non-Competitive (Direct) Sale of Public Land in Gilpin County, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) proposes to sell four parcels of public land totaling 6.72 acres in Gilpin County, Colorado, to the City of Black Hawk (Black Hawk) under the direct sale provisions of the Federal Land Policy and Management Act of 1976 (FLPMA), for not less than the fair market value.

DATES: In order to ensure consideration in the environmental analysis of the proposed sale, comments must be received by June 17, 2016.

ADDRESSES: Send written comments concerning this notice to Keith Berger, Field Manager, BLM Royal Gorge Field Office, 3028 E. Main St., Canon City, CO 81212. Comments can be emailed to *RGFO_Comments@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Greg Valladares, Realty Specialist, BLM, Royal Gorge Field Office, at the above address or by phone, 719–269–8513. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The following described public lands have been examined and found suitable for direct sale under the authority of Sections 203 and 209 of FLPMA, as amended (43 U.S. C. 1713 and 1719).

Sixth Principal Meridian, Colorado

T. 3 S., R. 73 W.,
Sec. 12, lots 20, 21, 23, and 24.
The areas described aggregate 6.72 acres.

On May 6, 2016, the above described lands will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of the FLPMA. Until completion of the sale, the BLM is no longer accepting land use applications affecting the identified public land, except applications for the amendment of previously-filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregative effect will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or on May 5, 2018. The original segregation was published under 79 FR 25887, dated May 6, 2014. The BLM Colorado State Director has determined that the extension is necessary to provide sufficient time to complete the environmental assessment on the direct sale to the City of Black Hawk.

These public lands were identified as suitable for disposal in the 1986 Northeast Resource Management Plan and are not needed for any other Federal purpose. The purpose of the sale is to dispose of public lands that are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another Federal department or agency. The lands are considered difficult and uneconomic to manage, because they consist of irregularly shaped, isolated, and very small remnants left over after the issuance of intermingled mining claim patents. A direct sale is appropriate in this case, as the lands are proposed for sale to a local government to meet its needs for future water storage infrastructure. Black Hawk is in the process of completing the purchase of surrounding private parcels involved in the water project.

Black Hawk has initiated an environmental assessment to support a Section 404 permit application to the U.S. Army Corps of Engineers for water diversion, storage structures and infrastructure to meet forecasted needs. Analysis of the disposal of these lands

for possible inclusion in the proposed Quartz Valley Reservoir will be included within this environmental assessment.

Conveyance of the identified public lands will be subject to valid existing rights and encumbrances of record, including, but not limited to, rights-of-way for roads and public utilities. Conveyance of any mineral interests pursuant to Section 209 of FLPMA will be analyzed during processing of the proposed sale.

In addition to this Notice of Realty Action (NORA), notice of this sale will be published once a week for three weeks in the *Mountain Ear* and the *Weekly Register-Call.*

The public lands will not be offered for sale until after July 5, 2016. The patent, if issued, will be subject to all valid existing rights documented on the official public land records at the time of patent issuance. The availability of the appraisal report, mineral report and other documents pertinent to the proposed sale will be announced in a second NORA and made available to the public prior to the sale by the BLM at the Royal Gorge Field Office (address listed above).

For a period until June 17, 2016, interested parties and the public may submit written comments to the BLM Royal Gorge Field Manager (see **ADDRESSES** section). Comments, including names and street addresses of respondents, will be available for public review at the BLM Royal Gorge Field Office during regular business hours. In order to ensure consideration in the environmental analysis of the proposed sale, comments must be in writing and postmarked or delivered within 45 days of the initial date of publication of this Notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The BLM Colorado State Director, who may sustain, vacate, or modify this realty action and issue a final determination, will review any comments. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Authority: 43 CFR 2711.1–2.

Ruth Welch,

BLM Colorado State Director.

[FR Doc. 2016–10290 Filed 5–2–16; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000/L1910000.BJ0000/LRCMP9XEE003; 16XL1109AF; MO #4500089867]

Notice of Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on June 2, 2016.

DATES: A notice of protest of the survey must be filed before June 2, 2016 to be considered. A statement of reasons for a protest may be filed with the notice of protest and must be filed within 30 days after the notice of protest is filed.

ADDRESSES: Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5003, *HMontoya@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of Acting Realty Officer, Rocky Mountain Region, Bureau of Indian Affairs, Billings, Montana, and was necessary to determine tribal trust lands.

The lands we surveyed are:

Principal Meridian, Montana

Tps. 27 and 28 N., R. 53 E.

The plat, in two sheets, representing the corrective dependent resurvey and dependent resurvey of a portion of the north boundary, (T. 27 N.), a portion of the subdivisional lines and the adjusted 2004 meanders of the former left bank of the Missouri River, through a portion of section 2, and the survey of the meander lines of the present left bank of the Missouri River, through sections 2, 3, and 35, Tps. 27 and 28 N., R. 53 E., a certain division of accretion line, and the medial and partition lines of the present bed of the Missouri River, through section 3 and portion of section 34, Townships 27 and 28 North, Range 53 East, Principal Meridian, Montana, was accepted March 28, 2016.

We will place a copy of the plat, in two sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in two sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in two sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals. Before including your address, phone number, email address, or other personally identifying information in your comment, you should be aware that your entire comment—including your personally identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C. chap. 3.

Joshua F. Alexander,

Acting Chief, Branch of Cadastral Survey, Division of Energy, Minerals and Realty.

[FR Doc. 2016–10303 Filed 5–2–16; 8:45 am]

BILLING CODE 4310–DN–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Carbon and Alloy Steel Products DN 3144;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of

Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at EDIS,[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of United States Steel Corporation on April 26 2016. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain carbon and alloy steel products. The complaint names as respondents Hebei Iron and Steel Group Co., Ltd. of China; Hebei Iron & Steel Group Hengshui Strip Rolling Co., Ltd. of China; Hebei Iron & Steel (Hong Kong) International Trade Co., Ltd. of China; Shanghai Baosteel Group Corporation of China; Baoshan Iron & Steel Co., Ltd. of China; Baosteel America Inc. of Montvale, NJ; Jiangsu Shagang Group of China; Jiangsu Shagang International Trade Co., Ltd. of China; Anshan Iron and Steel Group of China; Angang Group International Trade Corporation of China; Angang Group Hong Kong Co., Ltd. of China; Wuhan Iron and Steel Group Corp. of China; Wuhan Iron and Steel Co., Ltd. of China; WISCO America Co., Ltd. of Newport Beach, CA; Shougang Group of China; China Shougang International Trade & Engineering Corporation of China; Shandong Iron and Steel Group Co., Ltd. of China; Shandong Iron and Steel Co., Ltd. of China; Jigang Hong Kong Holdings Co., Ltd. of China; Jinan Steel International Trade Co., Ltd. of China; Magang Group Holding Co. Ltd. of China; Maanshan Iron and Steel Co., Ltd. of China; Bohai Iron and Steel Group of China; Tianjin Pipe (Group) Corporation of China; Tianjin Pipe International Economic & Trading Corporation of China; TPCO Enterprise Inc. of Houston, TX; TPCO America Corporation of Gregory, TX; Benxi Steel (Group) Co., Ltd. of China; Benxi Iron and Steel (Group) International Economic and Trading Co., Ltd. of China; Hunan Valin Steel Co., Ltd. of China; Hunan Valin Xiangtan Iron and Steel Co., Ltd. of China; Tianjin Tiangang Guanye Co., Ltd. of China; Wuxi Sunny Xin Rui Science and Technology Co., Ltd. of China; Taian JNC Industrial Co., Ltd. of China; EQ Metal (Shanghai) Co., Ltd. of China; Kunshan Xinbei International Trade Co., Ltd of China; Tianjin Xinhai Trade Co., Ltd. of China; Tianjin Xinlianxin Steel Pipe Co. Ltd. of China; Tianjin Xinyue Industrial and Trade Co., Ltd. of China; and Xian Linkun Materials (Steel Pipe Supplies) Co., Ltd. of China. The complainant requests that the Commission issue a limited exclusion, general exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**.There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3144'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures).[4] Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

By order of the Commission.

Issued: April 26, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–10248 Filed 5–2–16; 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—OpenDaylight Project, Inc.

Notice is hereby given that, on April 4, 2016 pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), OpenDaylight Project, Inc. (''OpenDaylight'') 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, Tencent Technology (Shenzhen) Company Limited, Shenzhen, PEOPLE'S REPUBLIC OF CHINA; Taobao China Software Co., Ltd., Zhejiang, PEOPLE'S REPUBLIC OF CHINA; SDN Essentials, Sunnyvale, CA; and Raisecom Technology Co., Ltd., Beijing, PEOPLE'S REPUBLIC OF CHINA, have been added as parties to this venture.

Also, Megaport, Queensland, AUSTRALIA; Cyan Inc., Petaluma, CA; and Alcatel-Lucent USA Inc., Mountain View, CA, have withdrawn 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 OpenDaylight intends to file additional written notifications disclosing all changes in membership.

On May 23, 2013, OpenDaylight 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 July 1, 2013 (78 FR 39326).

The last notification was filed with the Department on January 6, 2016. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on January 22, 2016 (81 FR 3822).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–10278 Filed 5–2–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

60-Day Notice: New Generic Clearance for the New Collection of Quantitative Feedback on Agency Service Delivery (Bureau of Prisons)

AGENCY: Bureau of Prisons, Department of Justice.

ACTION: Notice and request for comments.

SUMMARY: The Bureau of Prisons (Department of Justice) as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on the ''Generic Clearance for the Collection of Quantitative Feedback on Agency Service Delivery '' for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). This collection was developed as part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery, this notice announces our intent to submit this collection to OMB for approval and solicits comments on specific aspects for the proposed information collection,

A copy of the draft supporting statement is available at *www.regulations.gov* (see Docket ID [OMB–2010–0021]).

DATES: Consideration will be given to all comments received by July 5, 2016.

ADDRESSES: Submit comments by one of the following methods:

- *Web site: www.regulations.gov.* Direct comments to Docket ID OMB–2010–0021.
- *Email:* [*OIRA_submissions@omb.eop.gov*].
- *Fax:* 202–395–5806.

Comments submitted in response to this notice may be made available to the public through *www.regulations.gov.* 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: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Quantitative Feedback on Agency Service Delivery.

Abstract: The proposed information collection activity provides a means to garner quantitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, and provide an early warning of issues with service. This one time collection will allow for actionable communications between the Agency and its customers and stakeholders.

The solicitation of feedback will target areas such as: Perceptions of programs for inmates, Bureau of Prisons employees and the agency itself. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

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

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;

• Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;

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

• Information gathered will yield quantitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for quantitative information will not be used for information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield testable quantitative results.

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

Current Actions: New Generic Information Collection Request.

Type of Review: New Collection.

Affected Public: Individuals and Households, Non-profit organizations, State, Local or Tribal Government to include Law Enforcement Officials.

Estimated Number of Respondents: 1,000.

Below we provide projected average estimates for the next three years:

Average Expected Annual Number of Activities: 1 (just once over the three years).

Average Number of Respondents per Activity: 2,000.

Annual Responses: 2,000.

Frequency of Response: Once per request.

Average Minutes per Response: 2.

Burden Hours: 60.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments will be available for public inspection Regulations.gov.

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 Office of Management and Budget control number.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: April 26, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–10276 Filed 5–2–16; 8:45 am]

BILLING CODE 4410–05–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0079]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; opportunity to comment, request a hearing, and petition for leave to intervene; order.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of one amendment request. The amendment requests are for Exelon Generation Company, LLC, Quad Cities Nuclear Power Station (QCNPS), Units 1 and 2. For each amendment request, the NRC proposes to determine that they involve no significant hazards consideration. In addition, each amendment request contains sensitive unclassified non-safeguards information (SUNSI).

DATES: Comments must be filed by May 31, 2016. A request for a hearing must be filed by June 27, 2016. Any potential party as defined in § 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must request document access by May 9, 2016.

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 Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0079. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, 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: Mable Henderson, Licensing Assistant, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3760, email: *Mable.Henderson@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0079 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 Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0079.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2016–0079, facility name, unit number(s), 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 submissions into ADAMS.

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this 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 notice includes notices of amendments containing SUNSI.

III. Notice 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 Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, 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 should 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. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish a notice of issuance in the **Federal Register**. Should the Commission make 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 person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of

the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/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 requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at 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 requestor/petitioner shall 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 requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements 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, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies and procedures.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day 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)–(iii). 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 decide 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 held 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 any 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 by June 27, 2016. 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 for leave to intervene set forth in this section, except that under § 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. A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish, or is not qualified, to become a party to the proceeding may, in 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 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. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by June 27, 2016.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, 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 participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). 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. 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 request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (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 Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the

participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are 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 documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site 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 Meta System Help Desk is available between 8 a.m. and 8 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 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, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document 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 *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, in some instances, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. 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 this amendment action, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station (QCNPS), Units 1 and 2, Rock Island County, Illinois

Date of amendment request: December 14, 2015. A publicly-available version is in ADAMS under Accession No. ML15348A396.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would revise the design bases in the updated final safety analysis report to reflect the use of a new criticality safety assessment (CSA) fuel channel bow/bulge methodology to support the performance of criticality safety evaluation for ATRIUM–10XM fuel design in the spent fuel pool (SFP).

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 involves a revised CSA for the QCNPS Units 1 and 2 SFPs using a new fuel channel bow/bulge methodology. The proposed change does not alter or modify the fuel, fuel handling processes, spent fuel storage racks, number of fuel assemblies that may be stored in the SFP, decay heat generation rate, or the SFP cooling and cleanup system.

The proposed change was evaluated for impact on the following previously evaluated events and accidents:

- A fuel handling accident (FHA),
- A fuel mispositioning event,
- A seismic event, and
- A loss of SFP cooling event.

The probability of a FHA is not increased because implementation of the proposed change will employ the same equipment and processes to handle fuel assemblies that are currently used. The FHA radiological consequences are not increased because the fuel channel bow/bulge methodology used in the CSA does not impact the radiological source term of a single fuel assembly. Therefore, the proposed change does not significantly increase the probability or consequences of an FHA.

Operation in accordance with the proposed change will not significantly increase the probability of a fuel mispositioning event because fuel movement will continue to be controlled by approved fuel handling procedures. These procedures continue to require identification of the initial and target locations for each fuel assembly that is

moved. The consequences of a fuel mispositioning event are not changed because the reactivity analysis demonstrates that the new subcriticality criteria and requirements will be met for the worst-case fuel mispositioning event.

Operation in accordance with the proposed change will not change the probability of a seismic event. The consequences of a seismic event are not increased because the forcing functions for seismic excitation are not increased and because the mass of storage racks has not changed.

Operation in accordance with the proposed change will not change the probability of a loss of SFP cooling event because the systems and events that could affect SFP cooling are unchanged. The consequences are not significantly increased because there are no changes in the SFP heat load or SFP cooling systems, structures or components due to the proposed change in fuel channel bow/bulge methodology used in the CSA.

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.

Onsite storage of spent fuel assemblies in the QCNPS, Units 1 and 2, SFPs is a normal activity for which QCNPS has been designed and licensed. As part of assuring that this normal activity can be performed without endangering the public health and safety, the ability to safely accommodate different possible accidents in the spent fuel pool have been previously analyzed. These analyses address accidents such as radiological releases due to dropping a fuel assembly; and potential inadvertent criticality due to misloading a fuel assembly. The proposed change does not alter the method of fuel movement or spent fuel storage and does not create the potential for a new accident.

The proposed use of a new fuel channel bow/bulge methodology for performing the QCNPS revised SFP CSA does not change or modify the fuel, fuel handling processes, spent fuel racks, number of fuel assemblies that may be stored in the pool, decay heat generation rate, or the SFP cooling and cleanup system.

The limiting fuel assembly mispositioning event does not represent a new or different type of accident. The mispositioning of a fuel assembly within the fuel storage racks has always been possible. The proposed change involves a revised CSA for the QCNPS, Units 1 and 2, SFPs using a new fuel channel bow/bulge methodology. The associated analysis results show that the storage racks remain sub-critical, with substantial margin, following a worst-case fuel misloading event.

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 change involve a significant reduction in a margin of safety?

Response: No.

The proposed change involves a revised CSA for the QCNPS, Units 1 and 2, SFPs using a new fuel channel bow/bulge methodology. This change was evaluated for its effect on margins of safety related to criticality and spent fuel heat removal capability.

QCNPS Technical Specifications Section 4.3, ''Fuel Storage,'' Specification 4.3.1.1.a requires the spent fuel storage racks to maintain the effective neutron multiplication factor, keff, less than or equal to 0.95 when fully flooded with unborated water, which includes an allowance for uncertainties. Therefore, for SFP criticality considerations, the required safety margin is five percent.

The proposed change ensures, as verified by the associated criticality analysis, that keff continues to be less than or equal to 0.95, thus preserving the required safety margin of five percent.

The proposed use of a new fuel channel bow/bulge methodology for performing the QCNPS SFP CSA does not affect spent fuel heat generation or the spent fuel cooling systems.

In addition, the radiological consequences of a dropped fuel assembly remain unchanged as the anticipated fuel damage due to a fuel handling accident is unaffected by the use of a new fuel channel bow/bulge methodology to perform the CSA. The proposed change also does not increase the capacity of the Unit 1 and Unit 2 spent fuel pools beyond the current capacity of no more than 3657 and 3897 fuel assemblies, respectively.

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: Bradley J. Fewell, Associate General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenville, Illinois 60555.

NRC Acting Branch Chief: Justin C. Poole.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station (QCNPS), Units 1 and 2, Rock Island County, Illinois

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing SUNSI.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline. This provision does not extend the time for filing a request for a hearing and petition to intervene, which must comply with the requirements of 10 CFR 2.309.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) officer if that officer has been designated to rule on information access issues.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 21st day of April, 2016.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in This Proceeding

Day	Event/Activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no "need" or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

Day	Event/Activity
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2016–09981 Filed 5–2–16; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[Docket No.: 50–133; NRC–2016–0091]

Humboldt Bay Power Plant Unit 3 License Termination Plan, Pacific Gas & Electric Company

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an environmental assessment (EA) and a finding of no significant impact (FONSI) for a license amendment request submitted by Pacific Gas and Electric Company (PG&E or licensee) related to its shutdown Humboldt Bay Power Plant (HBPP) Unit 3 License Termination Plan (LTP).

DATES: The EA and FONSI referenced in this document are available on May 3, 2016.

ADDRESSES: Please refer to Docket ID NRC–2016–0091 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0091. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at: *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at: 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Alan Bjornsen, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–6925; email: *Alan.Bjornsen@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

In accordance with section 50.90 of title 10 of the *Code of Federal Regulations* (10 CFR), and 10 CFR 50.82(a)(9), PG&E submitted a request to the NRC dated May 3, 2013 (ADAMS Accession Nos. ML13130A008 and ML13130A009, respectively) to amend its nuclear power plant operating license (DPR–7) for HBPP Unit 3 which is located near Eureka, California. The license amendment request proposed to add license conditions that incorporate the LTP and establish the criteria for determining when changes to the LTP require NRC approval. The NRC performed a safety and environmental review for this license amendment request. This EA documents the staff's environmental review and its compliance with Section 102(2) of the National Environmental Policy Act of 1969, as amended (NEPA).

II. Environmental Assessment Summary

Under the requirements of §§ 51.21 and 51.30(a), the NRC staff developed an EA (ADAMS Accession No. ML16106A054) to evaluate the proposed action to amend PG&E's operating license for HBPP Unit 3 to include the LTP. The LTP provides the basis for the NRC to ensure that the licensee has adequate funds available to complete decommissioning. In addition, the LTP enables the NRC to ensure that the licensee is using the proper radiation release criteria and to determine the adequacy of the licensee's final site survey. Upon PG&E demonstrating that it has reduced the residual radioactivity at HBPP Unit 3 to levels permitting its release for unrestricted use (in accordance with the NRC's regulation, 10 CFR 20.1402), as demonstrated by the final site survey, the NRC will terminate PG&E's license. The NRC, in the EA, considered a no-action alternative in which the NRC would not approve the LTP, therefore preventing the termination of the HBPP Unit 3 operating license. The no-action alternative would keep the PG&E operating license in effect, and the site would not be available for another use. As a result, the no-action alternative was not evaluated further in the EA. The NRC evaluated the potential impacts to threatened and endangered species, environmental justice, and offsite land use for waste disposal. The NRC determined that approval of the LTP for HBPP Unit 3 would not result in a significant impact to the human environment.

The NRC staff consulted with a number of Federal, State and local agencies, and other parties regarding the potential environmental impacts of the proposed action. These consultations were intended to afford these agencies and parties the opportunity to comment on the proposed action, and to ensure that the requirements of Section 102(2) of NEPA, Section 106 of the National Historic Preservation Act, Section 7 of the Endangered Species Act, and Section 305 of the Magnuson-Stevens Fishery Conservation and Management Act were met. Regarding these laws, the NRC staff requested input from the Army Corps of Engineers and consulted with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the California Office of Historic Preservation, the California Native American Heritage Commission, the California Office of Native American Affairs, three Federally-recognized Native American Tribes (the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue

Lake Rancheria), and the City of Eureka. The NRC staff used the information provided during the consultations to inform the EA.

The NRC provided a draft copy of the EA to the California State Department of Health for review on March 9, 2016 (ADAMS Accession No. ML14169A392) and did not receive any comments.

III. Finding of No Significant Impact

The NRC staff prepared an EA in support of the proposed action. The EA is available at ADAMS Accession No. ML16106A054. The NRC staff concluded that the proposed action to amend PG&E's license for HBPP Unit 3 to include the LTP will not significantly impact the quality of the human environment, and that the proposed action is the preferred alternative. Therefore, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a FONSI is appropriate. The FONSI incorporates the EA by reference.

Dated at Rockville, Maryland, this 26th day of April 2016.

For the Nuclear Regulatory Commission.

Craig G. Erlanger,

Acting Director, Division of Fuel Cycle Safety, Safeguards, and Environmental Review Office of Nuclear Materials Safety and Safeguards.

[FR Doc. 2016–10321 Filed 5–2–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0001]

Sunshine Act Meeting Notice

DATE: May 2, 2016.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of May 2, 2016

Wednesday, May 4, 2016

9:25 a.m. Affirmation Session (Public Meeting) (Tentative)

Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3)—State of New York Petitions for Review of LBP–13–13 and Associated Board Decision on Contention NYS–12C (Tentative)

* * * * *

Additional Information

By a vote of 4–0 on April 28, 2016, the Commission determined pursuant to U.S.C. 552b(e) and 9.107(a) of the Commission's rules that both items in the above referenced Affirmation Session be held with less than one week notice to the public. The meeting is scheduled on May 4, 2016.

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: April 28, 2016.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2016–10374 Filed 4–29–16; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0001]

Sunshine Act Meeting Notice

DATE: May 2, 9, 16, 23, 30, June 6, 2016.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of May 2, 2016

There are no meetings scheduled for the week of May 2, 2016.

Week of May 9, 2016—Tentative

There are no meetings scheduled for the week of May 9, 2016.

Week of May 16, 2016—Tentative

Tuesday, May 17, 2016

9:00 a.m. Briefing on the Status of Lessons Learned from the Fukushima Dai-ichi Accident (Public Meeting) (Contact: Kevin Witt: 301–415–2145)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Thursday, May 19, 2016

10:00 a.m. Briefing on Security Issues (Closed Ex. 1)

1:30 p.m. Briefing on Security Issues (Closed Ex. 1)

Week of May 23, 2016—Tentative

There are no meetings scheduled for the week of May 23, 2016.

Week of May 30, 2016—Tentative

Thursday, June 2, 2016

9:00 a.m. Briefing on Results of the Agency Action Review Meeting (Public Meeting) (Contact: Andrew Waugh: 301–415–5601)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

2:00 p.m. Discussion of Management and Personnel Issues (Closed—Ex. 2 & 6)

Week of June 6, 2016—Tentative

There are no meetings scheduled for the week of June 6, 2016.

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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reasonable accommodation will be made on a case-by-case basis.

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Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: April 28, 2016.

Denise McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2016–10373 Filed 4–29–16; 11:15 am]

BILLING CODE 7590–01–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Draft Report on Strengthening the Medicolegal Death Investigation System: Improving Data Systems

ACTION: Notice of request for public comment.

SUMMARY: The nation's approximately 2,400 medical examiner and coroner (ME/C) jurisdictions investigate nearly 500,000 deaths each year and perform post-mortem examinations and/or autopsies to determine the cause of death. While the function and organization of these offices vary by state, medical examiners and coroners typically investigate deaths that are sudden and unexpected, deaths that have no attending physician, and all suspicious and violent deaths. Strengthening the ME/C system is critical for improving the accuracy and reliability of these death investigations and will benefit public health and safety programs, law enforcement investigations, and the development of interventions to prevent deaths nationwide.

The National Science and Technology Council's Fast Track Action Committee on Strengthening the Medicolegal Death Investigation System was chartered in July 2015 to make strategic policy recommendations at the Federal level on how to address issues related to accessing and working with data generated by ME/C offices. Importantly, these policy recommendations will not only strengthen medicolegal death investigations, but would also enhance public health and the integrity of the criminal justice system, and further public health and medical research. The Committee is seeking input on a series of specific questions, as well as general feedback on the content of the report.

DATES: Responses must be received by May 27, 2016 to be considered.

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

- *Web form: https://www.whitehouse.gov/webform/Medicolegal-Death-Investigation-System-Public-Comment*
- *Fax:* (202) 456–6027, Attn: Eleanor Celeste.
- *Mail:* Attn: Eleanor Celeste, Office of Science and Technology Policy, Eisenhower Executive Office Building, 1650 Pennsylvania Ave. NW., Washington, DC 20504.

Instructions: Response to this Request for Public Comment is voluntary. Responses exceeding 1,000 words will not be considered. Please reference page numbers in your response, as appropriate. Submission via web form is preferred. Responses to this Request for Public Comment may be posted online without change online. The Office of Science and Technology Policy (OSTP) therefore requests that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to this request. Please note that the U.S. Government will not pay for response preparation, or for the use of any information contained in the response.

FOR FURTHER INFORMATION CONTACT: Eleanor Celeste, (202) 456–4444, *Science@ostp.eop.gov,* OSTP.

SUPPLEMENTARY INFORMATION: The 2009 National Research Council report ''Strengthening Forensic Science in the United States: A Path Forward'' described the current Medicolegal Death Investigation System (MDIS) as fragmented, inconsistent, and of insufficient quality for the needs of health, consumer safety, and law enforcement officials. The report identified a number of specific problems with the current system.

Many Federal agencies rely on the data generated by the MDIS to further their missions, and therefore share an interest in ensuring that these data are accurate, reliable, and readily accessible. In 2015, OSTP established under the National Science and Technology Council a Fast-Track Action Committee on Strengthening the Medicolegal Death Investigation System (FTAC–SMDIS) to identify and recommend strategic policy measures that can be implemented by Federal agencies in coordination with State and local agencies to improve the quality, uniformity, and availability of MDIS data in order to maximize the utility of these data for Federal purposes.

More than 12 Federal departments, agencies, and components of the Executive Office of the President comprised the FTAC–SMDIS. Together the group identified current uses of MDIS data by Federal agencies, existing barriers to accessing and working with these data, data quality issues, and opportunities for addressing those challenges. The group developed a report detailing specific recommendations on actions the Federal government as well as State, local, and Tribal entities can take on priority issues to improve data systems for the MDIS. SMDIS–FTAC now is seeking public comment on this report (available at: *https://www.whitehouse.gov/sites/default/files/microsites/ostp/NSTC/strengthening_the_medicolegal_death_investigation_system_draft_for_public_comment_4_21.pdf*) in advance of finalizing the document for publication. The Committee is seeking specific input on the following questions, as well as general feedback on the content of the report.

- Are there scientific and technical issues surrounding data quality and access within the MDI System that the FTAC should be aware of and include in its report?
- Are there additional recommendations to improve data systems that would be impactful to the MDI System, based on the scientific and technical literature?

Ted Wackler,

Deputy Chief of Staff and Assistant Director.

[FR Doc. 2016–10308 Filed 5–2–16; 8:45 am]

BILLING CODE 3270–F6–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77721; File No. SR–BatsBZX–2016–11]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Period for the Exchange's Supplemental Competitive Liquidity Provider Program

April 27, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 22, 2016, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 filed a proposal to extend the pilot period for the Exchange's Supplemental Competitive Liquidity Provider Program (the ''Program''), which is currently set to expire on April 28, 2016, for three months, to expire on July 28, 2016.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

On August 30, 2011, the Exchange received approval of rules applicable to the qualification, listing and delisting of securities of issuers on the Exchange.[3] More recently, the Exchange received approval to operate a pilot program that is designed to incentivize certain Market Makers[4] registered with the Exchange as ETP CLPs, as defined in Interpretation and Policy .03 to Rule 11.8, to enhance liquidity on the Exchange in certain ETPs[5] listed on the Exchange and thereby qualify to receive part of a daily rebate as part of the Program under Interpretation and Policy .03 to Rule 11.8.[6]

The Program was approved by the Commission on a pilot basis running one-year from the date of implementation.[7] The Commission approved the Program on July 28, 2014.[8] The Exchange implemented the Program on July 28, 2014 and the pilot period for the Program was originally scheduled to end on July 28, 2015 until it was extended to end on October 28, 2015,[9] later extended to January 28, 2016,[10] and, most recently, extended to April 28, 2016.[11]

Proposal To Extend the Operation of the Program

The Exchange established the Program in order to enhance liquidity on the Exchange in certain ETPs listed on the Exchange (and thereby enhance the Exchange's ability to compete as a listing venue) by providing a mechanism by which ETP CLPs compete for part of a daily quoting incentive on the basis of providing the most aggressive quotes with the greatest amount of size. Such competition has the ability to reduce spreads, facilitate the price discovery process, and reduce costs for investors trading in such securities, thereby promoting capital formation and helping the Exchange to compete as a listing venue. The Exchange believes that extending the pilot is appropriate because the Exchange has prepared and is also planning to submit a proposal to make the Program permanent. As part of this proposal, the Exchange has also prepared a report analyzing the Program. As such, the Exchange believes that it is appropriate to extend the current operation of the Program for three months in order to provide enough time for the Program to continue operating while such proposal is under consideration by the Commission. Through this filing, the Exchange seeks to extend the current pilot period of the Program until July 28, 2016.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6(b) of the Act.[12] In particular, the Exchange believes the proposed change furthers the objectives of section 6(b)(5) of the Act,[13] 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that extending the pilot period for the Program is consistent with these principles because the Program is reasonably designed to enhance quote competition, improve liquidity in securities listed on the Exchange, support the quality of price discovery, promote market transparency, and increase competition for listings and trade executions, while reducing spreads and transaction costs in such securities. Maintaining and increasing liquidity in Exchange-listed securities will help raise investors' confidence in the fairness of the market and their transactions. The extension of the pilot period will allow Exchange to continue to operate the Program while its proposal to make the Program permanent is under consideration by the Commission.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change extends an established pilot program for three months, thus allowing the Program to enhance competition in both the listings market and in competition for market makers. The Program will continue to promote competition in the listings market by providing issuers with a vehicle for paying the Exchange additional fees in exchange for incentivizing tighter spreads and deeper liquidity in listed securities and allow the Exchange to continue to compete with similar programs at Nasdaq Stock

[3] *See* Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[4] As defined in BZX Rules, the term ''Market Maker'' means a Member that acts as a market maker pursuant to Chapter XI of BZX Rules.

[5] ETP is defined in Interpretation and Policy .03(b)(4) to Rule 11.8.

[6] *See* Securities Exchange Act Release No. 72692 (July 28, 2014), 79 FR 44908 (August 1, 2014) (SR–BATS–2014–022) (''CLP Approval Order'').

[7] *See id* at 44909.

[8] *Id.*

[9] *See* Securities Exchange Act Release No. 75518 (July 24, 2015), 80 FR 45566 (July 30, 2015 (SR–BATS–2015–55).

[10] *See* Securities Exchange Act Release No. 76293 (October 28, 2015), 80 FR 67808 (November 3, 2015) (SR–BATS–2015–96).

[11] *See* Securities Exchange Act Release No. 77033 (February 2, 2016), 81 FR 6558 (February 8, 2016) (SR–BATS–2016–12).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

Market LLC[14] and NYSE Arca Equities, Inc.[15]

The Exchange also believes that extending the pilot program for an additional three months will allow the Program to continue to enhance competition among market participants by creating incentives for market makers to compete to make better quality markets. By continuing to require that market makers both meet the quoting requirements and also compete for the daily financial incentives, the quality of quotes on the Exchange will continue to improve. This, in turn, will attract more liquidity to the Exchange and further improve the quality of trading in exchange-listed securities participating in the Program, which will also act to bolster the Exchange's listing business.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[16] and paragraph (f)(6) of Rule 19b–4 thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative before 30 days from the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[18] the Commission may 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. The Exchange asserts that waiver of the operative delay will allow the Exchange to extend the Program prior to its expiration on April 28, 2016, which will ensure that the Program continues to operate uninterrupted while the Exchange and the Commission continue to analyze data regarding the Program. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BatsBZX–2016–11 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 No. SR–BatsBZX–2016–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsBZX–2016–11 and should be submitted on or before May 24, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–10270 Filed 5–2–16; 8:45 am]

BILLING CODE 8011–01–P

[14] *See* Securities Exchange Act Release No. 69195 (March 20, 2013), 78 FR 18393 (March 26, 2013) (SR–NASDAQ–2012–137).

[15] *See* Securities Exchange Act Release No. 69335 (April 5, 2013), 78 FR 35340 (June 12, 2013) (SR–NYSEARCA–2013–34).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77726; File No. SR–FINRA–2016–013]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delay Implementation of FINRA Rule 2242 (Debt Research Analysts and Debt Research Reports)

April 27, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 20, 2016, 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 and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is proposing to delay implementation of FINRA Rule 2242 (Debt Research Analysts and Debt Research Reports) until July 16, 2016. The proposed rule change would not make any other changes to FINRA rules.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On November 14, 2014, FINRA filed proposed rule change SR–FINRA–2014–048 to adopt new FINRA Rule 2242 (Debt Research Analysts and Debt Research Reports) to address conflicts of interest relating to the publication and distribution of debt research reports.[4] On February 19, 2015, FINRA filed Amendment No. 1 responding to the comments received to the proposal as well as to propose amendments in response to these comments.[5] The proposed rule change, as modified by Amendment No. 1 thereto, was approved by the Commission on July 16, 2015.[6]

Pursuant to proposed rule change SR–FINRA–2014–048, FINRA proposed to announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. FINRA further stated that the effective date will be no later than 180 days following publication of the *Regulatory Notice* announcing Commission approval. FINRA announced an effective date of February 22, 2016 in a *Regulatory Notice* published on August 26, 2015.[7] In response to industry questions regarding implementation of the requirements of Rule 2242, FINRA delayed implementation of Rule 2242 until April 22, 2016.[8]

FINRA continues to receive questions regarding implementation of the requirements of Rule 2242. Therefore, to give members additional time to implement the requirements of Rule 2242, FINRA believes that it is appropriate to extend the implementation date and is proposing to delay implementation of Rule 2242 until July 16, 2016.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[9] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes the proposed rule change is consistent with the Act in that it provides members additional time to implement the requirements of Rule 2242, which addresses conflicts of interest relating to the publication and distribution of debt research reports.

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 proposed delay in implementation of Rule 2242 will reduce the burden on members by allowing additional time to implement the requirements of the Rule.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

Under Rule 19b–4(f)(6) of the Act,[12] the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. FINRA has requested that the Commission waive the 30-day operative delay so that the proposed rule change will become operative on filing. FINRA stated that its members continue to submit questions regarding implementation of Rule 2242 and it would like to respond to the industry's questions before the Rule is implemented. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release No. 73623 (November 18, 2014), 79 FR 69905 (November 24, 2014) (Notice of Filing File No. SR–FINRA–2014–048).

[5] *See* Securities Exchange Act Release No. 74490 (March 12, 2015), 80 FR 14198 (March 18, 2015) (Notice of Filing Amendment No. 1 to File No. SR–FINRA–2014–048).

[6] *See* Securities Exchange Act Release No. 75472 (July 16, 2015), 80 FR 43528 (July 22, 2015) (Order Approving File No. SR–FINRA–2014–048).

[7] *See Regulatory Notice* 15–31 (August 2015).

[8] *See* Securities Exchange Act Release No. 77158 (February 17, 2016), 81 FR 9065 (February 23, 2016) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2016–008).

[9] 15 U.S.C. 78*o*–3(b)(6).

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

[12] *Id.*

[13] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–2016–013 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–2016–013. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2016–013, and should be submitted on or before May 24, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–10273 Filed 5–2–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77722; File No. SR–NASDAQ–2016–034]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of a Proposed Rule Change Regarding Monthly Distributions, Excess Returns, and Share Index Factors of Certain AccuShares® Trust I Funds

April 27, 2016.

On March 2, 2016, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify specific listing requirements applicable to shares of certain funds issued by AccuShares® Trust I (''AccuShares Trust''). The proposed rule change was published for comment in the **Federal Register** on March 17, 2016.[3] The Commission received two comments on the proposed rule change.[4] This order grants approval of the proposed rule change.

I. Background

On February 18, 2015, the Commission approved an Exchange proposal to adopt NASDAQ Rule 5713, which governs the listing and trading of Paired Class Shares, and to list and trade shares of the following seven funds issued by the AccuShares Trust pursuant to NASDAQ Rule 5713: (1) AccuShares S&P GSCI® Spot Fund; (2) AccuShares S&P GSCI® Agriculture and Livestock Spot Fund; (3) AccuShares S&P GSCI® Industrial Metals Spot Fund; (4) AccuShares S&P GSCI® Crude Oil Spot Fund; (5) AccuShares S&P GSCI® Brent Oil Spot Fund; (6) AccuShares S&P GSCI® Natural Gas Spot Fund; and (7) AccuShares Spot CBOE® VIX® Fund (''VIX Fund,'' and collectively, ''AccuShares Funds'').[5]

NASDAQ Rule 5713(c) defines a Paired Class Share as a security: (1) That is issued by a trust on behalf of a segregated series (''Fund''), as part of a pair of shares of opposing classes whose respective underlying values move in opposite directions as the value of the Fund's ''Underlying Benchmark''[6] varies from its starting level, where (a) one constituent of the pair is positively linked to the Fund's Underlying Benchmark (''Up Shares''), and (b) the other constituent is inversely linked to the Fund's Underlying Benchmark (''Down Shares''); (2) that is issued in exchange for cash; (3) the issuance proceeds of which are invested and reinvested in highly rated, short-term financial instruments that mature within 90 calendar days and that serve the functions of (a) covering the Fund's expenses, (b) providing income distributions to investors, based on income (after expenses) from the financial instruments held by the Fund, (c) providing cash proceeds for regular and special distributions to be made in cash in lieu of Paired Class Shares, and (d) providing cash proceeds to be paid upon the redemption of Paired Class Shares; (4) that represents a beneficial interest in the Fund; (5) the value of which is determined by the underlying value of the Fund that is attributable to the class of which such security is a part, which security underlying value will either (a) increase as a result of an increase in the Underlying Benchmark and decrease as a result of a decrease in the Underlying Benchmark (in the case of an Up Share), or (b) increase as a result of a decrease in the Underlying Benchmark and decrease as the result of an increase in the Underlying Benchmark (in the case of a Down Share); (6) that, when timely aggregated in a specified minimum number or amount of securities, along with an equal number or amount of the securities of the opposite class that constitute the other part of the pair, may be redeemed for a distribution of cash on specified dates by authorized parties; and (7) that may be subject to

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[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77353 (Mar. 11, 2016), 81 FR 14489 (''Notice'').

[4] In a comment letter dated March 27, 2016, an anonymous commenter stated: ''Good.'' In another comment letter dated March 27, 2016, Dan Schumann stated: ''Please do NOT change any rules that would limit-stop-prevent the trading of ETF's [sic].'' All comments on the proposal are available at: *http://www.sec.gov/comments/sr-nasdaq-2016–034/nasdaq2016034.shtml.*

[5] *See* Securities Exchange Act Release No. 74299 (Feb. 18, 2015), 80 FR 9778 (Feb. 24, 2015) (SR–NASDAQ–2014–065). The Exchange states that currently only shares of the VIX Fund are listed and trading. *See* Notice, *supra* note 3, 81 FR at 14489 n.4.

[6] An ''Underlying Benchmark'' is an index or other numerical variable whose value reflects the value of assets, prices, price volatility, or other economic interests. *See* NASDAQ Rule 5713(e).

mandatory redemption of all Paired Class Shares under specified circumstances.

The custodian of an Accushares Fund uses a mathematical formula to calculate the liquidation value attributable to each of its classes of Paired Class Shares (''Class Value'') and to each share of each class (''Class Value per Share'') at the end of each Regular Market Session. The Class Value per Share of each Accushares Fund's Up Shares will have a fixed one-to-one positive linear relationship with the fund's Underlying Benchmark (''Up Share Index Factor''), and the Class Value per Share of each fund's Down Shares will have a fixed one-to-one inverse linear relationship with the fund's Underlying Benchmark (''Down Share Index Factor,'' and together with the Up Share Index Factor, collectively, ''Share Index Factors''). The Down Share Index Factor will equal negative one times the Up Share Index Factor. Share Index Factors are used to determine the Class Value and Class Value Per Share of each Accushares Fund.[7]

The sponsor of an Accushares Fund establishes an Accushares Fund's Share Index Factors at the inception of the fund's operation, and, after any regular or special distribution, the fund resets its Share Index Factors. For the VIX Fund, regular distributions are on the 15th of every month.

II. Summary of the Proposed Rule Change

In this proposal, NASDAQ proposes the following changes applicable to the listing and trading of shares of certain AccuShares Funds.

A. Frequency of Regular Distributions [8]

With respect to the listing requirements for the AccuShares S&P® GSCI® Industrial Metals Spot Fund, AccuShares S&P® GSCI® Crude Oil Spot Fund, and AccuShares S&P® GSCI® Brent Oil Spot Fund (collectively, ''Distribution Funds''), the Exchange proposes to change the frequency of regular distributions from quarterly to monthly.

B. Changes to the Underlying Benchmark [9]

With respect to the listing requirements for the AccuShares S&P® GSCI® Crude Oil Spot Fund and the AccuShares S&P® GSCI® Natural Gas Spot Fund, the Exchange proposes to change the respective Underlying Benchmarks, as follows: (1) For the AccuShares S&P® GSCI® Crude Oil Spot Fund, the Exchange proposes to change this fund's Underlying Benchmark from the ''S&P GSCI Crude Oil Spot Index'' to the ''S&P GSCI Crude Oil Excess Return Index;'' [10] and (2) for the AccuShares S&P® GSCI® Natural Gas Spot Fund, the Exchange proposes to change this fund's Underlying Benchmark from the ''S&P GSCI Natural Gas Spot Index'' to the ''S&P GSCI Natural Gas Excess Return Index.'' [11]

According to the Exchange, both the spot and the excess return variants of each respective Underlying Benchmark are computed from the same underlying futures contracts at the same point in time. The difference between the two variants occurs only on 5 trading days: The 5th through the 9th trading days of each month (''five-day period''). During the five-day period, each Underlying Benchmark, whether monthly return or excess return, moves its reference from the front-month expiry contract to the next following contract (that is, the futures contract for the next consecutive expiry month) in five equal installments of 20% per day to capture the cost or the benefit from rolling the nearby front-month expiry contract into the next following expiry contract. In the excess return variant, the cost or benefit of transacting out of the current or front-month expiry contract and into the next or following futures contract is added to (or subtracted from) the index value. In contrast, in the spot variant, this cost or benefit is not added to (or subtracted from) the index value, and therefore gives rise to the need for anticipatory hedging that is market makers and authorized participants expect to result in increased bid/offer spreads.

C. Changes to the VIX Fund [12]

The Exchange proposes, with respect to the VIX Fund, that: (1) The Share Index Factors be reset each Tuesday (as well as after regular and special distributions); and (2) the regular distributions be made on the third Tuesday of every month (rather than on the 15th of every month) so that each monthly distribution date and the end of each monthly measuring period coincide with a Share Index Factor reset.

III. Discussion and Commission Findings

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[13] In particular, and as discussed further below, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,[14] which requires, among other things, that the Exchange's rules be designed 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 mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest.[15]

With respect to the proposed changes to the frequency of monthly distributions for the Distribution Funds, the Commission believes that the proposed changes are reasonably designed to: (1) Allow investors to realize and reallocate gains from the Distribution Funds more frequently; and (2) appropriately align the changes in the Class Values per Share of both the Up Shares and the Down Shares with changes in the corresponding Underlying Benchmark values. The Commission believes that these more-frequent regular distributions may improve both trading in, and hedging of, the shares, because monthly distributions and the corresponding monthly Share Index Factor resets would more closely align these funds with the most liquid monthly futures contracts. The Commission notes that, in support of this proposed change, the Exchange makes the following representations: (1) In each instance of a distribution, the sponsor will continue to post a notice of the event and its details on the sponsor's Web site (*www.AccuShares.com*); and (2) each Accushares Fund engaging in a regular

[7] *See* Notice, *supra* note 3, 81 FR at 14491.

[8] *See id.,* 81 FR at 14491–92.

[9] *See id.,* 81 FR at 14492–93.

[10] As a result of the proposed change to the Underlying Benchmark, the Exchange also proposes to change the name of this fund to ''AccuShares S&P® GSCI® Crude Oil Excess Return Fund.''

[11] As a result of the proposed change to the Underlying Benchmark, the Exchange also proposes to change the name of this fund to ''AccuShares S&P® GSCI® Natural Gas Excess Return Fund.''

[12] *See id.,* 81 FR at 14493.

[13] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] The Commission notes that, other than the changes described herein, all of the representations in support of the Prior Order remain unchanged. *See* Notice, *supra* note 3, 81 FR at 14493 (noting that, other than the three proposed changes, the ''representations made in the original AccuShares Order and AccuShares Proposal remain unchanged''). *See supra* note 5; *see also* Notice, *supra* note 3, 81 FR at 14489 n.4 (citing to the AccuShares Order and AccuShares Proposal).

distribution (or, a special distribution, corrective distribution, or net income distribution) will continue to provide at least three business days' advance notice (or longer advance notice as may be required by the Exchange) [16] of such an event, as currently required.[17]

With respect to the proposed changes to the Underlying Benchmarks for the AccuShares S&P® GSCI® Crude Oil Spot Fund and the AccuShares S&P® GSCI® Natural Gas Spot Fund, the Commission agrees that the excess return variant—which, in contrast to the spot variant, captures the cost or benefit of transacting out of the current or front-month expiry contract and into the next or following futures contract—is not a novel or unique index variant and is one that is employed by other types of exchange-traded products.[18] The Commission believes that the proposed changes to the Underlying Benchmarks for the AccuShares S&P® GSCI® Crude Oil Spot Fund and the AccuShares S&P® GSCI® Natural Gas Spot Fund are reasonable because the excess return variant for these Underlying Benchmarks, which contains the cost or benefit of the roll forward, is reasonably designed to permit more efficient hedging with conventional futures contracts.[19]

With respect to the proposal to reset the Share Index Factors of the VIX Fund more frequently (*i.e.,* weekly), the Commission believes that more frequent resets of the Share Index Factors for the VIX Fund are reasonably designed to benefit market participants that trade shares of the VIX Fund because the increased frequency may improve the arbitrage function of the shares by aligning the setting of the Share Index Factors with the expiry of each weekly VIX futures contract, and because the Share Index Factor will reset with a frequency closer to the daily measurements of spot VIX. The changes to the VIX Fund support the prospect of improved and simplified arbitrage and hedging of VIX Fund shares because the settlement of the shorter VIX futures will coincide with each Share Index Factor reset. In addition, the potentially improved hedgeability of the VIX Fund shares as a result of the proposed changes is expected to bring the share trading prices closer aligned with the corresponding share Class Values, which are tied directly to changes in spot VIX values.

The Commission notes that it received two comments regarding the proposed rule change: one comment supporting the proposal; and another comment addressing exchange-traded funds generally. The Commission notes that the issue raised by the latter comment does not squarely address the Paired Class Shares, which are the subject of this proposed rule change.[20]

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act [21] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NASDAQ–2016–034) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–10271 Filed 5–2–16; 8:45 am]

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[16] The Exchange may determine that longer notice is advisable in some circumstances (*e.g.,* an extended market break).

[17] *See* Notice, *supra* note 3, 81 FR at 14492.

[18] *See id.,* 81 FR at 14492 n.25 and accompanying text.

[19] The Exchange represents that the excess return variant is an index variant that (1) has been used by and is familiar to market makers and other market participants; and (2) is directly hedgeable with conventional futures contracts, which contain the cost or benefit of the roll forward. *See id.,* 81 FR at 14492.

[20] *See supra* note 4.

[21] 15 U.S.C. 78f(b)(5).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Form SD, SEC File No. 270–647, OMB Control No. 3235–0697.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form SD (17 CFR 249b–400) under Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act'') pursuant to Section 13(p)(15 U.S.C. 78m(p)) of the Exchange Act is filed by issuers to provide disclosures regarding the source and chain of custody of certain minerals used in their products. The information provided is mandatory and all information is made available to the public upon request. We estimate that Form SD takes approximately 480.61 hours per response to prepare and is filed by approximately 864 issuers. We estimate that 75% of the 480.61 hours per response (360.46 hours) is prepared by the issuer internally for a total annual burden of 311,437 hours (360.46 hours per response × 864 responses).

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 control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: April 27, 2016.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–10267 Filed 5–2–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Order of Suspension of Trading; In the Matter of Pioneer Exploration, Inc., Premier Brands, Inc., and Private Media Group, Inc.

April 29, 2016.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pioneer Exploration, Inc. (CIK No. 1364123), a revoked Nevada corporation with its principal place of business listed as Newport Beach, California, with stock quoted on OTC Link (previously, ''Pink Sheets'') operated by OTC Markets Group Inc. (''OTC Link'') under the ticker symbol PIEX, because it has not

filed any periodic reports since the period ended May 31, 2013. On August 19, 2015, a delinquency letter was sent by the Division of Corporation Finance to Pioneer Exploration requesting compliance with its periodic filing obligations, but it did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Premier Brands, Inc. (CIK No. 1502777), a Wyoming corporation with its principal place of business listed as Bonita, California, with stock quoted on OTC Link under the ticker symbol BRND, because it has not filed any periodic reports since the period ended May 31, 2013. On August 19, 2015, a delinquency letter was sent by the Division of Corporation Finance to Premier Brands, Inc. requesting compliance with its periodic filing obligations, and Premier Brands, Inc. received the delinquency letter on August 22, 2015, but failed to cure its delinquencies.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Private Media Group, Inc. (CIK No. 1068084), a Nevada corporation with its principal place of business listed as Barcelona, Spain, with stock quoted on OTC Link under the ticker symbol PRVT, because it has not filed any periodic reports since the period ended June 30, 2013. On August 18, 2015, a delinquency letter was sent by the Division of Corporation Finance to Private Media Group, Inc. requesting compliance with its periodic filing obligations, but it did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of EDGAR Filer Manual).

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on April 29, 2016, through 11:59 p.m. EDT on May 12, 2016.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2016–10407 Filed 4–29–16; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77734; File No. SR–NYSEMKT–2016–49]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change Amending the Definition of ''Block'' for Purposes of Rule 72(d)—Equities and the Size of a Proposed Cross Transaction Eligible for the Cross Function in Rule 76—Equities

April 27, 2016.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 22, 2016, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the definition of ''block'' for purposes of Rule 72(d)—Equities and the size of a proposed cross transaction eligible for the Cross Function in Rule 76—Equities. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the definition of ''block'' for purposes of Rule 72(d)—Equities and the size of a proposed cross transaction eligible for the Cross Function in Rule 76—Equities. Under Rule 72(d)—Equities, when a member [4] has an order to buy and an order to sell an equivalent amount of the same security, and both orders are ''block'' orders, the member may cross those orders at a price at or within the Exchange best bid or offer and does not have to break up the cross transaction to trade with any bids or offers previously displayed at the Exchange best bid or offer, including any interest with priority. For purposes of Rule 72(d)—Equities, a ''block'' is at least 10,000 shares or a quantity of stock having a market value of $200,000 or more, whichever is less.

Further, Rule 76—Equities governs the execution of ''cross'' or ''crossing'' orders by Floor Brokers. Rule 76—Equities applies only to manual transactions executed at the point of sale on the trading floor and provides that when a member has an order to buy and an order to sell the same security that can be crossed at the same price, the member is required to announce to the trading crowd the proposed cross by offering the security at a price that is higher than his or her bid by a minimum variation permitted in the security before crossing the orders. Any other member, including the DMM, can break up the announced bid and offer by trading with either side of the proposed cross transaction. Supplementary [sic] .10 to Rule 76—Equities provides for a ''Cross Function'' that Floor brokers may use to monitor compliance with Rule 611 of Regulation NMS. To be eligible for this Cross Function, the proposed cross transaction must be for at least 10,000 shares or a quantity of stock having a market value of $200,000 or more.

The Exchange proposes to amend the permissible size of a crossing transaction permitted under Rule 72(d)—Equities and Supplementary Material .10 to Rule 76—Equities to be

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[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The reference to ''member'' in Rule 72(d)—Equities and this rule proposal means only Floor Broker members. Designated Market Makers (''DMMs''), while members of the Exchange, do not have any agency relationships, and are therefore not able to effect this type of transaction.

at least 5,000 shares or a quantity of stock having a market value of $100,000 or more, whichever is less. The Exchange's proposed definition of block size would more closely align with how a block-sized transaction is defined in other SEC rules and other exchanges' rules.[5] For example, SEC Rule 10b–18 (Purchases of certain equity securities by the issuer and others) includes in the definition of a block a quantity of stock that is at least 5,000 shares and has a purchase price of at least $50,000.[6] Additionally, Financial Industry Regulatory Authority, Inc. (''FINRA'') defines a block-sized order as being 10,000 shares or more, unless such orders are less than $100,000 in value.[7] The CBOE Stock Exchange (''CBSX'') Rule 52.11 also permits a cross of two orders so long as the crossing transaction is of at least 5,000 shares and is for a principal amount of at least $100,000.[8] More recently, in approving the National Market System Plan to Implement a Tick Size Pilot Program (''Tick Size Pilot''),[9] the SEC approved a modified definition of ''block size'' such that an order of at least 5,000 shares or with a market value of at least $100,000 would be considered a block size for purposes the Tick Size Pilot. In approving the Tick Size Pilot, the Commission noted that among all NMS securities, trades with at least 10,000 shares or with a market value of at least $200,000 constitute just 0.24 percent of all trades, 13.04 percent of traded share volume and 16.27 percent of traded dollar volume.[10] The Exchange believes modifying the definition of a block order in its rules would likely result in a greater number of large size orders being executed on the Exchange.

The Exchange believes the proposed rule change would promote increased trading by institutions as they are most frequent participants of block-sized trading on the Exchange. If an institution is able to execute in larger sizes, the contra party to the execution is less likely to be a participant that reacts to short term changes in the stock price and as such the price impact to the stock could be less acute when larger individual executions are obtained by the institution.[11] As a consequence of this concern, large size orders are often executed away from the Exchange in dark pools or via broker-dealer internalization.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would attract more order flow to the Exchange that is currently trading on less transparent venues that contribute less to price discovery and price competition than executions and quotes that occur on lit markets. Such new order flow will further enhance the depth and liquidity on the Exchange, which supports just and equitable principles of trade. Specifically, as required under Rule 76—Equities, any proposed crossing transaction, including a transaction using the Cross Function or a cross that meets the requirements of Rule 72(d)—Equities, must be announced in the Crowd before trading, thus providing an opportunity for other market participants, including other Floor brokers or the designated market maker, to participate in the proposed crossing transaction. By reducing the size of a block transaction, the Exchange believes that additional order flow may be routed to Floor brokers and thus be subject to such exposure requirements on the Trading Floor.

The Exchange believes that modifying the definition of block orders to lower the thresholds would be consistent with the public interest and the protection of investors because the Exchange is proposing to align the definition of block orders to current SEC and other exchange rules which the Exchange expects will result in increased participation of large-sized orders on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the proposed change will align the definition of a ''block'' with current SEC and other exchange rules, thereby promoting its competitiveness with dark pools where such large-sized orders currently trade in more frequency than on lit markets. As a consequence, the proposed change will promote competition among the many trading venues, which, in turn, will decrease the burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[5] For purposes of Regulation NMS, a ''block size'' with respect to an order means it is: (i) Of at least 10,000 shares or (ii) for a quantity of stock having a market value of at least $200,000. *See* 17 CFR 242.600(a)(9). The term ''block size'' is used in Regulation NMS in the definition of an OTC Market Marker, 17 CFR 242.600(a)(52), and in an exception to specialists' and OTC Market Makers' obligation to display customer limit orders, 17 CFR 242.604(b)(4). The definition of ''block size'' in Regulation NMS is the same as the Exchange's current definition of ''block'' for purposes of Rule 72(d)—Equities and the size of a proposed cross transaction eligible for the Cross Function in Rule 76—Equities. The Exchange's proposal to change its rules does not change the definition of ''block size'' as used in Regulation NMS.

[6] *See* 17 CFR 240.10b–18(a)(5)(ii).

[7] *See* FINRA Rule 5320, Supplementary Material .01.

[8] *See* CBSX Rule 52.11 Facilitation of Orders and Crossing Trades, Chapter LII—Trading Rules and Processing of Orders. In September 2006, the Commission approved rules governing the trading of non-option securities traded on the Chicago Board Options Exchange, Inc. (''CBOE''), including CBSX Rule 52.11. *See* Securities Exchange Act Release No. 54422 (September 11, 2006), 71 FR 54537 (September 15, 2006) (Approving SR–CBOE–2004–21). The Commission also approved modifications to CBOE's non-option trading rules to conform those rules to aspects of Regulation NMS. *See* Securities Exchange Act Release No. 54526 (September 27, 2006), 71 FR 58646 (October 4, 2006) (Approving SR–CBOE–2006–70). Although CBSX has ceased trading operations, the CBSX rules are incorporated into the rules of the CBOE.

[9] *See* Securities Exchange Act Release No. 34–74892 (May 6, 2015), 80 FR 27514 (May 13, 2015) File No. 4–657 (Order Approving the National Market System Plan To Implement a Tick Size Pilot Program by BATS Exchange, Inc. BATS–Y Exchange, Inc., Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc., as Modified by the Commission, for a Two-Year Period) (''Tick Size Approval Order).

[10] *See* Tick Size Approval Order at 27541.

[11] The Commission has long recognized this concern: ''Another type of implicit transaction cost reflected in the price of a security is short-term price volatility caused by temporary imbalances in trading interest. For example, a significant implicit cost for large investors [sic] is the price impact that their large trades can have on the market. Indeed, disclosure of these large orders can reduce the likelihood of their being filled.'' *See* Securities Exchange Act Release No. 42450 (February 23, 2000), 65 FR 10577 (February 28, 2000) (SR–NYSE–99–48).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

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 such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2016–49 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSEMKT–2016–49. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2016–49 and should be submitted on or before May 24, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–10274 Filed 5–2–16; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a closed meeting on Thursday, May 5, 2016, at 2 p.m.

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 her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matter at the closed meeting.

Chair White, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter 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.

For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: April 28, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–10394 Filed 4–29–16; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77723; File No. SR–BatsBZX–2016–09]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Rule 14.11, Managed Fund Shares, To List and Trade Shares of the Pointbreak Agriculture Commodity Strategy Fund of the Pointbreak ETF Trust

April 27, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 15, 2016, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I 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 filed a proposal to list and trade shares of the Pointbreak Agriculture Commodity Strategy Fund (the ''Fund'') of the Pointbreak ETF Trust (the ''Trust'') under Rule 14.11(i) (''Managed Fund Shares''). The shares of the Fund are referred to herein as the ''Shares''.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares under Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange.[3] All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange. The Fund will be an actively managed fund that seeks to provide long term capital appreciation, primarily through exposure to the agriculture commodities futures markets.

The Shares will be offered by the Trust, which was organized as a Delaware statutory trust on June 18, 2015. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Fund on Form N–1A (''Registration Statement'') with the Commission.[4] The Commodities [sic] Futures Trading Commission (''CFTC'') has recently adopted substantial amendments to CFTC Rule 4.5 relating to the permissible exemptions and conditions for reliance on exemptions from registration as a commodity pool operator. As a result of the instruments that will be held by the Fund, prior to listing on the Exchange, the Adviser will be registered as a Commodity Pool Operator (''CPO'') and will become a member of the National Futures Association (''NFA''). The Fund and a wholly-owned subsidiary of the Fund organized under the laws of the Cayman Islands (the ''Subsidiary'') will be subject to regulation by the CFTC and NFA and additional disclosure, reporting and recordkeeping rules imposed upon commodity pools. The Fund will generally obtain its exposure to commodity markets via investments in the Subsidiary. These investments are intended to provide the Fund with exposure to commodity markets in accordance with applicable rules and regulations. Henceforth, references to the investments of the Fund include investments of the Subsidiary to which the Fund gains indirect exposure through investment in the Subsidiary.

Description of the Shares and the Fund

Pointbreak Advisers LLC is the investment adviser (''Adviser'') to the Fund. Brown Brothers Harriman & Co. (''BBH'') is the administrator, custodian and transfer agent for the Trust. ALPS Distributors, Inc. (''Distributor'') serves as the distributor for the Trust. The Adviser is not affiliated with either BBH or the Distributor.

Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[5] In addition, Rule 14.11(i)(7) further requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable investment company portfolio. Rule 14.11(i)(7) is similar to Rule 14.11(b)(5)(A)(i), however, Rule 14.11(i)(7) in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a registered broker-dealer and is not affiliated with a broker-dealer. The Adviser personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. In the event that (a) the Adviser becomes a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Pointbreak Agriculture Commodity Strategy Fund

According to the Registration Statement, the Fund is an actively managed exchange-traded fund that seeks to provide total return that exceeds that of a benchmark, the Solactive Agriculture Commodity Index (the ''Benchmark'') over time. The Fund is not an index tracking exchange-traded fund and is not required to invest in the specific components of the Benchmark. However, the Fund will generally seek to maintain a portfolio of instruments similar to those included in the Benchmark and will seek exposure to commodities included in the Benchmark.

The Benchmark is a rules-based index composed of futures contracts on 11 heavily traded agriculture commodities including cocoa, coffee, corn, cotton, feeder cattle, hard red winter wheat, lean hogs, live cattle, soybeans, sugar and soft red winter wheat. Commodities are investable assets with tangible, physical properties. Futures contracts on commodities (''Agriculture Commodities Futures'') generally are agreements between two parties where one party agrees to buy, and the counterparty to sell, a set amount of a physical commodity (or, in some contracts, a cash equivalent) at a pre-determined future date and price. The value of Agriculture Commodities Futures is based upon the price

[3] The Commission approved Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[4] *See* Registration Statement on Form N–1A for the Trust, dated December 23, 2015 [sic] (File Nos. 333–205324 and 811–23068). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') (the ''Exemptive Order''). *See* Investment Company Act Release No. 32064 (April 4, 2016) (File No. 812–14577).

[5] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

movements of the underlying commodities. If the price of a long-term futures contract is greater than the near-term futures price, the market is considered to be in ''contango.'' If the price of a long-term futures contract is less than the near-term futures price, the market is considered to be in ''backwardation.'' The Benchmark will seek to increase the weightings of those commodities whose futures markets display the most backwardation, or the least contango, among the 11 commodities. The Benchmark will further seek to select the contract month, for each specific commodity, among the next 13 months that display the most backwardation, or the least contango, and does not attempt to always own those contracts that are closest to expiration. Although the Fund, through the Subsidiary (as further described below), will generally invest in Agriculture Commodities Futures that are components of the Benchmark, the Fund and the Subsidiary will be actively managed and will not be required to invest in all or limit their investments solely to such Agriculture Commodities Futures. In this regard, the Fund and the Subsidiary may hold the same Agriculture Commodities Futures in approximately, but not exactly, the same weights as the Benchmark. The Fund and the Subsidiary will generally hold such Agriculture Commodities Futures with the same maturity as the Benchmark, but may select a different month of maturity in seeking to achieve better performance than the Benchmark.

Principal Holdings

According to the Registration Statement, under normal circumstances,[6] the Fund will invest in a combination of Agriculture Commodities Futures, as defined below, through the Subsidiary, and Cash Instruments, as defined below, both directly through the Fund and through the Subsidiary. Agriculture Commodities Futures include only the following instruments: Exchange-traded futures on commodities; and exchange-traded futures contracts on commodity indices. These instruments provide exposure to the investment returns of the commodities markets, without investing directly in physical commodities.

Under normal circumstances, in addition to investing in Agriculture Commodities Futures through the Subsidiary, the Fund will invest its remaining assets in Cash Instruments, both directly and through the Subsidiary, including cash, cash-like instruments or high-quality collateral securities that provide liquidity, serve as margin, or collateralize the Subsidiary's investments in Agriculture Commodities Futures. Such Cash Instruments include only the following instruments: (i) Short-term obligations issued by the U.S. Government; (ii) cash and cash-like instruments;[7] (iii) money market mutual funds, including affiliated money market mutual funds; and (iv) repurchase agreements.[8] The Fund will not invest in Cash Instruments that are below investment grade.

The Fund generally will not invest directly in Agriculture Commodities Futures. The Fund expects to gain exposure to Agriculture Commodities Futures by investing a portion of its assets in the Subsidiary, which will invest in Agriculture Commodities Futures and Cash Instruments.[9] The Subsidiary is also advised by the Adviser. Unlike the Fund, the Subsidiary is not an investment company registered under the 1940 Act. The Fund's investment in the Subsidiary is intended to provide the Fund with exposure to commodity markets in accordance with applicable rules and regulations. The Subsidiary has the same investment objective and investment restrictions as the Fund. The Fund will generally invest up to 25% of its total assets in the Subsidiary.

During times of adverse market, economic, political or other conditions, the Fund may depart temporarily from its principal investment strategies (such as by maintaining a significant uninvested cash position) for defensive purposes. Doing so could help the Fund avoid losses, but may mean lost investment opportunities. During these periods, the Fund may not achieve its investment objective.

The Fund intends to qualify each year as a regulated investment company (a ''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.[10] The Fund will invest its assets (including via the Subsidiary), and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M.

Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment) deemed illiquid by the Adviser[11] under the 1940 Act.[12] The

[6] The term ''under normal circumstances'' includes, but is not limited to, the absence of extreme volatility or trading halts in the futures markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[7] Cash-like instruments include only the following: Short-term negotiable obligations of commercial banks, fixed-time deposits, bankers acceptances of U.S. banks and similar institutions, and commercial paper rated at the date of purchase ''Prime-1'' by Moody's Investors Service, Inc. or ''A–1+'' or ''A–1'' by Standard & Poor's or, if unrated, of comparable quality, as the Adviser determines.

[8] The Fund follows certain procedures designed to minimize the risks inherent in repurchase agreements. Such procedures include effecting repurchase transactions only with large, well-capitalized, and well-established financial institutions whose condition will be continually monitored by the Adviser. It is the current policy of the Fund not to invest in repurchase agreements that do not mature within seven days if any such investment, together with any other illiquid assets held by the Fund, amount to more than 15% of the Fund's net assets. The investments of the Fund in repurchase agreements, at times, may be substantial when, in the view of the Adviser, liquidity or other considerations so warrant.

[9] The Subsidiary is not registered under the 1940 Act and is not directly subject to its investor protections, except as noted in the Registration Statement. However, the Subsidiary is wholly-owned and controlled by the Fund and is advised by the Adviser. Therefore, because of the Fund's ownership and control of the Subsidiary, the Subsidiary would not take action contrary to the interests of the Fund or its shareholders. The Fund's Board of Trustees (''Board'') has oversight responsibility for the investment activities of the Fund, including its expected investment in the Subsidiary, and the Fund's role as the sole shareholder of the Subsidiary. The Adviser receives no additional compensation for managing the assets of the Subsidiary. The Subsidiary will also enter into separate contracts for the provision of custody, transfer agency, and accounting agent services with the same or with affiliates of the same service providers that provide those services to the Fund.

[10] 26 U.S.C. 851.

[11] In reaching liquidity decisions, the Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[12] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment

Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include assets subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance. Aside from the Fund's investments in the Subsidiary, neither the Fund nor the Subsidiary will invest in non-U.S. equity securities. Neither the Fund nor the Subsidiary will invest in derivatives other than Agriculture Commodities Futures.

The Fund's investments will be consistent with the Fund's investment objective and will not be used to achieve leveraged or inverse leveraged returns (*e.g.* two times or three times the Fund's benchmark).

Net Asset Value

According to the Registration Statement, the net asset value (''NAV'') of the Shares of the Fund will be calculated by dividing the value of the net assets of the Fund (*i.e.,* the value of its total assets less total liabilities) by the total number of Shares outstanding. Expenses and fees, including the management and administration fees, are accrued daily and taken into account for purposes of determining NAV. The NAV of the Fund is generally determined at 4:00 p.m. Eastern Time each business day when the Exchange is open for trading. If the Exchange or market on which the Fund's investments are primarily traded closes early, the NAV may be calculated prior to its normal calculation time. Creation/redemption transaction order time cutoffs (as further described below) would also be accelerated.

Securities and other assets held by both the Fund and the Subsidiary are generally valued at their market price using market quotations or information provided by a pricing service. Agriculture Commodities Futures are generally valued at their settlement price as determined by the relevant exchange. Repurchase agreements will generally be valued at bid prices received from independent pricing services as of the announced closing time for trading in such instruments. Cash Instruments (other than money market mutual funds) also may be valued on the basis of information furnished by an independent pricing service that uses a valuation matrix which incorporates both dealer-supplied valuations and electronic data processing techniques. Shares of money market mutual funds will be valued at their current Net Asset Value per share.

For more information regarding the valuation of Fund investments in calculating the Fund's NAV, see the Registration Statement.

The Shares

The Fund will issue and redeem Shares on a continuous basis at the NAV per Share only in large blocks of a specified number of Shares or multiples thereof (''Creation Units'') in transactions with authorized participants who have entered into agreements with the Distributor. The Adviser currently anticipates that a Creation Unit will consist of 50,000 Shares, though this number may change from time to time, including prior to listing of the Shares. The exact number of Shares that will constitute a Creation Unit will be disclosed in the Registration Statement. Once created, Shares of the Fund may trade on the secondary market in amounts less than a Creation Unit.

Although the Adviser anticipates that purchases and redemptions for Creation Units will generally be executed on an all-cash basis, the consideration for purchase of Creation Units of the Fund may consist of an in-kind deposit of a designated portfolio of assets (including any portion of such assets for which cash may be substituted) (*i.e.,* the ''Deposit Assets''), and the ''Cash Component'' computed as described below. Together, the Deposit Assets and the Cash Component constitute the ''Fund Deposit,'' which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The specific terms surrounding the creation and redemption of shares are at the discretion of the Adviser.

The Deposit Assets and Fund Securities (as defined below), as the case may be, in connection with a purchase or redemption of a Creation Unit, generally will correspond pro rata, to the extent practicable, to the assets held by the Fund.

The Cash Component will be an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the ''Deposit Amount,'' which will be an amount equal to the market value of the Deposit Assets, and serve to compensate for any differences between the NAV per Creation Unit and the Deposit Amount. The Adviser will make available through the National Securities Clearing Corporation (''NSCC'') on each business day, prior to the opening of business on the Exchange, the list of names and the required number or par value of each Deposit Asset and the amount of the Cash Component to be included in the current Fund Deposit (based on information as of the end of the previous business day) for the Fund.

The identity and number or par value of the Deposit Assets may change pursuant to changes in the composition of the Fund's portfolio as rebalancing adjustments and corporate action events occur from time to time. The composition of the Deposit Assets may also change in response to adjustments to the weighting or composition of the holdings of the Fund.

The Fund reserves the right to permit or require the substitution of a ''cash in lieu'' amount to be added to the Cash Component to replace any Deposit Asset that may not be available in sufficient quantity for delivery or that may not be eligible for transfer through the Depository Trust Company (''DTC'') or the clearing process through the NSCC.[13]

Except as noted below, all creation orders must be placed for one or more Creation Units and must be received by the Distributor at a time specified by the Adviser. The Fund currently intends that such orders must be received in proper form no later than 10:30 a.m. Eastern Time on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of Shares of the Fund as next determined on such date after receipt of the order in proper form. The ''Settlement Date'' is generally the third business day after the transmittal date. On days when the Exchange or the futures markets close earlier than normal, the Fund may require orders to create or to redeem Creation Units to be placed earlier in the day.

A standard creation transaction fee may be imposed to offset the transfer and other transaction costs associated with the issuance of Creation Units.

Shares of the Fund may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Distributor and only on a business day. Adviser will make available through the

Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[13] The Adviser represents that, to the extent the Trust permits or requires a ''cash in lieu'' amount, such transactions will be effected in the same or equitable manner for all authorized participants.

NSCC, prior to the opening of business on the Exchange on each business day, the designated portfolio of assets (including any portion of such assets for which cash may be substituted) that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day (''Fund Securities''). The redemption proceeds for a Creation Unit generally will consist of a specified amount of cash less a redemption transaction fee. The Fund generally will redeem Creation Units entirely for cash.

A standard redemption transaction fee, in an amount disclosed in the current prospectus for the Fund, may be imposed to offset transfer and other transaction costs that may be incurred by the Fund.

Redemption requests for Creation Units of the Fund must be submitted to the Distributor by or through an authorized participant by a time specified by the Adviser. The Fund currently intends that such requests must be received no later than 10:30 a.m. Eastern Time on any business day, in order to receive that day's NAV. The authorized participant must transmit the request for redemption in the form required by the Fund to the Distributor in accordance with procedures set forth in the authorized participant agreement.

Additional information regarding the Shares and the Fund, including investment strategies, risks, creation and redemption procedures, fees and expenses, portfolio holdings disclosure policies, distributions, taxes and reports to be distributed to beneficial owners of the Shares can be found in the Registration Statement or on the Web site for the Fund (*www.pointbreakETFs.com*), as applicable.

Availability of Information

The Fund's Web site, which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Web site will include additional quantitative information updated on a daily basis, including, for the Fund: (1) The prior business day's reported NAV, the closing market price or the midpoint of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[14] daily trading volume, and a calculation of the premium and discount of the closing market price or Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing market price or Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Daily trading volume information for the Fund will be available in the financial section of newspapers, through subscription services such as Bloomberg, Thomson Reuters, and International Data Corporation, which can be accessed by authorized participants and other investors, as well as through other electronic services, including major public Web sites. On each business day, before commencement of trading in Shares during Regular Trading Hours[15] on the Exchange, the Fund will disclose on its Web site the identities and quantities of the portfolio Agriculture Commodities Futures and other assets (the ''Disclosed Portfolio'') held by the Fund and the Subsidiary that will form the basis for the Fund's calculation of NAV at the end of the business day.[16] The Disclosed Portfolio will include for each portfolio holding, as applicable: Ticker symbol or other identifier, a description of the holding, identity of the asset upon which the derivative is based, the quantity of each security or other asset held as measured by select metrics, maturity date, coupon rate, effective date, market value and percentage weight of the holding in the portfolio. The Web site and information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in Rule 14.11(i)(3)(C) as the ''Intraday Indicative Value,'' that reflects an estimated intraday value of the Fund's portfolio, will be disseminated. Moreover, the Intraday Indicative Value will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Trading Hours.[17] In addition, the quotations of certain of the Fund's holdings may not be updated for purposes of calculating Intraday Indicative Value during U.S. trading hours where the market on which the underlying asset is traded settles prior to the end of the Exchange's Regular Trading Hours.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and provide an estimate of that value throughout the trading day.

Intraday price quotations on Cash Instruments of the type held by the Fund, with the exception of money market mutual funds, are available from major broker-dealer firms and from third-parties, which may provide prices free with a time delay, or ''live'' with a paid fee. For Agriculture Commodities Futures, such intraday pricing information is available directly from the applicable listing exchange. Price information for money market mutual funds will be available from the applicable investment company's Web site.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be generally available daily in the print and online financial press. Quotation and last sale information for the Shares will be available on the facilities of the CTA.

Initial and Continued Listing

The Shares will be subject to Rule 14.11(i), which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.[18] A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. The Exchange will halt

[14] The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[15] Regular Trading Hours are 9:30 a.m. to 4:00 p.m. Eastern Time.

[16] Under accounting procedures to be followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[17] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Intraday Indicative Values published via the Consolidated Tape Association (''CTA'') or other data feeds.

[18] *See* 17 CFR 240.10A–3.

trading in the Shares under the conditions specified in Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the Agriculture Commodities Futures and other assets composing the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The Exchange will allow trading in the Shares from 8:00 a.m. until 5:00 p.m. Eastern Time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in Rule 14.11(i)(2)(C), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. The Exchange may obtain information regarding trading in the Shares and the underlying futures, including futures contracts held by the Subsidiary, via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliates of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[19] In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine (''TRACE''). The Exchange prohibits the distribution of material non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value and Disclosed Portfolio are disseminated; (4) the risks involved in trading the Shares during the Pre-Opening[20] and After Hours Trading Sessions[21] when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV calculation time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's Web site. In addition, the Information Circular will reference that the Trust is subject to various fees and expenses described in the Registration Statement.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[22] in general and Section 6(b)(5) of the Act[23] 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 facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Rule 14.11(i). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. If the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser to the investment company shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. The Adviser is not a registered broker-dealer and is not affiliated with a broker-dealer. The Exchange may obtain information regarding trading in the Shares and the underlying futures, including those held by the Subsidiary, via the ISG from other exchanges who are members or affiliates of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing

[19] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange also notes that all of the futures contracts in the Disclosed Portfolio for the Fund including those held by the Subsidiary will trade on markets that are a member of ISG or affiliate or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[20] The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m. Eastern Time.

[21] The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m. Eastern Time.

[22] 15 U.S.C. 78f.

[23] 15 U.S.C. 78f(b)(5).

agreement.[24] In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA's TRACE.

Under normal circumstances, the Fund will invest in a combination of Agriculture Commodities Futures through the Subsidiary and Cash Instruments both directly through the Fund and through the Subsidiary. Agriculture Commodities Futures provide exposure to the investment returns of the commodities markets, without investing directly in physical commodities. The Fund generally will not invest directly in Agriculture Commodities Futures. The Fund expects to gain exposure to these investments by investing a portion of its assets in the Subsidiary. Cash Instruments include only the following instruments: (i) Short-term obligations issued by the U.S. Government; (ii) cash and cash-like instruments; (iii) money market mutual funds, including affiliated money market mutual funds; and (iv) repurchase agreements. The Fund will not invest in Cash Instruments that are below investment grade.

During times of adverse market, economic, political or other conditions, the Fund may depart temporarily from its principal investment strategies (such as by maintaining a significant uninvested cash position) for defensive purposes. Doing so could help the Fund avoid losses, but may mean lost investment opportunities. During these periods, the Fund may not achieve its investment objective.

Additionally, the Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment). The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include assets subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value will be disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours. On each business day, before commencement of trading in Shares during Regular Trading Hours, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Pricing information will be available on the Fund's Web site including: (1) The prior business day's reported NAV, the closing market price, or the Bid/Ask Price, daily trading volume, and a calculation of the premium and discount of the closing market price or Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing market price or Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Additionally, information regarding market price and trading of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information for the Shares will be available on the facilities of the CTA. The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted under the conditions specified in Rule 11.18. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Finally, trading in the Shares will be subject to Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

Intraday price quotations on U.S. government securities and repurchase agreements of the type held by the Fund are available from major broker-dealer firms and from third-parties, which may provide prices free with a time delay, or ''live'' with a paid fee. For Agriculture Commodity [sic] Futures, such intraday pricing information is available directly from the applicable listing exchange.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement as well as trade information for certain fixed income instruments as reported to FINRA's TRACE. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change, rather will facilitate the listing and trading of additional actively-managed exchange-traded products that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days of such date (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding

[24] *See* note 21, *supra*.

or (ii) as to which the Exchange consents, the Commission will: (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–BatsBZX–2016–09 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–BatsBZX–2016–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBZX–2016–09 and should be submitted on or before May 24, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–10272 Filed 5–2–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77719; File No. SR–BX–2016–022]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update Public Disclosure of Exchange Usage of Market Data

April 27, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 21, 2016, NASDAQ BX, Inc. (''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 update Exchange Rule 4759 and to amend the public disclosure of the sources of data that the Exchange utilizes when performing (1) order handling and execution; (2) order routing; and (3) related compliance processes.

The text of the proposed rule change is below. Proposed new language is italicized and deleted language is bracketed.

* * * * *

4759. Data Feeds Utilized

The BX System utilizes the below proprietary and network processor feeds for the handling, routing, and execution of orders, as well as for the regulatory compliance processes related to those functions. The Secondary Source of data is, where applicable, utilized only in emergency market conditions and only until those emergency conditions are resolved.

Market center	Primary source	Secondary source
A—NYSE MKT (AMEX)	NYSE MKT OpenBook Ultra	CQS/UQDF.
B—NASDAQ OMX BX	BX ITCH 5.0	CQS/UQDF.
C—NSX	CQS/UQDF	n/a.
D—FINRA ADF	CQS/UQDF	n/a.
J—DirectEdge A	BATS PITCH	CQS/UQDF.
K—DirectEdge X	BATS PITCH	CQS/UQDF.
M—[CSX] *CHX*	[CQS/UQDF] *CHX Book Feed*	[n/a] *CQS/UQDF.*
N—NYSE	NYSE OpenBook Ultra	CQS/UQDF.
P—NYSE Arca	NYSE ARCA XDP	CQS/UQDF.
T/Q—NASDAQ	ITCH 5.0	CQS/UQDF.
X—NASDAQ OMX PSX	PSX ITCH 5.0	CQS/UQDF.
Y—BATS Y-Exchange	BATS PITCH	CQS/UQDF.
Z—BATS Exchange	BATS PITCH	CQS/UQDF.

* * * * *

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 782(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update and amend the table in Exchange Rule 4759 that sets forth on a market-by-market basis the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions.

Specifically, the table will be amended to update the symbol for the Chicago Stock Exchange, Inc. from ''CSX'' to ''CHX'', as well as to update the primary and secondary sources in the table for CHX. The primary source will be CHX Book Feed and the former primary source, CQS/UQDF, will become the secondary source. The change to the primary source reflects the Exchange's effort to increase the amount of data it gathers.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[3] in general and with Sections 6(b)(5) of the Act,[4] 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 mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that its proposal to amend the table in Exchange Rule 4759 to update it for the symbol for the Chicago Stock Exchange, Inc. and to amend the primary and secondary sources of data for CHX that the Exchange utilizes when performing (1) order handling and execution; (2) order routing; and (3) related compliance processes will ensure that Exchange Rule 4759 correctly identifies and publicly states on a market-by-market basis all of the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. The Exchange also believes that the proposed rule change removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity, clarity and transparency.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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, as amended. To the contrary, the Exchange believes the proposal will enhance competition because including all of the correct information for the exchanges enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services.

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[5] and subparagraph (f)(6) of Rule 19b–4 thereunder.[6]

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–BX–2016–022 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–BX–2016–022. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78s(b)(3)(a)(iii).

[6] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2016–022, and should be submitted on or before May 24, 2016.[7]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–10268 Filed 5–2–16; 8:45 am]

BILLING CODE 8011–01–P

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77720; File No. SR–OCC–2016–004]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Related to the Adoption of an Options Exchange Risk Control Standards Policy

April 27, 2016.

On March 4, 2016, The Options Clearing Corporation (''OCC'') 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 adopt a new Options Exchange Risk Control Standards Policy and revise OCC's Schedule of Fees to charge and collect from Clearing Members a fee of two cents per each cleared options contract (per side) executed on an options exchange that did not demonstrate sufficient risk controls designed to meet the proposed set of principles-based risk control standards. The proposed rule change was published for comment in the **Federal Register** on March 18, 2016.[3] To date, the Commission has received 6 comment letters on the proposal.[4]

Section 19(b)(2) of the Act [5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day from the publication of notice of filing of this proposed rule change is May 2, 2016. The Commission is extending this 45-day time period. In order to provide the Commission with sufficient time to consider the proposed rule change, the Commission finds it is appropriate to designate a longer period within which to take action on the proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates June 16, 2016, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–OCC–2016–004).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–10269 Filed 5–2–16; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4. OCC also filed this proposal as an advance notice pursuant to Section 802(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 and Rule 19b–4(n)(1) under the Exchange Act. 15 U.S.C. 5465(e)(1) and 17 CFR 240.19b–4(n)(1). *See* Securities Exchange Act Release No. 34–77628 (April 15, 2016), 81 FR 23536 (April 21, 2016) (SR–OCC–2016–801). To date, the Commission has not received any comments on the advance notice.

[3] Securities Exchange Act Release No. 34–77358 (March 14, 2016), 81 FR 14921 (March 18, 2016) (File No. SR–OCC–2016–004).

[4] *See* Letters from Mark Dehnert, Managing Director, Goldman Sachs & Co., and Kyle Czepiel, Co-Chief Executive Officer, Goldman Sachs Execution & Clearing, L.P., dated March 28, 2016, to Secretary, Commission; Lisa J. Fall, President, BOX Options Exchange, dated April 6, 2016, to Brent J. Fields, Secretary, Commission; James G. Lundy, Associate General Counsel, ABN AMRO Clearing Chicago LLC, dated April 8, 2016, to Brent J. Fields, Secretary, Commission; Ellen Greene, Managing Director, Securities Industry and Financial Markets Association, dated April 12, 2016, to Robert W. Errett, Deputy Secretary, Commission; Michael J. Simon, Secretary and General Counsel, International Securities Exchange, LLC, dated April 20, 2016, to Brent J. Fields, Secretary, Commission; and Edward T. Tilly, Chief Executive Officer, Chicago Board Options Exchange, Inc., dated April 20, 2016, to Brent J. Fields, Secretary, Commission.

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Coyote Resources, Inc., Harbor Island Development Corp., Medical Makeover Corp. of America, and Shades Holdings, Inc.; Order of Suspension of Trading

April 29, 2016.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Coyote Resources, Inc. (CIK No. 1392121), a revoked Nevada corporation with its principal place of business listed as Davie, Florida with stock quoted on OTC Link (previously, ''Pink Sheets'') operated by OTC Markets Group, Inc. (''OTC Link'') under the ticker symbol COYR, because it has not filed any periodic reports since the period ended June 30, 2013. On August 19, 2015, a delinquency letter was sent by the Division of Corporation Finance to Coyote Resources, Inc. requesting compliance with its periodic filing obligations, and Coyote Resources, Inc. received the delinquency letter on August 29, 2015, but failed to cure its delinquencies.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Harbor Island Development Corp. (CIK No. 1490824), a revoked Nevada corporation with its principal place of business listed as Opa Locka, Florida with stock quoted on OTC Link under the ticker symbol HIDC, because it has not filed any periodic reports since the period ended June 30, 2013. On July 31, 2015, a delinquency letter was sent by the Division of Corporation Finance to Harbor Island Development Corp. requesting compliance with its periodic filing obligations, but it did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Medical Makeover Corp. of America (CIK No. 1083944), a void Delaware corporation with its principal place of business listed as West Palm Beach, Florida with stock quoted on OTC Link under the ticker symbol MMAM, because it has not filed any periodic reports since the period ended September 30, 2012. On

August 19, 2015, a delinquency letter was sent by the Division of Corporation Finance to Medical Makeover Corp. of America requesting compliance with its periodic filing obligations, and Medical Makeover Corp. of America received the delinquency letter on August 24, 2015, but failed to cure its delinquencies.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Shades Holdings, Inc. (CIK No. 1488366), a Florida corporation with its principal place of business listed as Aventura, Florida with stock quoted on OTC Link under the ticker symbol SHDH, because it has not filed any periodic reports since the period ended June 30, 2013. On August 19, 2015, a delinquency letter was sent by the Division of Corporation Finance to Shades Holdings, Inc. requesting compliance with its periodic filing obligations, but it did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of EDGAR Filer Manual).

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on April 29, 2016, through 11:59 p.m. EDT on May 12, 2016.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2016–10410 Filed 4–29–16; 11:15 am]

BILLING CODE 8011–01–P

TENNESSEE VALLEY AUTHORITY

[Meeting No. 16–02]

Sunshine Act Meeting Notice

The TVA Board of Directors will hold a public meeting on May 5, 2016, at Paris Landing State Park Conference Center, Room C, 400 Lodge Road, Buchanan, Tennessee. The public may comment on any agenda item or subject at a *public listening session* which begins at 9 a.m. (CT). Following the end of the public listening session, the meeting will be called to order to consider the agenda items listed below. On-site registration will be available until 15 minutes before the public listening session begins at 9 a.m. (CT). Preregistered speakers will address the Board first. TVA management will answer questions from the news media following the Board meeting.

Status: Open.

Agenda

Chair's Welcome.

Old Business

Approval of minutes of the February 11, 2016, Board Meeting.

New Business

1. Report from President and CEO
2. Committee Rosters
3. Report of the Nuclear Oversight Committee
4. Report of the External Relations Committee
   A. Bellefonte Nuclear Plant Site
   B. Floating House Policy
5. Report of the Finance, Rates, and Portfolio Committee
   A. Fleet-Wide Non-Nuclear Maintenance and Modifications Contract
   B. Delegated Authority to Execute Large Generator Interconnection Agreements
6. Report of the People and Performance Committee
   A. Long-Term Service Agreement with General Electric International
7. Report of the Audit, Risk, and Regulation Committee

For more information: Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. People who plan to attend the meeting and have special needs should call (865) 632–6000. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: April 28, 2016.

Sherry A. Quirk,

General Counsel.

[FR Doc. 2016–10405 Filed 4–29–16; 11:15 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Operations Specifications, Part 129 Application

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. The FAA assesses the information collected and issues operations specifications to foreign air carriers. These operations specifications assure the foreign air carrier's ability to navigate and communicate safely within the U.S. National Airspace System.

DATES: Written comments should be submitted by July 5, 2016.

ADDRESSES: Send comments to the FAA at the following address: Ronda Thompson, Room 441, Federal Aviation Administration, ASP–110, 950 L'Enfant Plaza SW., Washington, DC 20024.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0749.

Title: Operations Specifications, Part 129 Application.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The final rule published in 2013, clarified and standardized the rules for applications by foreign air carriers and foreign persons for operations specifications issued under 14 CFR part 129 and established standards for amendment, suspension and termination of those operations specifications. The final rule also applied to foreign air carriers and foreign persons operating U.S.-registered aircraft in common carriage solely outside the United States. This action was necessary to update the process for issuing operations specifications, and it established a regulatory basis for current practices, such as amending, terminating, and suspending operations specifications.

Respondents: Approximately 25 new applicants annually.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 3 hours.

Estimated Total Annual Burden: 75 hours.

Issued in Washington, DC, on April 27, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP–110.

[FR Doc. 2016–10346 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Passenger Facility Charge (PFC) Program: Eligibility of Ground Access Projects Meeting Certain Criteria

AGENCY: Federal Aviation Administration (FAA); DOT.

ACTION: Notice of Proposed Policy Amendment and Request for Comments

SUMMARY: The FAA proposes to amend its ''Notice of Policy Regarding the Eligibility of Airport Ground Access Transportation Projects for Funding Under the Passenger Facility Charge (PFC) Program,'' [1] regarding the requirements for PFC funding of on-airport, rail access projects.

DATES: Comments must be received on or before June 2, 2016. Comments that are received after that date will be considered only to the extent practical.

ADDRESSES: You may send written comments by any of the following methods. Identify all transmissions with ''Docket Number FAA 2016–XXXX'' at the beginning of the document.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *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:* Deliver comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

To read background documents or comments received, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–3831; facsimile (202) 267–5302.

SUPPLEMENTARY INFORMATION: Section 123(e) of Public Law 108–176, Vision 100-Century of Aviation Reauthorization Act (December 12, 2003) directed the FAA to publish a policy on the eligibility of ground access projects for PFC funding. The FAA's Notice of Policy Regarding Eligibility of Ground Access Transportation Projects for Funding Under the Passenger Facility Charge Program (2004 Notice), 69 FR 6366, was published on February 10, 2004. The 2004 Notice presented the relevant statutory requirements as well as FAA's regulations and guidance on PFC-funded ground access transportation projects in a consolidated form.[2] As stated in the 2004 Notice, the statutory requirements include the significant contribution test for PFC contributions higher than $3 per passenger (49 U.S.C. 40117(d)(3)); the Airport Improvement Program (AIP) funding test (49 U.S.C. 40117(b)(4)(B); 14 CFR 158.17(a)(2)) and the airside needs test (49 U.S.C. 40117(d)(4); 14 CFR 158.17(a)(3)).[3] Other requirements can be found in 14 CFR part 158; FAA Order 5500.1, ''Passenger Facility Charge'' (August 9, 2001); ''The AIP Handbook,'' FAA Order 5100.38D (September 30, 2014); and FAA PFC records of decision and final agency decisions on about the use of PFC revenue to finance airport ground access transportation projects.[4]

For purposes of the policy, airport ground access includes all potential surface transportation modes (*i.e.,* road, light and heavy rail, and water).

The 2004 Notice restated the agency's longstanding policy requirement from the AIP Handbook, FAA Order 5100.38, that to be AIP and/or PFC eligible, an airport ground access transportation project must meet the following conditions:

(1) The road or facility may only extend to the nearest public highway or facility of sufficient capacity to accommodate airport traffic;

(2) the access road or facility must be located on the airport or within a right-of-way acquired by the public agency; and

(3) the access road or facility must exclusively serve airport traffic.[5]

The first and second of these requirements are relatively straightforward to apply and evaluate. The third requirement (exclusive use) requires more explanation. The 2004 Notice stated that ''exclusive use of airport patrons and employees means that the facility can experience no more than incidental use by non-airport users.'' [6] By incidental use, the 2004 Notice explains, routine use of the rail ground access transportation facility by non-airport users must ''be unattractive and non-airport users in fact constitute only a minor percentage of total system ridership.'' However, the 2004 Notice also stated that ''Exclusive airport use does not mean that any non-airport use must be prevented at all costs.'' [7]

The 2004 Notice also stated that related facilities, such as acceleration and deceleration lanes, exit and entrance ramps, lighting, equipment to provide operational control of a rail system or people mover, and rail system or people mover stops at intermediate points on the airport are eligible when they are a necessary part of an eligible access road or facility. In addition, the public agency must retain ownership of the completed ground access transportation project. The public agency may choose to operate the facility on its own or may choose to lease the facility to a local or regional transit agency for operation within a larger local or regional transit system.

During the 12 years that have ensued since publication of the 2004 Notice, the FAA has consistently applied these criteria. However, as FAA's experience in administering the program has developed, it has become clear that strictly applying criteria originally designed to judge eligibility for on-airport road access projects, to on-airport rail projects, can produce financially and practically inefficient outcomes. The concept of ''exclusive use'' has been the subject of particular interest because of the underlying principle that the stakeholders who pay excise taxes on airline passenger tickets or passenger facility charges should not have to pay the costs of facilities, except to the extent necessary to meet the needs of airport patrons and employees. Over the years, the FAA has had to decide whether all or portions of proposed on-airport ground access projects utilizing rail, or portions thereof, met the policy requirement that

[1] 69 FR 6366 (Feb. 10, 2004).

[2] 69 FR 6367.

[3] *Id.*

[4] *Id.*

[5] *Id.* at 6367.

[6] *Id.* at 6368.

[7] *Id.*

the rail right-of-way exclusively served airport traffic.

In the past, both before and after the publication of the 2004 Notice, the FAA has found that almost all otherwise eligible *rail stations* located on-airport are eligible for PFC funding under agency guidelines, because they are exclusively used by airport patrons and employees.[8] However, whether the right of way or guideway itself met the historical interpretation of exclusive use depended upon the configuration of the rail line (*e.g.,* whether a spur line terminating at the airport, or a through-line where the airport station is not the terminus). Historically, the FAA has approved funding only for tracks or guideways that clearly meet the requirement of exclusive use, by virtue of the physical configuration of the rail line.[9]

As discussed below, the FAA recently received a request for the use of PFC revenue to fund an on-airport ground access rail station and related trackage, where the trackage would not exclusively serve airport traffic because the rail line would not terminate at the airport station but continue beyond the airport property. Our review and evaluation of the application has caused the agency to consider whether the exclusive use policy is unduly limiting, thereby preventing the approval of PFC funds for some airport ground access projects that might be consistent with the agency's mission to ''encourage the development of intermodal connections on airport property between aeronautical and other transportation modes and systems to serve air transportation passengers and cargo efficiently and effectively and promote economic development.'' 49 U.S.C. 47101(a)(5).[10]

Specifically, the agency notes that by extending the rail line beyond the airport, thereby providing more transit options for more travelers and increasing the utility of the system consistent with the agency's mission, the financing options for that system become conversely limited. There are fundamental differences between fixed-guideway systems like rail and public roads. With road access, all that is needed to facilitate efficient access to the air transportation system is a direct connection from the airport to a main thoroughfare or population center, as individual drivers can then choose their own path to their destination. The roads used by airport visitors are typically part of a broader system that may be funded, constructed, and maintained by multiple levels of government or private entities for multiple purposes and journeys. Given the open and variable nature of road systems, it is critical for the FAA to apply strict eligibility criteria that tie the funding of the on-airport project to the exclusive use of the airport. Without such criteria, users of the infrastructure could benefit from federally-approved funds designed to improve access to the national air transportation system without ever intending to visit, or actually visiting, the airport. Airport rail access projects, however, are planned, funded, constructed, operated, and used differently from on-airport road projects. By their nature, passenger rail and rail transit aggregate passenger traffic along fixed routes with a limited number of stops, each with their own justification and purpose. Users of road infrastructure have more flexibility and control in determining their route that users of rail, who are more limited in their options. Without a very strict exclusive use requirement, users of access roads could take advantage of that infrastructure, and make a choice to never pass through the airport itself. Users of rail, however, have little choice of route and their degree of control over that route. Non-airport users are not taking advantage of the airport portions of track by choice, but are more likely to be passing through the airport because they cannot use rail travel to their destination without doing so. The FAA is seeing an increasing number of circumstances and physical configurations in which strict adherence to the historical interpretation of 'exclusive use' may not be in the balance of the public interest. Indeed, rigid application of the historical policy, designed primarily for road access projects, potentially frustrates the FAA's own objectives as set forth in 49 U.S.C. 47101(b)(5) and (6).

Additionally, population and demographic trends have changed since the ground access policy was developed. Many airports that were originally constructed on the periphery of population centers, now find themselves ensconced as suburban growth has extended to and beyond the airport. As such, it may no longer make sense for a ''downtown'' rail or transit line to terminate at the airport, as there now exists a pool of potential users beyond the airport. However, under current policy, which equates on-airport rail projects with ''access roads,'' extending rail/transit access beyond the airport so that these populations can also access the airport precludes the use of federally-approved funds, such as PFCs, for significant portions of the project since the line would go beyond the airport and no longer serves airport traffic exclusively.

Accordingly, the FAA is considering amending the 2004 Policy so that on-airport rail access projects are no longer treated identically to access roads.

The FAA is evaluating whether, consistent with intermodal policy under 49 U.S.C. 47101(b)(5) and (6), it should reconsider its policy to only permit ground access projects where the airport terminal is the terminus of the rail line, or whether PFCs should also be available for other types of rail projects. The FAA is soliciting comment on whether it should amend its policy to consider rail projects that are located on airport, but that may not exclusively serve air traffic, where the creation of a separate spur into the airport (in order to ensure exclusive use of the right-of-way) would be materially more expensive than having the rail line transit the airport property and continue beyond and/or would be contrary to the agency's mission to ''encourage the development of intermodal connections at airports.'' 49 U.S.C. 47101(a)(5). The FAA requests comments on several policy alternatives for determining when rail projects on airport are eligible for PFC funding. After reviewing comments, the FAA may permit some of the alternatives to establish PFC eligibility or may permit other alternatives raised by commenters. One recent PFC application received by the FAA highlights the agency's experience with intermodal objectives, and a need for flexibility in using PFCs to fund on-airport rail access. In March 2014, the FAA received a PFC application from the Metropolitan Washington Airports Authority (MWAA) that included a request to use PFCs to help fund both an on-airport station and a portion of the on-airport tracks that would be located immediately adjacent to the station. Although both segments of the track would be located on airport property and connect to the nearest public transportation facility, the tracks would not be exclusively used by airport patrons and employees, as has been historically required based on the FAA's policy, per the 2004 Notice, to analyze rail projects under the same framework as access roads.[11] The tracks would not be for the exclusive use of

[8] 64 FR 53763 (Oct. 4, 1999); PFC Record of Decision, Application No. 01–08–C–00–PDX (July 20, 2001) at 8.

[9] *Id.*

[10] This policy, when completed, will also apply to AIP eligibility. However, due to AIP rules that limit funding for airport terminal development, rail access projects would not likely be funded with AIP funding.

[11] *Id.*

airport patrons and employees because the rail line in question would not terminate at the airport station, but continue to other destinations beyond the airport.

In a July 11, 2014, final agency decision, the FAA approved portions of the application and the Dulles Airport Metrorail Station project in particular, but deferred consideration of ''the track portions of this project (beyond the Airport station footprint).'' [12]

The FAA's final agency decision stated that ''The FAA is generally reviewing the historical interpretation of exclusive use, and considering possible refinements in the general eligibility criteria relating to track and guideway elements, on airport, in certain circumstances.'' [13]

In its consideration of this potential policy change, the FAA must be mindful of how such a change could affect future airport ground access project approvals. The agency will have to balance the benefit to the airport (*e.g.,* increasing ease of access for airport patrons, and employees; decreased ground congestion; preserving or enhancing capacity, etc.) against the use of PFCs to pay for the trackage or guideway where use of that right-of-way would not exclusively serve airport traffic as historically interpreted.

Discussion on Proposed Policy: As a result of its review and evaluation of the MWAA application, and past PFC decisions relating to airport ground access, the FAA has identified three proposed means by which an airport could demonstrate eligible costs of on-airport rail trackage to be funded through PFC revenues. These proposals are based on the underlying principle that the stakeholders who pay PFCs should not have to pay the costs of facilities, except to the extent necessary to meet the needs of airport patrons and employees, and also promote the agency's statutory mission to expand intermodal links at the nation's airports. The three proposals are:

1. Incremental Cost Comparison: The increased cost of a through-track solution (compared to a track that bypasses the airport) benefits no one but the airport passengers and employees.

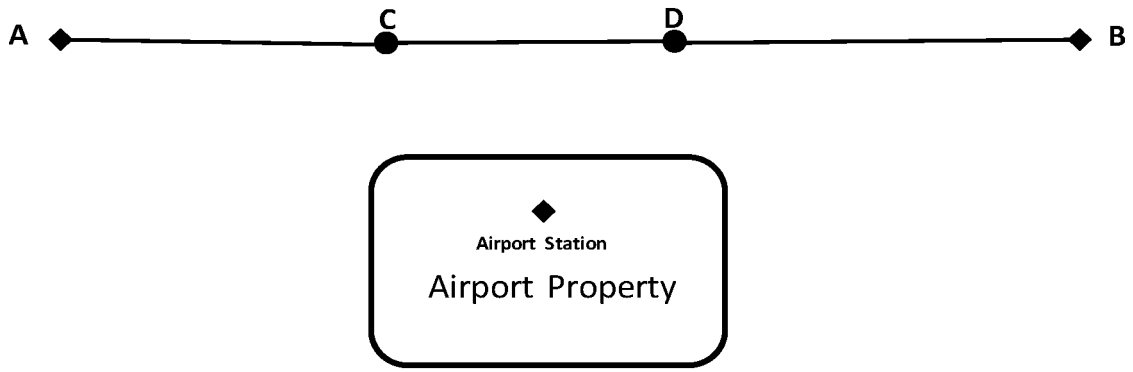
Detailed Discussion of Alternative:

- For this alternative, the public agency could demonstrate that the rail line would be built from Point A to Point B regardless of whether the airport station is added.
- This approach would compare the actual cost needed to serve airport passengers and employees against the cost of the PFC project (airport station).
- If not for the service to the airport, the track alignment in this section (Section C–D) would typically be shorter, straighter, and less expensive than that of a design that includes the Airport Station (C–A1–Airport Station–B1–D).

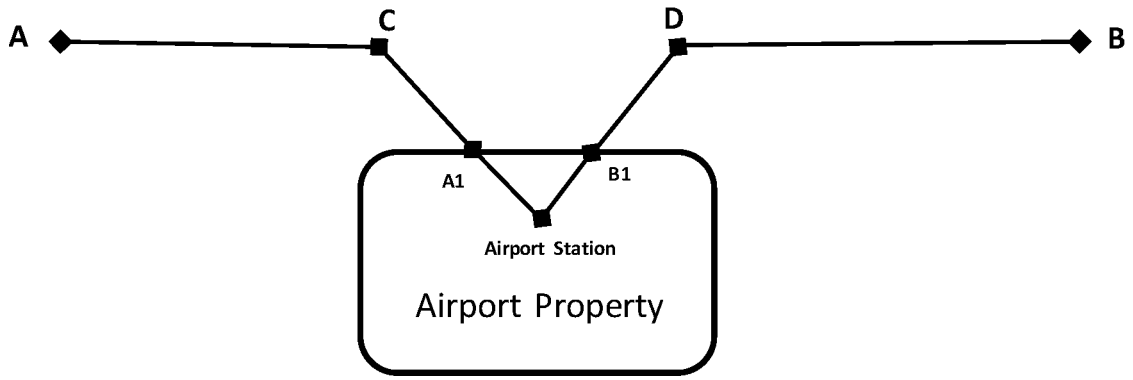
[12] FAA Final Agency Decision dated July 11, 2014, page 22.

[13] *Id.*

Track that Bypasses the Airport



Track that Includes the Airport Station



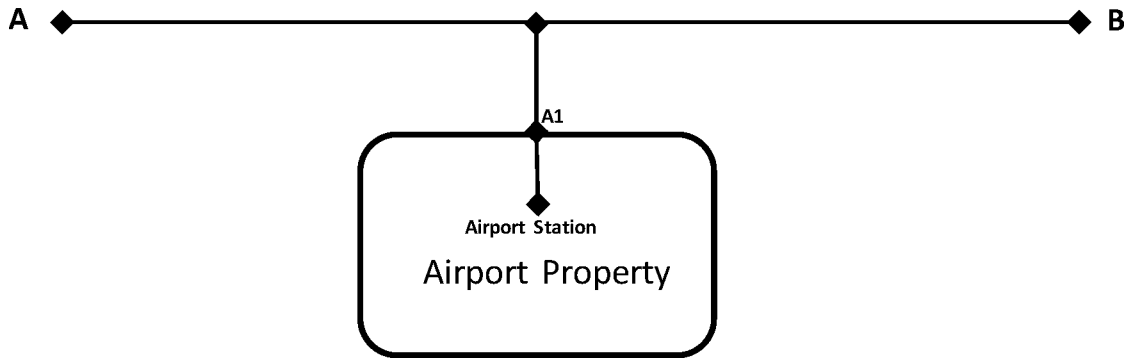
• The approximate incremental cost to serve the airport is the difference between the track cost to serve the airport (C–A1–Station–B1–D) and the cost if the track did not deviate to serve the airport (C–D). This incremental cost represents the costs needed to directly benefit airport passengers and employees. This incremental cost forms the basis of PFC eligibility. However, only that trackage on airport property (A1–Airport Station–B1) is eligible for PFC funding.

2. Separate System Comparison: The project costs of a through-track solution is less expensive than a stand-alone people-mover bringing passengers in from an off-airport station.

Detailed Discussion of Alternative:

• The full costs of a hypothetical people mover system including the costs of the Airport Station, the transport vehicles, and the full costs of the rail line between the Airport Station and A1 (theoretical airport property line) would typically be eligible for PFC funding.

Hypothetical People Mover



• This alternative would compare the cost of developing a hypothetical people mover system (on airport) against the cost of bringing the transit line to and through an on-airport station.

If the airport can demonstrate that the costs to be funded through PFC revenues would be less than the cost of building a separate system, then the costs to be funded through PFC revenues would be eligible.

3. Prorate the costs of the trackage on airport property based on ridership forecast. If the airport can demonstrate that the costs to be funded through PFC revenues would be no more than the prorated costs of the trackage on airport property, based on ridership forecasts and the percentage representing passengers and employees utilizing the airport, then those costs could be considered eligible.

Comments Invited

The FAA invites interested persons to submit written comments, data, or views concerning this proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, please send only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

The FAA will file in the docket all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposal. Before acting on this proposal, the FAA will consider all comments received on or before the closing date for comments and any late-filed comments if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of comments received.

Issued in Washington, DC, on April 27, 2016.

Elliott Black,

Director, Office of Airport Planning and Programming.

[FR Doc. 2016–10334 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Application for Employment With the Federal Aviation Administration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a currently approved information collection. The information collected is used to evaluate the qualifications of applicants for a variety of positions within the FAA.

DATES: Written comments should be submitted by July 5, 2016.

ADDRESSES: Send comments to the FAA at the following address: Ronda Thompson, Room 441, Federal Aviation Administration, ASP–110, 950 L'Enfant Plaza SW., Washington, DC 20024.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0597.

Title: Application for Employment with the Federal Aviation Administration.

Form Numbers: There are no FAA forms associated with this collection. Information is collected via the Office of Personnel Management (OPM) online USAJOBS system and the FAA's Automated Vacancy Information Access Tool for Online Referral (AVIATOR) staffing tool.

Type of Review: Renewal of an information collection.

Background: Under the provisions of Public Law 104–50, the Federal Aviation Administration (FAA) was given the authority and the responsibility for developing and implementing its own personnel system. The agency requests certain information needed to determine basic eligibility for employment and potential eligibility for veteran's preference and Veteran's Readjustment Act appointments. In addition, occupation specific questions assist the FAA in determining candidates' qualifications so that only the best-qualified candidates may be hired for the many aviation safety-related occupations.

Respondents: Approximately 118,000 annually.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 1.5 hours.

Estimated Total Annual Burden: 177,000 hours.

Issued in Washington, DC, on April 27, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP–110.

[FR Doc. 2016–10344 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Bird/Other Wildlife Strike Report

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. Wildlife strike data are collected to develop standards and monitor hazards to aviation.

DATES: Written comments should be submitted by July 5, 2016.

ADDRESSES: Send comments to the FAA at the following address: Ronda Thompson, Room 441, Federal Aviation Administration, ASP–110, 950 L'Enfant Plaza SW., Washington, DC 20024.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 2120–0045.

Title: Bird/Other Wildlife Strike Report.

Form Numbers: FAA Form 5200–7.

Type of Review: Renewal of an information collection.

Background: 14 CFR 139.337—Wildlife Hazard Management requires that wildlife strike data is collected to develop standards and monitor hazards to aviation. Data identify wildlife strike control requirements and provide in-service data on aircraft component failure. The FAA form 5200–7, Bird/Other Wildlife Strike Report, is most often completed by the pilot-in-charge of an aircraft involved in a wildlife collision or by Air Traffic Control Tower personnel, or other airline or airport personnel who have knowledge of the incident.

Respondents: Approximately 7,666 pilots, air traffic control personnel, or other airline or airport personnel.

Frequency: Information is collected as needed.

Estimated Average Burden per Response: 5 minutes.

Estimated Total Annual Burden: 613 hours.

Issued in Washington, DC, on April 27, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP–110.

[FR Doc. 2016–10347 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2016–0010]

Agency Information Collection Activities: 30 Day Extension of a Notice of Request for Approval of a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: REVISION of a Notice of Request for Approval of a New Information Collection.

SUMMARY: The FHWA invited public comments about our intention to request the Office of Management and Budget's (OMB) approval of a new information collection that is summarized below under supplementary information. The FHWA also invites public comments on the design of the survey instrument and questions for the National Transportation Performance Management (TPM) Review Survey. A document containing the draft survey and survey design report is available at *http://www.fhwa.dot.gov/tpm/engage/docs/questions.pdf.* FHWA has received a request to extend the comment period in order to provide more time to evaluate the proposed revisions. FHWA is extending the comment period to May 31, 2016. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on June 23, 2015. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by May 31, 2016.

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket No. FHWA–2016–0010.

FOR FURTHER INFORMATION CONTACT: Michael Nesbitt (*michael.nesbitt@dot.gov*), 202–366–1179, Office of Infrastructure, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: National Transportation Performance Management (TPM) Implementation Review, TPM Toolbox, and TPM State-of-Practice Questionnaires.

Type of request: New information collection requirement.

Background: Moving The Moving Ahead for Progress in the 21st Century (MAP–21) Act and the subsequent Fixing America's Surface Transportation Act (FAST Act) transformed the Federal-aid highway program by establishing new requirements for transportation performance management to ensure the most efficient investment of Federal transportation funds. Transportation performance management increases the accountability and transparency of the Federal-aid highway program and

provides for a framework to support improved investment decision making through a focus on performance outcomes for key national transportation goals. State transportation agencies (STAs) will be expected to use the information and data generated as a result of the new regulations to make better informed transportation planning and programming decisions. The new performance aspects of the Federal-aid program will allow FHWA to better communicate a national performance story and to more reliably assess the impacts of Federal funding investments.

Under the ''National Transportation Performance Management (TPM) Implementation Review Survey, TPM State-of-Practice Questionnaires, and TPM Toolbox'' information collection request (ICR), the FHWA will collect information on the current state of the practice, data, methods, and systems used by State, metropolitan, regional, local, and/or tribal transportation entities to support their TPM processes in accordance with 23 U.S.C. 119, 134–135, and 148–150, as amended by MAP–21 and the FAST Act. This information will also be used to develop and deliver existing and future Federal Highway Programs through successful partnerships, value-added stewardship, and risk-based oversight. Underpinning this effort will be a robust focus on improving FHWA and its partners' capacity to implement performance provisions. The information collected from these activities will translate into having a better skilled workforce, effective supporting systems, and clearly articulated programs that are optimally positioned and equipped to deliver the FHWA's mission. In general, the components of the ''National TPM Implementation Review Survey, TPM State-of-Practice Questionnaires, and TPM Toolbox'' will involve questions related to:

1. TPM related implementation efforts, programs, and activities,
2. Needs for TPM guidance and policy concerning MAP–21 and FAST provisions;
3. TPM capacity building needs;
4. Effectiveness implementing performance based planning and programming and TPM processes.

The most consequential activity covered by this ICR is the ''National TPM Implementation Review Survey,'' which is scheduled to be administered in 2016 and again several years later.

Overview:

In the summer of 2015, the Federal Highway Administration (FHWA) published the National TPM Implementation Review Survey and Information Collection Request, Docket FHWA–2015–0013. In that 60-day **Federal Register** Notice (FRN), FHWA stated it would administer the first National TPM Implementation Review Survey in 2016 to establish a baseline and assess:

1. FHWA and its partners' progress implementing MAP–21 performance provisions and related TPM best practices; and
2. The effectiveness of performance-based planning and programming processes and transportation performance management.

In that FRN, FHWA also stated that a second National TPM Implementation Review Survey will be conducted several years after the first to assess FHWA and its partners' progress in addressing any gaps or issues identified during the first survey. The findings from the first review survey will be used in a pair of statutory reports to Congress due in 2017 on the effectiveness of performance-based planning, programming processes, and transportation performance management (23 U.S.C. 119, 134(l)(2), and 135(h)(2)). The findings from the second survey will be used in a subsequent follow-up report. It is important to note that this is not a compliance review. The overall focus of the National TPM Implementation Review Survey is on the TPM and performance-based planning processes and practices used by STAs and MPOs, not the performance outcomes of those processes.

FHWA received 20 comment letters and over 24 unique comments. While a number of concerns were expressed by the commenters, they generally supported the information collection request outlined in the FRN. Regarding the National TPM Implementation Review Survey, stakeholders were most concerned about the estimated burden of effort and time for administration of the survey. Based on those specific comments to the docket, it became clear that a majority of responding States, MPOs, and their respective associations want FHWA to: (1) ''coordinate with stakeholders when developing'' the design of any TPM surveys, questionnaires, or related instruments; (2) Provide more information on the type of questions to be asked as part of the National TPM Implementation Review Survey and any State-of-Practice Questionnaires; (3) Minimize the burden of effort to the greatest extent practicable; (4) Delay administration of National TPM Implementation Review Survey until after the final rulemakings; and (5) Share data from the National TPM Implementation Review Survey with States, MPOs, and their respective associations to support the development of federally and state funded TPM capacity building efforts.

To address the first three concerns listed in the preceding paragraph, stakeholders can provide input on the design of National TPM Implementation Review Survey by:

1. Submitting comments on the draft survey questions and survey design report to the docket.
2. Participating in one of two webinar listening sessions on the design of the National TPM Implementation Review Survey. The date and time of these webinars will be advertised at *www.fhwa.dot.gov/TPM.* To receive an email notification announcing the date and time of these webinar listening sessions, please visit *www.fhwa.dot.gov/TPM* and subscribe to email updates.

To address the concern on the timing of the National TPM Implementation Review Survey, FHWA decided to delay administering the review until after publication of the *Statewide and Nonmetropolitan Transportation Planning; Metropolitan Transportation Planning Final Rulemaking.*

In addition to the more formal National TPM Implementation Review Survey, FHWA will conduct informal voluntary TPM State-of-Practice Questionnaires related to ongoing TPM policy and guidance, technical assistance, and capacity needs. To address concerns expressed by stakeholders regarding the burden of effort and administration of these additional questionnaires, FHWA is proposing to sequence the National TPM Implementation Review Survey and other State-of-the-Practice Questionnaires on a biennial cycle. Under this biennial cycle, the first National TPM Implementation Review Survey would be administered in 2016 and the follow-up in 2020. The smaller, less formal State-of-the-Practice Questionnaires would be administered in 2018 and 2022. The State-of-the-Practice Questionnaires are essential to helping FHWA coordinate with its many stakeholders to reduce duplicative survey efforts as the industry works to implement and understand the TPM practices.

Under this sequencing, the National TPM Implementation Review Survey will continue to serve the original purpose of allowing FHWA to evaluate the effectiveness of efforts to implement TPM and PBPP. The State-of-the-Practice Questionnaires will enable FHWA and its stakeholders to coordinate the collection of information necessary to advance the state-of-the-practice and further TPM capacity building efforts. This approach limits

the number of TPM related surveys to 4 over a number of years:

- National TPM Implementation Review Survey (*Baseline*): 2016
- State-of-the-Practice Questionnaires: 2018
- National TPM Implementation Review Survey (*Follow-up*): 2020
- State-of-the-Practice Questionnaires: 2022

After each survey or questionnaire, FHWA and its stakeholders will explore how to better align the information collection requests with yet-to-be determined performance management reporting processes. The information will be collected from State, metropolitan, regional, local, and/or tribal transportation agencies via internet-based questionnaires or web applications and will be used to help FHWA and its partner organizations do the following:

- Strategically plan to meet ever growing demand for TPM technical assistance needs;
- Develop and refine TPM policy and guidance based on stakeholder feedback;
- Channel resources to meet capacity development and training needs; and
- Identify and prioritize TPM research needs.

Lastly, as part of FHWA's ongoing technical assistance efforts, a TPM Toolbox is being created to help FHWA's partners self-assess and benchmark their TPM implementation progress, capabilities, and gaps. The TPM Toolbox will also help FHWA streamline the integration and administration of all the efforts described above. To maximize the effectiveness and efficiency of the TPM Toolbox, FHWA will collect business contact and organizational demographic (size of organization, location, etc.) information along with the responses submitted as part of the TPM Toolbox's self-assessment applications.

Respondents: The 975 respondents estimate is based on soliciting input from 52 STA, 409 MPOS, and a sampling of other State and local transportation entities. In most cases, only STAs and MPOs will be surveyed.

Frequency: Agencies will be solicited to provide information via a survey 1 time every two years. Additionally, transportation agencies may submit information more frequently by using the TPM Toolbox's self-assessment tool.

Estimated Average Burden per Response: The estimated average annual burden hours is up to 20 hours per response during a year with a survey/questionnaire request.

Estimated Total Annual Burden Hours: The estimated total annual burden hours for all respondents is estimated to be 19,500 burden hours (975 respondents × 20 burden hours) per year with survey/questionnaire requests.

Professional Staff Time during a Survey Year:

- 20 hours/respondent × 975 respondents × 1 questionnaire during a survey year = *19,500 hours.*

Clerical Staff Time during a Survey Year:

- 2 hours/respondent × 975 respondents × 1 questionnaire during a survey year = *1,950 hours.*

The aggregated associated salary cost to all respondents (975) during a survey year is estimated to be $1,032,213 based on an average salary of $38 per hour (approximately $79,000 per year) for professional staff and $18 per hour (approximately $37,000 per year) for clerical staff. Disaggregated, the total average annual cost per respondent during a survey year is estimated to be $1,058.68. The burden hours and costs are illustrated below.

Professional Staff Cost during a Survey Year:

- All respondents: 19,500 hours × $38 per hour = $741,000.
  - Per respondent: (20 × $38 = $760).

Clerical Staff Cost during a Survey Year:

- All respondents: 1,950 hours × $18 per hour = $35,100.
  - Per respondent (2 hours × $18 per hour = $36).

Total Annual Cost during a Survey Year:

- Subtotal Direct Salaries (Professional + Clerical) $776,100.
- Overhead/fringe benefits at 33%: $256,113.
- Total annual respondents cost during survey year: $1,032,213.
  - Total average annual cost per respondent during survey year: $1,058.68.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection of information is necessary for the U.S. DOT's performance, including whether the information will have practical utility; (2) the accuracy of the U.S. DOT's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued on: April 27, 2016.

Michael Howell,

Information Collection Officer.

[FR Doc. 2016–10296 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Transportation Project in Washington State

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA and Other Federal Agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to the I–5 interchange with NW., 319th Street/La Center Road (La Center Interchange Improvements) Project in the State of Washington. The action by FHWA is the Record of Decision (ROD) that selects improvements to the I–5 La Center Interchange as traffic mitigation measures for construction of the Cowlitz Reservation Development. The Cowlitz Reservation Development was the subject of the Bureau of Indian Affairs (BIA) ROD of April 2013. Actions by other Federal agencies include issuing amendments to previously issued permits.

DATES: By this notice, FHWA is advising the public of final Agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the listed highway project will be barred unless the claim is filed on or before September 30, 2016. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA, contact Liana Liu, Area Engineer, North Central and South Central Region, Federal Highway Administration, 711 South Capital Way, Suite 501, Olympia, WA 98501–0943, telephone at 360–753–9553, or via email at *Liana.Liu@dot.gov.* Regular office hours are from 8:00 a.m. to 4:30 p.m., p.t., Monday through Friday, except Federal holidays. For Washington State Department of Transportation (WSDOT),

contact Barb Aberle, Environmental Manager, Southwest Region, Washington State Department of Transportation, 11018 NE 51st Circle, Vancouver, WA 98682, telephone at 360–905–2186, or via email at *AberleB@wsdot.wa.gov.* Regular office hours are from 8:00 a.m. to 4:30 p.m., p.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions related to the I–5 Interchange with NW., 319th Street/La Center Road (La Center Interchange Improvements) Project in the State of Washington. The BIA prepared a Draft Environmental Impact Statement (EIS), released on April 12, 2008, and Final EIS (FEIS) on May 30, 2008, for proposed improvements to the I–5 NW., 319th Street/La Center Road Interchange. The BIA issued an ROD for the project on December 17, 2010, which approved the Cowlitz Reservation Development and adopted mitigation measures recommended within the 2008 FEIS, including the La Center Interchange Improvements. After a challenge in United States District Court, the BIA conducted an evaluation of adequacy of the FEIS and issued a new ROD in April 2013.

Implementation of the La Center Interchange Improvements is subject to discretionary approvals from FHWA and WSDOT. An FHWA National Environmental Policy Act (NEPA) Reevaluation was prepared in May 2015, to identify and document changed environmental conditions and effects associated with the La Center Interchange Improvements. The FHWA issued an ROD which approved the La Center Interchange Improvements and adopted mitigation measures recommended in the 2008 FEIS and May 2015 Reevaluation on July 29, 2015.Since issuance of the FHWA ROD, the design of stormwater facilities has been modified, consistent with applicable management guidelines, and the previously proposed realignment of NW., Paradise Park Road has been refined. An Environmental Reevaluation Report was prepared in February 2106, to identify and document potential effects associated with changes to the La Center Interchange Improvements.

This notice applies to all Federal agency decisions on the project as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: NEPA (42 U.S.C. 4321–4351); Federal-Aid Highway Act (23 U.S.C. 109).

2. Wildlife: Endangered Species Act (16 U.S.C. 1531–1544); Fish and Wildlife Coordination Act (16 U.S.C. 661–667(d)); Migratory Bird Treaty Act (16 U.S.C. 703–712).

3. Air: Clean Air Act (42 U.S.C. 7401–7671(q)).

4. Land: Section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. 303); Landscaping and Scenic Enhancement (Wildflowers) (23 U.S.C. 319).

5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470(f) *et seq.*); Archeological Resources Protection Act of 1977 (16 U.S.C. 470aa–aaa11); Native American Grave Protection and Repatriation Act (25 U.S.C. 3001–3013.

6. Social and Economic: Civil Rights Act of 1964 (42 U.S.C. 2000(d)–2000(d)(1)); American Indian Religious Freedom Act (42 U.S.C. 1996); Farmland Protection Policy Act (7 U.S.C. 4201–4209).

7. Wetlands and Water Resources: Clean Water Act (33 U.S.C. 1251–1377); Land and Water Conservation Fund (16 U.S.C. 4601–4604); Safe Drinking Water Act (42 U.S.C. 300(f)–300(j)(6)); Rivers and Harbors Act of 1899 (33 U.S.C. 401–406); Wild and Scenic Rivers Act (16 U.S.C. 1271–1287); Emergency Wetlands Resources Act (16 U.S.C. 3921, 3931); Flood Disaster Protection Act (42 U.S.C. 4001–4128).

8. Executive Orders (EO): EO 11990, Protection of Wetlands; EO 11988, Floodplain Management; EO 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; EO 11593, Protection and Enhancement of Cultural Resources; EO 13007, Indian Sacred Sites; EO 13287, Preserve America; EO 13175, Consultation and Coordination with Indian Tribal Governments; EO 11514, Protection and Enhancement of Environmental Quality; EO 13112, Invasive Species.

(Catalog of Federal Domestic Assistance Program No. 20.205, Highway Research, Planning and Construction. The regulations implementing EO 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1), as amended by Moving Ahead for Progress in the 21st Century Act, (PL 112–141, 126 Stat. 405).

Issued on: April 25, 2016.

Daniel M. Mathis,

FHWA Division Administrator, Olympia, WA.

[FR Doc. 2016–10284 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA 2016–0002–N–12]

Renewal of Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: Under with the Paperwork Reduction Act of 1995 and its implementing regulations, FRA seeks renewal of six currently-approved information collection activities. Before submitting these information collection requirements (ICRs) to the Office of Management and Budget (OMB) for renewed approval, FRA is soliciting public comment on specific aspects of the activities identified in this notice.

DATES: Comments must be received no later than July 5, 2016.

ADDRESSES: Submit written comments on any or all of the information activities described in this notice by mail to either: Mr. Robert Brogan, Information Collection Clearance Officer, Regulatory Safety Analysis Division, RRS–21, FRA, 1200 New Jersey Ave. SE., Mail Stop 17, Washington, DC 20590, or Ms. Kimberly Toone, Information Collection Clearance Officer, Office of Information Technology, RAD–20, FRA, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB control number _____.'' Alternatively, comments may be transmitted via facsimile to (202) 493–6216 or (202) 493–6497, or via email to Mr. Brogan at *Robert.Brogan@dot.gov,* or to Ms. Toone at *Kim.Toone@dot.gov.* Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Information Collection Clearance Officer, Regulatory Safety Analysis Division, RRS–21, FRA, 1200 New Jersey Ave. SE., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292), or Ms. Kimberly Toone, Information Collection Clearance Officer, Office of Information Technology, RAD–20, FRA, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, sec. 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part

1320, require Federal agencies to provide 60-days' notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of information collection activities regarding: (i) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information Federal regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) organize information collection requirements in a ''user-friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below are brief summaries of six currently-approved information collection activities that FRA will submit for OMB clearance as required under the PRA:

Title: Filing of Dedicated Cars.

OMB Control Number: 2130–0502.

Type of Request: Extension of a currently-approved collection.

Affected Public: Businesses.

Form(s): N/A.

Abstract: Title 49 CFR part 215 contains standards for freight car safety and prescribes certain conditions to be followed for the movement of freight cars in dedicated service. Dedicated service means the exclusive assignment of railroad cars to the transportation of freight between specified points under the conditions defined in § 215.5(d), including stenciling, or otherwise displaying, in clear legible letters on each side of the car body the words ''Dedicated Service.'' A railroad must identify those cars in a written report to FRA before the railroad assigns the cars to dedicated service. The railroad must file that report with FRA not less than 30 days before the cars operate in dedicated service. FRA uses the information collected under § 215.5(d) to determine the number of railroads affected, the number and type of cars involved, the commodities being carried, and the territorial and speed limits within which the cars will be operated. FRA reviews these reports to determine if the equipment is safe to operate and if the operation qualifies for dedicated service. The information collected indicates to FRA and State inspectors that the particular or ''dedicated'' cars are in special service and that certain restrictions apply to their movement under part 215. Cars not in compliance may be cited for violations by FRA inspectors. Railroads also use the information collected to provide identification and control so that dedicated cars remain in the prescribed service.

Total Annual Estimated Responses: 4.

Total Annual Estimated Burden: 4 hours.

Status: Regular review.

Title: Special Notice for Repairs.

OMB Control Number: 2130–0504.

Type of Request: Extension of a currently-approved collection.

Affected Public: Businesses.

Form(s): FRA F 6180.8; FRA F 6180.8A.

Abstract: Under 49 CFR part 216, FRA and State inspectors may issue a Special Notice for Repairs to notify railroads in writing of an unsafe condition involving a locomotive, car, or track. The railroad must notify FRA in writing when the equipment is returned to service or the track restored to a condition permitting operations at speeds authorized for a higher class, specifying the repairs completed. FRA and State inspectors use this information to remove from service freight cars, passenger cars, and locomotives until they can be restored to a serviceable condition. They also use this information to reduce the maximum authorized speed on a section of track until repairs can be made.

Total Annual Estimated Responses: 72.

Total Annual Estimated Burden: 20 hours.

Status: Regular review.

Title: Rear-End Marking Devices.

OMB Control Number: 2130–0523.

Type of Request: Extension of a currently-approved collection.

Affected Public: Businesses.

Form Number(s): N/A.

Abstract: Title 49 CFR part 221 contains requirements for rear end marking devices and railroads must give FRA a detailed description of the type of marking devices used for any locomotive operating singly or for cars or locomotives operating at the end of a train (trailing end) to ensure they meet minimum standards for visibility and display. Specifically, part 221 requires railroads to furnish a certification that each device has been tested in accordance with current ''Guidelines for Testing of Rear End Marking Devices.'' Additionally, part 221 requires railroads to furnish detailed test records, which include the testing organizations, description of tests, number of samples tested, and the test results, to demonstrate compliance with the performance standard.

Respondent Universe: 728 railroads.

Frequency of Submission: On occasion.

Total Estimated Responses: 4.

Total Estimated Annual Burden: 39 hours.

Status: Regular review.

Title: Locomotive Certification (Railroad Noise Compliance Regulations).

OMB Control Number: 2130–0527.

Type of Request: Extension of a currently-approved collection.

Affected Public: Businesses.

Form Number(s): N/A.

Abstract: Title 49 CFR part 210 pertains to FRA's noise enforcement procedures, which encompass rail yard noise source standards published by the Environmental Protection Agency (EPA). EPA has the authority to set these standards under the Noise Control Act of 1972. Information FRA collects under part 210 is necessary to ensure compliance with EPA noise standards for new locomotives.

Respondent Universe: 2 Locomotive manufacturers.

Frequency of Submission: On occasion.

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
210.27—New Loco. Certification—Requests for Information.	2 Locomotive Manufacturers.	2 requests	30 minutes	1

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
—Identification of Locomotives	2 Locomotive Manufacturers.	790 badges/plates	30 minutes	395
210.31—Operation Standards—Measurement of Loco. Noise Emissions.	2 Locomotive Manufacturers.	790 recorded measurements.	3 hours	2,370

Total Estimated Responses: 1,582.

Total Estimated Annual Burden: 2,766 hours.

Status: Regular review.

Title: Railroad Police Officers.

OMB Control Number: 2130–0537.

Type of Request: Extension of a currently-approved collection.

Affected Public: Railroads and States.

Form(s): None.

Abstract: Title 49 CFR part 207 requires railroads to notify states of all designated police officers who perform their duties outside of their respective jurisdictions. This requirement is necessary to verify proper police authority.

Total Estimated Responses: 70.

Total Annual Estimated Burden Hours: 181 hours.

Status: Regular review.

Title: Foreign Railroads' Foreign-Based (FRFB) Employees Who Perform Train or Dispatching Service in the United States.

OMB Control Number: 2130–0555.

Type of Request: Extension of a currently-approved collection.

Abstract: For foreign-based railroads with an FRA-approved foreign workplace alcohol and drug testing program equivalent to subparts B, E, F, and G of 49 CFR part 219, this FRA regulation requires removal from service of FRFB train and dispatching service employees testing positive for unauthorized use of alcohol and drugs. Part 219 testing enhances safety and serves as a deterrent to other FRFB train and dispatching service employees who might be tempted to engage in the unauthorized use of drugs or alcohol. FRA uses this collection of information to determine the compliance of FRFB train and dispatching service employees and their employers with the prohibitions against the abuse of alcohol and controlled substances as spelled out in part 219.

Form Number(s): None.

Respondent Universe: 2 railroads.

Frequency of Submission: On occasion.

Affected Public: Foreign-based railroads and their employees.

Reporting Burden:

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
219.4—Recognition of Foreign Railroads' Workplace Testing Programs: Petitions to Agency.	2 railroads	1 petition	10 hours	10
—Comments on Petition	2 railroads/public	2 comments + 2 comment copies.	2 hours	4
219.401/403/3/405—Voluntary Referral	2 railroads	1 self-referral	2 hours	2
219.4032/405 –Evaluation by Substance Abuse Professional.	2 railroads	4 reports/referrals	2 hours	8
219.405(c)(1)—Report by a Co-worker	2 railroads	1 report	5 minutes	.08
219.609—Notice by Employee Asking to be Excused from Random Alcohol Testing.	311 employees	3 documented excuses	30 minutes	2
219.903—Retention of Urine Drug Testing Records	2 railroads	80 records	5 minutes	7

Total Responses: 94.

Total Estimated Total Annual Burden: 33 hours.

Status: Regular review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on April 28, 2016.

Corey Hill,

Executive Director.

[FR Doc. 2016–10317 Filed 5–2–16; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Public Transportation Innovation Funding Opportunity; Mobility on Demand (MOD) Sandbox Demonstration Program

AGENCY: Federal Transit Administration (FTA), DOT. Funding Opportunity Number: FTA–2016–006–TRI Catalog of Federal Domestic Assistance (CFDA) Number: 20.514

ACTION: Notice of Funding Opportunity (NOFO) and Solicitation of Project Proposals for the Mobility on Demand (MOD) Sandbox Demonstration Program.

SUMMARY: The Federal Transit Administration (FTA) announces the availability of $8 Million in Fiscal Year (FY) 2014 and FY 2016 research funds, for a new program to demonstrate and evaluate innovative approaches to integrated ''Mobility on Demand'' (MOD) solutions within a public transportation framework. The MOD Sandbox Demonstration Program is intended to provide a platform where integrated MOD concepts and solutions are supported and demonstrated through local partnerships in a real-world setting. FTA will fund project teams to adopt innovative business models to deliver high quality, seamless and equitable mobility options for all travelers. The MOD Sandbox further emphasizes FTA's interest in transit and mobility innovation, and builds upon FTA's recent XPEDITE Innovation initiative, which sought industry input through an online dialogue on transit innovation, particularly technology trends that increase public transportation efficiency, effectiveness and enhance the quality of customer travel.

This notice also includes: (1) Reference to a number of areas for demonstrations of particular interest to FTA (to be used to guide but not limit innovative proposal concepts), (2) criteria that the FTA will use to identify projects for funding, and (3) the process for applying for the funding.

This announcement is available on the FTA Web site at: *http://www.fta.dot.gov.* A synopsis of this funding opportunity will be posted in the FIND module of the government-wide electronic grants Web site at *http://www.GRANTS.GOV.* FTA will announce final selections on the FTA Web site and may also announce selections in the **Federal Register**.

DATES: Complete proposals are due by 11:59 p.m. EDT on July 5, 2016. Complete proposals must be submitted electronically through the GRANTS.GOV APPLY function. Prospective applicants should initiate the process by registering on the GRANTS.GOV site promptly to ensure completion of the application process before the submission deadline. Instructions for applying can be found on FTA's Web site at *http://www.fta.dot.gov/grants/13077.html* and in the ''find'' module of grants.gov.

FOR FURTHER INFORMATION CONTACT: Please send any questions on this notice to *MODsandbox@dot.gov,* or contact Christina Gikakis, MOD Program Manager, Office of Research, Demonstration and Innovation, (202) 366–2637, or *christina.gikakis@dot.gov.*

SUPPLEMENTARY INFORMATION:

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A. Program Description

The MOD Sandbox Demonstration Program is part of a larger MOD research effort at FTA and the U.S. Department of Transportation (DOT) that seeks to support transit agencies and communities as they navigate the dynamic, evolving landscape of personal mobility and integrated multimodal transportation networks.

The goals of FTA's mobility research, in general, are to:

- Improve transportation efficiency by promoting agile, responsive, accessible, and seamless multimodal service inclusive of transit through enabling technologies and innovative partnerships.
- Increase transportation effectiveness by ensuring that transit is fully integrated and a vital element of a regional transport network that provides consistent, reliable and accessible service to every traveler.
- Enhance the customer experience by providing each individual equitable, accessible, traveler-centric service leveraging public transportation's long-standing capability and traditional role in this respect.

The primary objectives of this MOD Sandbox Demonstration Program are to:

- Enhance transit industry preparedness for MOD.
- Assist the transit industry to develop the ability to integrate MOD practices with existing transit service.
- Validate the technical and institutional feasibility of innovative MOD business models and document MOD best practices that may emerge from the demonstrations.
- Measure the impacts of MOD on travelers and transportation systems.
- Examine relevant public sector and federal requirements, regulations and policies that may support or impede transit sector adoption of MOD.

The market for personal mobility is changing rapidly due, in part, to changing social and cultural trends as well as to technological advances, such as smart phones, information processing and widespread data connectivity. New mobility concepts and solutions, from bike and car sharing systems to innovative demand response bus services, are providing travelers with new, flexible and tailored transportation options. These developments already are impacting the traditional transit market, and could conceivably disrupt current business and funding models.

MOD envisions a multimodal, integrated, automated, accessible, and connected transportation system in which personalized mobility is a key objective. MOD enables the use of on-demand information, real-time data, and predictive analysis to provide individual travelers with transportation choices that best serve their specific needs and circumstances. MOD leverages technologies that allow for a traveler-centric approach by providing improved mobility options for all.

As envisioned, the MOD Sandbox Demonstration Program provides a forum where integrated MOD concepts and solutions supported through local partnerships are demonstrated in a real-world setting. FTA seeks to fund project teams seeking to participate in the MOD Sandbox Program through demonstrations of MOD solutions integrated with existing public transportation options.

The MOD Sandbox provides a space for project teams to innovate, explore partnerships, develop new business models, integrate transit and MOD solutions, and investigate new, enabling technical capabilities such as integrated or open payment systems, vehicle prioritization schemes, or incentives for influencing traveler choices. The MOD Sandbox will provide FTA the opportunity to measure project impacts, and, importantly, assess how existing FTA policies and regulations may support or impede these new service transportation models through evaluation of all project efforts.

The MOD Sandbox guiding principles are:

- System Integration—the MOD Sandbox Program seeks operational integration of MOD products and services with existing transit service. Examples of this include open data platforms, common user interfaces, and practices and technologies that encourage and ensure system interoperability.
- Partnership Driven—MOD Sandbox projects should demonstrate teaming efforts, from public and private sectors, with partners committed to supporting the proposed MOD project both technically and institutionally.
- Innovative Business Model—the MOD Sandbox is structured to encourage innovative business models where MOD solution providers and transit operators partner to collectively deliver better service to travelers, while mutually benefitting from the partnership.
- Equity of Service Delivery—MOD Sandbox projects will demonstrate and promote equitable mobility service for all travelers, including communities such as low income, the aging population, and persons with disabilities, including wheelchair users.

FTA expects that MOD Sandbox demonstration projects will be subject to current regulations and policies. However, FTA also understands that innovations in MOD may require *new* regulatory guidelines or changes to existing regulations and policies. As

such, FTA encourages applicants to identify in their applications any regulatory or policy waivers needed for the implementation of the proposed demonstration. Such requests will be reviewed as part of the application process. Consequently, FTA will consider relaxing FTA rules and requirements as appropriate and where possible to advance innovative mobility services and business models. This also corresponds to comments received through FTA's online dialogue, known as the XPEDITE Innovation initiative, where the transit research community expressed interest in having FTA address barriers to implementing innovative demonstration projects, including examining policy and regulatory requirements.

B. Federal Award Information

Section 5312 of Title 49, United States Code, as amended by MAP–21 and the FAST Act, authorizes FTA's Research, Development, Demonstration and Deployment program. Through this program, FTA may make grants, or enter into contracts, cooperative agreements and other agreements for research, development, demonstration and deployment projects, and evaluation of research and technology of national significance to public transportation that the Secretary of Transportation determines will improve public transportation.

The MOD Sandbox projects are funded under Section 5312 program authority. A total of $8 Million in FY 2014 and FY 2016 funds are available for awards under this announcement. FTA intends to award multiple MOD Sandbox demonstration projects under this announcement.

FTA may, at its discretion, provide additional funds for selections made under this announcement or for additional meritorious proposals from funds made available by the FAST Act for Section 5312 of Title 49, United States Code. FTA seeks MOD Sandbox projects that can be implemented within 12 months of program award, and are demonstrated and evaluated for a minimum of 12 months.

FTA recognizes that the funding made available under this announcement for the Sandbox program may be insufficient to fund all meritorious projects. For meritorious projects not selected for funding, FTA may, at its discretion, invite project teams to take part in the Sandbox through a participation agreement that does not award MOD Sandbox Program funding to the project but provides project sponsors the flexibility that the program confers upon funded grantees. FTA would work with the project teams under these participation agreements to refine projects, determine eligibility of project activities, and review requests for waivers or deviations from certain requirements to allow projects to be implemented effectively and advance innovative MOD concepts and solutions.

C. Eligibility Information

1. Eligible Applicants

Eligible applicants under this notice are providers of public transportation, including public transit agencies, state/local government DOTs, and federally recognized Indian tribes. Eligible applicants must identify one or more strategic project partner(s) with a substantial interest and involvement in the project. Applications must clearly identify the eligible applicant and all project partners on the project team.

Eligible project partners under this program may include, but are not limited to:

a. Private for-profit and not-for-profit organizations, including shared use mobility providers, and technology system suppliers;

b. Operators of transportation services, such as employee shuttle services, airport connector services, university transportation systems, or parking and tolling authorities;

c. State or local government entities;

d. Other organizations that may contribute to the success of the project team including consultants, research consortia or not-for-profit industry organizations, and institutions of higher education.

The applicant must have the ability to carry out the proposed agreement and procurements, if needed, with project partners in compliance with Federal, State, and local laws. Applicants can designate any partner as a key partner that shares the costs, risks, and rewards of early deployment and demonstration of innovation. FTA may also determine that any named project partner in the proposal is a key partner and make any award conditional upon the participation of that key partner. A key partner is essential to the project as approved by FTA and is therefore eligible for a noncompetitive award by the applicant to provide the goods or services described in the application. A key partner's participation on a selected project may not later be substituted without FTA's knowledge and approval.

2. Eligible Projects

FTA is seeking bold and innovative ideas to demonstrate improved personal mobility using emerging technologies, applications, practices, and service models in concert with existing public transportation systems and resources. Eligible activities include all activities leading to the demonstration of the innovative MOD and transit integration concept, such as planning and developing business models, obtaining equipment and service, acquiring/developing software and hardware interfaces to implement the project, and operating the demonstration.

Eligible projects must respond to the guiding principles of the MOD Sandbox: System Integration; Partnership Driven; Innovative Business Model; and Equity of Service Delivery. Projects should also consider how to address accessibility for persons with disabilities, including persons who use wheelchairs, and for older Americans, affordability for individuals with lower incomes, impacts on the local community, broad access to mobility options for all travelers, payment options that can accommodate all users, including the unbanked, and provisions for leveraging the system for emergency transportation needs.

To help guide the thinking on developing a proposal, the following is a list of potential MOD applications that proponents may find helpful in scoping their prospective projects. FTA strongly encourages applicants to propose innovative approaches, business models, technology applications and collaborative partnerships that meet the guiding principles of the MOD Sandbox, satisfy the evaluation criteria, and support the demonstration of enhanced, traveler-centric mobility with public transportation as an integrated component.

Innovative Use Cases

- First mile/last mile connectivity
- Provisioning of ADA paratransit services
- Urban center/community short distance mobility
- Off-peak, late night services
- Human service transportation (*e.g.,* Rides to Wellness)
- Service disruption/incident management preparedness
- Local land use and development incentives (*e.g.,* retirement communities)
- Integration or support for use of zero-emission technologies and vehicles
- Congestion mitigation

Collaborative Multimodal Service

- Augmentation of existing public transportation resources
- Shared-use, on demand services
- Paratransit, demand-response services
- Parking/tolling applications

- Employee, neighborhood or campus shuttles
- Enhanced airport ground transportation
- Intercity services

Enabling Technologies and Enhanced Service Capabilities

- Integrated or open payment systems
- Internet of Things/Smart City applications
- Advanced traveler information systems
- Traveler decision support systems
- Gamification as traveler engagement tools (such as games, rewards, and incentives)
- Crowdsourcing of travel information
- Open data and big data analytics
- Connected/automated vehicles

3. Cost Sharing or Matching

The federal share of project costs under this program is limited to 80 percent. Proposers may seek a lower Federal contribution. The applicant must provide the local share of the net project cost in cash, or in-kind, and must document in its application the source of the local match. Eligible sources of local match are detailed in FTA Research Circular 6100.1E. (available at *http://www.fta.dot.gov/legislation_law/12349_16434.html*).

4. Other Requirements

a. Evaluation and Data Requirements

In order to achieve a comprehensive understanding of the impacts and implications of each proposed MOD business model and demonstration, FTA, or its designated independent evaluator, requires access to project data. Projects should include a data capture component that allows for the reliable and consistent collection of information relevant to gauging the impact and outcomes of the demonstration.

At any time during the period of performance, the project team may be requested to coordinate data collection activities in order to provide interim information under the requirements of this award. A project team may be asked to provide the data directly to FTA or to a designated independent evaluator. This information, if requested, will be used to conduct program evaluation during the execution of the project and after it has been completed.

All information submitted as part of or in support of the MOD Sandbox project shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the submission includes information the applicant considers to be trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission ''Contains Confidential Business Information (CBI)''; (2) mark each affected page ''CBI''; and (3) highlight or otherwise denote the CBI portions. FTA protects such information from disclosure to the extent allowed under applicable law. In the event that FTA receives a Freedom of Information Act (FOIA) request for the information, FTA will follow the procedures described in the U.S. DOT FOIA regulations at 49 CFR 7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA. Should FTA receive an order from a court of competent jurisdiction ordering the release of the information, FTA will provide applicant timely notice of such order to allow the applicant the opportunity to challenge such an order. FTA will not challenge a court order on behalf of applicant.

b. Participation in Information Exchange

MOD Sandbox teams may be asked to participate in MOD information exchange meetings, webinars, or outreach events where MOD Sandbox teams share information with other teams and the mobility industry on the progress and results of their MOD Sandbox activities. These sessions will assist the FTA in identifying policy and implementation issues as they emerge.

D. Application and Submission Information

1. Address and Form of Application Submission

Project proposals must be submitted electronically through *http://www.GRANTS.GOV.* Mail and fax submissions will not be accepted.

A complete proposal submission will consist of at least two files: (1) The SF 424 Mandatory form (downloaded from GRANTS.GOV); (2) the Applicant and Proposal Profile supplemental form for MOD Sandbox Program (supplemental form) found on the FTA Web site at *http://www.transit.dot.gov/research-innovation/mobility-demand-mod-sandbox-program.html.* The supplemental form provides guidance and a consistent format for proposers to respond to the criteria outlined in this NOFO, and enables FTA to collect information to evaluate proposal submissions as described in section *D.2 of this notice ''Proposal Content''.* Proposers must use the supplemental form designated for the MOD Sandbox Program and attach it to their submission in GRANTS.GOV to successfully complete the application process. A proposal submission may contain additional supporting documentation as attachments.

Within 48 hours after submitting an electronic application, the applicant should receive three email messages from GRANTS.GOV: (1) Confirmation of successful transmission to GRANTS.GOV, (2) confirmation of successful validation by GRANTS.GOV, and (3) confirmation of successful validation by FTA. If confirmations of successful validation are not received and a notice of failed validation or incomplete materials is received, the applicant must address the reason for the failed validation, as described in the email notice, and resubmit before the submission deadline. If making a resubmission for any reason, include all original attachments regardless of which attachments were updated and check the box on the supplemental form indicating this is a resubmission.

FTA urges proposers to submit their applications at least 72 hours prior to the due date to allow time to receive the validation messages and to correct any problems that may have caused a rejection notification. FTA will not accept submissions after the stated submission deadline. GRANTS.GOV scheduled maintenance and outage times are announced on the GRANTS.GOV Web site at *http://www.GRANTS.GOV.* Deadlines will not be extended due to scheduled maintenance or outages.

Proposers are encouraged to begin the process of registration on the GRANTS.GOV site well in advance of the submission deadline. Registration is a multi-step process, which may take several weeks to complete before an application can be submitted. Registered proposers may still be required to take steps to keep their registration up to date before submissions can be made successfully: (1) Registration in the System for Award Management (SAM) is renewed annually and (2) persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in GRANTS.GOV by the AOR to make submissions. Instructions on the GRANTS.GOV registration process are listed in the Appendix.

Information such as proposer name, Federal amount requested, local match amount, description of transportation service, etc. may be requested in varying degrees of detail on both the SF 424 form and supplemental form. Proposers must fill in all fields unless stated

otherwise on the forms. Proposers should use both the ''Check Package for Errors'' and the ''Validate Form'' validation buttons on both forms to check all required fields on the forms, and ensure that the federal and local amounts specified are consistent.

2. Proposal Content

At a minimum, every proposal must include an SF–424 form, with the Applicant and a Proposal Profile supplemental form attached. The Applicant and Proposal Profile supplemental form for MOD Sandbox Program found on the FTA Web site at *http://www.transit.dot.gov/research-innovation/mobility-demand-mod-sandbox-program.html.*

All applicants are required to provide detailed information on the Applicant and Proposal Profile supplemental form, including:

a. A discussion of the overall goals of the proposed project, including the current state of MOD practices in the community or service area of the proposed project, current challenges in providing robust, flexible and accessible transportation options, integration challenges or gaps, and how the proposed project will address those needs. The discussion should include a description of the current opportunities to improve mobility choices for all, and if applicable, recent trends or developments (local and/or national) that make this proposed project particularly timely.

b. A description of the proposed project scope to include all MOD products and services that the project will incorporate, including a description of the MOD interface technology that will be developed or acquired to integrate the MOD project elements with local transit services.

c. A description of the project partners, their roles, and their anticipated contributions. Indicate which of the project partners are ''key partners'' essential to the success of the proposed project. Additionally, the project team is encouraged to provide letters of commitment or support from each of the project partners as well as any agreements among the project partners.

d. A description of the business model or approach that will be used to implement the MOD Sandbox demonstration project and any public/private partnerships formed to achieve the project objectives. Specify any unique or innovative approaches used to coordinate and coalesce the project partners.

e. A discussion of the expected outcomes and benefits of the proposed project to the individual travelers and the community.

f. A description of the extent to which the proposed project is replicable in other communities, and the national significance of the project, if any.

g. A description of how, and the extent to which the proposed project addresses accessible and equitable mobility service for all travelers, including communities such as low income, the aging population, and persons with disabilities, including wheelchair users.

h. A description of any exceptions or waivers to Federal, State or local requirements or policies that the project team seeks in order to successfully and fully implement the proposed project.

i. Details on types of data that will be generated and how the project team will provide access for FTA or its designee to this project-related data for purposes of evaluation.

j. A timeline of project implementation detailing all significant milestones and the roles of the responsible project partners. The timeline should include such elements as when the project will start, when it will be fully operational, and length of time for anticipated data collection activities.

k. Financials and Budget

i. Identify funding requirements for the proposed project, noting the specific sources and uses for the funds proposed, with enough detail to indicate the various key components of the project.

ii. Document the matching funds, including amount and source of the match (may include local or private sector financial participation in the project), or documents supporting the commitment of non-federal funding to the project, or a timeframe upon which those commitments would be made.

Applicants may attach to the supplemental form supporting materials and documentation as appropriate. Applicants are encouraged to clearly reference all attachments in the Applicant and Proposal supplemental form. Suggested attachments include graphics, maps, letters of support, and other documents to support the proposal.

3. Unique Entity Identifier and System for Award Management (SAM)

Registration in Brief: Registration can take as little as 3–5 business days, but since there could be unexpected steps or delays (for example, if you need to obtain an Employer Identification Number), FTA recommends allowing ample time, up to several weeks, for completion of all steps.

STEP 1: Obtain DUNS Number: Same day. If requested by phone (1–866–705–5711) DUNS is provided immediately. If your organization does not have one, you will need to go to the Dun & Bradstreet Web site at *http://fedgov.dnb.com/webform* to obtain the number.

STEP 2: Register With SAM: Three to five business days or up to two weeks. If you already have a Taxpayer ID Number, your SAM registration will take 3–5 business days to process. If you are applying for an Employer Identification Number please allow up to two weeks. Ensure that your organization is registered with the System for Award Management (SAM). *www.sam.gov.* If your organization is not, an authorizing official of your organization must register.

STEP 3: Username & Password: Same day. Complete your AOR (Authorized Organization Representative) profile on Grants.gov and create your username and password. You will need to use your organization's DUNS Number to complete this step. *https://apply07.grants.gov/apply/OrcRegister.*

STEP 4: AOR Authorization: Same day (depending on responsiveness of your E-Biz POC). The E-Business Point of Contact (E-Biz POC) at your organization must login to Grants.gov to confirm you as an Authorized Organization Representative (AOR). Please note that there can be more than one AOR for your organization. In some cases the E-Biz POC is also the AOR for an organization.

STEP 5: TRACK AOR STATUS: At any time, you can track your AOR status by logging in with your username and password. Login as an Applicant (enter your username & password you obtained in Step 3) under applicant profile.

4. Submission Dates and Times

Project proposals must be submitted electronically through *http://www.GRANTS.GOV* by 11:59 p.m. EDT on July 5, 2016.

5. Funding Restrictions

Funds under this NOFO cannot be used to reimburse projects for otherwise eligible expenses incurred prior to FTA award of a Grant Agreement or Cooperative Agreement unless FTA has issued a ''Letter of No Prejudice'' for the project before the expenses are incurred.

The MOD Sandbox Program is a research and development effort and as such FTA Research Circular 6100.1E rules will apply in administering the program.

E. Application Review

1. Selection Criteria

Projects will be evaluated by FTA according to the following five evaluation criteria and based on the information provided in each proposal. FTA strongly encourages each proposer to demonstrate the responsiveness of a project to all criteria shown below with the most relevant information that the proposer can provide.

The FTA will assess the extent to which a project addresses the following criteria:

a. Project Impact and Outcomes—Extent to which the project is consistent with overarching MOD goals to deliver high quality, seamless, accessible, and equitable mobility options to all travelers; provides support for the MOD Sandbox Program objectives; provides a platform for integration of mobility options in a community; and has national or regional applicability by providing a replicable model for other communities.

b. Project Approach and Business Model—Quality of the project approach and business model, including interface design, existing partnerships and local efforts toward MOD, collaboration strategies among the project partners, mechanism for involving travelers in the process and strategy for garnering support from the community. Projects will also be evaluated on the extent to which the proposed project incorporates innovative technologies and practices; the ability of the team to implement the demonstration effort within 12 months of program selection; and the extent to which the proposed business model is sustainable beyond the MOD Sandbox project period of performance.

c. Team Capacity and Commitment—Extent to which the team can successfully implement the proposed project, including the qualifications and experience of the team and their documented commitment to the project objectives. Evaluation includes project management and technical capabilities of the team, including past program management performance, quality and availability of match, and evidence of commitment, such as partnership agreements or letter of commitment from project partners.

d. Equity and Accessibility—Extent to which the proposed project addresses equity and accessibility to transportation systems and incorporates a service-to-all approach that provides mechanisms for *all* travelers to participate and benefit from the MOD concepts and outcomes

e. Support for Data Collection and Evaluation—Documented commitment to participate in data collection, evaluation and transfer of lessons learned. Documented willingness to participate in data collection and evaluation including an expressed commitment from the project team to grant access to project related data to FTA or FTA's designee to facilitate effective evaluation of project impacts.

2. Review and Selection Process

A technical evaluation panel comprising FTA and other U.S. DOT staff will review project proposals against the evaluation criteria listed above. The technical evaluation committee may seek clarification from any proposer about any statement made in a proposal. The FTA may also request additional documentation or information to be considered during the evaluation process. After the evaluation of all eligible proposals, the technical evaluation committee will provide project recommendations to the FTA Administrator. The FTA Administrator will determine the final list of project selections, and the amount of funding for each project. Geographic diversity, diversity of project type, and the applicant's receipt of other Federal funding may be considered in FTA's award decisions.

F. Federal Award Administration

The FTA intends to fund multiple meritorious projects to support executing eligible project activities. Due to funding limitations, proposers that are selected for funding may receive less than the amount originally requested.

1. Federal Award Notice

Subsequent to an announcement by the Federal Transit Administration of the final project selections posted on the FTA Web site, FTA may publish a list of the selected projects, including Federal dollar amounts and recipients.

2. Administrative and National Policy Requirements

a. Pre-Award Authority

The FTA will issue specific guidance to recipients regarding pre-award authority at the time of selection. The FTA does not provide pre-award authority for competitive funds until projects are selected and even then there are Federal requirements that must be met before costs are incurred. Preparation of proposals is not an eligible pre-award expense.

b. Grant Requirements

Successful proposals will be awarded through FTA's Transit Award Management System (TrAMS) as Cooperative Agreements.

c. Planning

The FTA encourages proposers to engage the appropriate State Departments of Transportation, Regional Transportation Planning Organizations, or Metropolitan Planning Organizations in areas likely to be served by the project funds made available under this programs.

d. Standard Assurances

The applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal administrative requirements in carrying out any project supported by the FTA grant. The applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its project with FTA. The applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and may affect the implementation of the project. The applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise. The applicant must submit the Certifications and Assurances before receiving a grant if it does not have current certifications on file.

e. Reporting

Post-award reporting requirements include submission of Federal Financial Reports and Milestone Reports in FTA's electronic grants management system on a quarterly basis for all projects.

G. Federal Awarding Agency Contacts

For further information concerning this notice please contact the FTA MOD Program staff via email at *MODSandbox@dot.gov*, or contact Christina Gikakis, FTA MOD Program manager, at 202–366–2637. A TDD is available for individuals who are deaf or hard of hearing at 1–800–877–8339.

Carolyn Flowers,

Acting Administrator.

[FR Doc. 2016–10320 Filed 5–2–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0028]

Pipeline Safety: Request for Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Pipeline Safety Laws, PHMSA is publishing this notice of a special permit request we have received from TransMontaigne Operating Company L.P. (TOC), a hazardous liquid pipeline operator, seeking relief from compliance with certain requirements in the Federal pipeline safety regulations. This notice seeks public comments on this request, including comments on any safety or environmental impacts. At the conclusion of the 30-day comment period, PHMSA will evaluate the request and determine whether to grant or deny a special permit.

DATES: Submit any comments regarding this special permit request by June 2, 2016.

ADDRESSES: Comments should reference the docket number for this specific special permit request and may be submitted in the following ways:

- *E-Gov Web site: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: U.S. Department of Transportation (DOT), Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* DOT Docket Management System: DOT, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

Note: Comments are posted without changes or edits to *http://www.Regulations.gov,* including any personal information provided. There is a privacy statement published at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

General: Kay McIver by telephone at 202–366–0113 or email at *kay.mciver@dot.gov* or Todd DelVecchio by telephone at 202–748–2597 or email at *todd.delvecchio@dot.gov.*

Technical: Vincent Holohan by telephone at 202–366–1933 or email at *vincent.holohan@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA has received this request for a special permit from TOC seeking relief from compliance with certain pipeline safety regulations. TOC's request includes a technical analysis. This request can be found at *http://www.Regulations.gov* under docket number PHMSA–2016–0028. We invite interested persons to participate by reviewing this special permit request at *http://www.Regulations.gov,* and by submitting written comments, data or other views.

Before acting on this special permit request, PHMSA will evaluate all comments received on or before the closing date of the comment period. Comments received after the closing date will be evaluated if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment we receive in making our decision to grant or deny a request.

PHMSA has received the following special permit request:

Docket No.	Requester	Regulation affected	Nature of special permit
PHMSA–2016–0028	TransMontaigne Operating Company L.P. (TOC).	49 CFR 195.3 and 195.132(3).	To authorize TOC to construct above ground storage tanks at TOC's Collins, Mississippi Storage Facility to the most current edition of API 650 incorporated in § 195.3. ''Welded Steel Tanks for Oil Storage'' (12th edition, Add. 1 September 2014).

Issued in Washington, DC, on April 28, 2016, under authority delegated in 49 U.S.C. 60118(c)(1) and 49 CFR 1.97.

Alan K. Mayberry,

Deputy Associate Administrator for Policy and Programs.

[FR Doc. 2016–10326 Filed 5–2–16; 8:45 am]

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Skagway Gateway Initiative Project; Notice

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE440

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Skagway Gateway Initiative Project

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from the Municipality of Skagway (MOS) for authorization to take marine mammals incidental to reconstructing the existing ore dock in Skagway Harbor, Alaska, referred to as the Skagway Gateway Initiative project. The MOS requests that the IHA be valid for 1 year, from July 1, 2016 through June 30, 2017. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting public comment on its proposal to issue an incidental harassment authorization (IHA) to the MOS to incidentally take, marine mammals for its reconstruction of the Skagway ore terminal in Skagway, AK.

DATES: Comments and information must be received no later than June 2, 2016.

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

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted to the Internet at *http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Laura McCue, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of the MOS's application and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* In case of problems accessing these documents, please call the contact listed above.

National Environmental Policy Act (NEPA)

We are preparing an Environmental Assessment (EA) in accordance with NEPA and the regulations published by the Council on Environmental Quality and will consider comments submitted in response to this notice as part of that process. The EA will be posted at the foregoing Web site once it is finalized.

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified area, the incidental, but not intentional, taking of small numbers of marine mammals, providing that certain findings are made and the necessary prescriptions are established.

The incidental taking of small numbers of marine mammals may be allowed only if NMFS (through authority delegated by the Secretary) finds that the total taking by the specified activity during the specified time period will (i) have a negligible impact on the species or stock(s) and (ii) not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). Further, the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking must be set forth, either in specific regulations or in an authorization.

The allowance of such incidental taking under section 101(a)(5)(A), by harassment, serious injury, death, or a combination thereof, requires that regulations be established. Subsequently, a Letter of Authorization may be issued pursuant to the prescriptions established in such regulations, providing that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations. Under section 101(a)(5)(D), NMFS may authorize such incidental taking by harassment only, for periods of not more than one year, pursuant to requirements and conditions contained within an Incidental Harassment Authorization (IHA). The establishment of prescriptions through either specific regulations or an authorization requires notice and opportunity for public comment.

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.'' 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].

Summary of Request

On December 2, 2015, NMFS received an application from the Municipality of Skagway (MOS) for the taking of marine mammal incidental to reconstructing the Skagway ore terminal (SOT) in Skaway Harbor, Skagway, Alaska, referred to as the Skagway Gateway Initiative project. On January 22, 2016 and March 14, 2016, and March 17, 2016 NMFS received revised applications. NMFS determined that the application was adequate and complete on April 1, 2016. MOS proposes to conduct in-water work that may incidentally harass marine mammals (*i.e.,* pile driving and removal) at the ore terminal. Take, by Level B Harassment, of individuals of six species of marine mammals is anticipated to results from the specified activity. This IHA would be valid from July 1, 2016 through June 30, 2017.

Description of the Specified Activity

Overview

The MOS is seeking an IHA for work that includes demolition of existing in-water and over-water infrastructure including in-water removal of timber, steel, and concrete piling; mechanical dredging of and upland beneficial reuse or disposal of contaminated sediments in the Skagway Ore Terminal (SOT)

basin of Skagway Harbor; and construction of new infrastructure including a bulkhead wall at the northern end of the Terminal basin, a wharf structure at the western edge of the SOT, an ore loader and supporting infrastructure, seven new or refurbished moorage dolphins and associated catwalks, and a concrete floating dock and associated gangways (or an additional three moorage dolphins and catwalks, depending on funding). Development of this new infrastructure involves a combination of in-water, over-water, and upland work.

The project's timing, duration, and specific types of activities (such as pile driving and dredging) may result in the incidental taking by acoustical harassment of marine mammals protected under the MMPA. The MOS is requesting an IHA for six marine mammal species: Harbor seal (*Phoca viutlina*), Steller sea lion (*Eumetopias jubatus*), harbor porpoise (*Phocoena phocoena*), Dall's porpoise (*Phocoenoides dalli*), killer whale (*Orcinus orca*), and humpback whale (*Megaptera novaeangliae*), that may occur in the vicinity of the project.

Dates and Duration

Pile installation and extraction associated with the SOT project will begin no sooner than July 01, 2016 and will be completed no later than June 30, 2016 (1 year following IHA issuance). Pile driving activities are proposed to occur from the end of July to the beginning of October 2016 and again in March 2017 for a total of about 155 hours over the course of approximately 73 days in 2016 and 2017. Pile removal will occur in July 2016 and December 2016 to January 2017 for a total of about 117 hours over the course of approximately 39 days in 2016 and 2017. Dredging will occur from January through the beginning of March 2017, for a total of about 400 hours over 40 days in the winter of 2017.

To minimize impacts to Hooligan (*Thaleichtys pacificus*), Pacific herring (*Clupea pallasii*), capelin (*Mallotus catervarius*), and other forage fish species that are part of the prey base for many marine mammals including seals, sea lions, and baleen whales, in-water construction timing has been planned to avoid major spawning and migration times (April 1 through May 31).

Specified Geographic Region

The proposed activities will occur at the SOT located in Skagway Harbor, Alaska, on the Taiya Inlet/Lynn Canal water body. The Project is located in Section 26 and 35, T 30 S, R 59 E, Copper River Meridian; United States Geological Survey Quad Map Skagway B–1; Latitude 59.45 degrees North (N), Longitude 135.31 degrees West (W) (see Figure 1 of the MOS's application). Skagway Harbor is located at the southwestern end of the 2.5-mile-long Skagway River valley. The Skagway River empties into Taiya Inlet at the head of Lynn Canal, the northernmost fjord on the Inside Passage of the south coast of Alaska. Pullen Creek empties into the inlet on the southeast side of the valley.

Detailed Description of Activities

The proposed action for this IHA request includes demolition of existing in- and overwater infrastructure including in-water removal of timber, steel, and concrete piling; mechanical dredging of and upland beneficial reuse or disposal of contaminated sediments in the SOT basin (Terminal basin) of Skagway Harbor; and construction of new infrastructure including a bulkhead wall at the northern end of the Terminal basin, a wharf structure at the western edge of the SOT, an ore loader and supporting infrastructure, seven new or refurbished moorage dolphins and associated catwalks, and a concrete floating dock and associated gangways (or an additional three moorage dolphins and catwalks, depending on funding).

The SOT was constructed in 1968, and pier access accommodates vessels in the 35,000 DWT class (AIDEA 2008). The Port of Skagway has provided key transportation import/export capacity for the Yukon for over a century. The construction activities are designed to upgrade and enhance current shipping needs and increase the capacity and efficiency of the existing terminal for shipment and export. It will spring open new international business from cruise ships, container traffic, mining resources, and energy production, revitalizing investment in Skagway, the Port and the Region.

Existing structures to be demolished include the eastern extent of the timber pier, the ore loader and concrete and steel foundation, fuel infrastructure (timber dock and piping), the concrete Alaska Marine Lines (AML) pier, and up to five concrete and steel moorage dolphins (see sheets 1 and 2 of the MOS's application). The existing infrastructure will be demolished using heavy, land- or water-based (*i.e.,* from a barge) equipment. The contractor will be required to implement best management practices (BMPs) to minimize environmental impacts from demolition. In total, demolition actions are expected to take 39 days to complete.

Demolition of the infrastructure will generally occur as follows: Above-water infrastructure, including concrete pads, timber decking, pile caps, utilities, and piping will be removed. Timber piles will then be extracted entirely using a vibratory hammer or broken off at the mudline if extraction is not practical. The timber piles will be removed as both a source control measure (*i.e.,* through removal of creosote-treated timber piles) and as a necessary step to perform environmental dredging in this area. Table 1 shows the total number of piles to be removed during demolition.

TABLE 1—NUMBER OF PILES TO BE REMOVED VIA DEMOLITION

	Number of Creosote-treated piles to be removed	Number of steel piles to be removed
Timber Pier	400	50
Ore Loader	0	50
AML Pier	0	15
Fuel Infrastructure	0	4
Moorage Dolphins2	0	0
Total	400	119

The vertical and horizontal boundaries of the proposed dredging were designed to remove impacted sediments (*i.e.,* sediments with metals and/or polycyclic aromatic hydrocarbon (PAH) concentrations exceeding the sediment cleanup objectives [SCOs]). The SCOs were chosen to be the cleanup objective level based on discussions in the April 13, 2015, meeting between Bruce Wanstall (ADEC), Dr. Chad Gubala (MOS), and Derek Koellmann (Anchor QEA). The current estimated dredge volume (including a 1-foot over-dredge to account for equipment tolerances) is 41,000 ft^2, and the associated approximate surface area is 21,245 ft^2, pending final design and geotechnical and structural considerations, for a total surface area of 62,245 ft^2 to be removed. The estimated contaminated material planned to be removed is 17,300 cubic yards. An additional 9,000 cubic yards of uncontaminated material may be dredged for the installation of the floating dock. Pending the outcome of a treatability study, dredged sediments will either be beneficially reused in upland areas or transported to a suitable upland landfill at the discretion of ADEC.

All dredging will be performed using up-to a seven-cubic-yard clamshell bucket. Use of an environmental bucket was considered, but was deemed infeasible given the nature and composition of the sediments to be dredged. As noted in the demolitions section, specific overwater structures are planned to be demolished prior to the start of dredging. In total, dredging actions are expected to take 40 days to complete.

Construction of new in- and overwater infrastructure is proposed, including the AML bulkhead wall, wharf structure, and ore loader. In addition, either a concrete floating dock or additional moorage dolphins connected by a catwalk will be constructed. Whether the concrete floating dock or moorage dolphins and catwalk are constructed depends on available funding. All piles will be installed using a vibratory and/or impact hammer. Piles to be installed are summarized in Table 2.

TABLE 2—PILES TO BE INSTALLED

Project component	Pile size and number					Square footage of sea floor impacts
	24 in	36 in	48 in	60 in	Total	
AML Bulkhead Wall	0	0	0	0	0	0
Wharf Structure at Ore Dock	16	20	4	0	40	241.9
Ore Loader and Foundation	0	58	0	0	58	410.0
Moorage Dolphins and Catwalk	0	70	0	0	70	494.8
Fuel Infrastructure	0	17	0	0	17	120.2
Concrete Floating Dock Structure	3	14	0	7	21	245.8
Total, Concrete Floating Dock	19	179	4	7	209	1,512.7

The proposed wharf bulkhead wall will be constructed of steel sheet pile walls in the form of a rectangle of approximately 220 by 75 feet (16,500 square feet). The top of the walls will be at approximately 30 feet above MLLW, and the future bottom of the walls at a depth of –4 feet MLLW. The structure will be filled with 2,000 to 4,000 cubic yards of suitable dredged material, of which 150 to 300 cubic yards will be placed below MHHW. The ground surface where fill will be placed is primarily above MHHW. Only fill placed in the southeastern corner of the structure will be within the intertidal zone. The steel sheet pile will be installed using a vibratory and/or impact hammer.

The proposed AML pier will be a steel and concrete structure abutting the new wharf structure. The pier will be 65 by 30 feet, supported by twenty 36-inch-diameter steel piles. Finished height will be 30 feet above MLLW. Piles will be installed with a vibratory and/or impact hammer.

The proposed AML ramp will be a steel ramp of 96 by 23 feet supported by four 48-inch-diameter steel guide piles and sixteen 24-inch-diameter steel piles. Finished height will be 30 feet above MLLW. The ramp will be installed by crane.

A new ore loader is proposed in the harbor, including a loader, foundation, and access platform. The proposed ore loader foundation will be a steel and concrete structure, 50 by 50 feet and supported by fifty 36-inch-diameter steel piles. Finished height will be 30 feet above MLLW. Piles will be installed with a vibratory and/or impact hammer.

The proposed access platform will connect the ore loader to the Ore Terminal uplands. It will be a steel and concrete structure, 90 by 15 feet, and supported by twenty 36-inch-diameter steel piles. Finished height will be 30 feet above MLLW. Only the eastern 40 feet of length and eight piles will be over the intertidal or subtidal zones (the remainder will be above and tied into the uplands). Piles will be installed with a vibratory and/or impact hammer.

The concrete dock and seven moorage dolphins (see Section 2.2.4.5 of the MOS's application) or up to 10 moorage dolphins will be installed depending on funding. A concrete floating dock is proposed for the southern end of the project area, including the dock, a transfer bridge, a pile-supported pedestrian platform, and a pedestrian gangway. The proposed floating dock will be a 300-by-50-foot concrete structure supported by seven 60-inch-diameter piles and fourteen 36-inch-diameter piles. The finished height will vary with the tide; the dock will have approximately 7 feet of freeboard above the waterline. Piles will be installed with a vibratory and/or impact hammer.

The proposed transfer bridge will be a 200-by-19-foot steel structure supported by a concrete abutment founded on ten 24-inch-diameter piles placed above the intertidal zone. The top of the ramp will be 30 feet above MLLW and the bottom of the ramp will be supported by the floating dock. Only the eastern 150 feet of length will be over the intertidal or subtidal zones (the remainder will be above and tied into the uplands). The ramp will be installed by crane.

The proposed pedestrian platform will be a 25-by-55-foot concrete structure, placed adjacent to the existing timber walkway that will remain after the ore dock demolition. Finished height will be 30 feet above MLLW. The pedestrian platform will be supported on six 24-inch-diameter steel piles. Only the eastern 10 feet and three piles of this structure will be over the intertidal or subtidal zones (the remainder will be above and tied into the uplands).

The proposed pedestrian gangway will be a 150-by-8-foot steel structure that spans between the pedestrian platform and the concrete floating dock. The top of the ramp will be 30 feet above MLLW and the bottom of the ramp will be supported by the floating dock. The full length of the pedestrian gangway will be over the intertidal or subtidal zones. It will be installed by crane.

As many as 10 new moorage dolphins may be constructed, along with connecting catwalks, located as follows:

- Up to two dolphins and a catwalk 200 by 6 feet extending from the AML bulkhead wall toward the AML ramp;
- Up to five dolphins and a catwalk 400 by 6 feet extending north and south from the ore loader; and
- Up to three dolphins and a catwalk 300 by 6 feet north of the existing concrete pier, if the concrete floating dock is not constructed.

Each dolphin will consist of a 15-foot-square steel and concrete superstructure atop ten 36-inch steel piles.

Each catwalk will be a 6-foot-wide steel structure, supported by the dolphins. Finished height will be 30 feet above MLLW. Dolphins will be installed by vibratory and/or impact hammer and the catwalk will be installed by crane.

A new fuel manifold and fuel lines will be constructed on a pier extending from the ore loader platform infrastructure. The proposed fuel pier will be a steel and concrete structure. The approach pier will be 60 by 15 feet, supported by eight 36-inch-diameter steel piles. The fuel pier will be 30 by 30 feet supported by nine 36-inch-diameter steel piles. Finished height will be 30 feet above MLLW. Piles will be installed with a vibratory and/or impact hammer.

Description of Marine Mammals in the Area of the Specified Activity

Marine waters near Skagway in the Taiya inlet and the larger Lynn Canal support many species of marine mammals, including pinnipeds and cetaceans; however, the number of species that may regularly occur near the project area is 10 marine mammal species (Table 3). For the purpose of this IHA, the region of activity is defined as Taiya Inlet as acoustic impacts from the project are not anticipated to extend beyond the inlet into the adjacent Lynn Canal. Some species in this area are not expected to be impacted by the project activities, due to habitat preference including the gray whale, sperm whale, and the Pacific white-sided dolphin, and are therefore not considered further in this document after this section. Sperm whales have been observed in southeast Alaska with more frequency in recent years and have been tracked in Lynn Canal (seaswap.info). It is unknown whether they occur as far north as Taiya inlet and the action area (J. Moran personal communication, March 2016); however, there are no documented sightings in the area (seaswap.info). This species prefers deeper waters, and are unlikely to occur in the narrow inlets near Skagway. Gray whale sightings in the portion of Southeast Alaska are very rare; there have only been eight sightings since 1997, none of which were in Taiya Inlet or Lynn Canal. Pacific white-sided are also considered rare in the action area, with habitat preferences in southern waters of southeast Alaska. While minke whales may occur in the action area, our analysis and take calculation suggest that this species will not be taken for this activity (zero calculated take); therefore, no take of this species will be authorized. There are six marine mammal species documented in the waters of Taiya Inlet/Lynn Canal (Dahlheim *et al.* 2009; Allen and Angliss 2014; Muto and Angliss 2015) for which take is requested.

One of the species, the harbor seal, is known to consistently occur near the SOT; however the closest haul out site is six miles away. Moderate to high abundances of Steller sea lions are also known to seasonally occupy the inlet, with the closest haul out more than 22 miles away from construction activities. Several humpback whales have been observed within Taiya Inlet, sometimes close to Skagway, during non-winter months. The remaining four species (harbor porpoise, Dall's porpoise, killer whale, and minke whale) may occur in Taiya Inlet/Lynn Canal, but less frequently and farther from the SOT.

TABLE 3—MARINE MAMMAL SPECIES LIKELY TO OCCUR NEAR THE PROJECT AREA

Species name	Stock(s) abundance estimate [1]	ESA * status	MMPA ** status	Occurrence
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)				
Family Balaenopteridae				
Humpback whale (*Megaptera novaeangliae)*	Central North Pacific Stock: 10,252.	Endangered	Strategic, depleted	Rare.
Minke whale (*Balaenoptera acutorostrata)*	Alaska stock: N/A	Not listed	Not strategic	Unlikely.
Order Cetartiodactyla—Cetacea—Superfamily				
Family Eschrichtiidae				
Gray whale (*Eschrichtius robustus)*	Eastern North Pacific stock: 20,990.	Not listed	Not strategic, non-depleted	Unlikely.
Order Cetartiodactyla—Cetacea—Superfamily				
Family Physeteroidea				
Sperm whale (*Physeter macrocephalus*)	North Pacific stock: N/A	Endangered	Strategic, depleted	Unlikely.

TABLE 3—MARINE MAMMAL SPECIES LIKELY TO OCCUR NEAR THE PROJECT AREA—Continued

Species name	Stock(s) abundance estimate [1]	ESA * status	MMPA ** status	Occurrence
Order Cetartiodactyla—Cetacea—Superfamily				
Family Delphinidae				
Killer whale (*Orcinus orca)*	Alaska stock: 2,347 Northern resident stock: 261 Gulf of Alaska stock: 587 West coast transient stock: 243.	Not listed	Not Strategic, non-depleted	Infrequent.
Pacific white-sided dolphin (*Lagenorhynchus obliquidens).*	North Pacific stock: 26,880	Not listed	Not Strategic, non-depleted	Unlikely.
Order Cetartiodactyla—Cetacea—Superfamily				
Family Phocoenidae				
Dall's porpoise (*Phocoenoides dalli)*	Alaska stock: 83,400	Not listed	Not strategic, non-depleted	Rare.
Harbor porpoise (*Phocoena phocoena)*	Southeast AK: 11,146	Not listed	Strategic, non-depleted	Likely.
Order Carnivora—Pinnipedia				
Family Phocidae				
Harbor seal (*Phoca vitulina)*	Lynn Canal/Stephens Passage Stock: 9,478.	Not listed	Not strategic- non-depleted	Likely.
Order Carnivora—Pinnipedia				
Family Otariidae				
Steller sea lion (*Eumetopias jubatus)*	wDPS:49,497 eDPS: 60,131–74,448	Endangered	Strategic, depleted	Likely.

[1] 2015 draft marine mammal Stock Assessment Reports at *http://www.nmfs.noaa.gov/pr/sars/species.htm.*
* Endangered Species Act.
** Marine Mammal Protection Act.

Cetaceans

Humpback whale

The humpback whale is distributed worldwide in all ocean basins. In winter, most humpback whales occur in the subtropical and tropical waters of the Northern and Southern Hemispheres, and migrate to high latitudes in the summer to feed. The historic summer feeding range of humpback whales in the North Pacific encompassed coastal and inland waters around the Pacific Rim from Point Conception, California, north to the Gulf of Alaska and the Bering Sea, and west along the Aleutian Islands to the Kamchatka Peninsula and into the Sea of Okhotsk and north of the Bering Strait (Zenkovich 1954, Johnson and Wolman 1984). The winter range includes the main islands of the Hawaiian archipelago, with the greatest concentration along the west side of Maui. In Mexico, the winter range includes waters around the southern part of the Baja California peninsula, the central portions of the Pacific coast of mainland Mexico, and the Revillagigedos Islands off the mainland coast. The winter range also extends from southern Mexico into Central America, including Guatemala, El Salvador, Nicaragua, and Costa Rica (Calambokidis *et al.,* 2008).

There are three stocks of humpback whales in the North Pacific: (1) The California/Oregon/Washington and Mexico stock, consisting of winter/spring populations in coastal Central America and coastal Mexico which migrate to the coast of California to southern British Columbia in summer/fall (Calambokidis *et al.* 1989, Steiger *et al.* 1991, Calambokidis *et al.* 1993); (2) the central North Pacific stock, consisting of winter/spring populations of the Hawaiian Islands which migrate primarily to northern British Columbia/Southeast Alaska, the Gulf of Alaska, and the Bering Sea/Aleutian Islands (Perry *et al.* 1990, Calambokidis *et al.* 1997); and (3) the western North Pacific stock, consisting of winter/spring populations off Asia which migrate primarily to Russia and the Bering Sea/Aleutian Islands. Information from the SPLASH (Structure of Populations, Levels of Abundance, and Status of Humpbacks) project mostly confirms this view of humpback whale distribution and movements in the North Pacific; however, the full SPLASH results suggest the current view of population structure is incomplete. A revision of population structure in the North Pacific will be considered when the full genetic results from the SPLASH project are available. The central North Pacific stock is the only stock that is found near the project activities.

The current abundance estimate for the Central North Pacific stock is 10,252 individuals (Muto and Angliss, 2015). This stock is designated as strategic and depleted under the MMPA. Humpback whales are currently listed as endangered range-wide under the ESA. The status and population structure of humpback whales is currently under review by NMFS as part of a global status review of the species (Muto and Angliss, 2015). This stock of humpback whales is growing, with the growth rate estimated to be seven percent (Allen and Angliss, 2014). The current PBR for this stock is 173 individuals. Entanglement from fishing gear and ship strikes remain the top threats for humpback whales, with an estimated

annual mortality and serious injury rate of 23 animals (Muto and Angliss, 2015).

Killer Whale

Killer whales have been observed in all oceans and seas of the world, but the highest densities occur in colder and more productive waters found at high latitudes. Killer whales are found throughout the North Pacific, and occur along the entire Alaska coast, in British Columbia and Washington inland waterways, and along the outer coasts of Washington, Oregon, and California (Allen and Angliss, 2013).

Based on data regarding association patterns, acoustics, movements, and genetic differences, eight killer whale stocks are now recognized: (1) The Alaska Resident stock; (2) the Northern Resident stock; (3) the Southern Resident stock; (4) the Gulf of Alaska, Aleutian Islands, and Bering Sea Transient stock; (5) the AT1 Transient stock; (6) the West Coast transient stock, occurring from California through southeastern Alaska; and (7) the Offshore stock, and (8) the Hawaiian stock. Only the Alaska resident; Northern resident; Gulf of Alaska, Aleutian Islands, and Bering Sea Transient (Gulf of Alaska transient); and the West coast transient stocks are considered in this application because other stocks occur outside the geographic area under consideration. Any of these four stocks could be seen in the action area; however, the Northern resident stock is most likely to occur in the area.

The Alaska resident stock is found from southeastern Alaska to the Aleutian Islands and Bering Sea. Intermixing of Alaska residents have been documented among the three areas, at least as far west as the eastern Aleutian Islands (Allen and Angliss, 2013). Combining the counts of known 'resident' whales gives a minimum number of 2,347 (Southeast Alaska + Prince William Sound + Western Alaska; 121 + 751 + 1,475) killer whales belonging to the Alaska Resident stock (Allen and Angliss 2013). At present, reliable data on trends in population abundance for the entire Alaska resident stock of killer whales are unavailable. PBR is 23.4 animals. Fishery interactions are a main threat to this stock. This stock is not designated as depleted or classified as strategic under the MMPA, and is not listed under the ESA.

The Northern resident stock occurs from Washington State through part of southeastern Alaska. The Northern Resident stock is a transboundary stock, and includes killer whales that frequent British Columbia, Canada and southeastern Alaska (Dahlheim *et al.,* 1997; Ford *et al.,* 2000). The population estimate for this stock is currently 261 whales (Allen and Angliss, 2013). This population is increasing, with an average of 2.1 percent annual increase over a 36 year time period (Ellis *et al.,* 2011). PBR for this stock is 1.96 animals. This stock is not designated as depleted or strategic under the MMPA, and is not listed as threatened or endangered under the ESA.

The Gulf of Alaska transient stock occurs mainly from Prince William Sound through the Aleutian Islands and Bering Sea. Current abundance estimate for this stock is 587 animals (Allen and Angliss, 2013). PBR is 5.87 animals per year (Allen and Angliss, 2013). Current trends for this stock are unavailable, but the stock is not designated as depleted or strategic under the MMPA and is not listed under the ESA.

The West coast transient stock includes animals that occur in California, Oregon, Washington, British Columbia and southeastern Alaska. Current abundance estimate for this stock is 243 animals, which should be considered a minimum count for this stock (Allen and Angliss, 2013). PBR is 2.4 animals per year (Allen and Angliss, 2013). No reliable estimates of population trends are available, but this stock is not designated as depleted or strategic under the MMPA, and is not listed under the ESA.

Additional information on the biology and local distribution of these species can be found in the NMFS Marine Mammal Stock Assessment Reports, which may be found at: *http://www.nmfs.noaa.gov/pr/species/.*

Dall's Porpoise

Dall's porpoise are widely distributed across the entire North Pacific Ocean. They are found over the continental shelf adjacent to the slope and over deep (2,500+ m) oceanic waters. They have been sighted throughout the North Pacific as far north as 65° N. (Buckland *et al.* 1993). Throughout most of the eastern North Pacific they are present during all months of the year, although there may be seasonal onshore-offshore movements along the west coast of the continental United States (Loeb 1972), and winter movements of populations out of Prince William Sound and areas in the Gulf of Alaska and Bering Sea (NMFS, unpubl. data, National Marine Mammal Laboratory). The stock structure of eastern North Pacific Dall's porpoise is not adequately understood at this time, but based on patterns of stock differentiation in the western North Pacific, where they have been more intensively studied, it is expected that separate stocks will emerge when data become available.

Currently one stock of Dall's porpoise is recognized in Alaskan waters, while Dall's porpoise along the west coast of the continental U.S. from California to Washington comprise a separate stock (Allen and Angliss, 2012). The current abundance estimate for the Alaska stock is 83,400 animals (Muto and Angliss, 2015). PBR for this stock is currently undetermined, and population trends are unknown; however, this stock is not designated as depleted or strategic under the MMPA, and is not listed under the ESA (Allen and Angliss, 2012).

Harbor Porpoise

The harbor porpoise inhabits temporal, subarctic, and arctic waters. In the eastern North Pacific, harbor porpoises range from Point Barrow, Alaska, to Point Conception, California. Harbor porpoise primarily frequent coastal waters and occur most frequently in waters less than 100 m deep (Hobbs and Waite 2010). They may occasionally be found in deeper offshore waters.

In Alaska, harbor porpoises are currently divided into three stocks, based primarily on geography. These are (1) the Southeast Alaska stock—occurring from the northern border of British Columbia to Cape Suckling, Alaska, (2) the Gulf of Alaska stock—occurring from Cape Suckling to Unimak Pass, and (3) the Bering Sea stock—occurring throughout the Aleutian Islands and all waters north of Unimak Pass (Allen and Angliss 2014). Only the Southeast Alaska stock is considered in this application because the other stocks are not found in the geographic area under consideration.

Harbor porpoises are neither designated as depleted under the MMPA nor listed as threatened or endangered under the ESA. Because the most recent abundance estimate is 14 years old and information on incidental harbor porpoise mortality in commercial fisheries is not well understood, the Southeast Alaska stock of harbor porpoise is classified as strategic. Population trends and status of this stock relative to optimum sustainable population size are currently unknown. The Southeast Alaska stock is currently estimated at 11,146 individuals (Muto and Angliss 2015). No reliable information is available to determine trends in abundance.

Pinnipeds

Harbor Seal

Harbor seals range from Baja California north along the west coasts of Washington, Oregon, California, British Columbia, and Southeast Alaska; west through the Gulf of Alaska, Prince William Sound, and the Aleutian Islands; and north in the Bering Sea to Cape Newenham and the Pribilof Islands. They haul out on rocks, reefs, beaches, and drifting glacial ice, and feed in marine, estuarine, and occasionally fresh waters. Harbor seals generally are nonmigratory, with local movements associated with such factors as tides, weather, season, food availability, and reproduction (Scheffer and Slipp 1944, Fisher 1952, Bigg 1969, 1981, Hastings *et al.* 2004).

In 2010, harbor seals in Alaska were partitioned into 12 separate stocks based largely on genetic structure (Allen and Angliss 2012). The 12 stocks of harbor seals identified in Alaska are (1) the Aleutian Islands stock, (2) the Pribilof Islands stock, (3) the Bristol Bay stock, (4) the North Kodiak stock, (5) the South Kodiak stock, (6) the Prince William Sound stock, (7) the Cook Inlet/Shelikof stock, (8) the Glacier Bay/Icy Strait stock, (9) the Lynn Canal/Stephens Passage stock, (10) the Sitka/Chatham stock, (11) the Dixon/Cape Decision stock, and (12) the Clarence Strait stock. Only the Lynn Canal/Stephens stock is considered for these construction activities. The range of this stock ranges north along the east and north coast of Admiralty Island from the north end of Kupreanof Island through Lynn Canal, including Taku Inlet, Tracy Arm, and Endicott Arm, and reaching as far north as Taiya, Lutak, and Chilkat Inlets (Allen and Angliss, 2012).

The current statewide abundance estimate for Alaskan harbor seals is 205,090, based on aerial survey data collected during 1998–2011 (Muto and Angliss, 2015). The abundance estimate for the Lynn Canal/Stephens Passage stock is 9,478 (Muto and Angliss 2015). The current (2007–2011) estimate of the population trend information for this stock is −176 seals per year, with a probability that the stock is decreasing (Muto and Angliss, 2015). PBR is 155 animals per year.

Harbor seals are included in subsistence harvests. From 2011–2012, an average of 50 animals from this stock were harvested each year, which is higher than previous estimates of 30 animals, on average, per year from 2004–2008 (Muto and Angliss, 2015). Entanglement is the biggest contributor to their annual human-caused mortality. Lynn Canal/Stephens Passage harbor seals are not listed as depleted or strategic under the MMPA, and are not listed under the ESA.

Steller Sea Lion

The Steller sea lion is a pinniped and the largest of the eared seals. Steller sea lion populations that primarily occur west of 144° W. (Cape Suckling, Alaska) comprise the western Distinct Population Segment (wDPS), while all others comprise the eastern DPS (eDPS); however, there is regular movement of both DPSs across this boundary (Muto and Angliss, 2015). Both of these populations may occur in the action area. Steller sea lions were listed as threatened range-wide under the ESA on 26 November 1990 (55 **Federal Register** [FR] 49204). Steller sea lions were subsequently partitioned into the western and eastern DPSs in 1997 (Allen and Angliss 2010), with the wDPS being listed as endangered under the ESA and the eDPS remaining classified as threatened (62 FR 24345) until it was delisted in November 2013. In August 1993, NMFS published a final rule designating critical habitat for the Steller sea lion as a 20 nautical mile buffer around all major haul-outs and rookeries, as well as associated terrestrial, air and aquatic zones, and three large offshore foraging areas (50 CFR 226.202). There is no Steller sea lion critical habitat in the area.

The range of the Steller sea lion includes the North Pacific Ocean rim from California to northern Japan, with centers of abundance and distribution in the Gulf of Alaska and Aleutian Islands (Muto and Angliss, 2015). Steller sea lions forage in nearshore and pelagic waters where they are opportunistic predators. They feed primarily on a wide variety of fishes and cephalopods. Steller sea lions use terrestrial haulout sites to rest and take refuge. They also gather on well-defined, traditionally used rookeries to pup and breed. These habitats are typically gravel, rocky, or sand beaches; ledges; or rocky reefs (Allen and Angliss, 2013).

The current abundance estimate for the wDPS in Alaska is 49,497 sea lions, and between 60,131–74,448 animals for the eDPS (Muto and Angliss 2015). The wDPS of Steller sea lions declined approximately 75 percent from 1976 to 1990. Factors that may have contributed to this decline include (1) incidental take in fisheries, (2) legal and illegal shooting, (3) predation, (4) contaminants, (5) disease, and (6) climate change. Non-pup Steller sea lion counts at trend sites in the wDPS increased 11 percent during 2000–2004. These counts were the first region-wide increases for the wDPS since standardized surveys began in the 1970s, and were due to increased or stable counts in all regions except the western Aleutian Islands. During 2004–2008, western Alaska non-pup counts increased only 3 percent; eastern Gulf of Alaska (Prince William Sound area) counts were higher; counts from the Kenai Peninsula through Kiska Island, including Kodiak Island, were stable; and western Aleutian counts continued to decline (Allen and Angliss 2010). Current PBR for the wDPS is 297 animals, and PBR for the eDPS is currently unavailable (Muto and Angliss, 2015).

Steller sea lions are included in Alaska subsistence harvests. The mean annual take of Steller sea lions is 199 from 2004–2013 (Muto and Angliss, 2015). Entanglements in fishing gear and marine debris, and interactions with fishing gear are sources of mortality and serious injury for Steller sea lions.

Potential Effects of the Specified Activity on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that the specified activity (*e.g.* pile driving, pile removal), including potential mitigation activities, associated with the reconstruction of the SOT may impact marine mammals and their habitat. Mitigation measures will reduce impacts to marine mammals from the project activities. Please refer to the *Proposed Mitigation* section for more information. The *Estimated Take by Incidental Harassment* section later in this document will include an analysis of the number of individuals that are expected to be taken by this activity. The *Negligible Impact Analysis* section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the *Estimated Take by Incidental Harassment* section, and the *Proposed Mitigation* section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks. In the following discussion, we provide general background information on sound and marine mammal hearing before considering potential effects to marine mammals from sound produced by pile extraction, vibratory pile driving, and impact pile driving.

Description of Sound Sources

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure

waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks of a sound wave; lower frequency sounds have longer wavelengths than higher frequency sounds and attenuate (decrease) more rapidly in shallower water. Amplitude is the height of the sound pressure wave or the 'loudness' of a sound and is typically measured using the decibel (dB) scale. A dB is the ratio between a measured pressure (with sound) and a reference pressure (sound at a constant pressure, established by scientific standards). It is a logarithmic unit that accounts for large variations in amplitude; therefore, relatively small changes in dB ratings correspond to large changes in sound pressure. When referring to sound pressure levels (SPLs; the sound force per unit area), sound is referenced in the context of underwater sound pressure to 1 microPascal (μPa). One pascal is the pressure resulting from a force of one newton exerted over an area of one square meter. The source level (SL) represents the sound level at a distance of 1 m from the source (referenced to 1 μPa). The received level is the sound level at the listener's position. Note that all underwater sound levels in this document are referenced to a pressure of 1 μPa and all airborne sound levels in this document are referenced to a pressure of 20 μPa.

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

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

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

- Wind and waves: The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient noise for frequencies between 200 Hz and 50 kHz (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Surf noise becomes important near shore, with measurements collected at a distance of 8.5 km from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions.
- Precipitation: Sound from rain and hail impacting the water surface can become an important component of total noise at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times.
- Biological: Marine mammals can contribute significantly to ambient noise levels, as can some fish and shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz.
- Anthropogenic: Sources of ambient noise related to human activity include transportation (surface vessels and aircraft), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Shipping noise typically dominates the total ambient noise for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly (Richardson *et al.,* 1995). Sound from identifiable anthropogenic sources other than the activity of interest (*e.g.,* a passing vessel) is sometimes termed background sound, as opposed to ambient sound.

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

The underwater acoustic environment in the SOT is likely to be dominated by noise from day-to-day port and vessel activities. The Port of Skagway has provided key transportation import/export capacity for the Yukon and pier access accommodates vessels in the 35,000 DWT class (AIDEA 2008). When underway, these sources can create noise between 20 Hz and 16 kHz (Lesage *et al.,* 1999), with broadband noise levels up to 180 dB. While there are no current measurements of ambient noise levels in harbor, it is likely that levels within the harbor periodically exceed the 120 dB threshold and, therefore, that the high levels of anthropogenic activity in the basin create an environment far different from quieter habitats where behavioral reactions to sounds around the 120 dB threshold have been observed (*e.g.,* Malme *et al.,* 1984, 1987).

High levels of vessel traffic are known to elevate background levels of noise in the marine environment. For example, continuous sounds for tugs pulling barges have been reported to range from 145 to 166 dB re 1 μPa rms at 1 meter from the source (Miles *et al.* 1987; Richardson *et al.* 1995; Simmonds *et al.* 2004). Ambient underwater noise levels in the SOT project area are both variable and relatively high, and are expected to mask some sounds of drilling, pile installation, and pile extraction.

In-water construction activities associated with the project include vibratory pile driving and removal, and impact pile driving. There are two general categories of sound types: Impulse and non-pulse (defined below). Vibratory pile driving is considered to be continuous or non-pulsed while

impact pile driving is considered to be an impulse or pulsed sound type. The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.,* (2007) for an in-depth discussion of these concepts.

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

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

Impact hammers operate by repeatedly dropping a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper, 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak SPLs may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.,* 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (Nedwell and Edwards, 2002; Carlson *et al.,* 2005).

The likely or possible impacts of the proposed pile driving program at SOT on marine mammals could involve both non-acoustic and acoustic stressors. Potential non-acoustic stressors could result from the physical presence of the equipment and personnel. Any impacts to marine mammals are expected to primarily be acoustic in nature. Acoustic stressors could include effects of heavy equipment operation, pile installation and pile removal at SOT.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals, and exposure to sound can have deleterious effects. To appropriately assess these potential effects, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on measured or estimated hearing ranges on the basis of available behavioral data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. The lower and/or upper frequencies for some of these functional hearing groups have been modified from those designated by Southall *et al.* (2007). The functional groups and the associated frequencies are indicated below (note that these frequency ranges do not necessarily correspond to the range of best hearing, which varies by species):

- Low frequency cetaceans (13 species of mysticetes): Functional hearing is estimated to occur between approximately 7 Hz and 25 kHz (up to 30 kHz in some species), with best hearing estimated to be from 100 Hz to 8 kHz (Watkins, 1986; Ketten, 1998; Houser *et al.,* 2001; Au *et al.,* 2006; Lucifredi and Stein, 2007; Ketten *et al.,* 2007; Parks *et al.,* 2007a; Ketten and Mountain, 2009; Tubelli *et al.,* 2012);
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz with best hearing from 10 to less than 100 kHz (Johnson, 1967; White, 1977; Richardson *et al.,* 1995; Szymanski *et al.,* 1999; Kastelein *et al.,* 2003; Finneran *et al.,* 2005a, 2009; Nachtigall *et al.,* 2005, 2008; Yuen *et al.,* 2005; Popov *et al.,* 2007; Au and Hastings, 2008; Houser *et al.,* 2008; Pacini *et al.,* 2010, 2011; Schlundt *et al.,* 2011);
- High frequency cetaceans (eight species of true porpoises, six species of river dolphins, and members of the genera *Kogia* and *Cephalorhynchus;* now considered to include two members of the genus *Lagenorhynchus* on the basis of recent echolocation data and genetic data [May-Collado and Agnarsson, 2006; Kyhn *et al.* 2009, 2010; Tougaard *et al.* 2010]): Functional hearing is estimated to occur between approximately 200 Hz and 180 kHz (Popov and Supin, 1990a,b; Kastelein *et al.,* 2002; Popov *et al.,* 2005);
- Phocid pinnipeds in water: Functional hearing is estimated to occur between approximately 75 Hz and 100 kHz with best hearing between 1–50 kHz (Møhl, 1968; Terhune and Ronald, 1971, 1972; Richardson *et al.,* 1995; Kastak and Schusterman, 1999; Reichmuth, 2008; Kastelein *et al.,* 2009); and
- Otariid pinnipeds in water: Functional hearing is estimated to occur between approximately 100 Hz and 48 kHz, with best hearing between 2–48 kHz (Schusterman *et al.,* 1972; Moore and Schusterman, 1987; Babushina *et al.,* 1991; Richardson *et al.,* 1995; Kastak and Schusterman, 1998; Kastelein *et al.,* 2005a; Mulsow and Reichmuth, 2007; Mulsow *et al.,* 2011a, b).

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 *et al.,* 2013).

As mentioned previously in this document, ten marine mammal species (eight cetaceans and two pinnipeds) may occur in the project area. Of the six species likely to occur in the proposed project area for which take is requested, one is classified as a low-frequency cetacean (*i.e.* humpback whale), one is classified as a mid-frequency cetacean (*i.e.,* killer whale), and two are classified as a high-frequency cetaceans (*i.e.,* harbor porpoise and Dall's porpoise) (Southall *et al.,* 2007). Additionally, harbor seals are classified as members of the phocid pinnipeds in water functional hearing group while Stellar sea lions are grouped under the Otariid pinnipeds in water functional hearing group. A species' functional hearing group is a consideration when we analyze the effects of exposure to sound on marine mammals.

Acoustic Impacts

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

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

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

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

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

Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (*e.g.,* change in dive profile as a result of an avoidance reaction) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007; Zimmer and Tyack, 2007). The MOS's activities do not involve the use of devices such as explosives or mid-frequency active sonar that are associated with these types of effects.

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

1. *Temporary threshold shift*—TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals, and none of the data published at the time of this writing concern TTS elicited by exposure to multiple pulses of sound.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that

occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin [*Tursiops truncatus*], beluga whale [*Delphinapterus leucas*], harbor porpoise, and Yangtze finless porpoise [*Neophocoena asiaeorientalis*]) and three species of pinnipeds (northern elephant seal, harbor seal, and California sea lion) exposed to a limited number of sound sources (*i.e.,* mostly tones and octave-band noise) in laboratory settings (*e.g.,* Finneran *et al.,* 2002; Nachtigall *et al.,* 2004; Kastak *et al.,* 2005; Lucke *et al.,* 2009; Popov *et al.,* 2011). In general, harbor seals (Kastak *et al.,* 2005; Kastelein *et al.,* 2012a) and harbor porpoises (Lucke *et al.,* 2009; Kastelein *et al.,* 2012b) have a lower TTS onset than other measured pinniped or cetacean species. Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. There are no data available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007) and Finneran and Jenkins (2012).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

experience stress responses (NRC, 2003).

4. *Auditory masking*—Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.,* 1995). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is man-made, it may be considered harassment when disrupting or altering critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.,* Clark *et al.,* 2009) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.,* Miller *et al.,* 2000; Foote *et al.,* 2004; Parks *et al.,* 2007b; Di Iorio and Clark, 2009; Holt *et al.,* 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.,* 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore, 2014). Masking can be tested directly in captive species (*e.g.,* Erbe, 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.,* Branstetter *et al.,* 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand, 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (*e.g.,* from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

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

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

Hearing Impairment and Other Physical Effects—Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shifts. PTS constitutes injury, but TTS does not (Southall *et al.,* 2007). Based on the best scientific information available, the SPLs for the construction activities in this project are far below the thresholds that could cause TTS or the onset of PTS: 180 dB re 1 μPa rms for odontocetes and 190 dB re 1 μPa rms for pinnipeds (Table 4).

Non-auditory Physiological Effects—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007). Studies examining such effects are limited. In general, little is known about the potential for pile driving to cause auditory impairment or other physical effects in marine mammals. Available data suggest that such effects, if they occur at all, would presumably be limited to short distances from the sound source and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of pile driving, including some odontocetes and some pinnipeds, are especially unlikely to incur auditory impairment or non-auditory physical effects.

Disturbance Reactions

Responses to continuous sound, such as vibratory pile installation, have not been documented as well as responses to pulsed sounds. With both types of pile driving, it is likely that the onset of

pile driving could result in temporary, short term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include (Richardson *et al.,* 1995): changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haul-outs or rookeries). Pinnipeds may increase their haul-out time, possibly to avoid in-water disturbance (Thorson and Reyff, 2006).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, or reproduction. Significant behavioral modifications that could potentially lead to effects on growth, survival, or reproduction include:

- Drastic changes in diving/surfacing patterns (such as those thought to cause beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Longer-term habitat abandonment due to loss of desirable acoustic environment; and
- Longer-term cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.,* 2007).

Auditory Masking

Natural and artificial sounds can disrupt behavior by masking. The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. Because sound generated from in-water pile driving is mostly concentrated at low frequency ranges, it may have less effect on high frequency echolocation sounds made by porpoises. The most intense underwater sounds in the proposed action are those produced by impact pile driving. Given that the energy distribution of pile driving covers a broad frequency spectrum, sound from these sources would likely be within the audible range of marine mammals present in the project area. Impact pile driving activity is relatively short-term, with rapid pulses occurring for approximately fifteen minutes per pile. The probability for impact pile driving resulting from this proposed action masking acoustic signals important to the behavior and survival of marine mammal species is low. Vibratory pile driving is also relatively short-term, with rapid oscillations occurring for approximately one and a half hours per pile. It is possible that vibratory pile driving resulting from this proposed action may mask acoustic signals important to the behavior and survival of marine mammal species, but the short-term duration and limited affected area would result in insignificant impacts from masking. Any masking event that could possibly rise to Level B harassment under the MMPA would occur concurrently within the zones of behavioral harassment already estimated for vibratory and impact pile driving, and which have already been taken into account in the exposure analysis.

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

Airborne noise will primarily be an issue for pinnipeds that are swimming or hauled out near the project site within the range of noise levels elevated above the acoustic criteria in Table 4 below. We recognize that pinnipeds in the water could be exposed to airborne sound that may result in behavioral harassment when looking with heads above water. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled-out pinnipeds to exhibit changes in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon the area and move further from the source. However, these animals would previously have been 'taken' as a result of exposure to underwater sound above the behavioral harassment thresholds, which are in all cases larger than those associated with airborne sound. Thus, the behavioral harassment of these animals is already accounted for in these estimates of potential take. Multiple incidents of exposure to sound above NMFS' thresholds for behavioral harassment are not believed to result in increased behavioral disturbance, in either nature or intensity of disturbance reaction. Therefore, we do not believe that authorization of incidental take resulting from airborne sound for pinnipeds is warranted, and airborne sound is not discussed further here.

Vessel Interaction

Besides being susceptible to vessel strikes, cetacean and pinniped responses to vessels may result in behavioral changes, including greater variability in the dive, surfacing, and respiration patterns; changes in vocalizations; and changes in swimming speed or direction (NRC 2003). There will be a temporary and localized increase in vessel traffic during construction.

Anticipated Effects on Marine Mammal Habitat

The proposed activities at SOT would not result in permanent negative impacts to habitats used directly by marine mammals, but may have potential short-term impacts to food sources such as forage fish and may affect acoustic habitat (see masking discussion above). There are no known foraging hotspots or other ocean bottom structure of significant biological importance to marine mammals present in the marine waters of the project area. Therefore, the main impact issue associated with the proposed activity would be temporarily elevated sound levels and the associated direct effects on marine mammals, as discussed previously in this document, as well as potential short-term effects to water and sediment quality.

The primary potential acoustic impacts to marine mammal habitat are associated with elevated sound levels produced by vibratory and impact pile driving and removal in the area. However, other potential impacts to the surrounding habitat from physical disturbance are also possible.

The proposed dredging activities were designed to remove impacted sediments (*i.e.,* sediments with metals and/or polycyclic aromatic hydrocarbon (PAH) concentrations exceeding sediment cleanup objectives. The volume of potentially contaminated material subject to dredging and treatment or disposal in an approved hazardous waste facility is estimated to be 17,300 cubic yards. The dredging activities are predicted to have a positive impact on the habitat, and any negative short term impacts (discussed below) are inconsequential in comparison to the

overall benefit the environment will receive from these actions.

Sediments within the proposed dredge footprint at the Skagway Harbor have been recently sampled and tested (Anchor QEA 2014). Sediment chemistry data show levels of current sediment contamination that may cause low, chronic, long term ecological effects to benthic habitats, but would not likely cause acute, toxic effects within the water column. The dredge prism of potentially contaminated sediment occupies approximately 41,000 square feet (0.004 square kilometers), adjacent to the Ore Dock. Physical resuspension of sediments would occur during dredging and would produce localized impacts to water quality in the form of elevated turbidity plumes that would last from a few minutes to several hours. Associated contaminants are expected to be tightly bound to the sediment matrix. Because of the relatively small dredge prism, these plumes would be limited to the immediate vicinity of the Ore Dock and this portion of Skagway Harbor. There is the potential for pinnipeds to be exposed to increased turbidity during dredge operations within Skagway Harbor. However, exposure to resuspended contaminants is expected to be low since sediments would not be ingested and contaminants would be tightly bound to them. Best management practices will be instituted to limit exposure pathways in areas where dredge materials are being handled. Given the relatively small dredge footprint, which limits the size of the dredge plume; the turbidity will be limited by efforts taken to limit/prevent exposure through BMPs; the plume will be temporary and will not have a direct exposure mechanism to marine mammals; and activities will occur during the winter period when fewer pinnipeds have been observed in the area, effects on marine mammals are considered negligible.

Construction Effects on Potential Prey

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

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

Construction activities, in the form of increased turbidity, have the potential to adversely affect forage fish and juvenile salmonid outmigratory routes in the project area. Both herring and salmon form a significant prey base for Steller sea lions, and herring is a primary prey of humpback whales. Increased turbidity is expected to occur in the immediate vicinity (on the order of 10 feet or less) of construction activities. However, suspended sediments and particulates are expected to dissipate quickly within a single tidal cycle. Given the limited area affected and high tidal dilution rates any effects on forage fish and salmon are expected to be minor or negligible. In addition, best management practices will be in effect, which will limit the extent of turbidity to the immediate project area. Finally, exposure to these contaminants from dredging is not expected to be different from the current exposure; fish and marine mammals in the Taiya Inlet/Lynn Canal region are routinely exposed to substantial levels of suspended sediment from glacial sources.

Construction Effects on Potential Foraging Habitat

Pile installation may temporarily increase turbidity resulting from suspended sediments. Any increases would be temporary, localized, and minimal. MOS must comply with state water quality standards during these operations by limiting the extent of turbidity to the immediate project area. In general, turbidity associated with pile installation is localized to about a 25-foot radius around the pile (Everitt *et al.* 1980). Cetaceans are not expected to be close enough to the project pile driving areas to experience effects of turbidity, and any pinnipeds will be transiting the area and could avoid localized areas of turbidity. Therefore, the impact from increased turbidity levels is expected to be discountable to marine mammals. Furthermore, pile driving and removal at the project site will not obstruct movements or migration of marine mammals.

Noise measurements of dredging activities are rare in the literature, but dredging is considered to be a low-impact activity for marine mammals, producing non-pulsed sound and being substantially quieter in terms of acoustic energy output than sources such as seismic airguns and impact pile driving. Noise produced by dredging operations has been compared to that produced by a commercial vessel travelling at modest speed (Robinson *et al.,* 2011). Further discussion of dredging sound production may be found in the literature (*e.g.,* Richardson *et al.,* 1995, Nedwell *et al.,* 2008, Parvin *et al.,* 2008, Ainslie *et al.,* 2009). Generally, the effects of dredging on marine mammals are not expected to rise to the level of a take. However, one study found peak sound pressure levels from clamshell dredging in Cook Inlet measured 124 decibels (re 1 μPa) at the 150 meter isopleth with the peak sound levels associated with the dredger striking the hard ocean floor (Dickerson *et al.* 2001). Therefore, to further reduce potential acoustic impacts to endangered humpback whales and Steller sea lions, there will be a 200 meter dredging shutdown zone for ESA-listed species.

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.

Measurements from similar pile driving events were coupled with practical spreading loss to estimate zones of influence (ZOI; see Estimated Take by Incidental Harassment); these values were used to develop mitigation measures for pile driving and removal activities at SOT. The ZOIs effectively represent the mitigation zone that would be established around each pile to provide estimates of the areas within which Level B, and potential Level A, harassment might occur. In addition to the specific measures described later in this section, MOS would conduct briefings between construction supervisors and crews, marine mammal monitoring team, and other staff prior to the start of all pile driving activity, and

when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

For the proposed project, MOS worked with NMFS and proposed the following mitigation measures to minimize the potential impacts to marine mammals in the project vicinity. The primary purposes of these mitigation measures are to minimize sound levels from the activities, and to monitor marine mammals within designated zones of influence corresponding to NMFS' current Level A and B harassment thresholds which are depicted in Table 4 found later in the *Estimated Take by Incidental Harassment* section.

Monitoring and Shutdown for Pile Driving

The following measures, developed by MOS and NMFS, would apply to the MOS's mitigation through shutdown and disturbance zones:

Shutdown Zone—For all pile driving activities, the MOS will establish a shutdown zone intended to contain the area in which SPLs equal or exceed the 180 dB rms acoustic injury criteria for cetaceans, and 190 dB rms for pinnipeds. The purpose of a shutdown zone is to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area), thus preventing injury of marine mammals (as described previously under *Potential Effects of the Specified Activity on Marine Mammals).* Serious injury or death are unlikely outcomes even in the absence of mitigation measures. Modeled radial distances for shutdown zones are shown in Table 5 below. A minimum shutdown zone of 16 m will be established for the 190-dB zone, and 74 m for the 180 dB zone.

A 200 meter shutdown zone will be in effect for ESA-listed species for potential acoustic disturbance caused by clamshell dredging. This activity has been recorded at 124 dB peak at the 150 meter isopleth (Dickerson *et al* 2001). Peak SPLs are generally a few dB higher than rms SPLs. In this instance, we do not know exactly what the difference would be, and while this activity may exceed marine mammal acoustic thresholds at its source, we do not expect this activity to rise above background noise in this industrial area (see *Description of Sound Sources* section for more information), and therefore do not consider take for this activity. Acoustic impacts from clamshell dredging will not be considered further in this document.

Disturbance Zone—Disturbance zones are the areas in which SPLs equal or exceed 160 and 120 dB rms (for impulse and continuous sound, respectively). Disturbance zones provide utility for monitoring conducted for mitigation purposes (*i.e.,* shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown zone and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting incidents of Level B harassment; disturbance zone monitoring is discussed in greater detail later (see *Proposed Monitoring and Reporting*). Nominal radial distances for disturbance zones are shown in Table 5. Given the size of the disturbance zone for vibratory pile driving, it is impossible to guarantee that all animals would be observed or to make comprehensive observations of fine-scale behavioral reactions to sound, and only a portion of the zone (*e.g.,* what may be reasonably observed by visual observers stationed within the SOT) would be observed.

In order to document observed incidents of harassment, monitors record all marine mammal observations, regardless of location. The observer's location, as well as the location of the pile being driven or removed, is known from a GPS. The location of the animal is estimated as a distance from the observer, which is then compared to the location from the pile. It may then be estimated whether the animal was exposed to sound levels constituting incidental harassment on the basis of predicted distances to relevant thresholds in post-processing of observational and acoustic data, and a precise accounting of observed incidences of harassment created. This information may then be used to extrapolate observed takes to reach an approximate understanding of actual total takes.

Monitoring Protocols—Monitoring would be conducted before, during, and after pile driving and removal activities. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven or removed. Observations made outside the shutdown zone will not result in shutdown; that pile segment would be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile driving activities would be halted. Monitoring will take place from 15 minutes prior to initiation through 30 minutes post-completion of pile driving activities. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes. Please see Appendix A of the application for details on the marine mammal monitoring plan developed by the MOS with NMFS' cooperation.

The following additional measures apply to visual monitoring:

(1) Monitoring will be conducted by qualified observers, who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. Qualified observers are trained biologists, with the following minimum qualifications:

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

(b) 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.

(2) Prior to the start of pile driving activity, the shutdown zone will be monitored for 15 minutes to ensure that it is clear of marine mammals. Pile driving will only commence once observers have declared the shutdown zone clear of marine mammals; animals will be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition) and their behavior will be monitored and documented. The shutdown zone may only be declared clear, and pile driving started, when the entire shutdown zone is visible (*i.e.,* when not obscured by dark, rain, fog, etc.). In addition, if such conditions should arise during impact pile driving that is already underway, the activity would be halted.

(3) If a marine mammal approaches or enters the shutdown zone during the course of pile driving operations, activity will be halted and delayed until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal. Monitoring will be conducted throughout the time required to drive a pile.

Ramp Up or Soft Start

The use of a soft start procedure is believed to provide additional protection to marine mammals by warning or providing a chance to leave the area prior to the hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer at reduced energy followed by a waiting period. This procedure is repeated two additional times. It is difficult to specify the reduction in energy for any given hammer because of variation across drivers and, for impact hammers, the actual number of strikes at reduced energy will vary because operating the hammer at less than full power results in ''bouncing'' of the hammer as it strikes the pile, resulting in multiple ''strikes.'' The project will utilize soft start techniques for all vibratory and impact pile driving. The MOS will initiate sound from vibratory hammers for fifteen seconds at reduced energy followed by a 1-minute waiting period, with the procedure repeated two additional times. For impact driving, we require an initial set of three strikes from the impact hammer at reduced energy, followed by a 1-minute waiting period, then two subsequent three strike sets. Soft start will be required at the beginning of each day's pile driving work and at any time following a cessation of pile driving of thirty minutes or longer.

If a marine mammal is present within the Level A harassment zone, ramping up will be delayed until the animal(s) leaves the Level A harassment zone. Activity will begin only after the Marine Mammal Observer (MMO) has determined, through sighting, that the animal(s) has moved outside the Level A harassment zone, or if 15 minutes have passed without resighting the animals.

In addition to the measures described later in this section, the MOS would employ the following standard mitigation measures:

(a) Conduct briefings between construction supervisors and crews, marine mammal monitoring team, and other staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

(b) For in-water heavy machinery work other than pile driving (using, *e.g.,* standard barges, tug boats, barge-mounted excavators, or clamshell equipment used to place or remove material), if a marine mammal comes within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions.

Time Restrictions—In-water work would occur only during daylight hours, when visual monitoring of marine mammals can be conducted. To minimize impacts to hooligan, Pacific herring, and capelin, during their spawning and migration period, all in-water pile extraction and installation will be suspended during this time (April 1 through May 31).

Sound attenuation devices—Sound levels can be greatly reduced during impact pile driving using sound attenuation devices. There are several types of sound attenuation devices including bubble curtains, cofferdams, and isolation casings (also called temporary noise attenuation piles [TNAP]), and cushion blocks. The MOS proposes to use bubble curtains and pile caps. Pile caps include a mat that rests on the piles that have been driven into soft or unstable ground to provide a suitable stable foundation, thus reducing sound levels. Bubble curtains create a column of air bubbles rising around a pile from the substrate to the water surface. The air bubbles absorb and scatter sound waves emanating from the pile, thereby reducing the sound energy.

Bubble curtains may be confined or unconfined. An unconfined bubble curtain may consist of a ring seated on the substrate and emitting air bubbles from the bottom. An unconfined bubble curtain may also consist of a stacked system, that is, a series of multiple rings placed at the bottom and at various elevations around the pile. Stacked systems may be more effective than non-stacked systems in areas with high current and deep water (Oestman *et al.,* 2009).

A confined bubble curtain contains the air bubbles within a flexible or rigid sleeve made from plastic, cloth, or pipe. Confined bubble curtains generally offer higher attenuation levels than unconfined curtains because they may physically block sound waves and they prevent air bubbles from migrating away from the pile. For this reason, the confined bubble curtain is commonly used in areas with high current velocity (Oestman *et al.,* 2009).

Both environmental conditions and the characteristics of the sound attenuation device may influence the effectiveness of the device. According to Oestman *et al.* (2009):

- In general, confined bubble curtains attain better sound attenuation levels in areas of high current than unconfined bubble curtains. If an unconfined device is used, high current velocity may sweep bubbles away from the pile, resulting in reduced levels of sound attenuation.
- Softer substrates may allow for a better seal for the device, preventing leakage of air bubbles and escape of sound waves. This increases the effectiveness of the device. Softer substrates also provide additional attenuation of sound traveling through the substrate.
- Flat bottom topography provides a better seal, enhancing effectiveness of the sound attenuation device, whereas sloped or undulating terrain reduces or eliminates its effectiveness.
- Air bubbles must be close to the pile; otherwise, sound may propagate into the water, reducing the effectiveness of the device.
- Harder substrates may transmit ground-borne sound and propagate it into the water column.

The literature presents a wide array of observed attenuation results for bubble curtains (*e.g.,* Oestman *et al.,* 2009; Coleman, 2011;). The variability in attenuation levels is due to variation in design, as well as differences in site conditions and difficulty in properly installing and operating in-water attenuation devices. As a general rule, reductions of greater than 10 dB cannot be reliably predicted. For 36-in piles the average rms reduction with use of the bubble curtain was nine dB, where the averages of all bubble-on and bubble-off data were compared. For 48-in piles, the average SPL reduction with use of a

bubble curtain was seven dB for average rms values.

To avoid loss of attenuation from design and implementation errors, the MOS has required specific bubble curtain design specifications, including testing requirements for air pressure and flow prior to initial impact hammer use, and a requirement for placement on the substrate. Bubble curtains shall be used during all impact pile driving. The device will distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column, and the lowest bubble ring shall be in contact with the mudline for the full circumference of the ring. We considered six dB as potentially the best estimate of average SPL (rms) reduction, assuming appropriate deployment and no problems with the equipment. Therefore, a six dB reduction was used in the MOS's analysis of pile driving noise in the environmental analyses.

Timing Restrictions

In the SOT, designated timing restrictions exist for pile driving activities to avoid in-water work during the hooligan run in the spring (April and May) when marine mammals arrive in huge numbers to feed. The in-water work window is between July and October, to avoid this spawning run. All in-water construction activities will occur during daylight hours (sunrise to sunset)

Contaminant Exposure Mitigation

To minimize the potential for marine mammals to be exposed to harmful or toxic contaminants in the sediment during dredging operations, mitigation measures will be employed. These measures include a partial height silt curtain and contamination sequencing. The objective when using silt curtains is to create a physical barrier around the dredge equipment by protecting against the spread of suspended sediment that is generated during dredging operations in the portion of the water column in which the silt curtain extends. Silt curtains can be effective tools to minimize or reduce potential water quality impacts during dredging, when used properly and in the right site conditions. The silt curtain will be constructed of flexible, reinforced, thermoplastic material with flotation material in the upper hem and ballast material in the lower hem. The curtain will be placed in the water surrounding the dredging operation. The specifications will require that the Contractor maintain the silt curtain(s) around either the point of dredging or the dredging area (and potentially other in-water construction areas) at the contractor's discretion, in order to reduce the potential for water quality impacts and the transport of suspended solids beyond the project dredging boundaries.

Because they are mostly impermeable, silt curtains are easily affected by tides and currents and their effectiveness can be adversely impacted by high current velocities, moderate to large wave conditions, or large tidal variation. The required height of the silt curtain will be determined during subsequent design to determine a height that balances environmental protection and the efficiency to maintain the silt curtain in place during dredging based on tidal and current velocities in the harbor. The effectiveness of the silt curtain will be monitored during construction and changes may be implemented based on the results of monitoring to either enhance the protection of the silt curtain or otherwise make modifications to the silt curtain configuration to provide for more effective dredge operations while still meeting water quality requirements.

Contamination sequencing involves prioritizing the removal of the most impacted areas (*i.e.,* the area with the highest observed concentrations of contaminants of concern) before the surrounding areas. Ultimately, the necessary phasing and sequencing of the overall project (*e.g.,* dock demolition to facilitate remedial dredging) must be taken into consideration along with the safety of the dredging contractor.

Mitigation Conclusions

NMFS has carefully evaluated the applicant's proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of affecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals; (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measure for applicant implementation,

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of pile driving, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(3) A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to stimuli expected to result in incidental take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(4) A reduction in the intensity of exposures (either total number or number at biologically important time or location to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing the severity of harassment takes only).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying particular attention to the prey base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

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

Proposed measures to ensure availability of such species or stock for taking for certain subsistence uses are discussed later in this document (see *Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses* section).

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 incidental take 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.

Any monitoring requirement we prescribe should improve our understanding of one or more of the following:

- Occurrence of marine mammal species in action area (*e.g.,* presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) Affected species (*e.g.,* life history, dive patterns); (3) Co-occurrence of marine mammal species with the action; or (4) Biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).
- Individual responses to acute stressors, or impacts of chronic exposures (behavioral or physiological).
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of an individual; or (2) Population, species, or stock.
- Effects on marine mammal habitat and resultant impacts to marine mammals.
- Mitigation and monitoring effectiveness.

The MOS submitted a marine mammal monitoring plan as part of the IHA application for this project, which can be found at w*ww.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* The plan may be modified or supplemented based on comments or new information received from the public during the public comment period.

Visual Marine Mammal Observation

The MOS will collect sighting data and behavioral responses to construction for marine mammal species observed in the region of activity during the period of activity. All observers will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. The MOS will monitor the shutdown zone and disturbance zone before, during, and after pile driving, with observers located at the best practicable vantage points. The Marine Mammal Observers (MMOs) and MOS authorities will meet to determine the most appropriate observation platform(s) for monitoring during pile installation and extraction.

Based on our requirements, the MOS would implement the following procedures for pile driving:

- Individuals meeting the minimum qualifications identified in the applicant's monitoring plan (Appendix A of the application) would monitor Level A and Level B harassment zones during pile driving and extraction activities.
- The area within the Level B harassment threshold for impact driving will be monitored by appropriately stationed MMOs. Any marine mammal documented within the Level B harassment zone during impact driving would constitute a Level B take (harassment), and will be recorded and reported as such.
- During impact and vibratory pile driving, a shutdown zone will be established to include all areas where the underwater SPLs are anticipated to equal or exceed the Level A (injury) criteria for marine mammals (180 dB isopleth for cetaceans; 190 dB isopleth for pinnipeds). Pile installation will not commence or will be suspended temporarily if any marine mammals are observed within or approaching the area.
- The individuals will scan the waters within each monitoring zone activity using binoculars, spotting scopes, and visual observation.
- Use a hand-held or boat-mounted GPS device or rangefinder to verify the required monitoring distance from the project site.
- If poor environmental conditions restricts the observers' ability to make observations within the marine mammal shutdown zone (*e.g.* excessive wind or fog, high beaufort state), pile installation will cease. Pile driving will not be initiated until the entire shutdown zone is visible.
- Conduct pile driving and extraction activities only during daylight hours from sunrise to sunset when it is possible to visually monitor marine mammals.
- The waters will be scanned 15 minutes prior to commencing pile driving at the beginning of each day, and prior to commencing pile driving after any stoppage of 30 minutes or greater. If marine mammals enter or are observed within the designated marine mammal shutdown zone during or 15 minutes prior to pile driving, the monitors will notify the on-site construction manager to not begin until the animal has moved outside the designated radius.
- The waters will continue to be scanned for at least 30 minutes after pile driving has completed each day, and after each stoppage of 30 minutes or greater.

Data Collection

We require that observers use approved data forms. Among other pieces of information, the MOS will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, the MOS will attempt to distinguish between the number of individual animals taken and the number of incidents of take. We require that, at a minimum, the following information be collected on the sighting forms:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (*e.g.,* percent cover, visibility);
- Water conditions (*e.g.,* sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;
- Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- Description of implementation of mitigation measures (*e.g.,* shutdown or delay);
- Locations of all marine mammal observations; and
- Other human activity in the area.

Reporting

A draft report would be submitted to NMFS within 90 days of the completion of marine mammal monitoring, or sixty days prior to the requested date of issuance of any future IHA for projects at the same location, whichever comes first. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving days, and will also provide descriptions of any behavioral responses to construction activities by marine mammals and a complete description of all mitigation shutdowns and the results of those actions and an extrapolated total take estimate based on the number of marine mammals observed during the course of construction. A final report must be submitted within thirty days following resolution of comments on the draft report.

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 serious injury or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), the MOS would immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Alaska Stranding Coordinator. The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with the MOS to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The MOS would not be able to resume their activities until notified by NMFS via letter, email, or telephone.

In the event that the MOS discovers an injured or dead marine mammal, and the lead MMO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), the MOS would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Alaska 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 the MOS to determine whether modifications in the activities are appropriate.

In the event that the MOS discovers an injured or dead marine mammal, and the lead MMO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the MOS would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS West Coast Stranding Hotline and/or by email to the Alaska Stranding Coordinator, within 24 hours of the discovery. The MOS would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: ''. . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

All anticipated takes would be by Level B harassment resulting from vibratory pile driving and removal. Level B harassment may result in temporary changes in behavior. Note that Level A harassment and lethal takes are not expected due to the proposed mitigation and monitoring measures that are expected to minimize the possibility of such take.

If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals, and if so potentially on the stock or species, could potentially be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007). Given the many uncertainties in predicting the quantity and types of impacts of sound on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound. In practice, depending on the amount of information available to characterize daily and seasonal movement and distribution of affected marine mammals, it can be difficult to distinguish between the number of individuals harassed and the instances of harassment and, when duration of the activity is considered, it can result in a take estimate that overestimates the number of individuals harassed. In particular, for stationary activities, it is more likely that some smaller number of individuals may accrue a number of incidences of harassment per individual than for each incidence to accrue to a new individual, especially if those individuals display some degree of residency or site fidelity and the impetus to use the site (*e.g.,* because of foraging opportunities) is stronger than the deterrence presented by the harassing activity.

Upland work can generate airborne sound and create visual disturbance that could potentially result in disturbance to marine mammals (specifically, pinnipeds) that are hauled out or at the water's surface with heads above the water. However, because any haul-outs in close proximity to the SOT would be subsumed in the disturbance zone, incidents of incidental take resulting from airborne sound or visual disturbance would already be included in those counts.

In order to estimate the potential incidents of take that may occur incidental to the specified activity, we must first estimate the extent of the sound field that may be produced by the activity and then consider in combination with information about marine mammal density or abundance in the project area. We first provide information on applicable sound thresholds for determining effects to marine mammals before describing the information used in estimating the sound fields, the available marine mammal density or abundance information, and the method of estimating potential incidences of take.

Sound Thresholds

We use the following generic sound exposure thresholds to determine when an activity that produces sound might result in impacts to a marine mammal such that a take by harassment might occur. These thresholds (Table 4) are used to estimate when harassment may occur (*i.e.,* when an animal is exposed to levels equal to or exceeding the relevant criterion) in specific contexts; however, useful contextual information that may inform our assessment of effects is typically lacking and we consider these thresholds as step functions. NMFS is working to revise

these acoustic guidelines; for more information on that process, please visit *www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 4—CURRENT ACOUSTIC EXPOSURE CRITERIA

Criterion	Criterion definition	Threshold *
Level A harassment (underwater)	PTS (injury) conservatively based on TTS **	190 dB RMS for pinnipeds, 180 dB RMS for cetaceans.
Level B harassment (underwater)	Behavioral disruption	160 dB RMS (impulsive source), 120 dB RMS (continuous source).
Level B harassment (airborne)	Behavioral disruption	90 dB (harbor seals), 100dB (other pinnipeds) (unweighted).

* All decibel levels referenced to 1 micropascal (re: 1 μPa). Note all thresholds are based off root mean square (RMS) levels.
** PTS = Permanent Threshold Shift; TTS = Temporary Threshold Shift.

Distance to Sound Thresholds

The sound field in the project area is the existing ambient noise plus additional construction noise from the proposed project. The primary components of the project expected to affect marine mammals is the sound generated by impact pile driving, vibratory pile driving, and vibratory pile removal. Dredging and direct pull and clamshell removal of old timber piles do not produce noise levels expected to result in take of marine mammals. This activity has been recorded at 124 dB peak at the 150 meter isopleth (Dickerson *et al* 2001). While this activity may exceed marine mammal acoustic thresholds at its source, we do not expect this activity to rise above background noise in this industrial area, and therefore do not consider take for this activity. Depending on conditions, removal of timber piles may require vibratory hammer removal. Impact hammering typically generates the loudest noise associated with pile driving.

The project includes vibratory removal of steel piles and creosote-treated piles, summarized in Table 1; and vibratory installation of 24-, 36-, 48-, and 60-inch diameter steel pipe piles, summarized in Table 2. The Washington State Department of Transportation (WSDOT) and California Department of Transportation have compiled acoustic monitoring data for various pile-driving projects within their respective states (WSDOT unpublished; ICF Jones & Stokes and Illingworth and Rodkin 2009, updated in 2012). Upon review of these datasets, it was determined that driving moderate-sized steel piles with a vibratory pile driver will generate sound pressure levels (SPLs) of 170 dB RMS (ICF Jones & Stokes and Illingworth and Rodkin 2009, updated in 2012). Noise levels are on the order of 150 dB rms from pile removal activities.

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

$$TL = B * \log_{10} (R_1/R_2),$$

Where:

TL = transmission loss in dB

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement

A practical spreading value of fifteen is often used under conditions, such as at the Skagway ore terminal, where water increases with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading loss (4.5 dB reduction in sound level for each doubling of distance) is assumed here.

Distances to the harassment isopleths vary by pile type and size, and by pile extraction/driving tool. These distances are summarized in Table 5. Note that the actual area ensonified by pile driving or removal activities is significantly constrained by local topography relative to the total threshold radius. The actual ensonified area was determined using a straight line-of-sight projection from the anticipated pile driving locations. Distances shown in Table 5 are estimated for free-field conditions, but areas are calculated per the actual conditions of the action area. See Figures 2–5 of the MOS's application for a depiction of areas in which each underwater sound threshold is predicted to occur at the project area due to pile driving or removal.

TABLE 5—DISTANCES TO RELEVANT UNDERWATER SOUND THRESHOLDS AND AREAS OF ENSONIFICATION

Pile type	Pile size (in)	Distance to criterion (m)				Area (km^2)
		Level B (160 dB)	Level A cetaceans (180 dB)	Level A pinnipeds (190 dB)	Continuous (120dB)	
Impact	24	1,848	86	18		3.93, 0.072, 0.031.*
	36	1,585	74	16		3.00, 0.064, 0.029.*
	48	2,154	100	22		4.96, 0.082, 0.033.*
Vibratory	60				100,000	21.
Vibratory removal	12				1,600	3.05.

* Values are for 160 dB, 180 dB, and 190 dB, respectively.

Marine Mammal Densities

Density data are only available for harbor seals for this area of Alaska. Potential exposures to impact and vibratory pile driving noise for each threshold for all other marine mammals were estimated using published reports of group sizes and population estimates, and anecdotal observational reports from local commercial entities. It is not currently possible to identify all observed individuals to stock. All estimates are conservative and include the following assumptions:

- All pilings installed at each site would have an underwater noise disturbance equal to the piling that causes the greatest noise disturbance *(i.e.,* the piling farthest from shore) installed with the method that has the largest ZOI. The largest underwater disturbance ZOI would be produced by vibratory driving steel piles. The ZOIs for each threshold are not spherical and are truncated by land masses on either side of the channel which would dissipate sound pressure waves.
- Exposures were based on estimated work days. Numbers of days were based on an average production rate of 73 days of vibratory and impact driving and 39 days of pile removal. Note that impact driving is likely to occur only on days when vibratory driving occurs.
- All marine mammal individuals potentially available are assumed to be present within the relevant area, and thus incidentally taken;
- An individual can only be taken once during a 24-h period; and,
- Exposures to sound levels at or above the relevant thresholds equate to take, as defined by the MMPA.

The estimation of marine mammal takes typically uses the following calculation:

Level B exposure estimate = N (number of animals) in the ensonified area * Number of days of noise generating activities

There are a number of reasons why estimates of potential incidents of take may be overestimates of the number of individuals taken, assuming that available abundance estimates and estimated ZOI areas are accurate. We assume, in the absence of information supporting a more refined conclusion, that the output of the calculation represents the number of individuals that may be taken by the specified activity. In fact, in the context of stationary activities such as pile driving and in areas where resident animals may be present, this number represents the number of instances of take that may occur to a small number of individuals, with a notably smaller number of animals being exposed more than once per individual. While pile driving can occur any day throughout the in-water work window, and the analysis is conducted on a per day basis, only a fraction of that time (typically a matter of hours on any given day) is actually spent pile driving. The potential effectiveness of mitigation measures in reducing the number of takes is typically not quantified in the take estimation process. For these reasons, these take estimates may be conservative, especially if each take is considered a separate individual animal, and especially for pinnipeds. See Table 6 for total estimated incidents of take.

TABLE 6—CALCULATIONS FOR INCIDENTAL TAKE ESTIMATION

Species	N (animals) in the ensonified area	Number of days of activity	Proposed authorized takes	
			Level A	Level B
Harbor Seal	44	74	0	2,272
Steller sea lion	32	74	0	1,184
Humpback whale	2	42	0	84
Killer whale	15	4	0	60
Harbor porpoise	2	84	0	168
Dall's porpoise	3	15	0	45
Minke whale	0	0	0	0
Total exposures			0	3,813

Description of Marine Mammals in the Area of the Specified Activity

Harbor Seals

There are no documented long-term haulout sites for harbor seals in Taiya Inlet; however, seasonal haulouts are present within five miles of the project area at Seal Cove and at the mouth of the Taiya River. During the spring run of hooligan in April and May, 20 to over 100 individual animals have been observed in these areas, with animals within inner Taiya Inlet actively feeding. After the spawning run, much lower numbers of harbor seals are present. Local observers have found that very few, if any; harbors seals are present during the winter (R. Ford and K. Gross, personal communications). Harbor seals within the Lynn Canal/Stephens Passage stock have maintained a steady to slightly declining population over the past five years. The latest stock assessment analysis indicates that there is a 71 percent probability that the stock has declined by 1.8 percent over this period (Muto and Angliss 2015). Using seal stock assessment data from within the Lynn Canal/Stephens Passage stock, the calculated density of this stock is 1.7 animals per square kilometer (total population divided by total area). This density was applied to the area within the behavioral impact zone for vibratory driving (21 square kilometers, which includes most of Taiya Inlet) for a total of 36 animals in the whole of Taiya Inlet. These animals are mostly on haulouts in the vicinity of Seal Cove, swimming in areas near the waterfront, and hauled out at the mouth of the Taiya River. Proposed pile driving will occur in March, and in July through October, avoiding the hooligan spawning run and the period of maximum local abundance of harbor seals.

Because harbor seal numbers decrease after the spring hooligan spawning run, we estimate that the number of local animals within the behavioral zones is estimated to be eight animals (one half of the mean range within the lower inlet). This estimate is based on the conservative assumption that about half of the animals hauled out at Seal Cove and the Taiya River mouth may be transiting through the behavioral zone for vibratory driving at any given time during the summer (14 days), for a total of 112 takes. The haulouts themselves are outside of the behavioral impact zones, approximately five miles from the project area. No exposure to the injury zone is expected because of the mitigation measures designed to prevent Level A harassment. It is expected that the marine mammal monitoring

program will significantly prevent injury take in this zone. Based on calculated density estimates mentioned above, all 36 animals will be exposed to the continuous noise behavioral zone, which includes most of Taiya Inlet for all days when pile driving activities are expected to occur (60 days) for a total of 2,160 takes during this time period. Total requested harbor seal takes is 2,272.

Steller Sea Lion

There are several long-term Steller sea lion haulouts in Lynn Canal but none occur in Taiya Inlet. The nearest long-term Steller sea lion haulout is located at Gran Point, in the vicinity of Haines approximately 20 miles south of Skagway. Other year-round haulouts in Lynn Canal are present at Met Point, Benjamin Island, and Little Island, closer to Juneau (Fritz *et al.* 2015). A seasonal haulout site is located on Taiya Point rocks at the southern tip of Taiya Inlet. Estimates of 25 to 40 animals use this haulout for about three weeks during the hooligan run, during which they frequent the inlet (K. Gross, personal communication). However, most animals leave the inlet shortly after the hooligan run and are scarce after about the first week in June. Sea lions are rarely observed in the inlet during the winter. This is consistent with the National Marine Mammal Laboratory database (Fritz *et al.,* 2015), which has identified the largest number of Lynn Canal sea lions during the fall and winter months at Benjamin Island in the lower reaches of the canal.

Taiya Point Rocks are located approximately 12 miles south of Skagway and 1.3 miles outside of the continuous noise vibratory behavioral impact zone. Given that sea lion presence in Taiya Inlet occurs during the hooligan run, during which no pile driving will occur, and the nearest haulout site is outside of the behavioral impact zone, it is expected that Steller sea lion exposure to pile driving will be low. This is similar to observations from local observers, who have reported one to three sea lions in Taiya Inlet outside of the hooligan spawning run (K. Gross, personal communication). Sea lions have been observed in greater numbers in nearby Lutak Inlet in the fall during salmon runs, and at the Gran Point haulout near Haines. These observations and data suggest that it is reasonable to expect more sea lions to travel into Taiya Inlet (J. Womble, personal communication). There have been no observations of Steller sea lions in Taiya Inlet during the winter. Because Steller sea lions are sparse at times outside of the hooligan spawning run, but a portion of the hauled out seals may enter Taiya inlet during the salmon runs, we estimated that 16 Steller sea lions (half of the mean found on Taiya Rocks during the hooligan run) will be present within Taiya Inlet during any given time while pile driving and pile removal operations are occurring in the summer and fall (60 and 14 days, respectively), for a total of 1,184 total takes for Steller sea lions. Exposure to pile-driving and removal activities during the winter is not expected to occur. No Steller sea lions are expected to be exposed to the small injury zone near the facility. If any do appear, the marine mammal monitoring program would effectively prevent take.

Harbor Porpoises

Harbor porpoise primarily frequent coastal waters, and in the Gulf of Alaska and Southeast Alaska, they occur most frequently in waters less than 100 meters (Dahlheim *et al.* 2009). Within the inland waters of Southeast Alaska, the harbor porpoise distribution is clumped, with greatest densities observed in the Glacier Bay/Icy Strait region, and near Zarembo and Wrangell Islands and the adjacent waters of Sumner Strait (Allen and Angliss 2014). Dedicated research studies of harbor porpoise in this area only occur as far north in Lynn Canal as Haines during the summer (Dahlheim *et al.,* 2009; 2015); approximately 16 miles south of SOT. Group sizes were on average, between 1.37–1.59 animals (less than 2) (Dahlheim *et al.,* 2009; 2015). In Lynn Canal, observations were less frequent, primarily in lower Lynn Canal from Chatham Strait to Juneau. The species has been observed as far north as Haines during the summer (Dahlheim *et al.,* 2009, Dalheim *et al.,* 2015). Encounters of small groups of two or three animals have been reported by local vessel charters from spring through fall in Taiya Inlet. Observations have been frequent, but not on a daily basis. The mean group size of harbor porpoise in Southeast Alaska is estimated at two individuals (Dahlheim *et al.* 2009). For the purposes of this analysis it is estimated that two harbor porpoises will be present in Taiya Inlet, but because observations do not occur daily, we estimate their presence within the inlet on 75 percent of days during the pile driving period (84 days) for a total of 168 take exposures. Exposure to the behavioral disturbance zone from impact pile driving or pile removal is not likely to occur, because the species has rarely been observed in areas close to the waterfront.

Dall's Porpoise

Dall's porpoise are widely distributed across the entire North Pacific Ocean. Throughout most of the eastern North Pacific they are present during all months of the year, although there may be seasonal onshore-offshore movements along the west coast of the continental United States and winter movements of populations out of Prince William Sound and areas in the Gulf of Alaska and Bering Sea (Allen and Angliss 2014).

Dahlheim *et al.* (2009) found Dall's porpoise throughout Southeast Alaska, with concentrations of animals consistently found in Lynn Canal, Stephens Passage, Icy Strait, upper Chatham Strait, Frederick Sound, and Clarence Strait. Local observers have observed only three to six Dall's porpoises in Taiya Inlet during the early spring and late fall. Observations have been occasional to sporadic, not occurring daily. The species has not been observed near the waterfront, and no animals have been observed during the winter (K. Gross, personal communication). This is consistent with Dahlheim *et al.* (2009), who have only documented this species in Lynn Canal as far north as Haines, Alaska, about 15 miles south of Skagway and 5 miles south of the continuous noise behavioral impact zone. The mean group size of Dall's porpoise in Southeast Alaska is estimated at three individuals (Dahlheim *et al.* 2009). For the purposes of this analysis, we estimate that three animals will be present in outer Taiya Inlet for the latter half of the summer pile-driving period. Since observations during the fall have been occasional, we also assume a presence in the inlet every other day, for a total of 15 days of exposure, and 45 total takes. Exposure to the behavioral disturbance zone from impact pile driving or pile removal is not likely to occur, because the species has rarely been observed in areas close to the waterfront.

Killer Whales

Resident and transient killer whales have been documented in the middle to lower reaches of Lynn Canal, but not within the upper reaches or in Taiya Inlet (Dahlheim *et al.,* 2009). Two resident pods identified as AF and AG pods were frequently encountered throughout Icy Strait, Lynn Canal, Stephens Passage, Frederick Sound and upper Chatham Strait (Dahlheim *et al.,* 2009). The seasonality of resident killer whales could not be investigated statistically owing to low encounter rates. Mean group size of resident

whales did not vary significantly among seasons and ranged from 19 to 33 individuals.

Transient killer whales were found in all major waterways, including Lynn Canal in open-strait environments, near-shore waters, protected bays and inlets, and in ice-laden waters near tidewater glaciers (Dahlheim *et al.* 2009). Dahlheim *et al.* (2009) found that transient killer whale mean group size ranged from four to six individuals in Southeast Alaska. Transient killer whale numbers were highest in summer, with lower numbers observed in spring and fall. Although this stock's range includes southeast Alaska, it has only been documented as far north as Lynn Canal; therefore, while possible, occurrence north of Lynn Canal into Taiya Inlet is rare.

Local observations indicate that resident pods occasionally enter Taiya Inlet, usually a group of 15 to 20 animals. These animals are typically observed only a few times a year (K. Gross, personal communication). In 2015 a resident pod was only observed in Taiya Inlet twice, remaining for one to four days per visit (K. Gross, personal communication). Based on these observations, we conservatively used the larger group size for all killer whale stocks (Northern residents), and the likelihood of stocks being present, to estimate a maximum of 60 killer whale takes (*e.g.* for Northern residents, at most, 15 killer whales may enter the inlet on two occasions during the summer, remaining in the inlet for two days per visit. All other stocks would likely be smaller in group size, and not occur as frequently).

Humpback Whale

Humpback whales are the most commonly observed baleen whale in the area and surrounding Southeast Alaska, particularly during spring and summer months. Humpback whales in Alaska, although not limited to these areas, return to specific feeding locations such as Frederick Sound, Chatham Strait, North Pass, Sitka Sound, Glacier Bay, Point Adolphus, and Prince William Sound, as well as other similar coastal areas (Wing and Krieger 1983). In Lynn Canal they have been observed in the spring and fall from Haines to Juneau. Scientific surveys have not documented the species within Taiya Inlet (Dahlheim *et al.,* 2009). The humpback whale population in Southeast Alaska appears to be increasing with estimates of 547 animals in the mid-1980s (Angliss and Outlaw 2005) and 961 animals in 2000 (Straley *et al.,* 2002).

Local observers have reported humpback whales in Taiya Inlet, sometimes fairly close to the Skagway waterfront. In 2015, only one whale was observed for a few weeks close to Skagway. On average, four to five individuals may occur near the town during the spring hooligan run, after which, only a few individuals are observed on and off through the summer (K. Gross, personal communication). No pile driving will occur during the spring hooligan run. For the purpose of this analysis, because humpback whale occurrence is rare and generally occurs in the spring when construction will not occur, it is estimated that two humpback whales may be present over two 3-week periods (42 days) during the summer, for a total of 84 takes. Exposure to the behavioral disturbance zone from impact pile driving or pile removal is not likely to occur, because the species has rarely been observed in areas close to the waterfront.

Analysis and Preliminary Determinations

Negligible Impact

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.'' 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 Level B harassment 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 behavioral harassment, we consider 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 the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

To avoid repetition, the discussion of our analyses applies generally to all the species listed in Table 3, given that the anticipated effects of this pile driving project on marine mammals are expected to be relatively similar in nature. Where there are species-specific factors that have been considered, they are identified below.

Pile extraction and pile driving, activities associated with the reconstruction of the SOT, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance), from underwater sounds generated from pile driving and removal. Potential takes could occur if individuals of these species are present in the ensonified zone when pile driving and removal are under way.

The takes from Level B harassment will be due to potential behavioral disturbance and TTS. No mortality is anticipated given the nature of the activity and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the construction method and the implementation of the planned mitigation measures (see *Proposed Mitigation* section). Vibratory driving does not have significant potential to cause injury to marine mammals due to the relatively low source levels produced and the lack of potentially injurious source characteristics. Impact driving does have the potential to injure marine mammals; however; the marine mammal detection ability by trained observers is high under the environmental conditions described for the reconstruction of the SOT, which further enables the implementation of shutdowns to limit injury, serious injury, or mortality.

The MOS's proposed activities are localized and of relatively short duration (maximum 73 days for pile driving activities; 39 days for pile removal, and a maximum of 40 days of dredging). The entire project area is limited to the SOT area and its immediate surroundings. These localized and short-term noise exposures may cause short-term behavioral modifications in harbor seals, Steller sea lions, killer whales, harbor porpoises, Dall's porpoises, and humpback whales. Moreover, the proposed mitigation and monitoring measures, including injury shutdowns, soft start techniques, and multiple MMOs monitoring the behavioral and injury zones for marine mammal presence, are expected to reduce the likelihood of injury and behavior exposures. Additionally, no important feeding and/or reproductive areas for marine mammals are known to be within the ensonification areas of the proposed action area during the construction time frame.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat. The project activities would not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish to leave

the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006; Lerma, 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. Repeated exposures of individuals to levels of sound that may cause Level B harassment are unlikely to result in permanent hearing impairment or to significantly disrupt foraging behavior due to the lack of quality foraging habitat near the ore terminal. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and thus would not result in any adverse impact to the stock as a whole.

In summary, this negligible impact analysis is founded on the following factors: (1) The possibility of non-auditory injury, serious injury, or mortality may reasonably be considered discountable; (2) the anticipated instances of Level B harassment consist of, at worst, temporary modifications in behavior or potential TTS and; (3) the presumed efficacy of the proposed mitigation measures in reducing the effects of the specified activity to the level of least practicable impact. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activity will have only short-term effects on individuals. The specified activity is not reasonably expected to and is not reasonably likely to adversely affect the marine mammal species or stocks through effects on annual rates of recruitment or survival and will therefore not result in population-level impacts.

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

Small Numbers Analysis

Table 7 demonstrates the number of animals that could be exposed to received noise levels that could cause Level B behavioral harassment for the proposed work at the SOT project site. The numbers of animals authorized to be taken for all species would be considered small relative to the relevant stocks or populations even if each estimated taking occurred to a new individual—an extremely unlikely scenario. The total percent of the population for which take is requested is less than one percent for humpback whales (Central North Pacific stock), and less than 2.5 percent for affected stocks of Steller sea lions (eDPS and wDPS) and harbor porpoise (Southeast Alaska stock). The most recent abundance estimate (83,400) for the affected stock of Dall's porpoise (Alaska stock) is over 20 years old (Allen and Angliss 2012); therefore, the stock size is unknown for Dall's porpoise. The total percent of the population for which take is requested is therefore also unknown; however, the 45 total take requests is a small enough number that it would be considered a small percent of this stock, which we know is fairly large based on anecdotal information. For killer whales (Alaska stock, Northern resident stock, Gulf of Alaska stock, and West Coast transient stock) and harbor seals (Lynn Canal/Stephens Passage stock), the percentage of the stock for which take is requested is less than 25 percent for all affected stocks. For pinnipeds, especially harbor seals occurring in the vicinity of the SOT, there will almost certainly be some overlap in individuals present day-to-day, and these takes are likely to occur only within some small portion of the overall regional stock.

The total authorized take for killer whales as compared to each potentially affected stock ranges from 2.7% to 24.7% of each population. In reality, it is highly unlikely that 60 individuals of any one killer whale stock will not be temporarily harassed. Instead, it is assumed that there will be a relatively short period of takes of a smaller number of the same individuals from any stock. We make this assumption because resident pods are known to occasionally frequent Taiya Inlet. It is possible that all or part of these pods will enter the disturbance zone once or twice during the course of the project. Therefore, we can conservatively estimate that, because of the gregarious nature of killer whales, a single pod of resident (15–20) killer whales may occur in the disturbance zone once or twice during the course of the project. All other stocks are rare in this area; however their range includes southeast Alaska, and therefore they may occur in the upper reaches of Lynn Canal into Taiya inlet towards Skagway, albeit infrequently. Because of this, it is assumed that the Northern resident stock is the stock most likely to be affected. However, there is a small chance that a small number of individuals of other stocks may be potentially affected. For example, transient stocks have only been observed in Lynn Canal (outside of the area of ensonification), so it likely that—if this stock were to enter the area of ensonification— the number of transients exposed would be much smaller than the take estimate for all killer whales (*e.g.* average group size of 4–6 individuals with few occurrences in the area), and would therefore be a smaller percentage of the stock abundance than what is calculated by comparing the total authorized take for all killer whales to the abundance of this stock. Therefore, we assume that the 60 takes will actually affect a smaller number of the same individuals of killer whales from any stock.

Take requests are assumed to include multiple harassments of the same individual(s), resulting in estimates of Take Request Percent of Stock that are high compared to actual take that will occur. This is the case with the harbor seal (Lynn Canal/Stephens Passage stock). As reported, a small number of harbor seals, most of which reside in Taiya Inlet year-round, will be exposed to vibratory pile driving and removal for nearly 4 months. The total population estimate in the Lynn Canal/Stephens Passage stock is 9,478 animals over 1.37 million acres of area. This is a density of 36 animals within Taiya Inlet. The largest Level B harassment Zone within the inlet occupies 21.0 square kilometers, which represents less than 0.4 percent of the total geographical area occupied by the stock. The great majority of these exposures will be to the same animals that have habituated to pile driving and pile removal activities within the inlet and the general port activities associated with the Skagway waterfront. Given that the Taiya Inlet area represents less than 0.4 percent of the total stock area, broader impacts to this stock are highly

unlikely. In addition, marine mammal monitoring for the project can provide an early alert in the unlikely event that cumulative exposure of seals residing in the area is leading to adverse behavioral or physical effects.

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 mitigation and monitoring measures, which are expected to reduce the number of marine mammals potentially affected by the proposed action, NMFS finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

TABLE 7—ESTIMATED NUMBERS AND PERCENTAGE OF STOCK THAT MAY BE EXPOSED TO LEVEL B HARASSMENT

Species	Proposed authorized takes	Stock(s) abundance estimate [1]	Percentage of total stock
Harbor Seal (*Phoca vitulina*)	2,272	9,478	24
Lynn Canal/Stephens Passage Stock			
Steller Sea Lion (*Eumetopias jubatus*)			
wDPS Stock	1,184	49,497	2.4
eDPS Stock		60,131	2.0
Harbor Porpoise (*Phocoena phocoena*) *Southeast Alaska Stock*	168	11,146	1.5
Dall's porpoise *(Phocoenidae dalli) Alaska Stock*	45	unknown	n/a
Killer Whale (*Orcinus orca*)			
Alaska stock		2,347	2.6
Northern resident stock	60	261	23
Gulf of Alaska stock		587	10.2
West coast transient stock		243	24.7
Humpback whale (*Megaptera novaeangliae*) *Central North Pacific Stock*	84	10,252	0.82

[1] All stock abundance estimates presented here are from the draft 2015 Alaska Stock Assessment Report.

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 mitigation and monitoring measures, which are expected to reduce the number of marine mammals potentially affected by the proposed action, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

Alaska Natives have traditionally harvested subsistence resources in Alaska for many hundreds of years, particularly Steller sea lions and harbor seals. The proposed Project will occur near but not overlap the subsistence area used by the villages of Hoonah and Angoon (Wolfe *et al.* 2013). Since all project activities will take place within the immediate vicinity of the SOT, the project will not have an adverse impact on the availability of marine mammals for subsistence use at locations farther away. No disturbance or displacement of sea lions or harbor seals from traditional hunting areas by activities associated with the SOT project is expected. No changes to availability of subsistence resources will result from SOT project activities.

Endangered Species Act (ESA)

There are two marine mammal species that are listed as endangered under the ESA with confirmed or possible occurrence in the study area: humpback whales and western DPS of Steller sea lions. Under section 7 of the ESA, the United States Army Corps of Engineers (USACE) has begun consultation with NMFS on the proposed pile driving activities. NMFS will also consult internally on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. Consultation will be concluded prior to a determination on the issuance of an IHA.

National Environmental Policy Act (NEPA)

NMFS is preparing an Environmental Assessment (EA) in accordance with the National Environmental Policy Act (NEPA) and will consider comments submitted in response to this notice as part of that process. The EA will be posted at *http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm* once it is finalized. NMFS is currently conducting an analysis, pursuant to NEPA, to determine whether or not this proposed activity may have a significant effect on the human environment. This analysis will be completed prior to the issuance or denial of this proposed IHA.

Proposed Incidental Harassment Authorization

As a result of these preliminary determinations, we propose to issue an IHA to the MOS for conducting the Skagway Gateway Initiative Project, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

This section contains a draft of the IHA. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This Incidental Harassment Authorization (IHA) is valid from July 1, 2016 through June 30, 2017.

2. This Authorization is valid only for in-water construction work associated with the Skagway Gateway Initiative Project at the Skagway Ore Terminal.

3. General Conditions.

(a) A copy of this IHA must be in the possession of the MOS, its designees, and work crew personnel operating under the authority of this IHA.

(b) The species authorized for taking include humpback whale (*Megaptera navaeangliae*), killer whale (*Orcinus orca*), Steller sea lion (*Eumatopius jubatus),* harbor porpoise (*Phocoena phocoena*), Dall's porpoise (*Phocoenoides dalli*), and harbor seal (*Phoca vitulina richardii*).

(c) The taking, by Level B harassment only, is limited to the species listed in condition 3(b). See Table 1 for numbers of take authorized.

TABLE 1—AUTHORIZED TAKE NUMBERS

Species	N (animals)	Number of days of activity	Proposed authorized takes	
			Level A	Level B
Harbor Seal	44	74	0	2,272
Steller sea lion	32	74	0	1,184
Humpback whale	2	42	0	84
Killer whale	15	4	0	60
Harbor porpoise	2	84	0	168
Dall's porpoise	3	15	0	45
Total exposures			0	3,813

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

(e) The MOS shall conduct briefings between construction supervisors and crews, marine mammal monitoring team, and staff prior to the start of all in-water pile driving, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

4. Mitigation Measures

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

(a) Time Restriction: For all in-water pile driving activities, the MOS shall operate only during daylight hours when visual monitoring of marine mammals can be conducted. All in-water pile extraction and installation shall be completed by March 31, 2017.

(b) Establishment of Level B Harassment (ZOI)

(i) For vibratory driving, the Level B harassment area is contained within Taiya Inlet, approximately 17 km from the action area. This distance will serve as a shutdown zone for all other marine mammals not listed in 3(b). During impact driving, the Level B harassment zone shall extend to a minimum of 1,585 m for animals listed in 3(b). This 1,585-meter distance will serve as a shutdown zone for all other marine mammals not listed in 3(b).

(c) Establishment of shutdown zone.

(i) A 16-meter shutdown zone will be in effect for Steller sea lions and harbor seals. The shutdown zone for Level A injury to cetaceans would be 74 meters.

(d) The Level A and Level B harassment zones will be monitored throughout the time required to install or extract a pile. If a marine mammal is observed entering the Level B harassment zone, a Level B exposure will be recorded and behaviors documented. That pile segment will be completed without cessation, unless the animal approaches the Level A shutdown zone. Pile installation will be halted immediately before the animal enters the Level A zone.

(e) Use of Ramp Up/Soft Start.

(i) The project will utilize soft start techniques for all vibratory and impact pile driving. We require the MOS to initiate sound from vibratory hammers for fifteen seconds at reduced energy followed by a 1-minute waiting period, with the procedure repeated two additional times. For impact driving, we require an initial set of three strikes from the impact hammer at reduced energy, followed by a 1-minute waiting period, then two subsequent three strike sets.

(ii) Soft start will be required at the beginning of each day's pile driving work and at any time following a cessation of pile driving of 30 minutes or longer.

(iii) If a marine mammal is present within the shutdown zone, ramping up will be delayed until the animal(s) leaves the Level A harassment zone. Activity will begin only after the MMO has determined, through sighting, that the animal(s) has moved outside the Level A harassment zone or if 15 minutes have passed without re-sighting of the individual.

(iv) If a marine mammal is present in the Level B harassment zone, ramping up will begin and a Level B take will be documented. Ramping up will occur when these species are in the Level B harassment zone whether they entered the Level B zone from the Level A zone, or from outside the project area.

(v) If any marine mammal other than those listed in this IHA is present in the Level B harassment zone, ramping up will be delayed until the animal(s) leaves the zone. Ramping up will begin only after the MMO has determined, through sighting, that the animal(s) has moved outside the harassment zone.

(f) Sound attenuation devices—Approved sound attenuation devices shall be used during impact pile driving operations. The MOS shall implement the necessary contractual requirements to ensure that such devices are capable of achieving optimal performance, and that deployment of the device is implemented properly such that no reduction in performance may be attributable to faulty deployment.

(g) Contaminant exposure mitigation measures—A silt curtain and a contamination sequence will be used during all dredging activities.

(i) The silt curtain will be constructed of flexible, reinforced, thermoplastic material with flotation material in the upper hem and ballast material in the lower hem. The curtain will be placed in the water surrounding the dredging operation. The specifications will require that the Contractor maintain the silt curtain(s) around either the point of dredging or the dredging area at the contractor's discretion. The effectiveness of the silt curtain will be monitored during construction.

(ii) The contractor will prioritize the removal of the most impacted areas (*i.e.,* the area with the highest observed concentrations of contaminants of concern) before the surrounding areas.

(h) Standard mitigation measures.

(i) Conduct briefings between construction supervisors and crews, marine mammal monitoring team, and MOS staff prior to the start of all pile driving and extraction activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

(ii) For in-water heavy machinery work other than pile driving (*e.g.,* standard barges, tug boats, barge-mounted excavators, or clamshell equipment used to place or remove material), if a marine mammal comes within 10 meters, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions.

(i) The MOS shall establish monitoring locations as described below.

5. Monitoring and Reporting

The holder of this Authorization is required to report all monitoring conducted under the IHA within 90 calendar days of the completion of the marine mammal monitoring

(a) Visual Marine Mammal Monitoring and Observation

(i) At least one individual meeting the minimum qualifications identified in Appendix A of the application by the MOS will monitor the shutdown and Level B harassment zones during impact and vibratory pile driving.

(ii) During pile driving and extraction, the shutdown zone, as described in 4(b), will be monitored and maintained. Pile installation or extraction will not commence or will be suspended temporarily if any marine mammals are observed within or approaching the area of potential disturbance.

(iii) The area within the Level B harassment threshold for pile driving and extraction will be monitored by observers stationed to provide adequate view of the harassment zone. Marine mammal presence within this Level B harassment zone, if any, will be monitored. Pile driving activity will not be stopped if marine mammals are found to be present. Any marine mammal documented within the Level B harassment zone during impact driving would constitute a Level B take (harassment), and will be recorded and reported as such.

(iv) The individuals will scan the waters within each monitoring zone activity using binoculars, spotting scopes, and visual observation.

(v) If waters exceed a sea-state, or poor environmental conditions restricts the observers' ability to make observations (*e.g.* excessive wind or fog), impact pile installation will cease until conditions allow the resumption of monitoring.

(vi) The waters will be scanned 30 minutes prior to commencing pile driving or removal at the beginning of each day, and prior to commencing pile driving or removal after any stoppage of 30 minutes or greater. If marine mammals enter or are observed within the designated marine mammal shutdown zone during or 30 minutes prior to impact pile driving, the monitors will notify the on-site construction manager to not begin until the animal has moved outside the designated radius.

(vii) The waters will continue to be scanned for at least 30 minutes after pile driving has completed each day,

(b) Data Collection

(i) Observers are required to use approved data forms. Among other pieces of information, the MOS will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, the MOS will attempt to distinguish between the number of individual animals taken and the number of incidents of take. At a minimum, the following information be collected on the sighting forms:

1. Date and time that monitored activity begins or ends;
2. Construction activities occurring during each observation period;
3. Weather parameters (*e.g.,* percent cover, visibility);
4. Water conditions (*e.g.,* sea state, tide state);
5. Species, numbers, and, if possible, sex and age class of marine mammals;
6. Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;
7. Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
8. Locations of all marine mammal observations; and
9. Other human activity in the area.

(c) Reporting Measures

(i) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA, such as an injury (Level A harassment), serious injury or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), the MOS would immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinators. The report would include the following information:

1. Time, date, and location (latitude/longitude) of the incident;
2. Name and type of vessel involved;
3. Vessel's speed during and leading up to the incident;
4. Description of the incident;
5. Status of all sound source use in the 24 hours preceding the incident;
6. Water depth;
7. Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
8. Description of all marine mammal observations in the 24 hours preceding the incident;
9. Species identification or description of the animal(s) involved;
10. Fate of the animal(s); and
11. Photographs or video footage of the animal(s) (if equipment is available).

(ii) Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with the MOS to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The MOS would not be able to resume their activities until notified by NMFS via letter, email, or telephone.

(iii) In the event that the MOS discovers an injured or dead marine mammal, and the lead MMO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), the MOS would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators. 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 the MOS to determine whether modifications in the activities are appropriate.

(iv) In the event that the MOS discovers an injured or dead marine mammal, and the lead MMO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the MOS 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. The DOT&PF would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

6. MOS is required to comply with the Reasonable and Prudent Measures and Terms and Conditions of the ITS corresponding to NMFS' Biological Opinion issued to both U.S. Army Corps of Engineers and NMFS' Office of Protected Resources.

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

Request for Public Comments

NMFS requests comment on our analysis, the draft authorization, and any other aspect of the Notice of Proposed IHA for the Skagway Gateway Initiative Project. Please include with your comments any supporting data or literature citations to help inform our final decision on MOS's request for an MMPA authorization.

Dated: April 22, 2016.

Perry F. Gayaldo,

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

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Part III

The President

Proclamation 9431—Jewish American Heritage Month, 2016
Proclamation 9432—National Foster Care Month, 2016
Proclamation 9433—National Mental Health Awareness Month, 2016

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Presidential Documents

Title 3—

The President

Proclamation 9431 of April 28, 2016

Jewish American Heritage Month, 2016

By the President of the United States of America

A Proclamation

At America's birth, our Founders fought off tyranny and declared a set of ideals—including life, liberty, and the pursuit of happiness—that would forever guide our country's course. For generations since, Jewish Americans, having shared in the struggle for freedom, have been instrumental in ensuring our Nation stays true to the principles enshrined in our founding documents. They have helped bring about enduring progress in every aspect of our society, shaping our country's character and embodying the values we hold dear. This month, as we pay tribute to their indelible contributions, we recommit to ridding our world of bigotry and injustice and reflect on the extraordinary ways in which Jewish Americans have made our Union more perfect.

Many of the Jewish people who reached our Nation's shores throughout our history did so fleeing the oppression they encountered in areas around the world. Driven by the possibility of charting a freer future, they endeavored, on their own and as a community, to make real the promise of America—in their individual lives and in the life of our country. Determined to confront the racism that kept this promise from being fully realized, many Jewish Americans found a cause in the Civil Rights Movement that—in its call for freedom and justice—echoed the timeless message of Exodus and the Jewish people's journey through the ages. Reflecting on the march in Selma, Rabbi Abraham Joshua Heschel once noted, ''I felt my legs were praying.'' From the fight for women's rights to LGBT rights to workers' rights, many in the Jewish American community, drawing on lessons from their own past, have trumpeted a clarion call for equality and justice.

We cannot pay proper respect to the legacy of Jewish Americans without also reflecting on the rise of anti-Semitism in many parts of the world, and in remembering the lessons of the Holocaust, we recognize the imperative need to root out prejudice. Subjecting men, women, and children to persecution on the basis of their ancestry and faith, the scourge of anti-Semitism demands that we declare through action and solidarity that an attack on one faith is an attack on all faiths. That is why the United States is leading the international effort to combat anti-Semitism—we helped organize the first United Nations General Assembly meeting on anti-Semitism last year, and we are asking countries around the world to join us in giving this challenge the focus it demands. In celebrating Jewish Americans' contributions to our country, we also reaffirm our unshakeable commitment to Israel's security and the close bonds between our two nations and our peoples. Throughout my Administration, the multifaceted relationship between our countries has grown and strengthened to an unprecedented degree, particularly with regard to U.S.-Israeli security assistance and cooperation.

The Jewish American experience and our Nation as a whole have always been held together by the forces of hope and resilience. During Jewish American Heritage Month, as we reflect on our past and look toward the future, let us carry forward our mutual legacy, grounded in our interconnected roots, and affirm that it is from the extraordinary richness of our bond that we draw strength. And let us renew our dedication to the

work of building a fully inclusive tomorrow—one where a great diversity of origins is not only accepted, but also celebrated—here at home and around the world.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 2016 as Jewish American Heritage Month. I call upon all Americans to visit www.JewishHeritageMonth.gov to learn more about the heritage and contributions of Jewish Americans and to observe this month with appropriate programs, activities, and ceremonies.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of April, in the year two thousand sixteen, and of the Independence of the United States of America the two hundred and fortieth.

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Presidential Documents

Proclamation 9432 of April 28, 2016

National Foster Care Month, 2016

By the President of the United States of America

A Proclamation

The success of our country tomorrow depends on the well-being of our children today. As a Nation, we have a duty to empower each child so they have the same sense of promise and possibility as any other young person no matter who they are, where they come from, or what their circumstances are. Foster youth deserve the security and strong support structures they need to achieve their dreams. During National Foster Care Month, we lift up our Nation's foster children, celebrate the selfless men and women who embrace children in the foster care system, and we recommit to helping more children find permanency so they can feel stable, grounded, and free to fulfill their limitless potential.

With open hearts, families and professionals across America work each day to give foster youth the resources, warmth, and care they need. Over 400,000 children remain in the foster care system, and tens of thousands of youth age out of foster care before they find their forever family. Only half of children in foster care complete high school by age 18, and less than 5 percent graduate college. Young people who age out of foster care without a permanent home are often at higher risk of entering the criminal justice system, and they can face greater challenges to completing an education, obtaining high-quality health care, and securing gainful employment. We also know kids are better off when raised by loving families, not institutions. These difficult outcomes are often exaggerated further when children are placed in group homes.

I am committed to preventing youth from falling into these situations. I have proposed allowing child welfare agencies to use Federal funds to provide critical services and shelter to foster youth who have aged out of the system until they are 23. My Administration is also working to reduce abuse and neglect by focusing resources on strengthening families so children stay out of foster care in the first place. Children living in foster care are more likely than other children to be overprescribed medication for social-emotional and mental health disorders. That is why my Administration is encouraging greater use of evidence-based screening, assessment, and treatment of trauma and mental health disorders for kids in foster care. And because every child deserves access to quality, affordable health insurance, the Affordable Care Act requires each State to extend Medicaid coverage to foster children who have aged out of the foster care system until the age of 26.

Children grow to become their best selves when they are surrounded by supportive families. Caretakers support foster youth and help them see a future of greater promise and hope. Last summer, the Supreme Court ruled that the Constitution guarantees marriage equality, giving more kids in foster care the opportunity to be part of a loving family. My Administration will continue fighting to ensure eligible and qualified caretakers have the chance to become an adoptive or foster parent regardless of race, religion, gender identity, or sexual orientation. The commitment and dependability of a family can provide foster youth with the confidence to write and control their own destiny. Family is the bedrock of the American story, and we

must do everything we can to support all young people so they can be free from harm, healthy, and ready to chart the course of our Nation's unwritten history.

When we create environments for all young people to grow and flourish and safely live as who they are regardless of race, background, religion, sexual orientation or gender identity our country is stronger. This month, and every month, let us pay tribute to the children in foster care and the dedicated parents and professionals who tirelessly work to shape their lives. And as a country, let us embrace the spirit that every child matters and continue working to provide all of our daughters and sons with an equal chance to lead productive and fulfilling lives, limited by nothing but the power of their imaginations and the scope of their dreams.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 2016 as National Foster Care Month. I call upon all Americans to observe this month by taking time to help youth in foster care and recognizing the commitment of all who touch their lives.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of April, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and fortieth.

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Presidential Documents

Proclamation 9433 of April 28, 2016

National Mental Health Awareness Month, 2016

By the President of the United States of America

A Proclamation

Nearly 44 million American adults, and millions of children, experience mental health conditions each year, including depression, anxiety, bipolar disorder, schizophrenia, and post-traumatic stress. Although we have made progress expanding mental health coverage and elevating the conversation about mental health, too many people still do not get the help they need. Our Nation is founded on the belief that we must look out for one another—and whether it affects our family members, friends, co-workers, or those unknown to us—we do a service for each other when we reach out and help those struggling with mental health issues. This month, we renew our commitment to ridding our society of the stigma associated with mental illness, encourage those living with mental health conditions to get the help they need, and reaffirm our pledge to ensure those who need help have access to the support, acceptance, and resources they deserve.

In the last 7 years, our country has made extraordinary progress in expanding mental health coverage for more people across America. The Affordable Care Act prohibits insurance companies from discriminating against people based on pre-existing conditions, requires coverage of mental health and substance use disorder services in individual and small group markets, and expands mental health and substance use disorder parity policies, which are estimated to help more than 60 million Americans. Nearly 15 million more Americans have gained Medicaid coverage since October 2013, significantly improving access to mental health care. And because of more than $100 million in funding from the Affordable Care Act, community health centers have expanded behavioral health services for nearly 900,000 people nationwide over the past 2 years. Still, far too few Americans experiencing mental illnesses do not receive the care and treatment they need. That is why my most recent Budget proposal includes a new half-billion dollar investment to improve access to mental health care, engage individuals with serious mental illness in care, and help ensure behavioral health care systems work for everyone.

Our Nation has made strong advances in improving prevention, increasing early intervention, and expanding treatment of mental illnesses. Earlier this year, I established a Mental Health and Substance Use Disorder Parity Task Force, which aims to ensure that coverage for mental health benefits is comparable to coverage for medical and surgical care, improve understanding of the requirements of the law, and expand compliance with it. Mental health should be treated as part of a person's overall health, and we must ensure individuals living with mental health conditions can get the treatment they need. My Administration also continues to invest in science and research through the BRAIN initiative to enhance our understanding of the complexities of the human brain and to make it easier to diagnose and treat mental health disorders early.

One of our most profound obligations as a Nation is to support the men and women in uniform who return home and continue fighting battles against mental illness. Last year, I signed the Clay Hunt SAV Act, which fills critical gaps in serving veterans with post-traumatic stress and other

illnesses, increases peer support and outreach, and recruits more talented individuals to work on mental health issues at the Department of Veterans Affairs. This law will make it easier for veterans to get the care they need when they need it. All Americans, including service members, can get immediate assistance by calling the National Suicide Prevention Lifeline at 1–800–273–TALK or by calling 1–800–662–HELP.

During National Mental Health Awareness Month, we recognize those Americans who live with mental illness and substance use disorders, and we pledge solidarity with their families who need our support as well. Let us strive to ensure people living with mental health conditions know that they are not alone, that hope exists, and that the possibility of healing and thriving is real. Together, we can help everyone get the support they need to recover as they continue along the journey to get well.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 2016 as National Mental Health Awareness Month. I call upon citizens, government agencies, organizations, health care providers, and research institutions to raise mental health awareness and continue helping Americans live longer, healthier lives.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of April, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2016–10506
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