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Contents

Federal Register

Vol. 82, No. 186

Wednesday, September 27, 2017

Agricultural Marketing Service
PROPOSED RULES
Watermelon Research and Promotion Plan; Redistricting and Importer Representation, 44966–44971

Agriculture Department
See Agricultural Marketing Service
See Food and Nutrition Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44986

Army Department
NOTICES
Meetings:
Board of Visitors, United States Military Academy, 44995–44996

Centers for Disease Control and Prevention
NOTICES
Draft National Occupational Research Agenda for Construction, 45027–45028

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 45028–45029
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
State Plan for Grants to States for Refugee Resettlement, 45029–45030

Coast Guard
RULES
Special Local Regulations:
Fautasi Ocean Challenge Canoe Race, Pago Pago Harbor, American Samoa, 44929–44932

Commerce Department
See National Oceanic and Atmospheric Administration

Community Living Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Title III Supplemental Form to Financial Status Report, 45030–45031

Defense Acquisition Regulations System
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44998–44999
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Defense Federal Acquisition Regulation Supplement; Acquisition of Information Technology, 44996–44997
Defense Federal Acquisition Regulation Supplement; Taxes, 44997–44998

Defense Department
See Army Department
See Defense Acquisition Regulations System
See Engineers Corps
NOTICES
Arms Sales, 44999–45008

Delaware River Basin Commission
NOTICES
Water Quality Assessment Reports:
Proposed Methodology for 2018 Delaware River and Bay, 45009

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Annual State Application under Part C of Individuals with Disabilities Education Act as Amended in 2004, 45011–45012
Report of Infants and Toddlers Receiving Early Intervention Services and of Program Settings Where Services are Provided in Accordance with Part C, and Report on Infants and Toddlers, 45012–45013
State Lead Agency Record Keeping and Reporting Requirements under Part C of Individuals with Disabilities Education Act, 45009–45010
Survey on Use of Funds under Title II, Part A: Improving Teacher Quality State Grants—State-Level Activity Funds, 45010–45011
Application Deadlines:
Certain Fiscal Year 2018 Education Research and Special Education Research Grant Programs; Extension, 45011

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Presidential Permit Applications :
Central Maine Power Co., 45013–45014

Engineers Corps
NOTICES
Environmental Impact Statements; Availability, etc.:
Great Lakes and Mississippi River Interbasin Study—Brandon Road Draft Integrated Feasibility Study; Will County, IL, 45008
Mississippi River between Ohio and Missouri Rivers (Regulating Works), Missouri and Illinois; Record of Decision, 45008–45009

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Delaware; State Implementation Plan for Interstate Transport for 2008 Ozone Standard, 44932–44936
Pesticide Tolerances:
Fluazifop-P-Butyl, 44936–44942
Oxathiapiprolin, 44942–44945
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Delaware; State Implementation Plan for Interstate Transport for 2008 Ozone Standard, 44984

NOTICES
Certain New Chemicals:
Receipt and Status Information for July 2017, 45019–45023
Receipt and Status Information for June 2017, 45015–45019

Federal Accounting Standards Advisory Board
NOTICES
Guidance:
Statement of Federal Financial Accounting Concepts 8, Federal Financial Reporting, 45023

Federal Aviation Administration
RULES
Airworthiness Directives:
Airbus Airplanes, 44900–44914
Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.) Airplanes, 44895–44898
Bombardier, Inc., Airplanes, 44898–44900
Amendment of Class E Airspace:
Louisiana Towns; Leesville, LA; and Patterson, LA, 44914–44915
Amendment of Class E Airspace; Establishment of Class E Airspace:
Midland, TX; Odessa, TX and Midland, TX, 44915–44917
PROPOSED RULES
Airworthiness Directives:
Airbus Airplanes, 44974–44980
Amendment of Class D Airspace and Establishment of Class E Airspace; Amendment of Class E Airspace:
Norman, OK; Oklahoma City, OK, 44981–44982
NOTICES
Petitions for Exemptions; Summaries:
Auburn Aviation, 45110–45111

Federal Communications Commission
NOTICES
Change in Filing Location for Commercial Overnight Documents FCC Warehouse Address Change, 45023
Meetings:
Disability Advisory Committee, 45024
Opening of Second Filing Window for Eligible Full Power and Class A Television Stations, 45023–45024

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 45024–45025

Federal Energy Regulatory Commission
RULES
Remedial Action Schemes Reliability Standard, 44918–44925
NOTICES
Combined Filings, 45014–45015

Federal Maritime Commission
NOTICES
Agreements Filed, 45025

Federal Reserve System
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 45025–45026
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 45025–45027
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 45027

Food and Drug Administration
NOTICES
Charter Renewals:
National Mammography Quality Assurance Advisory Committee, 45031–45032

Food and Nutrition Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Third National Survey of WIC Participants, 44986–44992

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Community Living Administration
See Food and Drug Administration
See Health Resources and Services Administration
See Indian Health Service
See National Institutes of Health
NOTICES
Draft Department Strategic Plan for FY 2018–2022, 45032–45033
Meetings:
2018 Physical Activity Guidelines Advisory Committee, 45033
Secretary's Advisory Committee on Human Research Protections, 45033–45034

Health Resources and Services Administration
NOTICES
Funding Awards:
Ryan White HIV/AIDS Program, Part F AIDS Education and Training Centers, 45032

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

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
HUD-Owned Real Estate Dollar Home Sales Program, 45040–45041
Loan Sales Bidder Qualification Statement, 45041–45042, 45044
Manufactured Home Construction and Safety Standards Act Reporting Requirements, 45043
Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark to Market), 45041
Quality Control Requirements for Direct Endorsement Lenders, 45042–45043
Rehabilitation Mortgage Insurance Underwriting Program, 45044–45045

Indian Health Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Generic Clearance for Collection of Qualitative Feedback on Agency Service Delivery: Customer Service Satisfaction and Similar Surveys, 45034–45035

Internal Revenue Service
RULES
Withholding on Payments of Certain Gambling Winnings, 44925–44929

International Trade Commission
PROPOSED RULES
Rules of General Application, 44982–44984
NOTICES
Complaints:
Certain LED Lighting Devices, LED Power Supplies, and Components Thereof, 45069–45070
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain Basketball Backboard Components and Products Containing Same, 45067–45068
Softwood Lumber Products from Canada, 45045
Privacy Act; Systems of Records, 45045–45046

Justice Department
NOTICES
Proposed Consent Decrees under CERCLA, 45070

Labor Department
See Workers Compensation Programs Office

National Capital Planning Commission
RULES
Freedom of Information Act Regulations; Correction, 44879
Privacy Act Regulations; Correction, 44879

National Highway Traffic Safety Administration
RULES
Federal Motor Vehicle Safety Standards:
Electric-Powered Vehicles: Electrolyte Spillage and Electrical Shock Protection, 44945–44965

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 45035–45038
National Human Genome Research Institute, 45038–45039
National Institute of Arthritis and Musculoskeletal and Skin Diseases, 45038
National Institute of Nursing Research, 45039

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fisheries off West Coast States:
Pacific Coast Groundfish Fishery; Pacific whiting; Pacific Coast Groundfish Fishery Management Plan; Amendment 21–3; Trawl Rationalization Program, 44984–44985
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44994–44995
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Non-commercial Permit and Reporting Requirements in Main Hawaiian Islands Bottomfish Fishery, 44994
Determination of Overfishing or an Overfished Condition, 44993–44994
Meetings:
Integrated Ocean Observing System Advisory Committee, 44993
Takes of Marine Mammals Incidental to Specified Activities:
Marine Geophysical Survey in Southwest Pacific Ocean, 2017/2018, 45116–45156

Nuclear Regulatory Commission
RULES
List of Approved Spent Fuel Storage Casks:
TN Americas, LLC, Standardized NUHOMS Horizontal Modular Storage System, Certificate of Compliance No. 1004, Renewal of Initial Certificate and Amendments, 44879–44886
PROPOSED RULES
List of Approved Spent Fuel Storage Casks:
TN Americas, LLC, Standardized NUHOMS Horizontal Modular Storage System, Certificate of Compliance No. 1004, Renewal of Initial Certificate and Amendments, 44971–44974
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Domestic Licensing of Special Nuclear Material, 45071–45072
Guidance:
Emergency Planning for Research and Test Reactors and Other Non-Power Production and Utilization Facilities, 45073–45074
Physical Inventories and Material Balances at Fuel Cycle Facilities, 45074–45075
Mandatory Review for Declassification, 45072–45073

Office of the Special Counsel
NOTICES
Privacy Act; Systems of Records, 45076–45079

Peace Corps
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 45079–45080

Presidential Documents
PROCLAMATIONS
Defense and National Security:
Terrorists or Other Public-Safety Threats; Enhanced Vetting Capabilities and Processes for Detecting Attempted Entry Into the U.S. (Proc. 9645), 45161–45172
Special Observances:
Gold Star Mother's and Family's Day (Proc. 9644), 45157–45160

Securities and Exchange Commission
RULES
Commission Guidance on Pay Ratio Disclosure, 44917–44918
NOTICES
Self-Regulatory Organizations; Proposed Rule Changes:
Bats BZX Exchange, Inc., 45103–45106
Depository Trust Co.; National Securities Clearing Corp.; Fixed Income Clearing Corp., 45106–45109
Nasdaq Stock Market, LLC, 45095
NYSE American, LLC, 45085—45103
NYSE Arca, Inc., 45080–45085

Small Business Administration
RULES
Small Business Size Standards:
Adoption of 2017 North American Industry Classification System for Size Standards, 44886–44895

NOTICES
Disaster Declarations:
Illinois, 45109
Wisconsin, 45109–45110

State Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
U.S. National Commission for UNESCO Laura W. Bush Traveling Fellowship, 45110

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

Treasury Department
See Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 45111–45112
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
TARP Capital Purchase Program—Executive Compensation, 45111

U.S. Customs and Border Protection
NOTICES
Commercial Gaugers and Laboratories; Accreditations and Approvals:
Altol Petroleum Products Services, Inc., 45040
American Cargo Assurance, 45039–45040

Veterans Affairs Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 45114
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Applications and Appraisals for Employment for Title 38 Positions and Trainees, 45113–45114
Certification of School Attendance—Restored Entitlement Program for Survivors, 45112–45113

Workers Compensation Programs Office
NOTICES
Meetings:
Advisory Board on Toxic Substances and Worker Health; Subcommittee Teleconference, 45070–45071

Separate Parts In This Issue

Part II
Commerce Department, National Oceanic and Atmospheric Administration, 45116–45156

Part III
Presidential Documents, 45157–45172

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

1 CFR
602 44879
603 44879

3 CFR
Proclamations:
9644 45159
9645 45161

7 CFR
Proposed Rules:
1210 44966

10 CFR
72 44879
Proposed Rules:
72 44971

13 CFR
121 44886

14 CFR
39 (5 documents) 44895, 44898, 44900, 44903, 44907
71 (2 documents) 44914, 44915
Proposed Rules:
39 44974
71 44981

17 CFR
229 44917
249 44917

18 CFR
40 44918

19 CFR
Proposed Rules:
201 44982

26 CFR
31 44925

33 CFR
100 44929

40 CFR
52 44932
180 (2 documents) 44936, 44942
Proposed Rules:
52 44984

49 CFR
571 44945

50 CFR
Proposed Rules:
660 44984

Rules and Regulations

Federal Register

Vol. 82, No. 186

Wednesday, September 27, 2017

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

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

NATIONAL CAPITAL PLANNING COMMISSION

1 CFR Part 602

Freedom of Information Act Regulations; Correction

AGENCY: National Capital Planning Commission.

ACTION: Final rule; correction.

SUMMARY: The National Capital Planning Commission (NCPC or Commission) is correcting a final rule that appeared in the **Federal Register** on September 20, 2017. The document issued FOIA regulations with changes necessitated by the FOIA Improvement Act of 2016 (Pub. L. 114–185).

DATES: Effective October 20, 2017.

FOR FURTHER INFORMATION CONTACT: Anne R. Schuyler, General Counsel and Chief FOIA Officer, 202–482–7223, *anne.schuyler@ncpc.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc. 2017–19997 appearing on page 44036 in the **Federal Register** on Wednesday, September 20, 2017, the following corrections are made:

§ 602.14 [Corrected]

■ 1. On page 44043, in the second column, the section heading, ''§ 602.15—Fee waiver requirements.'' is corrected to read ''§ 602.14—Fee waiver requirements.''

■ 2. On page 44043, in the second column, the first sentence of 602.14(a) which reads ''Records responsive to a Request shall be furnished without charge or at a reduced charge below that established under § 602.14'' is corrected to read as follows: ''Records responsive to a Request shall be furnished without charge or at a reduced charge below that established under § 602.13.''

Dated September 21, 2017.

Anne R. Schuyler,

General Counsel.

[FR Doc. 2017–20611 Filed 9–26–17; 8:45 am]

BILLING CODE 7502–01–P

NATIONAL CAPITAL PLANNING COMMISSION

1 CFR Part 603

Privacy Act Regulations; Correction

AGENCY: National Capital Planning Commission.

ACTION: Final rule; correction.

SUMMARY: The National Capital Planning Commission (NCPC or Commission) is correcting a final rule that appeared in the **Federal Register** on September 20, 2017. The document issued New Privacy Act Regulations.

DATES: Effective October 20, 2017.

FOR FURTHER INFORMATION CONTACT: Anne R. Schuyler, General Counsel and Chief FOIA Officer, 202–482–7223, *anne.schuyler@ncpc.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc. 2017–19996 appearing on page 44044 in the **Federal Register** on Wednesday, September 20, 2017, the following corrections are made:

§ 603.3 [Corrected]

■ 1. On page 44048, in the second column, the first of the two paragraphs designated (c)(3)(vii) is correctly redesignated as paragraph (c)(3)(vi).

Dated: September 21, 2017.

Anne R. Schuyler,

General Counsel.

[FR Doc. 2017–20609 Filed 9–26–17; 8:45 am]

BILLING CODE 7520–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2017–0138]

RIN 3150–AK05

List of Approved Spent Fuel Storage Casks: TN Americas LLC, Standardized NUHOMS® Horizontal Modular Storage System, Certificate of Compliance No. 1004, Renewal of Initial Certificate and Amendment Nos. 1 Through 11, 13, Revision 1, and 14

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the Standardized NUHOMS® Horizontal Modular Storage System (NUHOMS® System) listing within the ''List of approved spent fuel storage casks'' to renew, for an additional 40-year period, Revision 1 of the initial certificate and Amendment Nos. 1 through 11, and 13, and Amendment No. 14 of Certificate of Compliance (CoC) No. 1004. These changes require, among other things, that all future amendments and revisions to this CoC include evaluations of the impacts to aging management activities (*i.e.,* time-limited aging analyses and aging management programs (AMPs)) to ensure that they remain adequate for any changes to spent fuel storage cask systems, structures, and components (SSCs) within the scope of the renewal. Each general licensee using a NUHOMS® System at a reactor site must have a program to establish, implement, and maintain written procedures for each AMP described in the AREVA Inc. (AREVA) Updated Final Safety Analysis Report (UFSAR). In addition, the renewals reflect the change in the name of the CoC holder from AREVA to TN Americas LLC, and make several other changes as described in Section IV, ''Discussion of Changes,'' in the **SUPPLEMENTARY INFORMATION** section of this document.

DATES: This direct final rule is effective December 11, 2017, unless significant adverse comments are received by October 27, 2017. If this direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date. Comments received on this direct final rule will also be considered to be comments on a companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**.

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

- *Federal Rulemaking Web site*: Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0138. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the

individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.

• *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

• *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

• *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

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: Christian Jacobs, Office of Nuclear Material Safety and Safeguards, 301–415–6825; email: *Christian.Jacobs@nrc.gov,* or Robert D. MacDougall, Office of Nuclear Material Safety and Safeguards, 301–415–5175; email: *Robert.MacDougall@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Obtaining Information and Submitting Comments
II. Rulemaking Procedure
III. Background
IV. Discussion of Changes
V. Voluntary Consensus Standards
VI. Agreement State Compatibility
VII. Plain Writing
VIII. Environmental Assessment and Finding of No Significant Environmental Impact
IX. Paperwork Reduction Act Statement
X. Regulatory Flexibility Certification
XI. Regulatory Analysis
XII. Backfitting and Issue Finality
XIII. Congressional Review Act
XIV. Availability of Documents

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0138 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–2017–0138.

• *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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' 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–2017–0138 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

This rule is limited to the changes associated with renewal of the initial certificate and Amendment Nos. 1 through 11, 13, Revision 1, and Amendment No. 14 to CoC No. 1004 and does not include other aspects of the NUHOMS® System design. The NRC is using the ''direct final rule procedure'' to issue these renewals because they represent a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. This direct final rule will become effective on December 11, 2017. However, if the NRC receives significant adverse comments on this direct final rule by October 27, 2017, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or technical specifications (TSs).

For detailed instructions on filing comments, please see the companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**.

III. Background

Section 218(a) of the Nuclear Waste Policy Act (NWPA) of 1982, as amended, requires that ''the Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the

NWPA states, in part, that ''[the Commission] shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule which added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled, ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). A general license authorizes a reactor licensee to store spent fuel in NRC-approved casks at a site that is licensed to operate a power reactor under 10 CFR parts 50 or 52. This rule also established a new subpart L in 10 CFR part 72 entitled, ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on December 22, 1994 (59 FR 65898) that approved the NUHOMS® System design and added it to the list of NRC-approved cask designs in 10 CFR 72.214 as CoC No. 1004. Most recently, on January 25, 2017 (82 FR 8353), the NRC approved Revision 1 to the initial certificate and Amendment Nos. 1 through 11 and 13, and issued Amendment No. 14.

IV. Discussion of Changes

On November 4, 2014, AREVA submitted a renewal application for the Standardized NUHOMS® Horizontal Modular Storage System, CoC No. 1004, for a period of 40 years beyond the initial certificate term. AREVA supplemented its request on October 16, 2015; June 6, 2016; and September 29, 2016.

On November 18, 2016, TN Americas LLC provided notification that it had changed from AREVA TN Americas, a former operating division of AREVA Inc., to a stand-alone entity named TN Americas LLC, which is a wholly owned subsidiary company of AREVA Nuclear Materials LLC. Because the renewed CoCs will be issued to TN Americas LLC, this notice will specify ''TN Americas'' when referring to the CoC holder, and ''AREVA'' when referring to the applicant.

The renewal of the initial certificate and Amendment Nos. 1 through 11, 13, and 14 (Amendment No. 12 was never issued) were conducted in accordance with the renewal provisions in 10 CFR 72.240. This section of NRC spent fuel storage regulations authorizes the NRC staff to include any additional certificate conditions it deems necessary to ensure that the cask system's SSCs continue to perform their intended safety functions during the certificates' renewal period. The NRC staff has included additional conditions in the renewed certificates. These conditions do not revise the authorized contents of any existing or planned NUHOMS® System. The changes require, among other things, that all future amendments and revisions to this CoC include evaluations of the impacts to aging management activities (*i.e.,* time-limited aging analyses and AMPs) to ensure that they remain adequate for any changes to spent fuel storage cask SSCs within the scope of the renewal. Each general licensee using a NUHOMS® System at a reactor site must have a program to establish, implement, and maintain written procedures for each AMP described in the AREVA UFSAR. The program must include provisions for changing AMP elements, as necessary, and within the limitations of the approved licensing bases, to address new information on aging effects based on inspection findings and/or industry operating experience during the renewal period. Another CoC change would extend these requirements to NUHOMS® System users at new reactors licensed under the NRC's regulations.

As documented in its Safety Evaluation Report (SER), the NRC staff performed a detailed safety evaluation of the proposed CoC renewal request. There are no significant changes to cask design requirements in the proposed CoC renewal. Considering the specific design requirements for each accident or sabotage condition, the design of the cask would prevent loss of containment, shielding, and criticality control in the event of an accident or sabotage. This renewal does not reflect a significant change in design or fabrication of the cask. In addition, any resulting occupational exposure or offsite dose rates from the implementation of the renewal of the initial certificate and these amendments would remain well within the NRC's 10 CFR part 20 limits on doses to workers and members of the public. There will be no significant change in the types or amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents.

This direct final rule revises the NUHOMS® System listing in 10 CFR 72.214 by renewing for an additional 40-year period the initial certificate and Amendment Nos. 1 through 11, 13, and 14 of CoC No. 1004. The renewal consists of the changes previously described, as set forth in the renewed CoC and TSs. The revised TSs are identified in the SER.

The NRC has determined that the NUHOMS® System cask design, when used under the conditions specified in the renewed CoC, renewed TSs, and the NRC's regulations, will meet the requirements of 10 CFR part 72; therefore, adequate protection of public health and safety will continue to be ensured. When this direct final rule becomes effective, persons who hold a general license under 10 CFR 72.210 may load spent nuclear fuel into NUHOMS® System casks that meet the criteria of the renewed initial certificate and Amendment Nos. 1 through 11, 13, and 14 of CoC No. 1004 under 10 CFR 72.212.

V. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC will revise the NUHOMS® System design listed in § 72.214, ''List of approved spent fuel storage casks.'' This action does not constitute the establishment of a standard that contains generally applicable requirements.

VI. Agreement State Compatibility

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

VII. Plain Writing

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

VIII. Environmental Assessment and Finding of No Significant Environmental Impact

A. The Action

The action is to amend 10 CFR 72.214 to revise the NUHOMS® System listing within the ''List of approved spent fuel storage casks'' to renew, for an additional 40-year period, the initial certificate and Amendment Nos. 1 through 11, 13, and 14 of CoC No. 1004. This action does not revise the authorized contents of existing or planned NUHOMS® Systems. Specifically, these changes require, among other things, that all future amendments and revisions to this CoC include evaluations of the impacts on aging management activities (*i.e.,* time-limited aging analyses and AMPs) to ensure that they remain adequate for any changes to spent fuel storage cask SSCs within the scope of the renewal. Each general licensee using a NUHOMS® System at a reactor site must have a program to establish, implement, and maintain written procedures for each AMP described in the AREVA UFSAR. The program must include provisions for changing AMP elements, as necessary, and, within the limitations of the approved licensing bases, to address new information on aging effects based on inspection findings and/or industry operating experience during the renewal period. Another CoC change would extend these requirements to NUHOMS® System users at new reactors licensed under 10 CFR part 52.

B. The Need for the Action

This direct final rule is necessary to authorize the continued use of the NUHOMS® System design by power reactor licensees for dry spent fuel storage at reactor sites. Specifically, this rule extends the expiration date for the NUHOMS® System certificates for an additional 40 years, allowing a reactor licensee to continue using them under general license provisions in an independent spent fuel storage installation (ISFSI), the facility at which a holder of a power reactor operating license stores spent fuel in dry casks in accordance with 10 CFR part 72.

C. Environmental Impacts of the Action

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using NRC-approved storage casks was initially analyzed in the environmental assessment (EA) for the 1990 final rule. The EA for these renewals tiers off of the EA for the July 18, 1990, final rule. Tiering on past EAs is a standard process under the National Environmental Policy Act of 1969, as amended (NEPA).

The NRC staff has determined that the environmental impacts of renewing the NUHOMS® System certificates for an additional 40 years remain bounded by the EA for the 1990 final rule. As required by 10 CFR 72.240, applications for renewal of a spent fuel storage CoC design are required to demonstrate, in time-limited aging analyses and a description of an AMP, that SSCs important to safety will continue to perform their intended function for the requested renewal term. As discussed in the NRC staff's SER for the renewal of the NUHOMS® System certificates, the NRC staff has approved conditions in the renewed CoCs requiring the general licensee to implement the AMPs described in the renewal application and incorporated into the storage system's UFSAR. These conditions ensure that NUHOMS® Systems will continue to perform their intended safety functions and provide adequate protection of public health and safety throughout the renewal period.

Incremental impacts from continued use of NUHOMS® Systems under a general license for an additional 40 years are not considered significant. When the general licensee follows all procedures and administrative controls, including the conditions established as a result of the renewals, no effluents are expected from the sealed dry storage cask systems. Activities associated with cask loading and decontamination may result in some small incremental liquid and gaseous effluents, but these activities will be conducted under 10 CFR parts 50 or 52 reactor operating licenses, and effluents will be controlled within existing reactor site technical specifications. Because reactor sites are relatively large, any incremental offsite doses due to direct radiation exposure from the spent fuel storage casks are expected to be small, and when combined with the contribution from reactor operations, well within the annual dose equivalent of 0.25 mSv (25 mrem) limit to the whole body specified in 10 CFR 72.104. Incremental impacts on collective occupational exposures due to dry cask spent fuel storage are expected to be only a small fraction of the exposures from operation of the nuclear power station.

The NUHOMS® Systems are also designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an ISFSI include tornado winds and tornado-generated missiles, a design basis earthquake, a design basis flood, an accidental cask drop, lightning effects, fire, explosions, and other incidents.

During the promulgation of the amendments that added subpart K to 10 CFR part 72 (55 FR 29181; July 18, 1990), the NRC staff assessed the public health consequences of dry cask system storage accidents and sabotage events. In the supporting analyses for these amendments, the NRC staff determined that a release from a dry cask storage system would be comparable in magnitude to a release from the same quantity of fuel in a spent fuel storage pool. As a result of these evaluations, the NRC staff determined that, because of the physical characteristics of the storage casks and conditions of storage that include specific security provisions, the potential risk to public health and safety due to accidents or sabotage is very small.

Considering the specific design requirements for each accident or sabotage condition, the design of the cask would prevent loss of confinement, shielding, and criticality control. If there is no loss of confinement, shielding, or criticality control, the environmental impacts would be insignificant.

There are no changes to cask design or fabrication requirements in the renewed initial certificate or the renewed Amendment Nos. 1 through 11, 13, and 14 that would result in an increase in occupational exposure or offsite dose rates from the implementation of the renewal of the initial certificate and amendments. Therefore, the occupational exposure or offsite dose rates would remain well within applicable 10 CFR part 20 limits.

Decommissioning of dry cask spent fuel storage systems under a general license would be carried out as part of a power reactor's site decommissioning plan. In general, decommissioning would consist of removing the spent fuel from the site, decontaminating cask surfaces, and decontaminating and dismantling the ISFSI where the casks

were deployed. Under normal and off-normal operating conditions, no residual contamination is expected to be left behind on supporting structures. The incremental impacts associated with decommissioning dry cask storage installations are expected to represent a small fraction of the impacts of decommissioning an entire nuclear power station.

In summary, the proposed CoC changes will not result in any radiological or non-radiological environmental impacts that differ significantly from the environmental impacts evaluated in the EA supporting the July 18, 1990, final rule. Compliance with the requirements of 10 CFR parts 20 and 72 would ensure that adequate protection of public health and safety will continue. The NRC, in its SER for the renewal of the NUHOMS® System, has determined that if the conditions specified in the CoC to implement these regulations are met, adequate protection of public health and safety will be maintained.

Based on the previously stated assessments and its SER for the requested renewal of the NUHOMS® System certificates, the NRC has determined that the expiration date of this system in 10 CFR 72.214 can be safely extended for an additional 40 years, and that commercial nuclear power reactor licensees can continue using the system during this period under a general license without significant impacts on the human environment.

D. Alternative to the Action

The alternative to this action is to deny approval of these renewals and end the direct final rule. Under this alternative, the NRC would either: (1) Require general licensees using NUHOMS® Systems to unload the spent fuel from these systems and either return it to a spent fuel pool or re-load it into a different NRC-approved dry storage cask system listed in 10 CFR 72.214; or (2) require that users of existing NUHOMS® Systems request site-specific licensing proceedings to continue storage in these systems.

The environmental impacts of requiring the licensee to unload the spent fuel and either return it to the spent fuel pool or re-load it into another NRC-approved dry storage cask system would result in increased radiological doses to workers. These increased doses would be due primarily to direct radiation from the casks while the workers unloaded, transferred, and re-loaded the spent fuel. These activities would consist of transferring the dry storage canisters to a cask handling building, opening the canister lid welds, returning the canister to a spent fuel pool or dry transfer facility, removing the fuel assemblies, and re-loading them, either into a spent fuel pool storage rack or another NRC-approved dry storage cask system. In addition to the increased occupational doses to workers, these activities may also result in additional liquid or gaseous effluents.

Alternatively, users of the dry cask storage system would need to apply for a site-specific license. Under this option for implementing the no-action alternative, interested licensees would have to prepare, and the NRC would have to review, each separate license application, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

In summary, the no-action alternative would entail either more environmental impacts from transferring the spent fuel now in NUHOMS® Systems, or impacts from multiple licensing actions that, in the aggregate, are likely to be less than spent fuel transfer activities but the same as, or more likely greater than, the preferred action.

E. Alternative Use of Resources

Approval of the renewals of the initial certificate and Amendment Nos. 1 through 11, 13, and 14 of CoC No. 1004 would result in no irreversible commitments of resources.

F. Agencies and Persons Contacted

No agencies or persons outside the NRC were contacted in connection with the preparation of this EA.

G. Finding of No Significant Impact

The environmental impacts of the action have been reviewed under the requirements of NEPA, and the NRC's regulations in subpart A of 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.'' Based on the foregoing EA, the NRC concludes that this direct final rule entitled, ''List of Approved Spent Fuel Storage Casks: TN Americas LLC, Standardized NUHOMS® Horizontal Modular Storage System, Certificate of Compliance No. 1004, Renewal of Initial Certificate and Amendment Nos. 1 through 11, 13, Revision 1, and 14,'' will not have a significant effect on the human environment.

Therefore, the NRC has determined that an environmental impact statement is not necessary for this direct final rule.

IX. Paperwork Reduction Act Statement

This direct final rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of information were approved by the Office of Management and Budget (OMB), approval number 3150–0132.

Public Protection Notification

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

X. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this direct final rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only nuclear power plant licensees and TN Americas LLC. These entities do not fall within the scope of the definition of small entities set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

XI. Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, the spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in 10 CFR 72.214. On January 22, 1994 (59 FR 65898), the NRC issued a final rule that approved the NUHOMS® System design and added it to the list of NRC-approved cask designs in 10 CFR 72.214 as CoC No. 1004.

On November 4, 2014, AREVA submitted a renewal application for the initial certificate and Amendment Nos. 1 through 11, 13, and 14 for the Standardized NUHOMS® Horizontal Modular Storage System, CoC No. 1004, for a period of 40 years beyond the initial certificate term. AREVA supplemented its request on October 16, 2015, June 6, 2016, and September 29, 2016. These requests are described in Section IV of this document, ''Discussion of Changes.'' Because AREVA filed its renewal application at least 30 days before the certificate expiration date of January 23, 2015, pursuant to the timely renewal

provisions in 10 CFR 72.240(b), the initial certificate and Amendment Nos. 1 through 11, 13, and 14 of CoC No. 1004 did not expire.

The alternative to this action is to deny approval of the renewal of the initial certificate and Amendment Nos. 1 through 11, 13, and 14 of CoC No. 1004 and end this direct final rule. Under this alternative, the NRC would either: (1) Require general licensees using NUHOMS® Systems to unload spent fuel from these systems and return it to a spent fuel pool or re-load it into a different NRC-approved dry storage cask system listed in 10 CFR 72.214; or (2) require that users of existing NUHOMS® Systems request site-specific licensing proceedings to continue storage in these systems. Therefore, the no-action alternative would result in a significant burden on licensees and an additional inspection or licensing caseload on the NRC. In addition, the no action alternative would entail either more environmental impacts from transferring the spent fuel now in NUHOMS® Systems, or impacts from multiple licensing actions that, in the aggregate, are likely to be less than spent fuel transfer activities but the same as, or more likely greater than, the preferred action.

Approval of this direct final rule is consistent with previous NRC actions. Further, as documented in the SER and the EA, this direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of this direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and therefore, this action is recommended.

XII. Backfitting and Issue Finality

The NRC has determined that the actions in this direct final rule do not require a backfit analysis because they either do not fall within the definition of backfitting under 10 CFR 72.62 or 10 CFR 50.109(a)(1), or they do not impact any general licensees currently using these systems. Additionally, the actions in this direct final rule do not impact issue finality provisions applicable to combined licenses under 10 CFR part 52.

This direct final rule renews CoC No. 1004 for the NUHOMS® System, as currently listed in 10 CFR 72.214, ''List of approved spent fuel storage casks,'' to extend the expiration date of the initial certificate and Amendment Nos. 1 through 11, 13, and 14 by 40 years. The renewed certificates would require implementation of an AMP for the 40 years after the storage cask system's initial 20-year service period.

Renewing these certificates does not fall within the definition of backfit under 10 CFR 72.62 or 10 CFR 50.109, or otherwise represent an inconsistency with the issue finality provisions applicable to combined licenses in 10 CFR part 52. Extending the certificates' effective dates for 40 more years and requiring the implementation of AMPs does not impose any modification or addition to the design of an SSC of a cask system, or to the procedures or organization required to operate the system during the initial 20-year storage period of the system, as authorized by the current certificate.

General licensees that have loaded these casks, or that load these casks in the future under the specifications of the applicable certificate, may continue to store spent fuel in these systems for the initial 20-year storage period authorized by the original certificate. The AMPs required to be implemented by this renewal are only required to be implemented after the storage cask system's initial 20-year service period ends. As explained in the 2011 final rule that amended 10 CFR part 72 (76 FR 8872, Question I; February 16, 2011), the general licensee's authority to use a particular storage cask design under an approved CoC terminates 20 years after the date that the general licensee first loads the particular cask with spent fuel, unless the cask's CoC is renewed. Because this rulemaking renews the certificates, and renewal is a separate NRC licensing action voluntarily implemented by vendors, the renewal of these CoCs is not an imposition of new or changed requirements from which these licensees would otherwise be protected by the backfitting provisions in 10 CFR 72.62 or 10 CFR 50.109.

Even if renewal of this CoC system could be considered a backfit, TN Americas LLC, as the holder of the CoC and vendor of the casks, is not protected by the backfitting provisions in 10 CFR 72.62.

Unlike a vendor, general licensees using the existing systems subject to these renewals would be protected by the backfitting provisions in 10 CFR 72.62 and 10 CFR 50.109 if the renewals constituted new or changed requirements. But as previously explained, renewal of the certificates for these systems does not impose such requirements. The general licensees using these CoCs may continue storing material in their respective cask systems for the initial 20-year storage period identified in the applicable certificate or amendment with no changes. If general licensees choose to continue to store spent fuel in NUHOMS® Systems after the initial 20-year period, these general licensees will be required to implement AMPs for any cask systems subject to a renewed CoC, but such continued use is voluntary.

For these reasons, renewing the initial certificate and Amendment Nos. 1 through 11, 13, and 14 of CoC No. 1004 does not constitute backfitting under 10 CFR 72.62 or 10 CFR 50.109(a)(1), or otherwise represent an inconsistency with the issue finality provisions applicable to combined licenses in 10 CFR part 52. Accordingly, the NRC staff has not prepared a backfit analysis for this rulemaking.

XIII. Congressional Review Act

This direct final rule is not a rule as defined in the Congressional Review Act (5 U.S.C. 801–808).

XIV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS Accession No. **Federal Register** citation
Final Rule: ''General License for Storage of Spent Fuel at Power Reactor Sites''	55 FR 29181
Final Rule: List of Approved Spent Fuel Storage Casks: Addition	59 FR 65898
AREVA, Inc.—Renewal Application for the Standardized NUHOMS® System—CoC 1004	ML14309A341
AREVA, Inc.—Revision 1 to Renewal Application for the Standardized NUHOMS® System—CoC 1004, Response to First Request for Additional Information.	ML15295A354

Document	ADAMS Accession No. **Federal Register** citation
AREVA, Inc., Second Response to NRC RAI Re: Renewal Application for the Standardized NUHOMS® System—CoC 1004	ML16169A025
AREVA, Inc., Regarding Response to Re-Issue of Second Request for Additional Information—AREVA, Inc. Renewal Application for the Standardized NUHOMS® System—CoC 1004.	ML16279A368
AREVA, Inc., AREVA Internal Reorganization—Effect on Certificate of Compliance Ownership	ML16327A011
Submittal of NUH–003, ''Updated Final Safety Analysis Report (UFSAR) for the Standardized NUHOMS® Horizontal Modular Storage System For Irradiated Nuclear Fuel,'' Revision 14.	ML14255A191
Preliminary Certificate of Compliance and Preliminary Technical Specifications for CoC No. 1004, Renewed Amendment Nos. 1–11, Revision 1, and Amendment Nos. 13–14, Revision 1.	ML17131A006 *
TN Americas LLC, Standardized NUHOMS® Horizontal Modular Storage System—Draft SER [Safety Evaluation Report] for Renewed CoC 1004, Amendment Nos. 1–11, 13 and 14.	ML17131A121

* (package).

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking Web site at *http://www.regulations.gov* under Docket ID NRC–2017–0138. The Federal Rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2017–0138); (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Hazardous waste, Indians, Intergovernmental relations, Manpower training programs, Nuclear energy, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72:

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 2. In § 72.214, Certificate of Compliance 1004 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1004.

Initial Certificate Effective Date: January 23, 1995, superseded by Initial Certificate, Revision 1, on April 25, 2017, superseded by Renewed Initial Certificate, Revision 1, on December 11, 2017.

Initial Certificate, Revision 1, Effective Date: April 25, 2017.

Renewed Initial Certificate, Revision 1, Effective Date: December 11, 2017.

Amendment Number 1 Effective Date: April 27, 2000, superseded by Amendment Number 1, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 1, Revision 1, on December 11, 2017.

Amendment Number 1, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 1, Revision 1, Effective Date: December 11, 2017.

Amendment Number 2 Effective Date: September 5, 2000, superseded by Amendment Number 2, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 2, Revision 1, on December 11, 2017.

Amendment Number 2, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 2, Revision 1, Effective Date: December 11, 2017.

Amendment Number 3 Effective Date: September 12, 2001, superseded by Amendment Number 3, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 3, Revision 1, on December 11, 2017.

Amendment Number 3, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 3, Revision 1, Effective Date: December 11, 2017.

Amendment Number 4 Effective Date: February 12, 2002, superseded by Amendment Number 4, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 4, Revision 1, on December 11, 2017.

Amendment Number 4, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 4, Revision 1, Effective Date: December 11, 2017.

Amendment Number 5 Effective Date: January 7, 2004, superseded by Amendment Number 5, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 5, Revision 1, on December 11, 2017.

Amendment Number 5, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 5, Revision 1, Effective Date: December 11, 2017.

Amendment Number 6 Effective Date: December 22, 2003, superseded by Amendment Number 6, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 6, Revision 1, on December 11, 2017.

Amendment Number 6, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 6, Revision 1, Effective Date: December 11, 2017.

Amendment Number 7 Effective Date: March 2, 2004, superseded by Amendment Number 7, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 7, Revision 1, on December 11, 2017.

Amendment Number 7, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 7, Revision 1, Effective Date: December 11, 2017.

Amendment Number 8 Effective Date: December 5, 2005, superseded by Amendment Number 8, Revision 1 on April 25, 2017, superseded by Renewed Amendment Number 8, Revision 1, on December 11, 2017.

Amendment Number 8, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 8, Revision 1, Effective Date: December 11, 2017.

Amendment Number 9 Effective Date: April 17, 2007, superseded by Amendment Number 9, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 9, Revision 1, on December 11, 2017.

Amendment Number 9, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 9, Revision 1, Effective Date: December 11, 2017.

Amendment Number 10 Effective Date: August 24, 2009, superseded by Amendment Number 10, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 10, Revision 1, on December 11, 2017.

Amendment Number 10, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 10, Revision 1, Effective Date: December 11, 2017.

Amendment Number 11 Effective Date: January 7, 2014, superseded by Amendment Number 11, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 11, Revision 1, on December 11, 2017.

Amendment Number 11, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 11, Revision 1, Effective Date: December 11, 2017.

Amendment Number 12 Effective Date: Amendment not issued by the NRC.

Amendment Number 13 Effective Date: May 24, 2014, superseded by Amendment Number 13, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 13, Revision 1, on December 11, 2017.

Amendment Number 13, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 13, Revision 1, Effective Date: December 11, 2017.

Amendment Number 14 Effective Date: April 25, 2017, superseded by Renewed Amendment Number 14, on December 11, 2017.

Renewed Amendment Number 14 Effective Date: December 11, 2017.

SAR Submitted by: Transnuclear, Inc.

SAR Title: Final Safety Analysis Report for the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel.

Docket Number: 72–1004.

Certificate Expiration Date: January 23, 2015.

Renewed Certificate Expiration Date: January 23, 2055.

Model Number: NUHOMS®–24P, –24PHB, –24PTH, –32PT, –32PTH1, –37PTH, –52B, –61BT, –61BTH, and –69BTH.

* * * * *

Dated at Rockville, Maryland, this 18th day of September, 2017.

For the Nuclear Regulatory Commission.

Frederick D. Brown,

Acting Executive Director of Operations.

[FR Doc. 2017–20710 Filed 9–26–17; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AG84

Small Business Size Standards; Adoption of 2017 North American Industry Classification System for Size Standards

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: The U.S. Small Business Administration (SBA) is adopting, without change, its proposed revisions to small business size standards. With the adoption of the proposed changes, SBA incorporates the U.S. Office of Management and Budget's (OMB) North American Industry Classification System (NAICS) revision for 2017, identified as NAICS 2017, into its table of small business size standards. NAICS 2017 created 21 new industries by reclassifying, combining, or splitting 29 existing industries under changes made to NAICS in 2012 (NAICS 2012). SBA's size standards for these 21 new industries have resulted in an increase to size standards for six NAICS 2012 industries and part of one industry, a decrease to size standards for two, a change in the size standards measure from average annual receipts to number of employees for one, and no change in size standards for twenty industries and part of one industry.

DATES: This rule is effective October 1, 2017.

FOR FURTHER INFORMATION CONTACT: Dr. Jorge Laboy-Bruno, Office of Size Standards, (202) 205–6618 or *sizestandards@sba.gov.*

SUPPLEMENTARY INFORMATION: Effective October 1, 2000, SBA adopted NAICS 1997 industry definitions as a basis for its table of small business size standards, replacing the 1987 Standard Industrial Classification (SIC) (65 FR 30836 (May 15, 2000)). Since then, OMB has issued four revisions to NAICS. SBA's table of size standards adopted the OMB's first revision, NAICS 2002, effective October 1, 2002 (67 FR 52597 (August 13, 2002)), the second revision, NAICS 2007, effective October 1, 2007 (72 FR 49639 (August 29, 2007)), and the third revision, NAICS 2012, effective October 1, 2012 (77 FR 49991 (August 20, 2012)).

OMB published its fourth and latest revision, NAICS 2017, ''Notice of NAICS 2017 final decisions'' in the **Federal Register** on August 8, 2016 (81 FR 52584). The OMB notice stated that Federal statistical establishment data published for reference years beginning on or after January 1, 2017, should be published using NAICS 2017.

As with the previous NAICS revisions, SBA is adopting the NAICS 2017 revision at the beginning of the new fiscal year (October 1, 2017) following the OMB's release of the NAICS revision for reasons as set forth under the Justification for the October 1, 2017 Effective Date section, below:

Changes in NAICS 2017

NAICS 2017 created 21 new NAICS industries by reclassifying, splitting, or merging 29 industries or their parts under NAICS 2012. Of those 21 new industries, five were created by merging two or more of thirteen NAICS 2012 industries in their entirety, while three were created by combining part of one industry with another industry. Three new industries were created by splitting two industries to two parts each with one part of each industry defined as a separate industry and combining other parts of the two industries to form a separate new industry. One new industry was formed by designating part of one industry as a separate industry. OMB also changed 6-digit NAICS codes for eight industries without changing their definitions and titles and amended the title of one industry without changing its 6-digit code. Table 1, ''NAICS 2012 Industries or Their Parts Matched to NAICS 2017 Industries,'' below, shows the changes from NAICS 2012 to NAICS 2017.

Complete information on the relationship between NAICS 2012 and NAICS 2017 is available on the U.S. Bureau of the Census (Census Bureau) Web site at *http://www.census.gov/eos/*

www/naics/. The Census Bureau's Web site also provides detailed documentation on Federal notices involving the replacement of SIC with NAICS, and all subsequent NAICS updates and revisions, including the August 8, 2016 ''Notice of NAICS 2017 final decisions,'' as well as concordances (*i.e.,* correspondence tables) between SIC and NAICS 1997 and NAICS 2002, and between subsequent NAICS revisions.

TABLE 1—NAICS 2012 INDUSTRIES OR THEIR PARTS MATCHED TO NAICS 2017 INDUSTRIES

NAICS 2012 code	NAICS 2012 industry title	Status code	NAICS 2017 code	NAICS 2017 industry title
211111	Crude Petroleum and Natural Gas Extraction.			
	crude petroleum extraction		211120	Crude Petroleum Extraction.
	natural gas extraction	pt.	211130	Natural Gas Extraction.
211112	Natural Gas Liquid Extraction	pt.	211130	Natural Gas Extraction.
212231	Lead Ore and Zinc Ore Mining	pt.	212230	Copper, Nickel, Lead, and Zinc Mining.
212234	Copper Ore and Nickel Ore Mining	pt.	212230	Copper, Nickel, Lead, and Zinc Mining.
333911	Pump and Pumping Equipment Manufacturing	pt.	333914	Measuring, Dispensing, and Other Pumping Equipment Manufacturing.
333913	Measuring and Dispensing Pump Manufacturing	pt.	333914	Measuring, Dispensing, and Other Pumping Equipment Manufacturing.
335221	Household Cooking Appliance Manufacturing	pt.	335220	Major Household Appliance Manufacturing.
335222	Household Refrigerator and Home Freezer Manufacturing.	pt.	335220	Major Household Appliance Manufacturing.
335224	Household Laundry Equipment Manufacturing	pt.	335220	Major Household Appliance Manufacturing.
335228	Other Major Household Appliance Manufacturing	pt.	335220	Major Household Appliance Manufacturing.
452111	Department Stores (except Discount Department Stores).	pt.	452210	Department Stores.
452112	Discount Department Stores.			
	insignificant perishable grocery sales	pt.	452210	Department Stores.
	significant perishable grocery sales	pt.	452311	Warehouse Clubs and Supercenters.
452910	Warehouse Clubs and Supercenters	pt.	452311	Warehouse Clubs and Supercenters.
452990	All Other General Merchandise Stores	nc.	452319	All Other General Merchandise Stores.
454111	Electronic Shopping	pt.	454110	Electronic Shopping and Mail-Order Houses.
454112	Electronic Auctions	pt.	454110	Electronic Shopping and Mail-Order Houses.
454113	Mail-Order Houses	pt.	454110	Electronic Shopping and Mail-Order Houses.
512210	Record Production	pt.	512250	Record Production and Distribution.
512220	Integrated Record Production/Distribution	pt.	512250	Record Production and Distribution.
517110	Wired Telecommunications Carriers	nc.	517311	Wired Telecommunications Carriers.
517210	Wireless Telecommunications Carriers (except Satellite).	nc.	517312	Wireless Telecommunications Carriers (except Satellite).
532220	Formal Wear and Costume Rental	nc.	532281	Formal Wear and Costume Rental.
532230	Video Tape and Disc Rental	nc.	532282	Video Tape and Disc Rental.
532291	Home Health Equipment Rental	nc.	532283	Home Health Equipment Rental.
532292	Recreational Goods Rental	nc.	532284	Recreational Goods Rental.
532299	All Other Consumer Goods Rental	nc.	532289	All Other Consumer Goods Rental.
541711	Research and Development in Biotechnology.			
	nanobiotechnologies research and experimental development laboratories.	pt.	541713	Research and Development in Nanotechnology.
	except nanobiotechnologies research and experimental development laboratories.		541714	Research and Development in Biotechnology (except Nanobiotechnology).
541712	Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology).			
	nanotechnology research and experimental development laboratories.	pt.	541713	Research and Development in Nanotechnology.
	except nanotechnology research and experimental development laboratories.		541715	Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology).
721310	Rooming and Boarding Houses	nt.	721310	Rooming and Boarding Houses, Dormitories, and Workers' Camps.

Key to Abbreviations.
pt. = Part of 2017 industry.
nc. = 6-digit NAICS codes changed without changing industries' definitions and titles.
nt. = NAICS industry title amended without changing the 6-digit code.

Size Standards for New Industries in NAICS 2017

On October 22, 1999, SBA proposed to replace SIC with NAICS 1997 as the basis of industry definitions for its table of small business size standards (64 FR 57188). The proposed rule included a set of guidelines or rules that SBA applied to convert the size standards for industries under SIC to NAICS. The guidelines aimed to minimize the impact of applying a new industry classification system on SBA's size standards and on small businesses that qualified as small under the SIC based size standards. SBA received no negative comments against the proposed guidelines. SBA published its final rule on May 15, 2000 (65 FR 30386) (corrected on September 5, 2000, 65 FR 53533) adopting the resulting table of size standards based on NAICS 1997, as proposed. To be consistent, SBA used the same guidelines when it updated its

table of size standards to adopt NAICS 2002, NAICS 2007, and NAICS 2012 revisions. In those updates as well, SBA received no adverse comments on using those guidelines, or on the resulting changes to the size standards. For the April 18, 2017 proposed rule to adopt NAICS 2017 for its size standards table, SBA also generally followed the same guidelines, as shown below in Table 2, ''General Guidelines to Establish Size Standards for New Industries under NAICS 2017.''

TABLE 2—GENERAL GUIDELINES TO ESTABLISH SIZE STANDARDS FOR NEW INDUSTRIES UNDER NAICS 2017

If the NAICS 2017 industry is composed of:	The size standard for the NAICS 2017 industry code will be:
1. A single NAICS 2012 industry or part of a single NAICS 2012 industry.	The same size standard as for the NAICS 2012 industry or part.
2. Two or more NAICS 2012 industries; two or more parts of an NAICS 2012 industry; parts of two or more NAICS 2012 industries; or one or more NAICS 2012 industries and part(s) of one or more NAICS 2012 industries, and.	
2a. they all have the same size standard	The same size standard as for the NAICS 2012 industries or parts.
2b. they all have the same size measure (*e.g.,* receipts, employees, *etc.*) but do not all have the same size standard.	The same size standard as for the NAICS 2012 industry or part that most closely matches the economic activity described by the NAICS 2017 industry, or The highest size standard among the NAICS 2012 industries and part(s) that comprise the NAICS 2017 industry, provided that the highest size standard does not include dominant or potentially dominant firms.
2c. they have different size measures (*i.e.,* for example, some are based on receipts and others on employees) and hence do not all have the same size standard.	The same size standard as for the NAICS 2012 industry or part that most closely matches the economic activity described by the NAICS 2017 industry, or The highest size standard among the NAICS 2012 industries and part(s) that comprise the NAICS 2017 industry, provided that the highest size standard does not include dominant or potentially dominant firms.

To apply this rule, SBA converts all size standards to a single measure (*e.g.,* receipts, employees, *etc.*) using the size measure for the NAICS 2012 industry or part(s) that most closely match the economic activity described by the NAICS 2017 industry or using the size measure that applies to most of the NAICS industries or parts comprising the NAICS 2017 industry.

In addition to the above general guidelines, in cases where a new industry is formed by merging multiple industries or their parts with substantially different levels or different measures of size standards, as detailed in the April 18, 2017 proposed rule, SBA also examined the relevant latest industry and Federal procurement data to determine an appropriate size standard for the new industry. Developed based on the above guidelines and analyses of the relevant data, where necessary, SBA's size standards for the new industries under NAICS 2017 are shown in Table 3, ''Size Standards for New Industries in NAICS 2017.'' Also shown in the table are the current size standards for the affected NAICS 2012 industries and their parts.

As shown in Table 3, the size standards for most of the affected NAICS 2012 industries are not impacted and therefore remain unchanged under NAICS 2017. The majority of the changes consist of revisions to industry codes or titles, or mergers of two or more NAICS 2012 industries or their parts to new industries without impacting their size standards. Of the 29 NAICS 2012 industries affected by the revision, adopting NAICS 2017 increases size standards for six industries and part of one industry and decreases for two. This would also result in changing the size standard measure for one industry from average annual receipts to number of employees. Size standards for twenty industries and part of one industry do not change.

Discussion of Comments

For the April 18, 2017 proposed rule, SBA provided a 60-day comment period for the public to comment on proposed changes to size standards from the adoption of the NAICS 2017, which ended on June 19, 2017. SBA received three comments to the proposed rule, two of which were outside the scope of the proposed rule as discussed below.

One commenter recommended that SBA change the size standard for the Military and Aerospace Equipment and Military Weapons exception to NAICS 541330 (Engineering Services) from average annual revenues to the number of employees.

TABLE 3—SIZE STANDARDS FOR NEW INDUSTRIES IN NAICS 2017

NAICS 2012 code	NAICS 2012 industry title	Current size standard (employees)	Current size standard ($ million)	NAICS 2017 size standard (employees)	NAICS 2017 size standard ($ million)	NAICS 2017 code	NAICS 2017 industry title
211111	Crude Petroleum and Natural Gas Extraction.	1,250					
	crude petroleum extraction.	1,250		1,250		211120	Crude Petroleum Extraction.
	natural gas extraction	1,250		1,250		211130	Natural Gas Extraction.
211112	Natural Gas Liquid Extraction	750					
212231	Lead Ore and Zinc Ore Mining.	750		750		212230	Copper, Nickel, Lead, and Zinc Mining.
212234	Copper Ore and Nickel Ore Mining.	1,500					

TABLE 3—SIZE STANDARDS FOR NEW INDUSTRIES IN NAICS 2017—Continued

NAICS 2012 code	NAICS 2012 industry title	Current size standard (employees)	Current size standard ($ million)	NAICS 2017 size standard (employees)	NAICS 2017 size standard ($ million)	NAICS 2017 code	NAICS 2017 industry title
333911	Pump and Pumping Equipment Manufacturing.	750		750		333914	Measuring, Dispensing, and Other Pumping Equipment Manufacturing.
333913	Measuring and Dispensing Pump Manufacturing.	750					
335221	Household Cooking Appliance Manufacturing.	1,500		1,500		335220	Major Household Appliance Manufacturing.
335222	Household Refrigerator and Home Freezer Manufacturing.	1,250					
335224	Household Laundry Equipment Manufacturing.	1,250					
335228	Other Major Household Appliance Manufacturing.	1,000					
452111	Department Stores (except Discount Department Stores).		$32.5		$32.5	452210	Department Stores.
452112	Discount Department Stores		29.5				
	insignificant perishable grocery sales.		29.5				
452112	Discount Department Stores		29.5				
	significant perishable grocery sales.		29.5		29.5	452311	Warehouse Clubs and Supercenters.
452910	Warehouse Clubs and Supercenters.		29.5				
452990	All Other General Merchandise Stores.		32.5		32.5	452319	All Other General Merchandise Stores.
454111	Electronic Shopping		32.5		38.5	454110	Electronic Shopping and Mail-Order Houses.
454112	Electronic Auctions		38.5				
454113	Mail-Order Houses		38.5				
512210	Record Production		7.5	250		512250	Record Production and Distribution.
512220	Integrated Record Production/Distribution.	1,250					
517110	Wired Telecommunications Carriers.	1,500		1,500		517311	Wired Telecommunications Carriers.
517210	Wireless Telecommunications Carriers (except Satellite).	1,500		1,500		517312	Wireless Telecommunications Carriers (except Satellite).
532220	Formal Wear and Costume Rental.		20.5		20.5	532281	Formal Wear and Costume Rental.
532230	Video Tape and Disc Rental		27.5		27.5	532282	Video Tape and Disc Rental.
532291	Home Health Equipment Rental.		32.5		32.5	532283	Home Health Equipment Rental.
532292	Recreational Goods Rental		7.5		7.5	532284	Recreational Goods Rental.
532299	All Other Consumer Goods Rental.		7.5		7.5	532289	All Other Consumer Goods Rental.
541711	Research and Development in Biotechnology.	1,000					
	nanobiotechnologies research and experimental development laboratories.	1,000		1,000		541713	Research and Development in Nanotechnology.
	except nanobiotechnologies research and experimental development laboratories.	1,000		1,000		541714	Research and Development in Biotechnology (except Nanobiotechnology).
541712	Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology).	1,000					
	nanotechnology research and experimental development laboratories.	1,000		1,000		541713	Research and Development in Nanotechnology.
	except nanotechnology research and experimental development laboratories.	1,000		1,000		541715	Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology).
721310	Rooming and Boarding Houses.		7.5		7.5	721310	Rooming and Boarding Houses, Dormitories, and Workers' Camps.

Similarly, another commenter recommended that SBA consider changing the size standard for NAICS 488190 (Other Support Activities for Air Transportation) from revenues to employees. The commenters argued that the change would allow small businesses providing those services to continue to compete and succeed in a market dominated by large businesses which provide similar services as an ancillary function to their primary business. They provided an analysis of the Federal Procurement Data System—Next Generation (FPDS–NG) data to describe the competitive structure of their respective industries to support their recommendations.

Since NAICS 541330 and 488190 were not impacted by the NAICS 2017 revision, SBA did not review those industries nor did it propose any changes to their size standards in the April 2017 proposed rule. As part of the first five-year comprehensive review of size standards under the Small Business Jobs Act of 2010 (Jobs Act) (Pub. L. 111–240, September 27, 2010), in 2012, SBA increased the size standard for the Aerospace Equipment and Military Weapons exception to NAICS 541330 from $27 million to $35.5 million (77 FR 7489, (February 10 2012)) and increased the size standard for NAICS 488190 from $7 million to $30 million (77 FR 10943, (February 24, 2012)). In 2014, they were further increased to $38.5 million and $32.5 million, respectively, for inflation (79 FR 33647 (June 12, 2014)). SBA will review these size standards again in the coming years as part of the second five-year review of size standards, as required by the Jobs Act. Interested parties, including the commenters, will have an opportunity to comment when SBA publishes the proposed rule for their industries.

The third commenter recommended that SBA consider raising the small business size standard for the Home Health Equipment and Rental industry from $32.5 million to $35 million, an increase of 7.7 percent. The commenter argued the increase reflects the anticipated inflation and the cost of doing business over the next five years. The commenter also noted that a higher size standard for NAICS 532283 would allow some large firms to gain small business status and help some small firms retain their small business status into the future. Thus, as a result, that Federal agencies will have a larger pool of small businesses from which to draw for their small business procurement programs, the commenter concluded.

The NAICS 2017 revision changed the 6-digit code for the Home Health Equipment and Rental industry from 532291 to 532283 without changing the industry definition. Accordingly, for new NAICS 532283, SBA applied the same $32.5 million that currently applies to NAICS 532291. The adoption of NAICS 2017 led to changes in size standards only when the new industry was formed by merging the existing industries or industry parts with different size standards, not when only the 6-digit code changed.

Every five years, SBA reviews all monetary based size standards for inflation and makes necessary adjustments. SBA's latest inflationary adjustment to size standards was in 2014, which resulted in an increase to the size standard for NAICS 532291 from $30 million to $32.5 million. SBA anticipates issuing the next inflationary adjustment of all monetary based size standards sometime in 2019 and interested parties will have an opportunity to comment at that time. Additionally, as part of the second five-year review of size standards under the Jobs Act, SBA will also review all size standards in the coming years against the latest available industry and Federal market data and make appropriate adjustments. (In the first five-year review, SBA increased the size standard for NAICS 532291 from $7 million to $30 million (77 FR 58747 (September 24, 2012)). The commenter will have an opportunity to comment when SBA publishes the proposed rule for NAICS Sector 53, Real Estate and Rental and Leasing.

SBA considered each comment and determined that they were not germane to the purpose of the proposed rule, which was to adopt NAICS 2017 as a basis for its table of size standards. The intent and methodology of the proposed rule did not provide for changing the size standard for an industry whose NAICS code was not affected by the NAICS revision, nor did it provide for adjusting a size standard for inflation or the cost of doing business. Accordingly, SBA is not modifying its April 18, 2017 proposed rule based on the comments received and is adopting the proposed rule, as published.

Justification for the October 1, 2017 Effective Date

The Administrative Procedure Act (APA) requires that ''publication or service of a substantive rule shall be made not less than 30 days before its effective date, except * * * as otherwise provided by the agency for good cause found and published with the rule.'' 5 U.S.C. 553(d)(3). The purpose of the APA provision delaying the effective date of a rule for 30 days after publication is to provide interested and affected members of the public sufficient time to adjust their behavior before the rule takes effect. For the reasons set forth below, SBA finds that good cause exists to make this final rule become effective on October 1, 2017, less than 30 days after it is published in the **Federal Register**.

- In its August 8, 2016 notice, OMB stated that Federal statistical establishment data published for reference years beginning on or after January 1, 2017, should be published using NAICS 2017. October 1, 2017 is the start of the new Federal Government fiscal year following OMB's adoption of NAICS 2017 effective January 1, 2017, and is consistent with SBA's adoption of previous NAICS revisions effective at the start of the next fiscal year after the OMB's effective date. Federal contracting data and related statistics will be more consistent and comparable with past data for analyzing future small business activity if the revised size standards are adopted at the beginning of a new fiscal year. Similarly, users of size standards and Federal contracting data, such as Federal prime contractors developing their subcontracting plans, can have more consistent data to examine the past and future Federal contracting trends.
- Small business size standards apply to most Federal agencies and their programs involving small businesses; the time lag between the OMB's effective date and SBA's update to its size standards has already given them time to implement the changes and develop training tools, if necessary. For instance, in July 2017, SBA provided Integrated Award Environment with an advance copy of the updated size standards table to update the Federal contracting databases such as the System for Award Management.
- The rule is not significant under Executive Order 12866 and the impacts from changes to size standards due to the adoption of the NAICS 2017 are minimal. This final rule impacts size standards for less than 10 industries involving about 60 firms, with a vast majority of them gaining small business status under the revised size standards. Those firms will benefit from an earlier effective date.
- The impacted firms have had an opportunity to review the changes and submit comments during the notice and comment period for this rule. None of the three comments SBA received on the April 18, 2017 proposed rule opposed the changes. The affected firms and other interested parties have had ample time to adjust their behavior, if necessary.

Compliance With Executive Orders 12866, 13563, 13771, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C., Ch. 35) and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 12866

OMB has determined that this final rule is not a ''significant regulatory action'' for purposes of Executive Order 12866. This rule incorporates the OMB's 2017 revisions of NAICS, which SBA uses to identify industries in the United States for purposes of establishing small business size standards. As discussed in the Supplementary Information above, the size standard of some industries would change because of the NAICS 2017 revisions. However, SBA has determined that virtually all businesses currently defined as small under the NAICS 2012 based size standards will continue to be small under the NAICS 2017 based size standards. This rule will also affect other Federal Government programs that provide a benefit for small businesses. In order to help explain the need of this rule and the rule's potential benefits and costs, SBA is providing below a Cost Benefit Analysis. This final rule is also not a ''major rule'' under the Congressional Review Act, 5 U.S.C. 800.

Cost Benefit Analysis

1. Is there a need for the regulatory action?

SBA believes that adopting small business size standards based on NAICS 2017 is in the best interests of small businesses. SBA's mission is to aid and assist small businesses through a variety of financial, procurement, business development, and advocacy programs. To assist the intended beneficiaries of these programs effectively, SBA establishes numerical definitions to determine which businesses are deemed eligible for Federal small business assistance. NAICS 2017 provides the latest industry definitions reflecting the latest changes in industry structure. The Small Business Act (the Act) provides SBA's Administrator with the responsibility for establishing definitions for small business. The Act also requires that small business definitions vary from industry to industry reflecting differences among the various industries. 15 U.S.C. 632(a). By analyzing and reviewing size standards based on the latest NAICS definitions, SBA can more accurately and appropriately fulfill its mandate. If SBA does not use the latest industry definitions, size standards would not accurately reflect differences among industries. In addition, the Jobs Act requires SBA to review all size standards and make necessary adjustments to reflect current industry and market conditions at least every five years. To better serve this mandate, SBA needs to evaluate industry data based on the latest NAICS industry definitions available. In this final rule, SBA generally followed the same guidelines that the Agency used for adopting prior NAICS revisions for its size standards, as spelled out under the Supplemental Information section, above. For certain NAICS 2017 industries involving NAICS 2012 industries with substantially different size standards, SBA also analyzed the relevant industry and program data to determine the size standards for them. Size standards based on NAICS 2017 industry definitions and corresponding data will serve SBA's mission more effectively.

2. What are the potential benefits and costs of this regulatory action?

The vast majority of the changes from NAICS 2012 to NAICS 2017 consist of revisions to industry titles or 6-digit codes or mergers of some NAICS 2012 industries or their parts to form the industries in NAICS 2017 without impacting their size standards. Of the 29 affected NAICS 2012 industries or their parts, SBA's size standards using NAICS 2017 will result in increases to size standards for six NAICS 2012 industries and part of one industry, decreases for two industries, and the change of size standard from average annual receipts to number of employees for one industry. The size standards will remain unchanged for other affected industries or parts.

Based on the 2012 Economic Census data for the affected NAICS 2012 industries, SBA estimates that approximately 60 additional businesses would gain small business status under the revised size standards. That represents about 0.1 percent of the number of small businesses in the affected industries. For the two industries for which the size standard will decrease, SBA also estimates that fewer than five firms that qualify as small under current size standards under NAICS 2012 will no longer qualify. However, almost all of those firms do not currently participate in any small business programs.

The benefits of adopting NAICS 2017 and the resulting revisions to size standards will accrue to three groups in the following ways: (1) Some businesses that are above their current size standards may gain small business status, thereby becoming eligible to participate in Federal small business assistance programs, including SBA's financial assistance programs, economic injury disaster loans, and Federal procurement opportunities intended for small businesses; (2) growing small businesses that are close to exceeding the current size standards for their NAICS 2012 industry may retain their small business status under NAICS 2017, and can continue participating in the above programs; and (3) Federal agencies will have a larger pool of small businesses from which to draw for their small business procurement programs because they will be able to define more accurately the principal purposes of their procurements under NAICS 2017, as required by 13 CFR 121.402(b).

Additional firms gaining small business status under NAICS 2017 may benefit under SBA's various business development and contracting programs. These include the 8(a) Business Development program and programs benefiting small businesses located in Historically Underutilized Business Zones (HUBZones), Women Owned Small Businesses (WOSBs), and Service Disabled Veteran Owned Small Businesses (SDVOSBs). Added competition may also result in lower prices for some Federal contracts reserved for small businesses, although SBA cannot quantify this benefit. Based on data for fiscal years 2013–2015, SBA estimates that approximately $700,000 in Federal contracts could be awarded to the newly defined small businesses under the size standards revisions due to the adoption of NAICS 2017.

Under SBA's 7(a) and 504 Loan Programs, SBA would be able to guarantee more loans, although, in this case too, the number and amount of additional loans cannot be estimated accurately. Based on the Agency 7(a) and 504 loan data for fiscal years 2014–2016, SBA estimates that about two additional loans, totaling approximately $200,000, could be made to the newly defined small businesses under the NAICS 2017 size standards. Under the Jobs Act, SBA can now guarantee substantially larger loans than in the past. Additionally, the Jobs Act established an alternative size standard for SBA's 7(a) and 504 Loan Programs for applicants that do not meet the size standards for their industries. Specifically, section 1116 of the Jobs Act provides that if a firm applying for a 7(a) or 504 loan does not meet the size standard for its industry, it might still qualify if it has a tangible net worth that does not exceed $15 million and an average net income after Federal income taxes (excluding any carry-over losses) for its preceding two completed fiscal years that does not exceed $5 million. Thus, the updated size standards may

result in an increase in SBA's loan guarantees to small businesses in the affected industries, but SBA cannot quantify this impact.

Newly defined small businesses will also benefit from SBA's Economic Injury Disaster Loan (EIDL) Program. Since this program is contingent on the occurrence and severity of a disaster, SBA cannot make a meaningful estimate of future EIDL benefit.

To the extent that newly defined small firms under NAICS 2017 could become active in Federal procurement programs, this may entail some additional administrative costs to the Federal Government associated with additional bidders for Federal small business procurement opportunities. More firms may seek SBA's guaranteed loans. More will be enrolled in the SBA's Dynamic Small Business Search database. Since more firms will qualify as small, more may also seek certification as 8(a) or HUBZone firms, or qualify for WOSB, SDVOSB, and/or small disadvantaged business (SDB) status. It is important to point out that most business entities that are already registered in SAM will not be required to update their SAM profiles. However, it will be incumbent on registrants to review their profiles to ensure that they have the correct NAICS codes. SAM requires that registered companies review and update their profiles annually, and therefore, businesses will need to pay particular attention to the changes to determine if they might affect them. They will also have to verify and update, if necessary, their Representations and Certifications in SAM. Further, firms are required to verify that their size representation in SAM is accurate prior to submitting an offer for a contract. FAR 52.204–8(d).

Among the newly qualified businesses seeking SBA's assistance, there could be some additional costs associated with compliance and verification of small business status and protests of small business status. These added costs are likely to be minimal because mechanisms are already in place to handle these administrative requirements.

The costs to the Federal Government may be higher on some Federal contracts under the higher revised size standards under NAICS 2017. With more businesses defined as small, Federal agencies might choose to set aside more contracts for competition among small businesses rather than using full and open competition. The movement from unrestricted to set-aside contracting will likely result in competition among fewer total bidders, although there will be a larger pool of small businesses to submit offers. In addition, higher costs may result when additional full and open contracts are awarded to HUBZone businesses because of a price evaluation preference. The additional costs associated with fewer bidders, however, will likely be minor since, as a matter of law, procurements may be set aside for small businesses or reserved for the 8(a), HUBZone, WOSB, or SDVOSB Programs only if awards are expected to be made at fair and reasonable prices.

The revised size standards may have some distributional effects among large and small businesses. Although SBA cannot estimate with certainty the actual outcome of gains and losses among small and large businesses, there are several likely impacts. There may be a transfer of some Federal contracts from large businesses to small businesses. Large businesses may have fewer Federal contract opportunities as Federal agencies decide to set aside more Federal contracts for small businesses. In addition, some agencies may award more Federal contracts to HUBZone firms instead of large businesses since HUBZone concerns may be eligible for price evaluation adjustments when they compete on full and open procurement opportunities. Similarly, currently defined small businesses may receive fewer Federal contracts due to the increased competition from more businesses defined as small under NAICS 2017. This transfer may be offset by more Federal procurements set aside for all small businesses. The number of newly defined and expanding small businesses that are willing and able to sell to the Federal Government will limit the potential transfer of contracts away from large and small businesses under the existing size standards. SBA cannot estimate with precision the potential distributional impacts of these transfers.

SBA's adoption of NAICS 2017 and resulting revisions to size standards is consistent with SBA's statutory mandate to assist small business by providing access to capital and credit, Government contracts, and management and technical assistance. Updated size standards based on the latest industry definitions ensure that Federal small business assistance is more effectively targeted to its intended beneficiaries. The Small Business Act states that ''the Administrator shall ensure that the size standard varies from industry to industry to the extent necessary to reflect the differing characteristics of the various industries.'' 15 U.S.C. 632(a)(3). With the adoption of the latest industry definitions in NAICS 2017, SBA's size standards are more consistent with the differing characteristics among the various industries.

Executive Order 13563

A description of the need for this regulatory action and benefits and costs associated with this action including possible distribution impacts that relate to Executive Order 13563 are included above in the Cost Benefit Analysis.

To engage interested parties in this action, SBA reached out to all Federal agencies advising them that the Agency plans to update its table of size standards to NAICS 2017, effective October 1, 2017, and that agencies must continue using the current size standards until that date. Adopting the updated size standards on October 1, 2017 is consistent with SBA's adoptions of previous NAICS revisions at the beginning of the new fiscal year following the OMB's January 1 effective date of NAICS revisions for Federal statistical agencies.

Unlike the previous NAICS revisions which SBA adopted for its size standards either through a direct final rule or through an interim final rule, for the adoption of NAICS 2017 revision, SBA issued a proposed rule, seeking comments to better engage the public in the process. SBA received no germane adverse comments to the proposed rule. SBA is adopting the updated table of size standards, effective October 1, 2017. SBA will also issue a press release on the publication of the final rule and update the ''What's New with Size Standards'' page on its Web site at *www.sba.gov/size.*

Executive Order 13771

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

Executive Order 12988

This action meets applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

For purposes of Executive Order 13132, SBA has determined that this final rule will not have substantial, direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, SBA has determined that this final rule has

no Federalism implications warranting preparation of a Federalism assessment.

Paperwork Reduction Act

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this final rule would not impose any new reporting or recordkeeping requirements.

Final Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (RFA), this final rule may have an impact on some small businesses in industries for which size standards have been revised. As described above, this rule may affect small businesses applying for Federal government contracts, loans under SBA's 7(a), 504, and Economic Injury Disaster Loan Programs, and assistance under other Federal small business programs.

Immediately below, SBA sets forth a final regulatory flexibility analysis (FRFA) of this final rule addressing the following questions: (1) What are the need for and objectives of the rule?; (2) What are SBA's description and estimate of the number of small businesses to which the rule will apply?; (3) What are the projected reporting, recordkeeping, and other compliance requirements of the rule?; (4) What are the relevant Federal rules that may duplicate, overlap, or conflict with the rule?; and (5) What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small businesses?

1. What are the need for and objectives of the rule?

The Small Business Act requires that small business size standards vary from industry to industry reflecting the differing characteristics of the various industries. SBA uses the latest NAICS as a basis of industry definitions for its table of size standards. As part of its five-year review of and revisions to NAICS industry definitions, OMB published its latest NAICS revision, NAICS 2017, on August 8, 2016. According to OMB's notice, Federal establishment and industry data for reference years beginning on or after January 1, 2017 should be published using NAICS 2017. This rule amends SBA's small business size regulations to incorporate NAICS 2017 into its table of size standards. This not only makes SBA's size standards more reflective of the latest industry differences but also makes them more consistent with latest industry data the Agency uses to establish, review or adjust size standards. Updating size standards to the latest industry definitions also serves the SBA's mandate to review all size standards and make appropriate adjustments to reflect market conditions under the Jobs Act.

2. What are SBA's description and estimate of the number of small businesses to which the rule will apply?

With the update of size standards to the latest industry definitions under NAICS 2017, Federal small business assistance is more effectively targeted to its intended beneficiaries. The adoption of NAICS 2017 will result in increases in size standards for six industries and part of one industry under NAICS 2012 and decreases for two. The size standards for the rest of the 29 affected industries will remain unchanged. In industries whose size standards have increased due to the adoption of NAICS 2017, about 60 firms above the current size standards will qualify as small under the updated size standards, thereby making them eligible for Federal small business assistance programs. Based on the recent data, SBA estimates that approximately $700,000 in Federal contracts and about $200,000 in SBA loans could be awarded to the newly defined small businesses under the updated size standards. The updated size standards will enable more small businesses to maintain their small business size status for a longer period. In the two NAICS 2012 industries for which the size standard will decrease, about 3–4 firms below the current size standards will lose their small business size status under the NAICS 2017 based size standards. However, the program data suggests that this will not cause much impact on them. Currently, they are not participating in any small business programs. Additionally, in both industries, Federal contracting and SBA's loan activities are quite insignificant.

3. What are the projected reporting, recordkeeping and other compliance requirements of the rule?

The size standard changes due to the adoption of NAICS 2017 impose no additional reporting or recordkeeping requirements on small businesses. However, qualifying for Federal small business contracting and other programs may require businesses to register in SAM and recertify in SAM that they are small at least once annually. Therefore, the newly qualified small businesses opting to participate in those programs must comply with SAM requirements. There are no costs associated with either SAM registration or annual recertification. Changing size standards alters the access to SBA's financial and other Federal programs that assist small businesses, but does not impose a regulatory burden because size standards neither regulate nor control business behavior.

4. What are the relevant Federal rules, which may duplicate, overlap, or conflict with the rule?

Under section 3(a)(2)(C) of the Small Business Act, 15 U.S.C. 632(a)(2)(c), Federal agencies must generally use SBA's size standards to define a small business, unless specifically authorized by statute to do otherwise. In 1995, SBA published in the **Federal Register** a list of statutory and regulatory size standards that identified the application of SBA's size standards as well as other size standards used by Federal agencies (60 FR 57988 (November 24, 1995)). The Small Business Act and SBA's regulations allow Federal agencies to develop different size standards if they believe that SBA's size standards are not appropriate for their programs, with the approval of SBA's Administrator (13 CFR 121.903). The RFA authorizes a Federal agency to establish an alternative small business definition, after consultation with the Office of Advocacy of the U.S. Small Business Administration (5 U.S.C. 601(3)). SBA is not aware of any Federal rule that would duplicate or conflict with establishing or updating size standards.

5. What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

By law, SBA is required to develop numerical size standards for establishing eligibility for Federal small business assistance programs. Other than varying levels of size standards by industry and changing the size measures, no practical alternative exists to the systems of numerical size standards. SBA considered continuing to use NAICS 2012 as a basis of industry definitions for its table of size standards. However, that would render SBA's table of size standards incompatible with Federal industry and establishment statistics and other databases.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, SBA amends 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

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

Authority: 15 U.S.C. 632, 634(b)(6), 662, and 694a(9).

■ 2. In § 121.201, amend the table, ''Small Business Size Standards by NAICS Industry'' as follows:

■ a. Remove the entries for 211111 and 211112;
■ b. Add entries for 211120 and 211130;
■ c. Remove the entries for 212231 and 212234;
■ d. Add an entry for 212230;
■ e. Remove the entry 333911;
■ f. Remove the entry 333913;
■ g. Add an entry for 333914;
■ h. Add an entry for 335220;
■ i. Remove the entries for 335221, 335222, 335224, and 335228;
■ j. Remove the entries for 452111, 452112, 452910, and 452990;
■ k. Add entries for 452210, 452311, and 452319;
■ l. Add an entry for 454110;
■ m. Remove the entries for 454111, 454112, and 454113;
■ n. Remove the entries for 512210 and 512220;
■ o. Add an entry for 512250;
■ p. Remove the entries for 517110 and 517210;
■ q. Add entries for 517311 and 517312;
■ r. Remove the entries for 532220, 532230, 532291, 532292, and 532299;
■ s. Add entries for 532281, 532282, 532283, 532284, and 532289;
■ t. Remove the entry for 541711;
■ u. Remove the entry for 541712;
■ v. Add entries for 541713 and 541714;
■ w. Add an entry for 541715;
■ x. Revise the NAICS industry title of the entry for 721310 to read, ''Rooming and Boarding Houses, Dormitories, and Workers' Camps''; and
■ y. Revise footnote 11 at the end of the table.

The additions and revisions read as follows:

§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?

* * * * *

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
*	*	*	*
211120	Crude Petroleum Extraction		1,250
211130	Natural Gas Extraction		1,250
*	*	*	*
212230	Copper, Nickel, Lead, and Zinc Mining		750
*	*	*	*
333914	Measuring, Dispensing, and Other Pumping Equipment Manufacturing		750
*	*	*	*
335220	Major Household Appliance Manufacturing		1,500
*	*	*	*
452210	Department Stores	32.5	
452311	Warehouse Clubs and Supercenters	29.5	
452319	All Other General Merchandise Stores	32.5	
*	*	*	*
454110	Electronic Shopping and Mail-Order Houses	38.5	
*	*	*	*
512250	Record Production and Distribution		250
*	*	*	*
517311	Wired Telecommunications Carriers		1,500
517312	Wireless Telecommunications Carriers (except Satellite)		1,500
*	*	*	*
532281	Formal Wear and Costume Rental	20.5	
532282	Video Tape and Disc Rental	27.5	
532283	Home Health Equipment Rental	32.5	
532284	Recreational Goods Rental	7.5	
532289	All Other Consumer Goods Rental	7.5	
*	*	*	*
541713	Research and Technology in Nanotechnology [11]		[11] 1,000
541714	Research and Technology in Biotechnology (except Nanobiotechnology) [11]		[11] 1,000
541715	Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology) [11].		[11] 1,000
Except,	Aircraft, Aircraft Engine and Engine Parts [11]		[11] 1,500
Except,	Other Aircraft Parts and Auxiliary Equipment [11]		[11] 1,250
Except,	Guided Missiles and Space Vehicles, Their Propulsion Units and Propulsion Parts [11]		[11] 1,250
*	*	*	*

Footnotes

* * * * * * *

[11] *NAICS codes 541713, 541714, and 541715 —*

(a) "Research and Development" means laboratory or other physical research and development. It does not include economic, educational, engineering, operations, systems, or other nonphysical research; or computer programming, data processing, commercial and/or medical laboratory testing.

(b) For research and development contracts requiring the delivery of a manufactured product, the appropriate size standard is that of the manufacturing industry.

(c) For purposes of the Small Business Innovation Research (SBIR) and Small Business Transfer Technology (STTR) programs, the term "research" or "research and development" means any activity which is (A) a systematic, intensive study directed toward greater knowledge or understanding of the subject studied; (B) a systematic study directed specifically toward applying new knowledge to meet a recognized need; or (C) a systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements. See 15 U.S.C. 638(e)(5) and section 3 of the SBIR and STTR policy directives available at *www.sbir.gov.* For size eligibility requirements for the SBIR and STTR programs, see § 121.702 of this part.

(d) "Research and Development" for guided missiles and space vehicles includes evaluations and simulation, and other services requiring thorough knowledge of complete missiles and spacecraft.

* * * * *

Dated: September 8, 2017.

Linda E. McMahon,

Administrator.

[FR Doc. 2017–20705 Filed 9–26–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9386; Product Identifier 2016–NM–056–AD; Amendment 39–19055; AD 2017–19–25]

RIN 2120–AA64

Airworthiness Directives; Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.) Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes; and Model C–295 airplanes. This AD was prompted by reports of leakage of motorized cross-feed fuel valves. This AD requires repetitive inspections and operational checks of the affected fuel valves, and corrective actions if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 1, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 1, 2017.

ADDRESSES: For service information identified in this final rule, contact Airbus Defense and Space Services/Engineering Support, Avenida de Aragón 404, 28022 Madrid, Spain; telephone +34 91 585 55 84; fax +34 91 585 31 27; email *MTA.TechnicalService@airbus.com.;* Internet *http://www.eads.net.* You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9386.

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–2016–9386; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes; and Model C–295 airplanes. The SNPRM published in the **Federal Register** on June 21, 2017 (82 FR 28274) ("the SNPRM"). We preceded the SNPRM with a notice of proposed rulemaking that published in the **Federal Register** on November 25, 2016 (81 FR 85169) ("the NPRM"). The NPRM proposed to require an inspection of motorized cross-feed fuel valves and, depending on findings, applicable corrective action(s). The NPRM was prompted by leakage of a motorized cross-feed fuel valve. The SNPRM proposed to require a reduced compliance time for the initial inspection, the addition of repetitive inspections and operational checks, and corrective actions if necessary. We are issuing this AD to detect and correct leaks in a motorized fuel valve, which could lead to failure of the fuel valve and consequent improper fuel system functioning or, in case of the presence of an ignition source, an airplane fire.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2017–0004, dated January 9, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes; and Model C–295 airplanes. The MCAI states:

> Leakage of a motorised cross-feed fuel valve Part Number (P/N) 7923227F was reported on a CN–235–100M aeroplane. The leakage was observed through the valve electrical connectors and detected during accomplishment of a functional check in accordance with task 28.007 of the CN–235 Maintenance Review Board Report (MRB CN–235–PV01). Identical motorised fuel valves are installed on civilian CN–235 and C–295 aeroplanes, as cross-feed, shut-off and defueling valves.
>
> This condition, if not detected and corrected, could lead to failure of a motorised fuel valve and consequent improper functioning of the fuel system or, in case of an ignition source, could lead to a fire, possibly resulting in damage to the aeroplane and injury to occupants.
>
> To address this potentially unsafe condition, Airbus Defence & Space (D&S) issued Alert Operators Transmission (AOT)–CN235–28–0001 and AOT–C295–28–0001 to provide inspection instructions.
>
> Consequently, EASA issued AD 2016–0071 to require a one-time inspection of the affected motorised fuel valves and, depending on findings, accomplishment of applicable corrective action(s).
>
> Since that [EASA] AD was issued, new occurrences of fuel leakage involving the

affected motorised fuel valves were reported and Airbus D&S issued Revision 1 of AOT–CN235–28–0001 and Revision 1 of AOT–C295–28–0001 to introduce repetitive inspections and operational checks of the affected motorised fuel valves.

For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2016–0071, which is superseded, and introduces repetitive inspections and operational checks [and corrective actions, if necessary] of the affected fuel valves.

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–2016–9386.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Airbus Defense and Space has issued Alert Operators Transmission (AOT) AOT–C295–28–0001, Revision 1, dated September 27, 2016; and AOT–CN235–28–0001, Revision 1, dated September 27, 2016. This service information describes procedures for repetitive inspections, replacement of the motorized fuel valves, and operational checks and corrective actions on affected motorized fuel valves. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 14 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection and operational check	3 work-hours × $85 per hour = $255	$0	$255	$3,570
Reporting	1 work-hour × $85 per hour = $85	0	85	1,190

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement	5 work-hours × $85 per hour = $425	$38,448	$38,873

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

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–19–25 Airbus Defense and Space S.A. (Formerly known as Construcciones Aeronauticas, S.A.): Amendment 39–19055; Docket No. FAA–2016–9386; Product Identifier 2016–NM–056–AD.

(a) Effective Date

This AD is effective November 1, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Defense and Space S.A. (formerly known as Construcciones Aeronauticas, S.A.) Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes; and Model C–295 airplanes; certificated in any category, all manufacturer serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by leakage of a motorized cross-feed fuel valve, which was detected during accomplishment of a functional check. We are issuing this AD to detect and correct leaks in a motorized fuel valve, which could lead to failure of the fuel valve and consequent improper fuel system functioning or, in case of the presence of an ignition source, an airplane fire.

(f) Compliance

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

(g) Inspection of Motorized Fuel Valves

Within the applicable compliance time defined in paragraph (g)(1) or (g)(2) of this AD: Do an initial general visual inspection of each motorized fuel valve having part number (P/N) 7923227F for the presence of fuel on the electrical connectors and inside the receptacles, in accordance with the instructions of Airbus Defense and Space Alert Operators Transmission (AOT) AOT–CN235–28–0001, Revision 1; or Airbus Defense and Space AOT AOT–C295–28–0001, Revision 1, both dated September 27, 2016, as applicable. Repeat the inspection thereafter at intervals not to exceed 300 flight hours.

(1) For airplanes that, as of the effective date of this AD, have accumulated 6,000 flight cycles or more since first flight of the airplane: Do the inspection within 30 flight cycles or 30 days after the effective date of this AD, whichever occurs first.

(2) For airplanes that, as of the effective date of this AD, have accumulated less than 6,000 flight cycles since first flight of the airplane: Do the inspection within 300 flight hours or 30 days after the effective date of this AD, whichever occurs later.

(h) Replacement of Affected Parts

If, during any inspection required by paragraph (g) of this AD, any leaking of a motorized fuel valve having P/N 7923227F is detected: Before the next flight, replace the affected fuel valve with a serviceable part, in accordance with the instructions of Airbus Defense and Space AOT AOT–CN235–28–0001, Revision 1; or Airbus Defense and Space AOT AOT–C295–28–0001, Revision 1, both dated September 27, 2016, as applicable. A serviceable part is defined as a part that is not defective; it could be a used or new part. Replacement of a motorized fuel valve on an airplane does not constitute terminating action for the repetitive inspections required by paragraph (g) of this AD for that airplane.

(i) Operational Check

Within 12 months after the effective date of this AD, and thereafter at intervals not to exceed 12 months, accomplish an operational check of each motorized fuel valve P/N 7923227F, in accordance with the instructions of Airbus Defense and Space AOT AOT–CN235–28–0001, Revision 1; or Airbus Defense and Space AOT AOT–C295–28–0001, Revision 1, both dated September 27, 2016, as applicable.

(j) Corrective Actions

If, during any operational check, as required by paragraph (i) of this AD, any discrepancy is detected, as described in Airbus Defense and Space AOT AOT–CN235–28–0001, Revision 1; or Airbus Defense and Space AOT AOT–C295–28–0001, Revision 1, both dated September 27, 2016, as applicable: Before further flight, contact the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus Defense and Space S.A.'s EASA Design Organization Approval (DOA) to obtain instructions for corrective actions, and within the compliance time indicated in those instructions accomplish the corrective actions accordingly.

(k) Parts Installation Limitation

As of the effective date of this AD, replacement of a motorized fuel valve having P/N 7923227F with a serviceable part on an airplane is allowed, provided that, within 30 flight cycles or 30 days, whichever occurs first after installation, the part passes an inspection done in accordance with the instructions of Airbus Defense and Space AOT AOT–CN235–28–0001, Revision 1; or Airbus Defense and Space AOT AOT–C295–28–0001, Revision 1, both dated September 27, 2016, as applicable.

(l) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using Airbus Defense and Space AOT AOT–CN235–28–0001; or Airbus Defense and Space AOT AOT–C295–28–0001, both dated February 19, 2016, as applicable.

(m) Reporting Requirement

At the applicable time specified in paragraph (m)(1) or (m)(2) of this AD, report all inspection results to Airbus Defense and Space Technical Assistance Center (AMTAC); telephone +34 91 600 79 99; email *mta.technicalservice@airbus.com.* The report must include the inspection results, a description of any discrepancies found, operator name, the airplane model and serial number, valve part number and serial number, and the number of landings and flight hours on the airplane.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 60 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 60 days after the effective date of this AD.

(n) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective

actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the EASA; or Airbus Defense and Space S.A.'s EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Reporting Requirements:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(o) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2017–0004, dated January 9, 2017, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9386.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

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

(p) Material Incorporated by Reference

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

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

(i) Airbus Defense and Space Alert Operators Transmission, AOT–C295–28–0001, Revision 1, dated September 27, 2016.

(ii) Airbus Defense and Space Alert Operators Transmission AOT–CN235–28–0001, Revision 1, dated September 27, 2016.

(3) For service information identified in this AD, contact Airbus Defense and Space Services/Engineering Support, Avenida de Aragón 404, 28022 Madrid, Spain; telephone +34 91 585 55 84; fax +34 91 585 31 27; email *MTA.TechnicalService@airbus.com.;* Internet *http://www.eads.net.*

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

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

Issued in Renton, Washington, on September 14, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–20112 Filed 9–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–8434; Product Identifier 2015–NM–082–AD; Amendment 39–19057; AD 2017–19–27]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model DHC–8–401 and –402 airplanes. This AD was prompted by the discovery of cracking on two test spoiler power control unit (PCU) manifolds during testing by the manufacturer. This AD requires replacement of affected spoiler PCUs. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 1, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 1, 2017.

ADDRESSES: For Bombardier, Inc., service information identified in this final rule, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.*

For Parker-Hannifin Corporation service information identified in this final rule, contact Parker Aerospace, 14300 Alton Parkway, Irvine, CA 92618; telephone 949–833–3000; fax 949–809–8646; Internet *http://www.parker.com.*

You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8434.

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–2015–8434; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7318; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model DHC–8–401 and –402 airplanes. The SNPRM published in the **Federal Register** on July 14, 2017 (82 FR 32496) (''the SNPRM''). We preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on January 13, 2016 (81 FR 1586) (''the NPRM''). The NPRM proposed to require replacement of affected spoiler PCUs. The NPRM was prompted by the discovery of cracking on two test spoiler PCU manifolds during testing by the manufacturer. The SNPRM proposed to require replacement of affected spoiler PCUs, and also proposed to add airplanes to the applicability. We are issuing this AD to prevent cracking of the spoiler PCUs that could lead to the loss of multiple flight controls and landing gear systems.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2015–07R2,

dated December 14, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model DHC–8–401 and –402 airplanes. The MCAI states:

During endurance and impulse testing of the spoiler PCU, cracks were discovered on two test spoiler PCU manifolds. Investigation determined that the crack initiation was due to the heat treat process. A cracked spoiler PCU manifold could cause the loss of one of the two hydraulic systems, resulting in the loss of multiple flight controls and landing gear systems. This condition, if not corrected, could adversely affect the continued safe operation and landing of the aeroplane.

This [Canadian] AD mandates the replacement of the affected spoiler PCUs.

Revision 1 of this [Canadian] AD was issued to extend the applicability to include additional aeroplane serial numbers and also modify the Corrective Actions to specifically mandate section 3.B of the [Bombardier Service Bulletin] SB 84–27–64, Revision A.

Revision 2 of this [Canadian] AD was issued to correct the SB referenced in the Background section. SB 84–27–64, Revision A should have been referenced in lieu of SB 84–27–63, Revision A.

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–2015–8434.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Bombardier, Inc., has issued Service Bulletin 84–27–64, Revision A, dated July 26, 2016. This service information describes procedures for replacement of affected spoiler PCU manifolds.

Parker-Hannifin Corporation has issued Service Bulletin 390700–27–002, Revision 1, dated April 13, 2016. This service bulletin identifies affected spoiler PCUs.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 82 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Remove and replace affected PCUs	2 work-hours × $85 per hour = $170	$10,000	$10,170	$833,940

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–19–27 Bombardier, Inc.: Amendment 39–19057; Docket No. FAA–2015–8434; Product Identifier 2015–NM–082–AD.

(a) Effective Date

This AD is effective November 1, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model DHC–8–401 and –402 airplanes, certificated in any category, serial numbers (S/Ns) 4001, and 4003 through 4527 inclusive, equipped with spoiler power control unit (PCU) part numbers (P/Ns) 390700–1007 and –1009 and that have any spoiler PCU serial number identified in paragraph (c)(1), (c)(2), or (c)(3) of this AD.

(1) S/Ns 0474 through 1321 inclusive;

(2) S/Ns identified in section ''4. Appendix'' of Parker Service Bulletin 390700–27–002, Revision 1, dated April 13, 2016; and

(3) S/Ns 1394 through 1876 inclusive, without suffix ''A.''

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Reason

This AD was prompted by the discovery of cracking on two test spoiler PCU manifolds during testing by the manufacturer. We are issuing this AD to prevent cracking of the spoiler PCUs that could lead to the loss of multiple flight controls and landing gear systems.

(f) Compliance

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

(g) Removal/Replacement

Within 12,000 flight hours or 72 months after the effective date of this AD, whichever occurs first: Remove and replace the affected spoiler PCUs in accordance with paragraph 3.B. of the Accomplishment Instructions of Bombardier Service Bulletin 84–27–64, Revision A, dated July 26, 2016.

(h) Parts Installation Prohibition

After the actions required by paragraph (g) of this AD have been done, no person may install on any airplane, a spoiler PCU, part number 390700–1007 and –1009, with:

(1) S/Ns 0474 through 1321 inclusive; or

(2) S/Ns identified in section ''4. Appendix'' of Parker Service Bulletin 390700–27–002, Revision 1, dated April 13, 2016; or

(3) S/Ns 1394 through 1876 inclusive, without suffix ''A.''

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–27–64, dated July 15, 2014.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2015–07R2, dated December 14, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8434.

(2) For more information about this AD, contact Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7318; fax 516–794–5531.

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (l)(3) and (l)(5) of this AD.

(l) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 84–27–64, Revision A, dated July 26, 2016.

(ii) Parker Service Bulletin 390700–27–002, Revision 1, dated April 13, 2016.

(3) For Bombardier, Inc., service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.*

(4) For Parker-Hannifin Corporation service information identified in this AD, contact Parker Aerospace, 14300 Alton Parkway, Irvine, CA, 92618; telephone 949–833–3000; fax 949–809–8646; Internet *http://www.parker.com.*

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

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

Issued in Renton, Washington, on September 14, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–20213 Filed 9–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0248; Product Identifier 2016–NM–088–AD; Amendment 39–19054; AD 2017–19–24]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2014–26–10, which applied to all Airbus Model A318, A319, A320, and A321 series airplanes. AD 2014–26–10 required revising the maintenance or inspection program to incorporate maintenance requirements and airworthiness limitations. This new AD requires revising the maintenance or inspection program, as applicable, to incorporate new or revised airworthiness limitation requirements. This AD was prompted by a determination that more restrictive maintenance instructions and airworthiness limitations are necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 1, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 1, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of February 25, 2015 (80 FR 2813, January 21, 2015).

ADDRESSES: For service information identified in this final rule, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51;

email: *account.airworth-eas@airbus.com;* Internet: *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0248.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0248; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1405; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2014–26–10, Amendment 39–18061 (80 FR 2813, January 21, 2015) (''AD 2014–26–10''). AD 2014–26–10 applied to all Airbus Model A318, A319, A320, and A321 series airplanes. The NPRM published in the **Federal Register** on April 13, 2017 (82 FR 17770). The NPRM was prompted by a determination that more restrictive maintenance instructions and airworthiness limitations are necessary. The NPRM proposed to require revising the maintenance or inspection program, as applicable, to incorporate new or revised airworthiness limitation requirements. The NPRM also proposed to remove airplanes from the applicability. We are issuing this AD to mitigate the risks associated with aging effects of airplane systems. Such aging effects could change the characteristics of the systems leading to an increased potential for failure, which could result in failure of certain life-limited parts, and reduced structural integrity or reduced controllability of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016–0093, dated May 13, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A318, A319, A320, and A321 series airplanes. The MCAI states:

> The airworthiness limitations for Airbus A320 family aeroplanes are currently defined and published in Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) documents. The airworthiness limitations applicable to the System Equipment Maintenance Requirements, which are approved by [European Aviation Safety Agency] EASA, are specified in ALS Part 4.
>
> The instructions contained in the ALS Part 4 have been identified as mandatory actions for continued airworthiness. Failure to comply with these instructions could result in an unsafe condition.
>
> Previously, EASA issued AD 2013–0146 [which corresponds to FAA AD 2014–26–10] to require accomplishment of all maintenance actions as described in ALS Part 4 at Revision 01. The new ALS Part 4 Revision 03 (hereafter referred to as 'the ALS' in this AD) includes new and/or more restrictive requirements. ALS Part 4 Revision 03, issue 02, has been released to include editorial changes.
>
> For the reason described above, this [EASA] AD retains the requirements of EASA AD 2013–0146, which is superseded, and requires accomplishment of the actions specified in the ALS.

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–2017–0248.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received. Camp Systems International, Daniel Systems Inc., and United Airlines supported the NPRM.

Request To Incorporate Current ALS Revision

American Airlines (AAL) asked that a provision be incorporated into the proposed AD to approve use of Airbus A318/A319/A320/A321 ALS Part 4, ''System Equipment Maintenance Requirements (SEMR)'', Revision 05, dated April 6, 2017 (''ALS Part 4, Revision 05''), as an additional means of compliance with the maintenance or inspection program. AAL stated that ALS Part 4, Revision 05 is the latest revision level for ALS Part 4, and approving it would potentially alleviate a future alternative method of compliance (AMOC) request.

We acknowledge the commenter's concern. We have issued global AMOCs to AD 2014–26–10, which allow all operators of U.S.-registered airplanes to use Airbus A318/A319/A320/A321 ALS Part 4, ''System Equipment Maintenance Requirements (SEMR)'', Revision 04, dated July 6, 2016, and Airbus A318/A319/A320/A321 ALS Part 4, ''System Equipment Maintenance Requirements (SEMR)'', Revision 05, dated April 6, 2017. These AMOCs are included in paragraph (k)(1)(ii) of this AD, which states that AMOCs approved previously for AD 2014–26–10 are approved as AMOCs for the corresponding provisions of paragraph (g) of this AD. In addition, these AMOCs are also applicable to the revision required by paragraph (i) of this AD. Therefore, we have added paragraph (k)(1)(iii) to this AD to specify the previous AMOCs that are approved for the provisions of paragraph (i) of this AD.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting this AD with the change described previously and minor editorial changes. We have determined that these minor changes:

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

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

Related Service Information Under 1 CFR part 51

Airbus has issued Airbus A318/A319/A320/A321 ALS Part 4, ''System Equipment Maintenance Requirements (SEMR),'' Revision 03 at Issue 02, dated January 22, 2016. This service information describes preventive maintenance requirements and includes updated inspections and intervals to be incorporated into the maintenance or inspection program. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 1,032 airplanes of U.S. registry.

The actions required by AD 2014–26–10, and retained in this AD take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that are required by AD 2014–26–10 is $85 per product.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $87,720, or $85 per product.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2014–26–10, Amendment 39–18061 (80 FR 2813, January 21, 2015), and adding the following new AD:

2017–19–24 Airbus: Amendment 39–19054; Docket No. FAA–2017–0248; Product Identifier 2016–NM–088–AD.

(a) Effective Date

This AD is effective November 1, 2017.

(b) Affected ADs

This AD replaces AD 2014–26–10, Amendment 39–18061 (80 FR 2813, January 21, 2015) (''AD 2014–26–10'').

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD; certificated in any category; with an original certificate of airworthiness or original export certificate of airworthiness issued on or before December 21, 2015.

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

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

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

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by a determination that more restrictive maintenance instructions and airworthiness limitations are necessary. We are issuing this AD to mitigate the risks associated with aging effects of airplane systems. Such aging effects could change the characteristics of the systems leading to an increased potential for failure, which could result in failure of certain life-limited parts, and reduced structural integrity or reduced controllability of the airplane.

(f) Compliance

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

(g) Retained Requirement: Maintenance or Inspection Program Revision, With New Reference To Terminating Action

This paragraph restates the requirements of paragraph (g) of AD 2014–26–10, with new reference to terminating action. Within 30 days after February 25, 2015 (the effective date of AD 2014–26–10): Revise the maintenance or inspection program, as applicable, to incorporate Airbus A318/A319/A320/A321 Airworthiness Limitations Section, ALS Part 4, ''Aging Systems Maintenance,'' Revision 01, dated June 15, 2012. The initial compliance time for doing the actions is at the applicable time specified in Airbus A318/A319/A320/A321 Airworthiness Limitations Section, ALS Part 4, ''Aging Systems Maintenance,'' Revision 01, dated June 15, 2012; or within 2 weeks after revising the maintenance or inspection program; whichever occurs later. Accomplishing the actions specified in paragraph (i) of this AD terminates the requirements of this paragraph.

(h) Retained Requirement: No Alternative Actions or Intervals, With New Paragraph Reference

This paragraph restates the requirements of paragraph (h) of AD 2014–26–10, with a new paragraph reference. Except as required by paragraph (i) of this AD, after accomplishment of the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k)(1) of this AD.

(i) New Requirement: Maintenance or Inspection Program Revision

Within 30 days after the effective date of this AD: Revise the maintenance or inspection program, as applicable, to incorporate Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) Part 4, ''System Equipment Maintenance Requirements (SEMR),'' Revision 03 at Issue 02, dated January 22, 2016. The initial compliance time for doing the actions is at the applicable time specified in Airbus A318/A319/A320/A321 Airworthiness Limitations Section, ALS Part 4, ''System Equipment Maintenance Requirements (SEMR),'' Revision 03 at Issue 02, dated January 22, 2016; or within 2 weeks after revising the maintenance or inspection program; whichever occurs later. Accomplishing the actions specified in this paragraph terminates the requirements of paragraph (g) of this AD.

(j) New Provision: No Alternative Actions or Intervals

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

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1405; fax: 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(i) 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.

(ii) AMOCs approved previously for AD 2014–26–10 are approved as AMOCs for the corresponding provisions of paragraph (g) of this AD.

(iii) AMOCs approved previously for AD 2014–26–10, which are included in the AMOC letters specified in paragraphs (k)(1)(iii)(A) and (k)(1)(iii)(B), are approved as AMOCs for the provisions of paragraph (i) of this AD.

(A) AMOC letter ANM–116–17–002R1, dated November 14, 2016.

(B) AMOC letter ANM–116–17–323, dated June 12, 2017.

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

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0093, dated May 13, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0248.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1405; fax: 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(m) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on November 1, 2017.

(i) Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) Part 4, ''System Equipment Maintenance Requirements (SEMR),'' Revision 03 at Issue 02, dated January 22, 2016.

(ii) Reserved.

(4) The following service information was approved for IBR on February 25, 2015 (80 FR 2813, January 21, 2015).

(i) Airbus A318/A319/A320/A321 Airworthiness Limitations Section, ALS Part 4, ''Aging Systems Maintenance,'' Revision 01, dated June 15, 2012. The revision level of this document is identified on only the title page and in the Record of Revisions. The revision date is not identified on the title page of this document.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on September 14, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–20113 Filed 9–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0498; Product Identifier 2016–NM–175–AD; Amendment 39–19053; AD 2017–19–23]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2015–15–10, which applied to all Airbus Model A318, A319, A320, and A321 series airplanes. AD 2015–15–10 required repetitive inspections of the trimmable horizontal stabilizer actuator (THSA) for damage, and replacement if necessary; and replacement of the THSA after reaching a certain life limit. This AD requires repetitive detailed inspections of certain THSAs, and related investigative and corrective actions if necessary. This AD was prompted by the establishment of an additional life limit for the THSA, based on flight cycles. In addition, the THSA manufacturer has issued service information which, when accomplished, increases the life limit of the THSA. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 1, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 1, 2017.

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

You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0498.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://*

www.regulations.gov by searching for and locating Docket No. FAA–2017–0498; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2015–15–10, Amendment 39–18219 (80 FR 43928, July 24, 2015) (''AD 2015–15–10''). AD 2015–15–10 applied to all Airbus Model A318, A319, A320, and A321 series airplanes. The NPRM published in the **Federal Register** on June 2, 2017 (82 FR 25542). The NPRM was prompted by the establishment of an additional life limit for the THSA, based on flight cycles. The NPRM proposed to require repetitive detailed inspections of certain THSAs, and related investigative and corrective actions if necessary. We are issuing this AD to detect and correct wear of the THSA, which could reduce the remaining life of the THSA, possibly resulting in premature failure and consequent reduced controllability of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016–0184, dated September 13, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A318 and A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The MCAI states:

> In the frame of the A320 Extended Service Goal (ESG) project and the study on the Trimmable Horizontal Stabilizer Actuator (THSA), a sampling programme of in-service units was performed and several cases of wear at different THSA levels were reported.
>
> This condition, if not detected and corrected, would reduce the remaining life of the THSA, possibly resulting in premature failure and consequent reduced control of the aeroplane.
>
> Prompted by these findings, Airbus issued Service Bulletin (SB) A320–27–1227 to provide THSA inspection instructions. Consequently, EASA issued AD 2014–0011 (later revised) [which corresponds to AD 2015–15–10] to require repetitive inspections of the THSA [and related investigative and corrective actions] and to introduce a life limit for the THSA, based on flight hours (FH).
>
> Since EASA AD 2014–0011R1 was issued, an additional life limitation has been established, based on flight cycles (FC). Furthermore, United Technologies Corporation Aerospace Systems (UTAS), the THSA manufacturer, issued an SB which, after accomplishment on THSA, increases the life limit of the THSA.
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2014–0011R1, which is superseded, and introduces an additional FC life limit for the affected THSA. This [EASA] AD also provides a revised life limit for the THSA after UTAS SB accomplishment on that THSA.

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–2017–0498.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received. Air Line Pilots Association, International (ALPA) and United Airlines expressed their support for the NPRM.

Changes Made to This AD

The NPRM specified that a THSA that had been repaired in-shop as specified in UTAS Component Maintenance Manual 27–44–51 would be an equivalent method of compliance for the initial inspection required by paragraph (h) of this AD. We have revised paragraph (m) of this AD to specify that a THSA that has been repaired in-shop using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the EASA; or Airbus's EASA Design Organization Approval (DOA), is acceptable for compliance with the initial inspection required by paragraph (h) of this AD. We have also added Note 1 to paragraph (m) of this AD to reference UTAS Component Maintenance Manual 27–44–51 as an additional source of guidance for the in-shop repair of the THSA.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A320–27–1227, Revision 03, dated April 29, 2016. This service information describes procedures for repetitive special detailed inspections for wear of the THSA, and related investigative and corrective actions.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 1,182 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	6 work-hours × $85 per hour = $510 per inspection cycle.	$0	$510 per inspection cycle	$602,820 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the spectrometric analysis of the oil drained from the THSA gearbox. We estimate the following costs to do any necessary replacements or overhauls that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need these replacements or overhauls:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of THSA (retained from AD 2015–15–10).	11 work-hours × $85 per hour = $935	$240,000	$240,935
Overhaul of THSA (new action)	66 work-hours × $85 per hour = $5,610	115,000	120,610

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2015–15–10, Amendment 39–18219 (80 FR 43928, July 24, 2015), and adding the following new AD:

2017–19–23 Airbus: Amendment 39–19053; Docket No. FAA–2017–0498; Product Identifier 2016–NM–175–AD.

(a) Effective Date

This AD is effective November 1, 2017.

(b) Affected ADs

This AD replaces AD 2015–15–10, Amendment 39–18219 (80 FR 43928, July 24, 2015) (''AD 2015–15–10'').

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) through (c)(4) of this AD, certificated in any category, all manufacturer serial numbers.

(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) Airbus Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Reason

This AD was prompted by reports of wear at different levels in the trimmable horizontal stabilizer actuator (THSA). We are issuing this AD to detect and correct wear of the THSA, which could reduce the remaining life of the THSA, possibly resulting in premature failure and consequent reduced controllability of the airplane.

(f) Compliance

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

(g) Serviceable THSA Definition

For the purposes of this AD, a serviceable THSA is a THSA that does not exceed the life limits as identified in table 1 to paragraphs (g) and (j) of this AD.

TABLE 1 TO PARAGRAPHS (G) AND (J) OF THIS AD—THSA Life Limits

Configuration, based on service bulletin (SB) embodiment	Compliance time (whichever occurs first)
THSA on which United Technologies Corporation Aerospace Systems (UTAS) SB 47145–27–19 has not been embodied.	Before exceeding 67,500 flight hours (FH) since first installation on an airplane, or before exceeding 48,000 flight cycles (FC) since first installation on an airplane.

TABLE 1 TO PARAGRAPHS (G) AND (J) OF THIS AD—THSA Life Limits—Continued

Configuration, based on service bulletin (SB) embodiment	Compliance time (whichever occurs first)
THSA on which UTAS SB 47145–27–19 has been embodied	Before exceeding 52,500 FH after embodiment of UTAS SB 47145–27–19 on an airplane, without exceeding 120,000 FH since first installation on an airplane; or before exceeding 27,000 FC after embodiment of UTAS SB 47145–27–19 on an airplane, without exceeding 75,000 FC since first installation on an airplane.

(h) Repetitive Inspection and Related Investigative Actions

For any airplane on which UTAS Service Bulletin 47145–27–19 has not been embodied: Before the THSA exceeds 48,000 flight hours or 30,000 flight cycles, whichever occurs first since first installation on an airplane, do a special detailed inspection of the THSA and do all applicable related investigative actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–27–1227, Revision 03, dated April 29, 2016. Do all applicable related investigative actions at the applicable times specified in paragraph 1.E., ''Compliance'' of Airbus Service Bulletin A320–27–1227, Revision 03, dated April 29, 2016. Repeat the inspections thereafter at intervals not to exceed 24 months.

(i) Corrective Action

If, during any inspection required by paragraph (h) of this AD, any finding as described in the Accomplishment Instructions of Airbus Service Bulletin A320–27–1227, Revision 03, dated April 29, 2016, is identified: At the applicable time (depending on the applicable finding) specified in paragraph 1.E., ''Compliance,'' of Airbus Service Bulletin A320–27–1227, Revision 03, dated April 29, 2016, replace the THSA with a serviceable THSA, as specified in paragraph (g) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–27–1227, Revision 03, dated April 29, 2016.

(j) THSA Replacement

Within the applicable compliance time specified in table 1 to paragraphs (g) and (j) of this AD, replace each THSA with a serviceable THSA, as specified in paragraph (g) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–27–1227, Revision 03, dated April 29, 2016.

(k) Replacement of a THSA: Not Terminating Action

Replacement of a THSA on an airplane, as required by paragraph (i) or (j) of this AD, does not constitute terminating action for the repetitive inspections required by paragraph (h) of this AD for that airplane, unless the THSA has been overhauled as specified in UTAS Service Bulletin 47145–27–19 (*i.e.,* post-service bulletin).

(l) Optional Terminating Action: Overhaul of THSA

Accomplishment of a modification of an airplane by installing a THSA that has been overhauled as specified in UTAS Service Bulletin 47145–27–19 constitutes terminating action for the repetitive inspections required by paragraph (h) of this AD, provided that, following modification, no THSA is reinstalled on the airplane unless it has been overhauled as specified in UTAS Service Bulletin 47145–27–19.

(m) Replacement THSA Equivalency

As of the effective date of this AD: A THSA that has been repaired in-shop is acceptable for compliance with the initial inspection required by paragraph (h) of this AD, provided that repair was done using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

Note 1 to paragraph (m) of this AD: Guidance for THSA repair in-shop can be found in UTAS Component Maintenance Manual 27–44–51.

(n) Parts Installation Limitation

As of the effective date of this AD: Do not install on any airplane a THSA unless it is a serviceable THSA as specified in paragraph (g) of this AD.

(o) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraphs (h) and (i) of this AD, if those actions were performed before the effective date of this AD using any of the service information specified in paragraphs (o)(1), (o)(2), or (o)(3) of this AD.

(1) Airbus Service Bulletin A320–27–1227, dated July 1, 2013, which is not incorporated by reference in this AD.

(2) Airbus Service Bulletin A320–27–1227, Revision 01, dated October 7, 2013, which was incorporated by reference in AD 2015–15–10.

(3) Airbus Service Bulletin A320–27–1227, Revision 02, dated February 2, 2015, which is not incorporated by reference in this AD.

(p) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC):* If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified 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 procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(q) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0184, dated September 13, 3016, 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–2017–0498.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

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

(r) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A320–27–1227, Revision 03, dated April 29, 2016.

(ii) Reserved.

(3) For Airbus service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex,

France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

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

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

Issued in Renton, Washington, on September 14, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–20567 Filed 9–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0813; Product Identifier 2017–NM–109–AD; Amendment 39–19059; AD 2017–20–02]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: We are superseding Airworthiness Directive (AD) 2017–13–05, which applied to all Airbus Model A330–200, A330–300, A340–200, A340–300, A340–500, and A340–600 series airplanes. AD 2017–13–05 required an inspection, corrective actions if necessary, lubrication of the ball-nut, modification of the trimmable horizontal stabilizer actuator (THSA), and additional work for previously modified airplanes. For certain airplanes, AD 2017–13–05 required installation of an electronic harness, terminating actions, and a ball-screw assembly inspection. This AD clarifies the formatting of a figure in the published version of AD 2017–13–05. This AD was prompted by reports indicating that affected parties misinterpreted the intent of a figure as formatted in the published version of AD 2017–13–05, which could result in a negative effect on compliance. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 12, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 28, 2017 (82 FR 34251, July 24, 2017).

We must receive comments on this AD by November 13, 2017.

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

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

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

You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0813.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0813; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

On June 15, 2017, we issued AD 2017–13–05, Amendment 39–18935 (82 FR 34251, July 24, 2017) (''AD 2017–13–05''), which applied to all Airbus Model A330–200, A330–300, A340–200, A340–300, A340–500, and A340–600 series airplanes. AD 2017–13–05 was prompted by the need for a modification that automatically detects failure of the ball-screw assembly. AD 2017–13–05 required an inspection, corrective actions if necessary, lubrication of the ball-nut, modification of the trimmable horizontal stabilizer actuator (THSA), and additional work for previously modified airplanes. For certain airplanes, AD 2017–13–05 required installation of an electronic harness, terminating actions, and a ball-screw assembly inspection. We issued AD 2017–13–05 to detect and correct wear on the THSA, possibly resulting in damage to the ball-screw and fail-safe nut, which could jam the THSA and result in reduced control of the airplane.

Since we issued AD 2017–13–05, we have received reports indicating that affected parties could misinterpret the identity of applicable service information to use for the modification, due to the formatting of figure 2 to paragraphs (h) and (i) in the published version of AD 2017–13–05. Since the published figure could result in a negative effect on compliance, we have determined that clarification of the formatting of the published figure is necessary.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2014–0219, dated September 29, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A330 and Model A340 series airplanes. (Model A330–223F and A330–243F airplanes were removed from AD 2017–13–05 to correspond with the MCAI.) The EASA AD is referenced in AD 2017–13–05. EASA has not revised its AD since the issuance of AD 2017–13–05.

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–2017–0813.

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information. The service bulletins having the same document number (but different revision levels) are distinct because each revision contains unique editorial changes.

The following service information describes procedures for doing repetitive inspections for integrity of the primary and secondary load paths of the ball-screw assembly of the THSA. These service bulletins are distinct because they apply to different airplane models.

- Airbus Service Bulletin A330–27–3102, Revision 09, dated March 29, 2016.
- Airbus Service Bulletin A340–27–4107, Revision 09, dated March 29, 2016.

The following service information describes procedures for installing two electrical detection devices, also called CSPs, on the lower attachment secondary load path of the THSA, and modifying the THSA. These service bulletins are distinct because they apply to different airplane models equipped with THSAs having different part numbers.

- Airbus Service Bulletin A330–27–3137, including Appendix 01, dated March 20, 2007.
- Airbus Service Bulletin A330–27–3137, Revision 01, including Appendix 1, dated December 6, 2007.
- Airbus Service Bulletin A330–27–3137, Revision 02, dated January 18, 2010.
- Airbus Service Bulletin A330–27–3143, Revision 01, dated July 10, 2012.
- Airbus Service Bulletin A340–27–4136, including Appendix 01, dated March 20, 2007.
- Airbus Service Bulletin A340–27–4136, Revision 01, including Appendix 1, dated December 6, 2007.
- Airbus Service Bulletin A340–27–4136, Revision 02, including Appendix 1, dated February 24, 2010.
- Airbus Service Bulletin A340–27–4143, dated February 21, 2012.
- Airbus Service Bulletin A340–27–5030, Revision 01, including Appendix 1, dated November 20, 2009.

The following service information describes procedures for installing electrical wiring harnesses and brackets to connect the secondary nut detection device to the monitoring systems. These service bulletins are distinct because they apply to different airplane models.

- Airbus Service Bulletin A330–92–3046, Revision 04, dated July 16, 2010.
- Airbus Service Bulletin A330–92–3046, Revision 05, dated November 7, 2011.
- Airbus Service Bulletin A330–92–3046, Revision 07, dated January 13, 2017.
- Airbus Service Bulletin A340–92–4056, Revision 03, dated July 16, 2010.
- Airbus Service Bulletin A340–92–4056, Revision 04, dated December 5, 2013.
- Airbus Service Bulletin A340–92–5008, Revision 07, dated February 8, 2013.

The following service information describes system equipment maintenance requirements (SEMR) that refer to preventative maintenance requirements found necessary to comply with safety objectives. These documents are distinct because they apply to different airplane models.

- Airbus A330 Airworthiness Limitations Section (ALS) Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015.
- Airbus A340 Airworthiness Limitations Section (ALS) Part 4—System Equipment Maintenance Requirements (SEMR), Revision 04, dated October 19, 2015.
- Airbus A340 Airworthiness Limitations Section (ALS) Part 3—Certification Maintenance Requirements (CMR), Revision 03, dated October 19, 2015, describes CMRs that are system-related periodic tasks established during type certification.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This AD

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

FAA's Justification and Determination of the Effective Date

We are superseding AD 2017–13–05 to clarify the formatting of a figure in the regulatory text of the published AD. No other changes have been made to AD 2017–13–05. Therefore, we determined that notice and opportunity for prior public comment are unnecessary.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0813; Product Identifier 2017–NM–109–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this 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 AD.

Costs of Compliance

We estimate that this AD affects 33 airplanes of U.S. registry. This AD adds no new economic burden to AD 2017–13–05.

We estimate that it takes about 68 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts would cost about $17,481 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $764,808, or $23,260 per product.

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2017–13–05, Amendment 39–18935 (82 FR 34251, July 24, 2017), and adding the following new AD:

2017–20–02 Airbus: Amendment 39–19059; Docket No. FAA–2017–0813; Product Identifier 2017–NM–109–AD.

(a) Effective Date

This AD is effective October 12, 2017.

(b) Affected ADs

This AD replaces AD 2017–13–05, Amendment 39–18935 (82 FR 34251, July 24, 2017) (''AD 2017–13–05'').

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Airbus Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes, all manufacturer serial numbers.

(2) Airbus Model A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Reason

This AD was prompted by the need for a modification that automatically detects failure of the ball-screw assembly. We are issuing this AD to detect and correct wear on the trimmable horizontal stabilizer actuator (THSA), possibly resulting in damage to the ball-screw and fail-safe nut, which could jam the THSA and result in reduced control of the airplane.

(f) Compliance

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

(g) Retained Actions for Electronic Centralized Aircraft Monitor (ECAM) Fault Messages, With Revised FAA Contact Information

This paragraph restates the requirements of paragraph (g) of AD 2017–13–05, with revised FAA contact information. For airplanes other than those identified in figure 1 to paragraphs (g), (h), and (q) of this AD: If, during any flight, one of the ''PRIM X PITCH FAULT'' or ''STAB CTL FAULT'' messages is displayed on the ECAM associated with the ''PITCH TRIM ACTR (1CS)'' maintenance message, before further flight after each time the message is displayed on the ECAM, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Do the applicable detailed inspection of the ball-screw assembly for integrity of the primary and secondary load path; check the checkable shear pins (CSP), if installed; and do all applicable corrective actions; as specified in paragraph (g)(1)(i), (g)(1)(ii), or (g)(1)(iii) of this AD. Do all applicable corrective actions before further flight.

(i) For Model A330 series airplanes: Do the actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3102, Revision 09, dated March 29, 2016, except as required by paragraph (n)(1) of this AD.

(ii) For Model A340–200 and –300 series airplanes: Do the actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340–27–4107, Revision 09, dated March 29, 2016, except as required by paragraph (n)(1) of this AD.

(iii) For Model A340–500 and –600 series airplanes: Do the actions using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

Note 1 to paragraph (g)(1)(iii) of this AD: Guidance for the inspection of the ball-screw assembly can be found in Task 274000–B0002–1–C, Inspection of the ball-screw assembly for integrity of the primary and secondary load paths, of the Airbus A340 Airworthiness Limitations Section (ALS) Part 3—Certification Maintenance Requirements (CMR), Revision 03, dated October 19, 2015.

(2) Lubricate the THSA ball-nut in accordance with the applicable service information specified in paragraph (g)(2)(i), (g)(2)(ii), or (g)(2)(iii) of this AD.

(i) Task 274400–00002–1–E, Lubrication of the THSA ball-nut, of Airbus A330 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015 (for Model A330 series airplanes).

(ii) Task 274400–00002–1–E, Lubrication of the THSA ball-nut, of Airbus A340 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 04, dated October 19, 2015 (for Model A340–200 and –300 series airplanes).

(iii) Task 274000–B0003–1–C, Lubrication of THS Actuator ball-screw nut, of Airbus A340 ALS Part 3—Certification Maintenance Requirements (CMR), Revision 03, dated October 19, 2015 (for Model A340–500 and –600 series airplanes).

BILLING CODE 4910–13–C

Figure 1 to Paragraphs (g), (h), and (q) of this AD – *Definition of Airplane Groups*

Group	Airplane Models	On Which the Following Actions or Modifications Have Been Done
Group 1 airplanes	Airbus Model A330-200 and -300 series airplanes	On which the actions specified in Airbus Service Bulletin A330-27-3137, including Appendix 01, dated March 20, 2007; or Revision 01, including Appendix 1, dated December 6, 2007; and Airbus Service Bulletin A330-92-3046, Revision 04, dated July 16, 2010; or Revision 05, dated November 7, 2011; or Revision 06, dated November 15, 2013; have been embodied in service.
	Airbus Model A340-200 and -300 series airplanes	On which the actions specified in Airbus Service Bulletin A340-27-4136, including Appendix 01, dated March 20, 2007; or Revision 01, including Appendix 1, dated December 6, 2007; and Airbus Service Bulletin A340-92-4056, Revision 03, dated July 16, 2010; have been embodied in service.
Group 2 airplanes	Airbus Model A330-200 and -300 series airplanes and Model A340-200 and -300 series airplanes	On which Airbus Modifications 55780, 52269, and 56056 have been embodied in production.
	Airbus Model A340-500 and -600 series airplanes	On which Airbus Modifications 54882, 52191, and 56058 have been embodied in production.
Group 3 airplanes	Airbus Model A330-200 and -300 series airplanes	On which Airbus Service Bulletin A330-27-3137, including Appendix 01, dated March 20, 2007; or Revision 01, including Appendix 1, dated December 6, 2007; has been embodied in service and Airbus Modifications 52269 and 56056 have been embodied in production.
	Airbus Model A330-200 and -300 series airplanes	On which Airbus Modification 55780 has been embodied in production and Airbus Service Bulletin A330-92-3046, Revision 04, dated July 16, 2010; or Revision 05, dated November 07, 2011; or Revision 06, dated November 15, 2013; has been embodied in service.
	Airbus Model A340-200 and -300 series airplanes	On which Airbus Service Bulletin A340-27-4136, including Appendix 01, dated March 20, 2007; or Revision 01, including Appendix 1, dated December 6, 2007; has been embodied in service and Airbus Modifications 52269 and 56056 have been embodied in production.
	Airbus Model A340-200 and -300 series airplanes	On which Airbus Modification 55780 has been embodied in production and Airbus Service Bulletin A340-92-4056, Revision 03, dated July 16, 2010, has been embodied in service.

(h) Retained Installation of CSP and Electrical Harness, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2017–13–05, with no changes. For all airplanes, except Group 2 airplanes specified in figure 1 to paragraphs (g), (h), and (q) of this AD, and except for airplanes identified in paragraphs (i), (j), and (n)(2) of this AD: Within 12 months after August 28, 2017 (the effective date of AD 2017–13–05), modify the airplane by installing a CSP on the THSA and an additional electrical harness, in accordance with the Accomplishment Instructions of the Airbus service information specified in figure 2 to paragraphs (h) and (i) of this AD, as applicable to the part number of the THSA installed on the airplane, except as provided by paragraph (n)(2) of this AD.

BILLING CODE 4910–13–C

Figure 2 to Paragraphs (h) and (i) of this AD – *Applicable Service Information for Modification*

THSA Part Number (P/N)	Service Bulletin for CSP Installation	Service Bulletin for Electrical Harness Installation
47172-300	Airbus Service Bulletin A330-27-3137, Revision 02, dated January 18, 2010, for Airbus Model A330-200 and -300 series airplanes; and Airbus Service Bulletin A340-27-4136, Revision 02, including Appendix 1, dated February 24, 2010, for Airbus Model A340-200 and -300 series airplanes	Airbus Service Bulletin A330-92-3046, Revision 07, dated January 13, 2017, for Airbus Model A330-200 and -300 series airplanes; and Airbus Service Bulletin A340-92-4056, Revision 04, dated December 5, 2013, for Airbus Model A340-200 and -300 series airplanes
47147-500	Airbus Service Bulletin A330-27-3143, Revision 01, dated July 10, 2012, for Airbus Model A330-200 and -300 series airplanes; and Airbus Service Bulletin A340-27-4143, dated February 21, 2012, for Airbus Model A340-200 and -300 series airplanes	
47175-200 47175-300	Airbus Service Bulletin A340-27-5030, Revision 01, including Appendix 1, dated November 20, 2009, for Airbus Model A340-541 and -642 airplanes	Airbus Service Bulletin A340-92-5008, Revision 07, dated February 8, 2013, for Airbus Model A340-541 and -642 airplanes

(i) Retained ''Additional Work'' on Previously Modified Airplanes, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2017–13–05, with no changes. For airplanes that have already been modified (installation of CSP on the THSA and electrical harness) before August 28, 2017 (the effective date of AD 2017–13–05), in accordance with the Accomplishment Instructions of any previous revision of an Airbus service bulletin specified in figure 2 to paragraphs (h) and (i) of this AD, as applicable: Within 12 months after August 28, 2017, do the ''Additional Work'' specified in, and in accordance with, the Accomplishment Instructions of the applicable Airbus service information specified in figure 2 to paragraphs (h) and (i) of this AD.

(j) Retained Installation of Electrical Harness on Airplanes Equipped with a CSP, With No Changes

This paragraph restates the requirements of paragraph (j) of AD 2017–13–05, with no changes. For airplanes having one of the THSAs installed with a part number listed in figure 3 to paragraph (j) of this AD, and that have been modified by installing a CSP on the THSA as required by paragraph (h) of this AD: Within 12 months after August 28, 2017 (the effective date of AD 2017–13–05), inspect to determine if the electrical harness identified in the applicable Airbus service information specified in figure 3 to paragraph (j) of this AD is installed on the airplane, and, if not installed, modify the airplane by installing an electrical harness, in accordance with the Accomplishment Instructions of the Airbus service information specified in figure 3 to paragraph (j) of this AD, as applicable to the part number of the THSA installed on the airplane. Airplanes having one of the THSAs installed with a part number listed in figure 3 to paragraph (j) of this AD already have the CSP installed on the THSA, and only the electrical harness must be installed on the airplane.

Figure 3 to Paragraph (j) of this AD – *Electrical Harness Installation*

THSA P/N	Service Information for Electrical Harness Installation
47172-500 47172-510 47172-520 47172-530 47147-700 47147-710	Airbus Service Bulletin A330-92-3046, Revision 07, dated January 13, 2017, for Airbus Model A330-200 and -300 series airplanes Airbus Service Bulletin A340-92-4056, Revision 04, dated December 5, 2013, for Airbus Model A340-200 and -300 series airplanes
47175-500 47175-520 47175-530	Airbus Service Bulletin A340-92-5008, Revision 07, dated February 8, 2013, for Airbus Model A340-541 and -642 airplanes

(k) Retained Provisions for Terminating Action for Repetitive Inspections of Airbus Model A330–200 and –300 Series Airplanes, With No Changes

This paragraph restates the provisions of paragraph (k) of AD 2017–13–05, with no changes. Accomplishment of a modification before August 28, 2017 (the effective date of AD 2017–13–05), using the Accomplishment Instructions of Airbus Service Bulletin A330–27–3137, including Appendix 01, dated March 20, 2007; or Revision 01, including Appendix 1, dated December 6, 2007; and Airbus Service Bulletin A330–92–3046, Revision 04, dated July 16, 2010; or Revision 05, dated November 7, 2011; or Revision 06, dated November 15, 2013; terminates the repetitive inspections specified in paragraphs (k)(1) through (k)(4) of this AD. Modification of an airplane as specified by this paragraph does not constitute terminating action for the actions specified in paragraph (g)(2) of this AD or the additional work specified in paragraph (i) of this AD.

(1) Task 274400–00001–1–E, Detailed inspection of the ball-screw assembly for integrity of the primary and secondary load path and check the gap at the secondary nut trunnion, of Airbus A330 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015.

(2) Task 274400–00001–2–E, Detailed inspection of the ball-screw assembly for integrity of the primary and secondary load path and check the CSPs, of Airbus A330 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015.

(3) Task 274400–00001–3–E, Detailed inspection of the ball-screw assembly for integrity of the primary and secondary load path and check the CSPs, of Airbus A330 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015.

(4) Task 274400–00001–4–E, Detailed inspection of the ball-screw assembly for integrity of the primary and secondary load path and check the CSPs, of Airbus A330 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015.

(l) Retained Provisions for Terminating Action for Repetitive Inspections of Airbus Model A340–200 and –300 Series Airplanes, With No Changes

This paragraph restates the provisions of paragraph (l) of AD 2017–13–05, with no changes. Accomplishment of a modification in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340–27–4143, dated February 21, 2012; and Airbus Service Bulletin A340–92–4056, Revision 03, dated July 16, 2010; terminates the actions required by paragraph (g)(1) of this AD for modified Airbus Model A340–200 and –300 series airplanes only. Modification of an airplane as specified in this paragraph does not constitute terminating action for the actions specified in paragraph (g)(2) of this AD, or the additional work specified in paragraph (i) of this AD.

(m) Retained Provisions for Terminating Action for Repetitive Inspections of Airbus Model A340–200 and –300 Series Airplanes, With No Changes

This paragraph restates the provisions of paragraph (m) of AD 2017–13–05, with no changes. Accomplishment of a modification before August 28, 2017 (the effective date of AD 2017–13–05), using the Accomplishment Instructions of Airbus Service Bulletin A340–27–4136, including Appendix 01, dated March 20, 2007; or Revision 01, including Appendix 1, dated December 6, 2007; and Airbus Service Bulletin A340–92–4056, Revision 03, dated July 16, 2010; terminates the repetitive inspections specified in paragraphs (m)(1) through (m)(4) of this AD. Modification of an airplane as specified in this paragraph does not constitute terminating action for the actions specified in paragraph (g)(2) of this AD, or the additional work specified in paragraph (i) of this AD.

(1) Task 274400–00001–1–E, Detailed inspection of the ball-screw assembly for integrity of the primary and secondary load path and gap check at the secondary nut trunnion, of Airbus A340 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 04, dated October 19, 2015.

(2) Task 274400–00001–2–E, Detailed inspection of the ball-screw assembly for integrity of the primary and secondary load path and CSP check, of Airbus A340 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 04, dated October 19, 2015.

(3) Task 274400–00001–3–E, Detailed inspection of the ball-screw assembly for integrity of the primary and secondary load path and CSP check, of Airbus A340 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 04, dated October 19, 2015.

(4) Task 274400–00001–4–E, Detailed inspection of the ball-screw assembly for integrity of the primary and secondary load path and CSP check, of A340 ALS Part 4—System Equipment Maintenance Requirements (SEMR), Revision 04, dated October 19, 2015.

(n) Retained Exceptions to the Actions in Certain Service Information and Paragraph (h) of This AD, With No Changes

This paragraph restates the exceptions of paragraph (n) of AD 2017–13–05, with no changes.

(1) Where Airbus Service Bulletin A330–27–3102, Revision 09, dated March 29, 2016 (for Model A330 series airplanes); or Airbus Service Bulletin A340–27–4107, Revision 09, dated March 29, 2016 (for Model A340 series airplanes); specifies to contact Airbus for a damage assessment: Before further flight, accomplish the required actions in accordance with the procedures specified in paragraph (s)(2) of this AD.

(2) For airplanes that already had the electrical harness installed during production using Airbus Modifications 52269 and 56056 for Airbus Model A330–200 and -300 series airplanes and Airbus Model A340–200 and -300 series airplanes, and using Airbus Modifications 52191 and 56058 for Model A340–500 and -600 series airplanes: Only the CSP must be installed on the THSA in

accordance with applicable Airbus service bulletins and within the compliance time specified in paragraph (h) of this AD.

(o) Retained Provisions for Terminating Action for Repetitive Inspections for Airplanes on Which Actions Required by Paragraph (h), (i), or (j) of This AD Are Done, With No Changes

This paragraph restates the provisions of paragraph (o) of AD 2017–13–05, with no changes. Modification of an airplane as required by paragraph (h), (i), or (j) of this AD, as applicable, constitutes terminating action for that airplane for the applicable actions identified in paragraphs (o)(1) through (o)(4) of this AD.

(1) For all airplanes: The actions required by paragraph (g) of this AD.

(2) For Model A340–500 and -600 series airplanes: Task 274000–B0002–1–C, Inspection of the ball-screw assembly for integrity of the primary and secondary load paths, of Airbus A340 ALS Part 3—Certification Maintenance Requirements (CMR), Revision 03, dated October 19, 2015.

(3) For Model A330–200 and -300 series airplanes: The ALS tasks identified in paragraphs (k)(1) through (k)(4) of this AD.

(4) For Model A340–200 and -300 series airplanes: The ALS tasks identified in paragraphs (m)(1) through (m)(4) of this AD.

(p) Retained Ball-screw Assembly Inspection for Certain Airplanes, With Revised FAA Contact Information

This paragraph restates the requirements of paragraph (p) of AD 2017–13–05, with revised FAA contact information. For Model A340–500 and -600 airplanes that are in post-Airbus Service Bulletin A340–92–5008, at Revision 06 or earlier, configuration: Before exceeding the threshold or interval, as applicable, of Task 274000–B0002–1–C, Inspection of the ball-screw assembly for integrity of the primary and secondary load paths, of Airbus A340 ALS Part 3—Certification Maintenance Requirements (CMR), Revision 03, dated October 19, 2015, or within 3 months after August 28, 2017 (the effective date of AD 2017–13–05), whichever occurs later, accomplish Task 274000–B0002–1–C, Inspection of the ball-screw assembly for integrity of the primary and secondary load paths, of Airbus A340 ALS Part 3—Certification Maintenance Requirements (CMR), Revision 03, dated October 19, 2015; and do all applicable corrective actions. Do all applicable corrective actions before further flight using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus's EASA DOA. Repeat Task 274000–B0002–1–C, Inspection of the ball-screw assembly for integrity of the primary and secondary load paths, thereafter at the applicable intervals specified in Airbus A340 ALS Part 3—Certification Maintenance Requirements (CMR), Revision 03, dated October 19, 2015.

(q) Retained Parts Installation Prohibitions, With No Changes

This paragraph restates the requirements of paragraph (1) of AD 2017–13–05, with no changes.

(1) For all airplanes except Group 2 airplanes as identified in figure 1 to paragraphs (g), (h), and (q) of this AD: After modification of the airplane as required by paragraph (h), (i), or (j) of this AD, as applicable, no person may install any THSA having part number (P/N) 47172–300, P/N 47147–500, P/N 47175–200, or P/N 47175–300.

(2) For Group 2 airplanes, as identified in figure 1 to paragraphs (g), (h), and (q) of this AD: As of August 28, 2017 (the effective date of AD 2017–13–05), no person may install on any Group 2 airplane any THSA having P/N 47172–300, P/N 47147–500, P/N 47175–200, or P/N 47175–300.

(r) Retained Credit for Previous Actions, With No Changes

This paragraph restates the provisions of paragraph (r) of AD 2017–13–05, with no changes.

(1) This paragraph provides credit for actions required by paragraph (g)(2) of this AD, if those actions were performed before August 28, 2017 (the effective date of AD 2017–13–05), using the applicable service information specified in paragraphs (r)(1)(i) through (r)(1)(iv) of this AD.

(i) Task 274400–00002–1–E, Lubrication of the THSA ball-nut, of Airbus A330 ALS Part 4—Ageing Systems Maintenance, Revision 03, dated September 9, 2011 (for Model A330 series airplanes).

(ii) Task 274400–00002–1–E, Lubrication of the THSA ball-nut, of Airbus A330 ALS Part 4—Ageing Systems Maintenance, Revision 04, dated August 27, 2013 (for Model A330 series airplanes).

(iii) Task 274400–00002–1–E, Lubrication of the THSA ball-nut, of Airbus A340 ALS Part 4—Ageing Systems Maintenance, Revision 02, dated October 12, 2011 (for Model A340–200 and -300 series airplanes).

(iv) Task 274400–00002–1–E, Lubrication of the THSA ball-nut, of Airbus A340 ALS Part 4—Ageing Systems Maintenance, Revision 03, dated November 15, 2012 (for Model A340–200 and -300 series airplanes).

(2) This paragraph provides credit for the electrical harness installation required by paragraph (h) of this AD and the inspection and electrical harness installation required by paragraph (j) of this AD, if those actions were performed before August 28, 2017 (the effective date of AD 2017–13–05), using Airbus Service Bulletin A330–92–3046, Revision 06, dated November 15, 2013.

(s) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(t) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0219, dated September 29, 2014, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0813.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (u)(4) and (u)(5) of this AD.

(u) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on August 28, 2017 (82 FR 34251, July 24, 2017).

(i) Airbus A330 Airworthiness Limitations Section (ALS) Part 4—System Equipment Maintenance Requirements (SEMR), Revision 05, dated October 19, 2015.

(ii) Airbus A340 Airworthiness Limitations Section (ALS) Part 3—Certification Maintenance Requirements (CMR), Revision 03, dated October 19, 2015.

(iii) Airbus A340 Airworthiness Limitations Section (ALS) Part 4—System Equipment Maintenance Requirements (SEMR), Revision 04, dated October 19, 2015.

(iv) Airbus Service Bulletin A330–27–3102, Revision 09, dated March 29, 2016.

(v) Airbus Service Bulletin A330–27–3137, including Appendix 01, dated March 20, 2007.

(vi) Airbus Service Bulletin A330–27–3137, Revision 01, including Appendix 1, dated December 6, 2007.

(vii) Airbus Service Bulletin A330–27–3137, Revision 02, dated January 18, 2010.

(viii) Airbus Service Bulletin A330–27–3143, Revision 01, dated July 10, 2012.

(ix) Airbus Service Bulletin A330–92–3046, Revision 04, dated July 16, 2010.

(x) Airbus Service Bulletin A330–92–3046, Revision 05, dated November 7, 2011.

(xi) Airbus Service Bulletin A330–92–3046, Revision 07, dated January 13, 2017.

(xii) Airbus Service Bulletin A340–27–4107, Revision 09, dated March 29, 2016.

(xiii) Airbus Service Bulletin A340–27–4136, including Appendix 01, dated March 20, 2007.

(xiv) Airbus Service Bulletin A340–27–4136, Revision 01, including Appendix 1, dated December 6, 2007.

(xv) Airbus Service Bulletin A340–27–4136, Revision 02, including Appendix 1, dated February 24, 2010.

(xvi) Airbus Service Bulletin A340–27–4143, dated February 21, 2012.

(xvii) Airbus Service Bulletin A340–27–5030, Revision 01, including Appendix 1, dated November 20, 2009.

(xviii) Airbus Service Bulletin A340–92–4056, Revision 03, dated July 16, 2010.

(xix) Airbus Service Bulletin A340–92–4056, Revision 04, dated December 5, 2013.

(xx) Airbus Service Bulletin A340–92–5008, Revision 07, dated February 8, 2013.

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

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

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

Issued in Renton, Washington, on September 14, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–20559 Filed 9–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0183; Airspace Docket No. 17–ASW–4]

Amendment of Class E Airspace for the Following Louisiana Towns; Leesville, LA; and Patterson, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace extending upward from 700 feet above the surface at Leesville City Airport, Leesville, LA, and Harry P. Williams Memorial Airport, Patterson, LA. Airspace redesign is necessary due to the decommissioning of the Leesville non-directional radio beacon (NDB), and the Patterson radio beacon (RBN), and cancellation of NDB and RBN approaches, and for the safe management of instrument flight rules (IFR) operations at these airports. Additionally, this action amends the geographic coordinates at Harry P. Williams Memorial Airport, to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, December 7, 2017. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

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 amends Class E airspace extending upward from 700 feet above the surface at Leesville City Airport, Leesville, LA and Harry P. Williams Memorial Airport, Patterson, LA, to support standard instrument approach procedures for IFR operations at the airport.

History

On April 10, 2017, the FAA published in the **Federal Register** (82 FR 17160) Docket No. FAA–2017–0183, a notice of proposed rulemaking (NPRM) to amend Class E airspace extending upward from 700 feet above the surface at:

Leesville Airport, Leesville, LA, and Harry P. Williams Memorial Airport, Patterson, LA, due to the decommissioning of the Leesville NBD and Patterson RBN.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Subsequent to publication, the FAA realized that it had inadvertently failed to include updates to the geographic coordinates for Harry P. Williams Memorial Airport, to coincide with the FAA's aeronautical database in the NPRM. Those geographic coordinates are updated in this final rule.

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

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class E airspace extending upward from 700 feet above the surface at:

Leesville Airport, Leesville, LA, to within a 6.4-mile radius (reduced from a 6.5-mile radius) of Leesville Airport, and within 3.7 miles each side of the 360° bearing from the airport (modified from 3.6 miles from each side of the 345° bearing) extending from the 6.4-

mile radius (reduced from a 6.5-mile radius) to 12.3 miles (increased from 12.2 miles) north of the airport, and removing the segment within 2.5 miles each side of the 000° bearing of the Leesville NDB extending from the 6.5-mile radius to 7.3 miles north of the airport; and

Harry P. Williams Memorial Airport, Patterson, LA, by removing the segment within 2.5 mile each side of the 233° bearing from the Patterson RBN extending from the 6.5-mile radius to 7.5 miles southwest of the airport. Additionally, the geographic coordinates for Harry P. Williams Memorial Airport, are adjusted to coincide with the FAA's aeronautical database.

Airspace reconfiguration is necessary due to the decommissioning of the Leesville NBD and Patterson RBN, and cancellation of the navigation aid approaches at these airports. Controlled airspace is necessary for the safety and management of standard instrument approach procedures for IFR operations at these airports.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace 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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASW LA E5 Leesville, LA [Amended]

Leesville Airport, LA
(Lat. 31°10′06″ N., long. 93°20′33″ W.).

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Leesville Airport, and within 3.7 miles each side of the 360° bearing from the airport extending from the 6.4-mile radius to 12.3 miles north of the airport, excluding that airspace within the Fort Polk, LA, Class D airspace area, and excluding that airspace within restricted area R–3803A.

* * * * *

ASW LA E5 Patterson, LA [Amended]

Patterson, Harry P. Williams Memorial Airport, LA
(Lat. 29°42′34″ N., long. 91°20′20″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Harry P. Williams Memorial Airport.

Issued in Fort Worth, Texas, on September 19, 2017.

Walter Tweedy,

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

[FR Doc. 2017–20591 Filed 9–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–9481; Airspace Docket No. 16–ASW–18]

Amendment of Class E Airspace; Midland, TX and Establishment of Class E Airspace; Odessa, TX and Midland, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace extending upward from 700 feet above the surface at Midland International Air and Space Port Airport (formerly Midland International Airport), Midland, TX, due to the closing of Mabee Ranch Airport, decommissioning of the Mabee non-directional radio beacon (NDB), and cancellation of NDB approaches at Mabee Ranch Airport. Additionally, this action establishes Class E airspace extending upward from 700 feet above the surface at Odessa Airport-Schlemeyer Field, Odessa, TX and Midland Airpark, Midland, TX, to accommodate special instrument approach procedures developed at these airports to enhance the safety and management of standard instrument approach procedures for instrument flight rules (IFR) operations. Also, an editorial change is made to the Class E surface area airspace legal description replacing Airport/Facility Directory with the term Chart Supplement. In addition, the airport name is changed to Midland International Air and Space Port Airport to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, December 7, 2017. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA

Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

FOR FURTHER INFORMATION, CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

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 amends Class E airspace extending upward from 700 feet above the surface at Midland International Air Space Port Airport by removing Mabee Ranch Airport, Midland, TX, due to closing of the airport; and establishes Class E airspace at Odessa Airport-Schlemeyer Field, Odessa, TX, and Midland Airpark, Midland, TX, to support special instrument approach procedures for IFR operations at these airports.

History

On May 26, 2017, the FAA published in the **Federal Register** (82 FR 24266) Docket No. FAA–2016–9481, a notice of proposed rulemaking (NPRM) to amend Class E airspace at Midland International Air and Space Port Airport, Midland, TX; and establish Class E airspace extending upward from 700 feet above the surface at Odessa Airport-Schlemeyer Field, Odessa, TX, and Midland Airpark, Midland, TX. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

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

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies: Class E airspace extending upward from 700 feet above the surface to within a 7.1-mile radius (from a 17.4-mile radius) of Midland International Air and Space Port Airport, Midland, TX, and also amends the airport name from Midland International Airport to Midland International Air and Space Port Airport in this and other associated Class E airspace areas. Airspace reconfiguration is necessary due to the closing of Mabee Ranch Airport, and decommissioning and cancellation of the Mabee NDB and NDB approaches.

This action also established Class E airspace extending upward from 700 feet above the surface within a 6.6-mile radius of both Midland Airpark, Midland, TX and Odessa Airport-Schlemeyer Field, Odessa, TX, to accommodate special instrument approach procedures for IFR operations at these airports.

Additionally, this action makes an editorial change in the legal description by replacing Airport/Facility Directory with the term Chart Supplement in the Class E surface area airspace.

Class E airspace areas are published in Paragraph 6002 and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation 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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E Airspace Areas Designated as Surface Areas.

* * * * *

ASW TX E2 Midland International Air and Space Port Airport, TX [Amended]

Midland International Air and Space Port Airport, TX
(Lat. 31°56′33″ N., long. 102°12′07″ W.)

Within a 5-mile radius of Midland International Air and Space Port Airport. This Class E airspace area is effective during the specific dates and times established in

advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ASW TX E5 Midland, TX [Amended]

Midland International Air and Space Port Airport, TX
(Lat. 31°56′33″ N., long. 102°12′07″ W.)

That airspace extending upward from 700 feet above the surface within a 7.1-mile radius of Midland International Air and Space Port Airport.

ASW TX E5 Midland, TX [New]

Midland Airpark, TX
(Lat. 32°02′12″ N., long. 102°06′05″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Midland Airpark.

* * * * *

ASW TX E5 Odessa, TX [New]

Odessa Airport-Schlemeyer Field, TX
(Lat. 31°55′17″ N., long. 102°23′14″ W.)

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

Issued in Fort Worth, Texas, on September 19, 2017.

Walter Tweedy,

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

[FR Doc. 2017–20592 Filed 9–26–17; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229 and 249

[Release No. 33–10415; 34–81673; File No. S7–07–13]

Commission Guidance on Pay Ratio Disclosure

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: The Securities and Exchange Commission is publishing interpretive guidance to assist registrants in preparation of their pay ratio disclosures required by Item 402(u) of Regulation S–K.

DATES: *Effective Date:* September 27, 2017.

FOR FURTHER INFORMATION CONTACT: John Fieldsend, Special Counsel, or Steven G. Hearne, Senior Special Counsel, at (202) 551–3430, in the Division of Corporation Finance; 100 F Street NE., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

In 2015, the Commission adopted a rule [1] to implement the pay ratio disclosure requirement [2] mandated by Section 953(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.[3] In doing so, the Commission stated its belief that, in order for the data points provided by the rule to be of use to investors, the pay ratio rule ''should be designed to allow shareholders to better understand and assess a particular registrant's compensation practices and pay ratio disclosures rather than to facilitate a comparison of this information from one registrant to another.'' [4] Consistent with this view, the Commission stated that it sought to provide flexibility in a manner that would ''reduce costs and burdens for registrants while preserving what we perceive to be the purpose and intended benefits'' of the statutorily mandated disclosure.[5] Under the final rule, registrants must provide pay ratio disclosure for the first fiscal year beginning on or after January 1, 2017, which means that registrants will begin making pay ratio disclosures in early 2018.

In light of the approaching compliance date and concerns raised about the implementation of the disclosure requirement,[6] this release provides additional guidance to assist registrants in their compliance efforts. In addition, the Commission staff is publishing guidance about the use of statistical sampling to assist registrants in determining their median employee for purposes of the pay ratio disclosure.[7]

II. Commission Guidance

A. Use of Reasonable Estimates, Assumptions, and Methodologies and Statistical Sampling

The pay ratio rule affords significant flexibility to registrants in determining appropriate methodologies to identify the median employee and calculating the median employee's annual total compensation.[8] Required disclosure may be based on a registrant's reasonable belief; use of reasonable estimates, assumptions, and methodologies; and reasonable efforts to prepare the disclosures.[9] Specifically, the rule permits registrants to use reasonable estimates to identify the median employee, including by using statistical sampling and a consistently applied compensation measure (such as payroll or tax records).[10] The rule also allows registrants to use reasonable estimates in calculating the annual total compensation or any elements of annual total compensation for employees.[11] The rule further provides that if a registrant changes its methodology or its material assumptions, adjustments, or estimates, and the effects are significant, the registrant must briefly describe the change and the reasons for the change.[12]

In light of the use of estimates, assumptions, adjustments, and statistical sampling permitted by the rule, pay ratio disclosures may involve a degree of imprecision. This has led some commenters to express concerns about compliance uncertainty and potential liability.[13] In our view, if a registrant uses reasonable estimates, assumptions or methodologies, the pay ratio and related disclosure that results from such use would not provide the basis for Commission enforcement action unless the disclosure was made or reaffirmed without a reasonable basis or was provided other than in good faith.

B. Use of Internal Records

Item 402(u) requires a registrant to disclose the median of the annual total compensation of all its employees excluding its principal executive officer.[14] We are providing guidance as to the use of existing internal records, such as tax or payroll records, to make this determination.

1. Non-U.S. Employees

The final rule defines the term ''employee'' to include U.S. employees and employees located in a jurisdiction outside the United States (''non-U.S.

[1] *Pay Ratio Disclosure,* Release No. 33–9877 (Aug. 5, 2015) [80 FR 50103 (Aug. 18, 2015)] (''Pay Ratio Release'').

[2] 15 U.S.C. 78n(i).

[3] Public Law 111–203, sec. 953(b), 124 Stat. 1376, 1904 (2010), as amended by Public Law 112–106, sec. 102(a)(3), 126 Stat. 306, 309 (2012).

[4] Pay Ratio Release, *supra* note 1, at 50106.

[5] *Id.* at 50107.

[6] *See, e.g.,* letters from Business Roundtable (Mar. 23, 2017) (''BRT''), Davis Polk & Wardwell LLP (Mar. 23, 2017) (''Davis Polk''), Financial Services Roundtable (Mar. 23, 2017) (''FSR''), The Insurance Coalition (Mar. 23, 2017) (''Insurance Coalition''), National Association of Manufacturers (Mar. 23, 2017) (''NAM''), and Society for Corporate Governance (Mar. 24, 2017) (''SCG'') available at *https://www.sec.gov/comments/pay-ratio-statement/payratiostatement.htm.*

[7] *See* Division of Corporation Finance Guidance on Calculation of Pay Ratio Disclosure, September 21, 2017, *available at https://www.sec.gov/rules/interp/2017/33-10415.pdf.*

[8] *See* Pay Ratio Release, *supra* note 1, at 50135—50138.

[9] *See, e.g.,* Instruction 2 and Instruction 4 to Item 402(u) of Regulation S–K (17 CFR 229.402(u)).

[10] *See* Instruction 4 to Item 402(u) of Regulation S–K.

[11] *Id.*

[12] *Id.*

[13] *See, e.g.,* letters from BRT, Davis Polk, and NAM.

[14] 17 CFR 229.402(u)(1).

employees''). In the Pay Ratio Release, we acknowledged that the inclusion of non-U.S. employees would raise compliance costs for multinational companies.[15] To address concerns about compliance costs, the rule permits registrants to exempt non-U.S. employees where these employees account for 5% or less of the registrant's total U.S. and non-U.S. employees, with certain limitations.[16] We are clarifying that a registrant may use appropriate existing internal records, such as tax or payroll records, in determining whether the 5% *de minimis* exemption is available.[17]

2. Median Employee

We also believe that the use of existing internal records may, in many circumstances, be appropriate in identifying a registrant's median employee. Instruction 4 to Item 402(u) permits a registrant to identify its median employee using a consistently applied compensation measure, such as information derived from the registrant's tax or payroll records. We are clarifying that a registrant may use internal records that reasonably reflect annual compensation to identify the median employee, even if those records do not include every element of compensation, such as equity awards widely distributed to employees.

We recognize that, when calculating total compensation in accordance with Item 402(c)(2)(x) for the identified median employee that the registrant identified using a consistently applied compensation measure based on internal records, the registrant may determine that there are anomalous characteristics of the identified median employee's compensation that have a significant higher or lower impact on the pay ratio. The Commission discussed this issue in the adopting release specifically and noted that, in such a circumstance, instead of concluding that the consistently applied compensation measure the registrant used was unsuitable to identify its median employee, the registrant may substitute another employee with substantially similar compensation to the original identified median employee based on the compensation measure it used to select the median employee.[18]

C. Independent Contractors

For purposes of Item 402(u), the term ''employee'' or ''employee of the registrant'' is defined as ''an individual employed by the registrant or any of its consolidated subsidiaries.'' [19] Item 402(u)(3) excludes from the definition those workers who are employed, and whose compensation is determined, by an unaffiliated third party but who provide services to the registrant or its consolidated subsidiaries as independent contractors or ''leased'' workers.[20] In the Pay Ratio Release, the Commission indicated that excluding these workers is appropriate, because registrants generally do not control the level of compensation that these workers are paid.[21]

Some commenters have expressed concerns about the application of the rule's definition of ''employee.'' [22] Because registrants already make determinations as to whether a worker is an employee or independent contractor in other legal and regulatory contexts, such as for employment law or tax purposes, some commenters suggested that the Commission should allow registrants to use widely recognized tests to determine who is an ''employee'' for purposes of the rule.[23] Such a test might, for example, be drawn from guidance published by the Internal Revenue Service with respect to independent contractors.[24]

Item 402(u)(3) makes clear that an ''employee'' is an individual employed by the registrant.[25] The provision in Item 402(u)(3) indicating that the definition of ''employee'' does not include workers who are employed, and whose compensation is determined, by an unaffiliated third party describes one category of workers that is expressly excluded from the definition of ''employee'' under the rule. The provision was not intended to serve as an exclusive basis for determining whether a worker is an employee of the registrant. Accordingly, we believe it would be consistent with Item 402(u) for a registrant to apply a widely recognized test under another area of law that the registrant otherwise uses to determine whether its workers are employees.[26]

By the Commission.

Dated: September 21, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017–20632 Filed 9–26–17; 8:45 am]

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[15] *See* Pay Ratio Release, *supra* note 1, at 50122—50133.

[16] 17 CFR 229.402(u)(4)(ii). *See also* Pay Ratio Release, supra note 1, at 50124–50125 (noting that registrants using the *de minimis* exemption are required to provide certain disclosures).

[17] *See, e.g.,* Instruction 1 to Item 402(u) of Regulation S–K (17 CFR 229.402(u)) and Pay Ratio Release, *supra* note 1, at 50119—50120 (indicating that determination of the median employee may be made on any date within the last three months of the registrant's last completed fiscal year).

[18] *See Pay Ratio Release, supra* note 1, at 50137–50138 (providing that the registrant must disclose the substitution as part of its brief description of the methodology it used to identify the median employee).

[19] 17 CFR 229.402(u)(3).

[20] *Id.*

[21] *See Pay Ratio Release, supra* note 1, at Section 50165–50166.

[22] *See, e.g.,* letters from Davis Polk, FSR, SCG, and Insurance Coalition.

[23] *See, e.g.,* letters from Davis Polk and Insurance Coalition.

[24] *See, e.g., Publication 15–A Employer's Supplemental Tax Guide* (2017).

[25] 17 CFR 229.402(u)(3).

[26] Because we believe most widely recognized tests likely will consider how compensation is determined as a factor in identifying a registrant's employees, we believe these tests generally would provide a reasonable means of complying with Item 402(u). *See, e.g.,* note 24. The description of the methodology required by Instruction 4 of Item 402(u) requires a registrant to include an explanation of any material assumptions and adjustments used.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM16–20–000; Order No. 837]

Remedial Action Schemes Reliability Standard

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission approves Reliability Standard PRC–012–2 (Remedial Action Schemes) submitted by the North American Electric Reliability Corporation. The purpose of Reliability Standard PRC–012–2 is to ensure that remedial action schemes do not introduce unintentional or unacceptable reliability risks to the bulk electric system.

DATES: This rule will become effective November 27, 2017.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Order No. 837

Final Rule

(Issued September 20, 2017)

1. Pursuant to section 215 of the Federal Power Act (FPA), the Federal Energy Regulatory Commission (Commission) approves Reliability Standard PRC–012–2 (Remedial Action Schemes).[1] The North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), submitted Reliability Standard PRC–012–2 for approval. The purpose of Reliability Standard PRC–012–2 is to ensure that remedial action schemes do not introduce unintentional or unacceptable reliability risks to the bulk electric system. In addition, the Commission approves the associated violation risk factors and violation severity levels, implementation plan, and effective date proposed by NERC. The Commission also approves the retirement of currently-effective Reliability Standards PRC–015–1 and PRC–016–1 as well as NERC's request to withdraw proposed Reliability Standards PRC–012–1, PRC–013–1, and PRC–014–1, which are now pending before the Commission.

I. Background

A. Section 215 and Mandatory Reliability Standards

2. Section 215 of the FPA requires a Commission-certified ERO to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval.[2] Once approved, the Reliability Standards may be enforced by the ERO subject to Commission oversight or by the Commission independently.[3] In 2006, the Commission certified NERC as the ERO pursuant to section 215 of the FPA.[4]

B. Order No. 693

3. On March 16, 2007, the Commission issued Order No. 693, approving 83 of the 107 Reliability Standards filed by NERC, including Reliability Standards PRC–015–1 (Remedial Action Scheme Data and Documentation) and PRC–016–1 (Remedial Action Scheme Misoperation).[5] Reliability Standard PRC–015–1 requires transmission owners, generator owners, and distribution providers to maintain a listing; retain evidence of review; and provide documentation of existing, new or functionally modified special protection systems.[6] Reliability Standard PRC–016–1 requires transmission owners, generator owners, and distribution providers to provide the regional reliability organization with documentation, analyses and corrective action plans for misoperation of special protection systems.[7]

4. In Order No. 693, the Commission determined that then-proposed Reliability Standard PRC–012–0 was a ''fill-in-the-blank'' Reliability Standard because, while it would require regional reliability organizations to ensure that all special protection systems are properly designed, meet performance requirements, and are coordinated with other protection systems, NERC had not submitted any regional review procedures with the proposed Reliability Standard.[8] Similarly, the Commission determined that proposed Reliability Standard PRC–013–0 was a ''fill-in-the-blank'' Reliability Standard because, although it was intended to ensure that all special protection systems are properly designed, meet performance requirements, and are coordinated with other protection systems by requiring the regional reliability organization to maintain a database of information on special protection systems, NERC had not filed any regional procedures for maintaining the databases.[9] Further, the Commission determined that proposed Reliability Standard PRC–014–0 was a ''fill-in-the-blank'' Reliability Standard because, while it was proposed to ensure that special protection systems are properly designed, meet performance requirements, and are coordinated with other protection systems by requiring the regional reliability organization to assess and document the operation, coordination, and compliance with NERC Reliability Standards and effectiveness of special protection systems at least once every five years, NERC had not submitted any regional procedures for this assessment and documentation.[10] The Commission stated that it would not approve or remand proposed Reliability Standards PRC–012–0, PRC–013–0 or PRC–014–0 until NERC submitted the additional necessary information to the Commission.[11]

C. Remedial Action Schemes

5. On June 23, 2016, the Commission approved NERC's revision to the NERC Glossary of Terms Used in NERC Reliability Standards (NERC Glossary) that redefines special protection system to have the same definition as remedial action scheme, effective April 1, 2017.[12] The NERC Glossary defines remedial action scheme to mean:

> A scheme designed to detect predetermined System conditions and automatically take corrective actions that may include, but are not limited to, adjusting or tripping generation (MW and Mvar), tripping load, or reconfiguring a System(s). [Remedial Action Schemes (RAS)] accomplish objectives such as:
> • Meet requirements identified in the NERC Reliability Standards;
> • Maintain Bulk Electric System (BES) stability;
> • Maintain acceptable BES voltages;
> • Maintain acceptable BES power flows;
> • Limit the impact of Cascading or extreme events.[13]

The revised remedial action scheme definition also identifies fourteen items that do not individually constitute a remedial action scheme.

D. NERC Petition and Reliability Standard PRC–012–2

6. On August 5, 2016, NERC submitted a petition seeking Commission approval of proposed Reliability Standard PRC–012–2.[14] NERC contended that Reliability Standard PRC–012–2 is just, reasonable, not unduly discriminatory or preferential, and in the public interest.[15] NERC explained that the intent of

[1] 16 U.S.C. 824o.

[2] *Id.* 824o(c), (d).

[3] *Id.* 824o(e).

[4] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062 (ERO Certification Order), *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).

[5] *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, FERC Stats. & Regs. ¶ 31,242, *order on reh'g,* Order No. 693–A, 120 FERC ¶ 61,053 (2007).

[6] *Id.* PP 1529–1533.

[7] *Id.* PP 1534–1540.

[8] *Id.* PP 1517–18, 1520. The Commission used the term ''fill-in-the-blank'' standards to refer to proposed Reliability Standards that required the regional reliability organizations to develop at a later date criteria for use by users, owners or operators within each region. *Id.* P 297.

[9] *Id.* PP 1521, 1522, 1524.

[10] *Id.* PP 1525, 1526, 1528.

[11] *Id.* PP 1520, 1524, 1528.

[12] *N. Am. Elec. Reliability Corp.,* Docket No. RD16–5–000 (June 23, 2016) (delegated letter order); NERC Glossary, *http://www.nerc.com/files/glossary_of_terms.pdf.*

[13] NERC Glossary, *http://www.nerc.com/files/glossary_of_terms.pdf; see also Revisions to Emergency Operations Reliability Standards; Revisions to Undervoltage Load Shedding Reliability Standards; Revisions to the Definition of ''Remedial Action Scheme'' and Related Reliability Standards,* Order No. 818, 153 FERC ¶ 61,228, at PP 24, 31 (2015).

[14] Reliability Standard PRC–012–2 is not attached to this Final Rule. The Reliability Standard is available on the Commission's eLibrary document retrieval system in Docket No. RM16–20–000 and is posted on NERC's Web site, *http://www.nerc.com.*

[15] NERC Petition at 2.

Reliability Standard PRC–012–2 is to supersede ''pending'' Reliability Standards PRC–012–1, PRC–013–1, and PRC–014–1 and to retire and replace currently-effective Reliability Standards PRC–015–1 and PRC–016–1.[16] NERC stated that Reliability Standard PRC–012–2 represents substantial improvements over these Reliability Standards because it streamlines and consolidates existing requirements; corrects the applicability of previously unapproved Reliability Standards; and implements a continent-wide remedial action scheme review program.[17]

7. NERC stated that, in the United States, Reliability Standard PRC–012–2 will apply to reliability coordinators, planning coordinators, and remedial action scheme-entities. Reliability Standard PRC–012–2 defines remedial action scheme-entities to include each transmission owner, generation owner, or distribution provider that owns all or part of a remedial action scheme.

8. NERC stated that Reliability Standard PRC–012–2 includes nine requirements that combine all existing (both effective and ''pending'') Reliability Standards mentioned above into a single, consolidated, continent-wide Reliability Standard to address all aspects of remedial action schemes.[18] NERC explained that all of the requirements in Reliability Standard PRC–012–1 except R2 are now covered in Requirements R1, R2, R3, R4, R5, R6, and R8 of Reliability Standard PRC–012–2.[19] NERC maintained that Reliability Standard PRC–012–1, Requirement R2 is ''administrative in nature and does not contribute to reliability.'' [20] NERC also stated that it established Reliability Standard PRC–012–2, Requirement R9 to replace the mandate in Reliability Standard PRC–013–1 that responsible entities maintain a remedial action scheme database with pertinent technical information for each remedial action scheme.[21] NERC explained that Reliability Standard PRC–012–2, Requirements R4 and R6 cover the review and the mandate to take corrective action required by Reliability Standard PRC–014–1.[22] NERC stated that it integrated the performance requirements in Reliability Standard PRC–015–1 into Reliability Standard PRC–012–2, Requirements R1, R2, and R3.[23] NERC also asserted that it integrated the performance requirements in Reliability Standard PRC–016–1 into Reliability Standard PRC–012–2, Requirements R5, R6, and R7.[24]

9. NERC explained how the nine Requirements in Reliability Standard PRC- 012–2 work together and with other Reliability Standards. According to NERC, Requirements R1, R2, and R3, together, establish a process for the reliability coordinator to review new or modified remedial action schemes.[25] The reliability coordinator must complete the review before an entity places a new or functionally modified remedial action scheme into service.

10. Requirement R4 requires the planning coordinator to perform a periodic evaluation of each remedial action scheme within its planning area, at least once every five years.[26] The evaluation must determine, *inter alia,* whether each remedial action scheme: (1) Mitigates the system conditions or contingencies for which it was designed; and (2) avoids adverse interactions with other remedial action scheme and protection systems. Requirement R4, Part 4.1.3 footnote 1 defines a certain subset of remedial action schemes as ''limited impact.'' Requirement R4, Part 4.1.3 footnote 1 states: ''A RAS designated as limited impact cannot, by inadvertent operation or failure to operate, cause or contribute to BES Cascading, uncontrolled separation, angular instability, voltage instability, voltage collapse, or unacceptably damped oscillations.'' [27] Further, Requirement R4, Parts 4.1.3, 4.1.4, and 4.1.5 provide certain exceptions to ''limited impact'' remedial action schemes. For example, Part 4.1.5 states that:

> Except for limited impact RAS, a single component failure in the RAS, when the RAS is intended to operate does not prevent the BES from meeting the same performance requirements (defined in Reliability Standard TPL–001–4 or its successor) as those required for the events and conditions for which the RAS is designed.[28]

NERC explained that Requirement R4 ''does not supersede or modify [planning coordinator] responsibilities under Reliability Standard TPL–001–4.'' [29] NERC continued that even though Part 4.1.5 exempts ''limited impact'' remedial action schemes from certain aspects of Reliability Standard PRC–012–2, Requirement R4 does not exempt ''limited impact'' remedial actions schemes from meeting each of the performance requirements in Reliability Standard TPL–001–4.[30]

11. NERC stated that prior to development of Reliability Standard PRC–012–2, two NERC Regions, the Northeast Power Coordinating Council (NPCC) and the Western Electric Coordinating Council (WECC), used their own remedial action scheme classification regimes to identify remedial action schemes that would meet criteria similar to those for remedial action schemes described as ''limited impact'' in Reliability Standard PRC–012–2.[31] NERC continued that the standard drafting team identified the Local Area Protection Scheme (LAPS) classification in WECC and the Type III classification in NPCC as consistent with the ''limited impact'' designation.[32] According to NERC, remedial action schemes implemented prior to the effective date of Reliability Standard PRC–012–2 that have gone through the regional review processes of WECC or NPCC and that are classified as either a LAPS by WECC or a Type III by NPCC would be considered a ''limited impact'' remedial action scheme for purposes of Reliability Standard PRC–012–2.[33]

12. Requirements R5, R6, and R7 pertain to the analysis of each remedial action scheme operation or misoperation.[34] A remedial action scheme-entity must perform an analysis of each remedial action scheme operation or misoperation and provide the results to the reviewing reliability coordinator. Further, the remedial action scheme-entity must develop and submit a corrective action plan to the reviewing reliability coordinator after learning of a deficiency with its remedial action scheme, implement the corrective action plan, and update it as necessary. Requirement R8 requires periodic testing of remedial action scheme performance: Every six years for normal remedial action schemes and every 12 years for ''limited impact'' remedial action schemes.[35] Requirement R9 requires the reliability coordinator to annually update its remedial action scheme database.[36]

[16] NERC noted that it submitted ''for completeness'' revised versions of Reliability Standards PRC–012–1, PRC–013–1, and PRC–014–1 in its petition to revise the definition of remedial action scheme, but NERC did not request Commission approval of the revised Reliability Standards in that proceeding. Id. at 1 n.5.

[17] *Id.* at 12–13.

[18] *Id.* at 3.

[19] *Id.* at 40.

[20] *Id.* at 41.

[21] *Id.* at 42.

[22] *Id.*at 43.

[23] *Id.* at 43–44.

[24] *Id.* at 44–45.

[25] *Id.* at 15–18.

[26] *Id.* at 18–22.

[27] *Id.* at 19 & n.44.

[28] *Id.* at 19.

[29] *Id.* at 28.

[30] *Id.* at 28–29.

[31] *Id.* at 25.

[32] *Id.*at 25–26.

[33] *Id.* at 26.

[34] *Id.* at 29–34.

[35] *Id.* at 34–36.

[36] *Id.* at 36–38.

13. NERC proposed an implementation plan that includes an effective date for Reliability Standard PRC–012–2 that is the first day of the first calendar quarter that is thirty-six months after the date that the Commission approves the Reliability Standard. Concurrent with the effective date, the implementation plan calls for the retirement of currently-effective Reliability Standards PRC–015–1 and PRC–016–1 and withdrawal of ''pending'' Reliability Standards PRC–012–1, PRC–013–1, and PRC–014–1.

E. Notice of Proposed Rulemaking

14. On January 19, 2017, the Commission issued a Notice of Proposed Rulemaking proposing to approve Reliability Standard PRC–012–2.[37] The NOPR also proposed to clarify that, consistent with NERC's representation in its petition, Reliability Standard PRC–012–2 will not modify or supersede any system performance obligations under Reliability Standard TPL–001–4.[38] In addition, the NOPR proposed to approve the associated violation risk factors and violation severity levels, implementation plan, and effective date proposed by NERC.[39] The NOPR further proposed to approve the withdrawal of ''pending'' Reliability Standards PRC–012–1, PRC–013–1, and PRC–014–1 and retirement of currently-effective Reliability Standards PRC–015–1 and PRC–016–1, as proposed by NERC.[40]

15. In response to the NOPR, entities filed seven sets of comments. We address below the issues raised in the NOPR and comments. The Appendix to this Final Rule lists the entities that filed comments in response to the NOPR.

II. Discussion

16. Pursuant to section 215(d)(2) of the FPA, we hereby approve Reliability Standard PRC–012–2.[41] Reliability Standard PRC–012–2 promotes efficiency and clarity by addressing all aspects of remedial action schemes in a single, continent-wide Reliability Standard. Reliability Standard PRC–012–2 enhances reliability by assigning specific remedial action scheme responsibilities to appropriate functional entities. Further, Reliability Standard PRC–012–2 improves reliability by establishing a centralized process to review new or modified remedial action schemes prior to implementation, by requiring periodic evaluations, tests, and operational analyses of each remedial action scheme, and by requiring an annual update of an area-wide remedial action scheme database. We determine that Reliability Standard PRC–012–2 satisfies the relevant directives in Order No. 693 for the ERO to provide additional information regarding review procedures for remedial action schemes (then called special protection systems) and to establish continent-wide uniformity.[42]

17. We also approve the associated violation risk factors and violation severity levels, implementation plan, and effective date proposed by NERC. In addition, we approve, upon the effective date of Reliability Standard PRC–012–2, the withdrawal of pending Reliability Standards PRC–012–1, PRC–013–1, and PRC–014–1 and the retirement of currently-effective Reliability Standards PRC–015–1 and PRC–016–1 due to their consolidation with proposed Reliability Standard PRC–012–2.

A. Impact of Reliability Standard PRC–012–2 on Compliance With Reliability Standard TPL–001–4

NOPR

18. The NOPR sought comments on its proposal to clarify that Reliability Standard PRC–012–2 will not modify or supersede any system performance obligation under Reliability Standard TPL–001–4. The NOPR also sought comments on the processes used to ensure LAPS or Type III remedial action schemes' compliance with Reliability Standard TPL–001–4 prior to the effective date of Reliability Standard PRC–012–2.

Comments

19. NERC, Joint ISOs, and the EEI support the Commission's proposal to approve Reliability Standard PRC–012–2 with a clarification that it does not modify or supersede any system performance obligations under Reliability Standard TPL–001–4.[43] NERC states that Reliability Standard PRC–012–2 merely adds design, implementation, and review requirements ensuring that remedial action schemes enhance reliability and do not introduce unintentional or unacceptable reliability risks.[44] NERC and Joint ISOs state that Reliability Standard PRC–012–2 does not supersede or modify the system performance requirements of Reliability Standard TPL–001–4 because responsible entities must still assume that all remedial action schemes operate correctly, guaranteeing a non-consequential load loss by less than 75 MW.[45] Joint ISOs believe that no clarification to Reliability Standard PRC–012–2 is necessary; but if the Commission determines that some clarification is necessary, the Commission may confirm that under Reliability Standard TPL–001–4, responsible entities can assume that all remedial action schemes operate as designed.[46] EEI states that while it is unlikely that the exceptions in Reliability Standard PRC–012–2 would be interpreted by industry as exempting any of the performance requirements in Reliability Standard TPL–001–4, EEI is supportive of the proposed clarification since such clarification would remove any ambiguity.[47]

20. NESCOE contends that, absent confirmation that Reliability Standard TPL–001–4 allows responsible entities to assume that all remedial action schemes operate properly, a clarification that Reliability Standard PRC–012–2 does not modify or supersede any system performance obligations under Reliability Standard TPL–001–4 may be misinterpreted by entities, requiring actions that would increase material costs without benefit.[48] NESCO states that reliability gains must be measured against the risk and cost associated with any standard.[49]

21. NERC states that LAPS in WECC and Type III remedial actions schemes in NPCC must be compliant with Reliability Standard TPL–001–4 before and after the effective date of proposed Reliability Standard PRC–012–2.[50] According to NERC, Reliability Standard TPL–001–4 does not distinguish between different types of remedial action schemes or exempt LAPS or Type III remedial action schemes from any of the performance requirements.[51] NERC and Joint ISOs state that additional regional controls that maintain remedial action scheme compliance with the performance requirements of Reliability Standard TPL–001–4 are in place.[52]

[37] *Remedial Action Schemes Reliability Standard,* Notice of Proposed Rulemaking, 82 FR 9702 (Jan. 19, 2017), 158 FERC ¶ 61,042 (2017) (NOPR).

[38] NOPR, 158 FERC ¶ 61,042 at P 16.

[39] *Id.* P 14.

[40] *Id.*

[41] 16 U.S.C. 824o(d)(2).

[42] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at PP 297–298, 1517–1520.

[43] NERC Comments at 4; Joint ISO Comments at 2; EEI Comments at 4.

[44] NERC Comments at 5.

[45] *Id.* at 5; Joint ISO Comments at 2.

[46] Joint ISO Comments at 2.

[47] EEI Comments at 4.

[48] NESCO Comments at 2.

[49] *Id.*

[50] NERC Comments at 5.

[51] *Id.* at 6.

[52] *Id.;* Joint ISO Comments at 3.

22. EEI questions the relevancy of asking the industry to comment on WECC LAPS or NPCC Type III remedial action schemes reclassification as ''limited impact'' remedial action schemes.[53] EEI contends that once the Commission approves Reliability Standard PRC–012–2, WECC and NPCC must be compliant regardless. EEI believes that insights into processes ensuring compliance with Reliability Standard PRC–012–2 are irrelevant.[54]

Commission Determination

23. We adopt our NOPR proposal and clarify that Reliability Standard PRC–012–2 does not modify or supersede any system performance obligations under Reliability Standard TPL–001–4. We agree with and, thus, adopt NERC's explanation:

> Nothing in proposed Reliability Standard PRC–012–2 or the designation of a RAS as ''limited impact'' exempts an entity from meeting its performance requirements under [Reliability Standard] TPL–001–4, including the requirement that Non-Consequential Load Loss may not exceed 75 MW for certain Category P1, P2, or P3 contingencies, as provided in Table 1 and footnote 12 of TPL–001–4.
>
> In performing the assessments required pursuant to Reliability Standard TPL–001–4, an entity must consider all RAS, whether designated as ''limited impact'' or not. While Reliability Standard TPL–001–4, Requirement R2, Part 2.7.1 recognizes that entities may use a RAS as a method for meeting the performance obligations of Table 1, TPL–001–4 does not distinguish between different types of RAS. As such, entities must satisfy the performance requirements of TPL–001–4 considering the actions of ''limited impact'' RAS and non-limited impact RAS alike.[55]

This clarification should help entities avoid confusion regarding compliance obligations when implementing PRC–012–2.

24. In addition, we accept NERC's assurance that LAPS in WECC and Type III remedial actions schemes in NPCC must be compliant with Reliability Standard TPL–001–4 before and after the effective date of proposed Reliability Standard PRC–012–2.[56]

B. Definition of ''Limited Impact'' Remedial Action Schemes

NOPR

25. The NOPR sought comment on whether NERC should define the term ''limited impact'' remedial action schemes in the NERC Glossary.

Comments

26. NERC, Joint ISOs, and EEI contend that NERC should not define the term ''limited impact'' remedial action scheme in the NERC Glossary.[57] NERC states that it typically develops terms in the NERC Glossary for one of two reasons: ''(1) To establish a single meaning for a term or concept used across several different Reliability Standards or multiple times within a single Reliability Standard, or (2) to provide for a more readable standard by creating a shorthand reference to avoid unnecessary repetition.'' [58] NERC contends that neither reason exists for ''limited impact'' remedial action schemes.[59]

27. NERC and EEI maintain that remedial action schemes vary widely in complexity and impact on the bulk electric system.[60] NERC and EEI explain that NERC should not define ''limited impact'' remedial action schemes because not all remedial action schemes impact the bulk electric system similarly and the diversity of remedial action schemes makes it difficult to establish a common definition for North America.[61]

28. NERC, Joint ISOs, and EEI assert that other comprehensive lists may establish a baseline definition for ''limited impact'' remedial action schemes.[62] Joint ISOs note that the performance criteria described in Reliability Standard PRC–012–2, Requirement 4.1.3, footnote 1 provide an adequate level of guidance.[63] MISO contends that NERC need not define ''limited impact'' remedial action scheme in the NERC Glossary.[64]

29. Bonneville and ITC contend that NERC should define the term ''limited impact'' remedial action schemes in the NERC Glossary.[65]Bonneville states that the footnote in Reliability Standard PRC–012–2 only reiterates the substantive requirements of ''limited impact'' remedial action schemes under Requirement R4.3.1 and does not clarify how ''limited impact'' remedial action schemes differ from normal remedial action schemes.[66] Bonneville proposes the following definition for ''limited impact'' remedial action schemes:

> A remedial action scheme whose operation or misoperation only affects the local area defined by the RAS-entity that owns all of part of the remedial action scheme and does not affect the BES of any adjacent Transmission Owners, Transmission Operators, Generation Owners, or Generation Operators.[67]

ITC also states that the Commission should issue a directive to NERC to define ''limited impact'' remedial action schemes in the NERC Glossary.[68] ITC states that doing so avoids confusion while ensuring consistency, facilitates the use of the term in other Reliability Standards, and enhances the overall usefulness of the NERC Glossary.[69]

Commission Determination

30. We determine not to require NERC to define ''limited impact'' remedial action schemes in the NERC Glossary. We agree with NERC, Joint ISOs, and EEI that a definition of ''limited impact'' remedial action schemes is unnecessary at this time given the diversity among the different types, functions, and placements of remedial action schemes across North America. In addition, only Reliability Standard PRC–012–2 uses the term ''limited impact'' remedial action schemes, thus eliminating one of the principal reasons for normally including terms in the NERC Glossary (*i.e.,* to establish a single meaning for a term or concept used across several different Reliability Standards). Should this situation change, the Commission may reconsider this determination.

C. Other Issues

Comments

31. MISO contends that the Commission should not approve Reliability Standard PRC–012–2 as proposed.[70] MISO contends that oversight of remedial action schemes would be difficult for reliability coordinators and planning coordinators when remedial action schemes span multiple footprints.[71] MISO also contends that Reliability Standard PRC–

[53] EEI Comments at 5.

[54] *Id.*

[55] NERC Comments at 5. In response to the requests by Joint ISOs and NESCOE for confirmation that Reliability Standard TPL–001–4 allows responsible entities to assume that all remedial action schemes operate properly, the Commission declines to interpret Reliability Standard TPL–001–4 in this proceeding. However, this Final Rule approving Reliability Standard PRC–012–2 in no way modifies the requirements of Reliability Standard TPL–001–4 or the compliance obligations associated with Reliability Standard TPL–001–4.

[56] We note that WECC's and NPCC's remedial action scheme criteria and associated regional terms found in the ''Technical Justification'' section of Reliability Standard PRC–012–2 were not submitted for approval by NERC and as such are not part of this proceeding.

[57] NERC Comments at 8; Joint ISO Comments at 3; EEI at 5.

[58] NERC Comments at 8.

[59] *Id.*

[60] NERC Comments at 9; EEI Comments at 5.

[61] *Id.*

[62] NERC Comments at 9; Joint ISO Comments at 3; EEI Comments at 6.

[63] Joint ISO Comments at 3–4.

[64] MISO Comments at 6.

[65] Bonneville Comments at 2; ITC Comments at 1.

[66] Bonneville Comments at 2.

[67] *Id.*

[68] ITC Comments at 1.

[69] *Id.* at 2.

[70] MISO Comments at 2.

[71] *Id.*

012–2 creates a geographical variation in transmission system characteristics which result in uneven distribution of coordination burden and duplicative work on remedial action schemes.[72] MISO contends that the planning assessment performance requirements in Reliability Standard PRC–012–2 are better placed in Reliability Standard TPL–001–4 to avoid redundancies.[73] Finally, MISO proposes a five-year evaluation of remedial action schemes, which includes a renewal requirement to benefit efficient operations.[74]

32. Bonneville contends that Reliability Standard PRC–012–2, Requirement R2 gives reliability coordinators too much time to complete reviews of remedial action schemes.[75] Bonneville states that Reliability Standard PRC–012–2, Requirement R2 provides reliability coordinators four calendar months to review a remedial action scheme.[76] Bonneville states that in the Western Interconnection, these reviews are currently completed in two weeks. Bonneville continues that Reliability Standard PRC–012–2 allows an additional fourteen weeks for review, which would prevent Bonneville from completing remedial action scheme projects in a timely manner.[77] Bonneville proposes that Reliability Standard PRC–012–2, Requirement R2 should require reliability coordinators to complete their reviews within four weeks.[78]

Commission Determination

33. MISO's opposition to Reliability Standard PRC–012–2 is largely based on perceived ''inefficiencies'' created by the Reliability Standard because it allegedly lacks regional coordination between reliability coordinators and planning coordinators and because of ''redundancies'' between PRC–012–2 and Reliability Standard TPL–001–4. We are not persuaded that MISO's concerns justify remanding Reliability Standard PRC–012–2. As discussed above, we determine that the Reliability Standard PRC–012–2 satisfies section 215(d)(2) of the FPA in that it is just, reasonable, not unduly discriminatory or preferential, and in the public interest. MISO accepts that Reliability Standard PRC–012–2 ''shifts responsibility from the eight Regional Reliability Organizations (RROs) to Reliability Coordinators and Planning Coordinators'' and MISO ''agrees that the Reliability Coordinators and Planning Coordinators are best positioned to perform review and evaluation tasks associated with RAS.''[79] We also note that other commenters, including Joint ISOs, do not share MISO's concerns and support approval of Reliability Standard PRC–012–2 as drafted.[80] To the extent that MISO continues to believe that improvements should be made to Reliability Standard PRC–012–2, MISO may pursue any modifications through the NERC standards development process.[81]

34. We are not persuaded by Bonneville's comments regarding the period that reliability coordinators have to review remedial action schemes. NERC stated that Reliability Standard PRC–012–2, Requirement R2 establishes a comprehensive, consistent review process that includes a detailed checklist that reliability coordinators must use to identify design and implementation aspects of the remedial action schemes that are critical to an effective framework.[82] NERC also stated that allowing four months to complete this detailed review is consistent with industry practice, provides adequate time for a complete review, and includes additional flexibility for unique or unforeseen circumstances.[83] While four calendar months may be longer than what is typical in the Western Interconnection, we determine that NERC's proposal is reasonable because it provides a single, consistent, continent-wide timeframe for reviews. Moreover, as Bonneville recognizes, Reliability Standard PRC–012–2, Requirement R2 permits entities to use a mutually agreed upon schedule instead of the four-month default timeline provided for in Requirement R2. Accordingly, Bonneville's request is denied on this issue.

III. Information Collection Statement

35. The collection of information addressed in this final rule is subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995.[84] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[85] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

36. *Public Reporting Burden:* The number of respondents below is based on an examination of the NERC compliance registry for reliability coordinators, planning coordinators, transmission owners, generation owners, and distribution providers and an estimation of how many entities from that registry will be affected by the proposed Reliability Standard. At the time of Commission review of Reliability Standard PRC–012–2, 15 reliability coordinators, 71 planning coordinators, 328 transmission owners, 930 generation owners, and 367 distribution providers in the United States were registered in the NERC compliance registry. However, under NERC's compliance registration program, entities may be registered for multiple functions, so these numbers incorporate some double counting. The Commission notes that many generation sites share a common generation owner.

37. Reliability Standards PRC–015–1 and PRC–016–1 are in the Reliability Standards approved in FERC–725A, (OMB Control No. 1902–0244). Reliability Standards PRC–015–1 and PRC–016–1 will be retired when Reliability Standard PRC–012–2 becomes effective, which will reduce the burden in FERC–725A.[86]

38. Reliability Standard PRC–012–2 sets forth Requirements for remedial action schemes to ensure that remedial action schemes do not introduce unintentional or unacceptable reliability risks to the bulk electric system and are coordinated to provide the service to the system as intended. Reliability Standard PRC–012–2 improves upon the existing Reliability Standards because it removes ambiguity in NERC's original ''fill-in-the-blank'' Reliability Standards by assigning responsibility to appropriate

[72] *Id.* at 3.

[73] *Id.* at 4–5.

[74] *Id.* 6–7.

[75] Bonneville Comments at 2.

[76] *Id.*

[77] *Id.* at 3.

[78] *Id.*

[79] MISO Comments at 2.

[80] Joint ISOs Comments at 1.

[81] With respect to MISO's proposal that each remedial action scheme be renewed every five years, NERC explained that Reliability Standard PRC–012–2, Requirement R4 provides for periodic remedial action scheme evaluations (*i.e.,* at least every five years) by planning coordinators that will result in one of three determinations: (1) Affirmation that the existing remedial action scheme is effective; (2) identification of changes needed to the existing remedial action scheme; or (3) justification for remedial action scheme retirement. NERC Petition at 21. Provided that the remedial action scheme is determined to be effective, is made effective, or retired, we see no reliability reason to direct inclusion of an additional renewal sub-requirement.

[82] NERC Petition at 17.

[83] *Id.*

[84] 44 U.S.C. 3507(d).

[85] 5 CFR 1320.11.

[86] The Commission is being conservative and not subtracting hours at this time from FERC–725A.

functional entities. Reliability Standard PRC–012–2 also streamlines and consolidates the remedial action scheme Reliability Standards into one clear, effective Reliability Standard under Information Collection FERC–725G.

39. The following table illustrates the estimated burden to be applied to FERC–725G information collection.[87]

FERC–725G IN RM16–20–000

[Mandatory Reliability Standards: Reliability Standard PRC–012–2]

Requirement and respondent category for PRC–012–2	Number of respondents (1)	Number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hours & cost per response[88] (4)	Annual burden hours & total annual cost (3) * (4) = (5)
R1. Each RAS-entity (TO, GO, DP).	1,595	1	1,595	(Eng.) 24 hrs. ($1,543); (R.K.) 12 hrs. ($453).	57,420 hrs. (38,280 Eng., 19,140 R.K.); $3,183,556 ($2,461,021 Eng., $722,535 R.K.)
R2. Each Reliability Coordinator.	15	1	15	(Eng.) 16 hrs. ($1,029); (R.K.) 4 hrs. ($151).	300 hrs. (240 Eng., 60 R.K.); $17,695 ($15,430 Eng., $2,265 R.K.)
R4. Each Planning Coordinator	71	1	71	(Eng.) 16 hrs. ($1,029); (R.K.) 4 hrs. ($151).	1,420 hrs. (1,136 Eng., 284 R.K.); $85,754 ($73,033 Eng., $10,721 R.K.)
R5, R6, R7, and R8. Each RAS-entity (TO, GO, DP).	1,595	1	1,595	(Eng.) 24 hrs. ($1,543); (R.K.) 12 hrs. ($453).	57,420 hrs. (38,280 Eng., 19,140 R.K.); $3,183,556 ($2,461,021 Eng., $722,535 R.K.)
R9. Each Reliability Coordinator.	15	1	15	(Eng.) 10 hrs. ($653); (R.K.) 4 hrs. ($151).	210 hrs. (150 Eng., 60 R.K.); $11,909 ($9,644 Eng., $2,265 R.K.)
Total			3,291		116,770 hrs. (78,086 Eng., 38,684 R.K.); $6,480,470 ($5,020,149 Eng.; $1,460,321 R.K.)

Title: FERC–725A (Mandatory Reliability Standards); FERC–725G (Mandatory Reliability Standards: PRC–012–2).

Action: Revision to existing collections.

OMB Control No: 1902–0244 (FERC–725A); 1902–0252 (FERC–725G).

Respondents: Business or other for profit, and not for profit institutions.

Frequency of Responses: Annually.

Necessity of the Information: Reliability Standard PRC–012–2 sets forth Requirements for remedial action schemes to ensure that remedial action schemes do not introduce unintentional or unacceptable reliability risks to the bulk electric system and are coordinated to provide the service to the system as intended.

Internal Review: The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

40. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, Office of the Executive Director, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

41. Comments concerning the information collection in this Final Rule and the associated burden estimates should be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at the following email address: *oira_submission@omb.eop.gov.* Please reference FERC–725A and FERC–725G and the docket number of this Final Rule, Docket No. RM16–20–000, in your submission.

IV. Environmental Analysis

42. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[89] The action proposed here falls within the categorical exclusion in the Commission's regulations for rules that are clarifying, corrective or procedural, for information gathering, analysis, and dissemination.[90]

V. Regulatory Flexibility Act

43. The Regulatory Flexibility Act of 1980 (RFA) generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities.[91]

44. In the NOPR, the Commission proposed that Reliability Standard PRC–012–2 will apply to approximately 1681 entities in the United States.[92] The Commission did not receive any comments on the impact on small entities. Comparison of the applicable entities with the Commission's small business data indicates that approximately 1,025 are small entities or 61 percent of the respondents affected by proposed Reliability Standard PRC–012–2.[93] The Commission estimates for these small entities, Reliability Standard PRC–012–2 may need to be evaluated and documented every five years with a cost of $6,322 for each evaluation. The Commission views this as a minimal economic impact for each entity. Accordingly, the Commission certifies that Reliability Standard PRC–012–2 will not have a significant economic impact on a substantial number of small entities.

[87] In the burden table, engineering is abbreviated as ''Eng.'' and record keeping is abbreviated as ''R.K.''

[88] The estimates for cost per response are derived using the following formula: Burden Hours per Response * $/hour = Cost per Response. The $64.29/hour figure for an engineer and the $37.75/hour figure for a record clerk are based on the average salary plus benefits data from the Bureau of Labor Statistics.

[89] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

[90] 18 CFR 380.4(a)(2)(ii).

[91] 5 U.S.C. 601–612.

[92] NOPR, 158 FERC ¶ 61,042 at P 26.

[93] The Small Business Administration sets the threshold for what constitutes a small business. Public utilities may fall under one of several different categories, each with a size threshold based on the company's number of employees, including affiliates, the parent company, and subsidiaries. For the analysis in this rulemaking, we apply a 500 employee threshold for each affected entity. Each entity is classified as Electric Bulk Power Transmission and Control (NAICS code 221121).

VI. Document Availability

45. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington DC 20426.

46. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

47. User assistance is available for eLibrary and the Commission's Web site during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202)502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

VII. Effective Date and Congressional Notification

48. The final rule is effective November 27, 2017. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule is being submitted to the Senate, House, and Government Accountability Office.

By the Commission.

Issued: September 20, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

Appendix

Bonneville Power Administration (Bonneville)
Edison Electric Institute (EEI)
International Transmission Company d/b/a ITC Transmission, Michigan Electric Transmission Company, LLC, ITC Midwest LLC and ITC Great Plains, LLC (together, ITC)
Midcontinent Independent System Operator, Inc. (MISO)
New England States Committee on Electricity (NESCOE)
New York Independent System Operator, Independent Electricity System Operator, ISO New England, Inc. and Electric Reliability Council of Texas, Inc. (together, Joint ISOs)
North American Electric Reliability Corporation (NERC)

[FR Doc. 2017–20669 Filed 9–26–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 31

[TD 9824]

RIN 1545–BN58

Withholding on Payments of Certain Gambling Winnings

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations with respect to the withholding from, and the information reporting on, certain payments of gambling winnings from horse races, dog races, and jai alai and on certain other payments of gambling winnings. The final regulations affect both payers and payees of the gambling winnings.

DATES: *Effective date:* These regulations are effective on September 27, 2017.

Applicability Dates: For dates of applicability, see §§ 31.3402(q)–1(g) and 31.3406(g)–2(h).

FOR FURTHER INFORMATION CONTACT: David Bergman, (202) 317–6845 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations in Title 26 of the Code of Federal Regulations under section 3402 of the Internal Revenue Code (Code). The final regulations amend, update, and clarify the existing withholding and information reporting requirements for certain gambling winnings under § 31.3402(q)–1 of the Employment Tax Regulations, and make conforming changes to § 31.3406(g)–2.

On December 30, 2016, the Treasury Department and the IRS published a notice of proposed rulemaking (REG–123841–16) in the **Federal Register**, 81 FR 96406, containing proposed regulations that would provide a new rule regarding how payers determine the amount of the wager in parimutuel wagering transactions with respect to horse races, dog races, and jai alai, and that would update the existing rules to reflect current law regarding the withholding thresholds and certain information reporting requirements.

Over 2,700 written public comments were received in response to the notice of proposed rulemaking. No public hearing was requested. After careful consideration of the written comments, the proposed regulations are adopted as modified by this Treasury Decision.

Explanation and Summary of Comments

All of the written comments on the notice of proposed rulemaking were considered and are available at *www.regulations.gov* or upon request. Many of these comments addressed similar issues and expressed similar points of view. These comments are summarized in this preamble.

Rule for Determining the Amount of the Wager in the Case of Horse Races, Dog Races, and Jai Alai

The proposed regulations contained a new rule for determining the amount of the wager in the case of horse races, dog races, and jai alai to allow all wagers placed in a single parimutuel pool and represented on a single ticket to be aggregated and treated as a single wager. Commenters largely supported the proposed rules because they believe that the rules accurately and fairly reflect parimutuel wagering realities.

Some commenters raised concerns that the single ticket requirement in the proposed regulations did not address electronic wagering. Commenters stated that in horse racing a paper ticket can only accommodate six separate lines of bets. In contrast, electronic wagering utilizes an ''account wagering'' system that can accommodate dozens (or even hundreds) of lines of bets in a single parimutuel pool, allowing bettors to place more, customized wagers. As a result, some commenters requested a special rule for electronic wagering.

The proposed rule at § 31.3402(q)–1(c)(1)(ii) is specifically not limited to a paper ticket, but also includes an electronic record that is presented to collect proceeds from a wager or wagers placed in a single parimutuel pool. Therefore, the rule in proposed § 31.3402(q)–1(c)(1)(ii) is not dependent on the applicable industry's ticketing format. Further, despite the commenters concern regarding the limits on the number of lines a paper ticket can accommodate, the proposed regulations do not limit the number of bets on a single ticket nor do the proposed regulations contain a rule governing the number of bets that can be contained on a single, electronic record of a wagering transaction.

Another commenter stated that the single ticket requirement puts a person making an electronic bet at a disadvantage because it removes the opportunity to place bets in a single

parimutuel pool at multiple points in time throughout the allotted time period for wagering. The single ticket rule in the proposed regulations does not differentiate between electronic betting and placing a bet at a ticket window. Therefore, the proposed rule does not put an electronic bettor at a disadvantage. However, the comment brings to light that there is some confusion regarding how the rule applies in the context of electronic betting.

The single-ticket requirement in the proposed regulations allows aggregation of wagers that are placed in the same parimutuel pool if they are represented on a single ticket. This is the case regardless of whether the ticket is paper or electronic. This requirement was included in the proposed regulations to limit the potential for fraud, such as a winning bettor collecting losing tickets from another bettor or bettors who placed bets in the same parimutuel pool to artificially increase the amount of the wager. In addition, the single-ticket requirement improves administrability because it does not require payers to collect information reflected on multiple tickets. As the preamble to the proposed regulations explains, the single ticket requirement was not intended to limit the amount of the wager to bets placed at a single point in time because a ticket containing prior bets in a single pool can be cancelled, and the original and additional wagers in that pool can be placed on a new ticket. The fraud and administrability concerns that apply to paper tickets do not apply equally to electronic records because each person's bets are reflected on a single electronic wagering account. Accordingly, electronic bettors may aggregate wagers placed at different points in time without having to cancel prior wagers and place them on a new ticket as long as the wagers meet the requirements in the proposed rule—that is, they are placed in a single parimutuel pool and are represented on a single, electronic record.

Because the comments received in response to the proposed rule do not justify any change, the final regulations adopt the proposed rule without modification.

Effective/Applicability Dates

The proposed regulations provided that final regulations would apply to payments made after the date they are published in the **Federal Register**. Some commenters requested a delayed effective date to allow time for industry stakeholders to update their systems and seek any necessary state regulatory approval. One commenter specficially suggested that 45 days following publication of the final regulations would be sufficient time to perform such updates. In addition, the commenters suggested that the final rules be effective for wagering transactions with respect to winning events that occur after the date that the final rules are published in the **Federal Register**. The Treasury Department and IRS agree with these comments. Therefore, the final regulations are applicable to reportable gambling winnings paid with respect to a winning event that occurs on or after 45 days from the date the final regulations are published in the **Federal Register**. If they so choose, payers may rely on the provisions of the final regulations for payments made after the date the final regulations are published in the **Federal Register**, regardless of when the related winning event occurred.

Other Comments

Several commenters raised concerns regarding the thresholds for information reporting and withholding for certain gambling winnings. Another commenter requested that the regulations provide an exception to withholding under section 3402(q). Neither the threshold for information reporting with respect to gambling winnings not subject to withholding nor exceptions to section 3402(q) withholding were the focus of the proposed regulations. In addition, the withholding thresholds are defined by statute. These comments are outside the scope of the proposed regulations, and therefore the comments have not been adopted in the final regulations.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required.

It is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities. Although this rule may affect a substantial number of small entities, the economic impact is minimal because this rule merely provides guidance as to the statutory withholding rules and filing of information returns for payers who make reportable payments of certain gambling winnings and who are required by sections 3402 and 6041 to withhold and make returns reporting those payments. This rule reduces the existing burden on payers to comply with the statutory requirement by simplifying the process for payers to verify payees' identities with a broader range of documents that are more readily available.

This rule also will result in a reduction in the number of forms filed. Instead of treating all components of a bet made by a gambler in a single parimutuel pool as a separate amount wagered, the rules treat all amounts wagered in a single parimutuel pool reflected on a single ticket as the amount wagered for purposes of determining whether reporting or withholding is needed. For the reasons stated, the final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. Chapter 6) is not required.

Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on the regulations' impact on small businesses, and no comments were received.

Drafting Information

The principal author of these regulations is David Bergman of the Office of the Associate Chief Counsel (Procedure and Administration). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 31

Employment taxes, Fishing vessels, Gambling, Income taxes, Penalties, Pensions, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 31 is amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

■ **Par. 1.** The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 31.3402(q)–1 is amended:

■ 1. By revising paragraphs (a)(1), (b), and (c)(1) and (4).

■ 2. By redesignating paragraphs (d), (e) and (f) as paragraphs (f), (d), and (e), respectively.

■ 3. By revising newly designated paragraphs (d) and (e).

■ 4. By removing, in newly designated paragraph (f), Example 3 and Example

11, redesignating Examples 4 through 10 as Examples 3 through 9, and adding examples 10 through 16.

■ 5. By removing, in newly designated paragraph (f) the language ''example 4'' in newly designated Example 4 and adding in its place the language ''example 3'' and by removing the language ''example 6'' in newly designated Example 6 and adding in its place the language ''example 5'' wherever it appears.

■ 6. By adding paragraph (g).

The revisions and additions read as follows:

§ 31.3402(q)–1 Extension of withholding to certain gambling winnings.

(a) *Withholding obligation*—(1) *General rule.* Every person, including the Government of the United States, a State, or a political subdivision thereof, or any instrumentality of any of the foregoing making any payment of ''winnings subject to withholding'' (defined in paragraph (b) of the section) must deduct and withhold a tax in an amount equal to the product of the third lowest rate of tax applicable under section 1(c) and the payment. The tax must be deducted and withheld upon payment of the winnings by the person making the payment (''payer''). See paragraph (c)(5)(ii) of this section for a special rule relating to the time for making deposits of withheld amounts and filing the return with respect to those amounts. Any person receiving a payment of winnings subject to withholding must furnish the payer a statement as required in paragraph (d) of this section. Payers of winnings subject to withholding must file a return with the Internal Revenue Service and furnish a statement to the payee as required in paragraph (e) of this section. With respect to reporting requirements for certain payments of gambling winnings not subject to withholding, see section 6041 and the regulations thereunder.

* * * * *

(b) *Winnings subject to withholding*—(1) *In general.* Winnings subject to withholding means any payment from—

(i) A wager placed in a State-conducted lottery (defined in paragraph (c)(2) of this section) but only if the proceeds from the wager exceed $5,000;

(ii) A wager placed in a sweepstakes, wagering pool, or lottery other than a State-conducted lottery but only if the proceeds from the wager exceed $5,000; or

(iii) Any other wagering transaction (as defined in paragraph (c)(3) of this section) but only if the proceeds from the wager:

(A) Exceed $5,000; and

(B) Are at least 300 times as large as the amount of the wager.

(2) *Total proceeds subject to withholding.* If proceeds from the wager qualify as winnings subject to withholding, then the total proceeds from the wager, and not merely amounts in excess of $5,000, are subject to withholding.

(c) *Definitions; special rules*—(1) *Rules for determining amount of proceeds from a wager*—(i) *In general.* The amount of proceeds from a wager is the amount paid with respect to the wager, less the amount of the wager.

(ii) *Amount of the wager in the case of horse races, dog races, and jai alai.* In the case of a wagering transaction with respect to horse races, dog races, or jai alai, all wagers placed in a single parimutuel pool and represented on a single ticket are aggregated and treated as a single wager for purposes of determining the amount of the wager. A ticket in the case of horse races, dog races, or jai alai is a written or electronic record that the payee must present to collect proceeds from a wager or wagers.

(iii) *Amount paid with respect to a wager*—(A) *Identical wagers.* Amounts paid with respect to identical wagers are treated as paid with respect to a single wager for purposes of calculating the amount of proceeds from a wager. Two or more wagers are identical wagers if winning depends on the occurrence (or non-occurrence) of the same event or events; the wagers are placed with the same payer; and, in the case of horse races, dog races, or jai alai, the wagers are placed in the same parimutuel pool. Wagers may be identical wagers even if the amounts wagered differ as long as the wagers are otherwise treated as identical wagers under this paragraph (c)(1)(iii)(A). Tickets purchased in a lottery generally are not identical wagers, because the designation of each ticket as a winner generally would not be based on the occurrence of the same event, for example, the drawing of a particular number.

(B) *Non-monetary proceeds.* In determining the amount paid with respect to a wager, proceeds which are not money are taken into account at the fair market value.

(C) *Periodic payments.* Periodic payments, including installment payments or payments which are to be made periodically for the life of a person, are aggregated for purposes of determining the amount paid with respect to the wager. The aggregate amount of periodic payments to be made for a person's life is based on that person's life expectancy. See §§ 1.72–5 and 1.72–9 of this chapter for rules used in computing the expected return on annuities. For purposes of determining the amount subject to withholding, the first periodic payment must be reduced by the amount of the wager.

* * * * *

(4) *Certain payments to nonresident aliens or foreign corporations.* A payment of winnings that is subject to withholding tax under section 1441(a) (relating to withholding on nonresident aliens) or 1442(a) (relating to withholding on foreign corporations) is not subject to the tax imposed by section 3402(q) and this section when the payee is a foreign person, as determined under the rules of section 1441(a) and the regulations thereunder. A payment is treated as being subject to withholding tax under section 1441(a) or 1442(a) notwithstanding that the rate of such tax is reduced (even to zero) as may be provided by an applicable treaty with another country. However, a reduced or zero rate of withholding of tax must not be applied by the payer in lieu of the rate imposed by sections 1441 and 1442 unless the person receiving the winnings has provided to the payer the documentation required by § 1.1441–6 of this chapter to establish entitlement to treaty benefits.

* * * * *

(d) *Statement furnished by payee*—(1) *In general.* Each person who is making a payment subject to withholding under this section must obtain from the payee a statement described in paragraph (d)(2) of this section.

(2) *Contents of statement.* Each person who is to receive a payment of winnings subject to withholding under this section must furnish the payer a statement on Form W–2G or 5754 (whichever is applicable) made under the penalties of perjury containing—

(i) The name, address, and taxpayer identification number of the winner accompanied by a declaration that no other person is entitled to any portion of such payment, or

(ii) The name, address, and taxpayer identification number of the payee and of every person entitled to any portion of the payment.

(3) *Multiple payments.* If more than one payment of winnings subject to withholding is to be made with respect to a single wager, for example in the case of an annuity, the payee is required to furnish the payer a statement with respect to the first payment only, provided that the other payments are taken into account in a return required by paragraph (e) of this section.

(4) *Reliance on statement for identical wagers.* If the payee furnishes the statement which may be required pursuant to § 1.6011–3 of this chapter

(regarding the requirement of a statement from payees of certain gambling winnings), indicating that the payee (and any other persons entitled to a portion of the winnings) is entitled to winnings from identical wagers, as defined in paragraph (c)(1)(iii)(A) of this section, and indicating the amount of the winnings, if any, then the payer may rely upon the statement in determining the total amount of proceeds from the wager under paragraph (c)(1) of this section.

(e) *Return of payer*—(1) *In general.* Every person making payment of winnings for which a statement is required under paragraph (d) of this section must file a return on Form W–2G at the Internal Revenue Service location designated in the instructions to the form on or before February 28 (March 31 if filed electronically) of the calendar year following the calendar year in which the payment of winnings is made. The return required by this paragraph (e) need not include the statement by the payee required by paragraph (d) of this section and, therefore, need not be signed by the payee, provided the statement is retained by the payer as long as its contents may become material in the administration of any internal revenue law. In addition, the return required by this paragraph (e) need not contain the information required by paragraph (e)(1)(v) of this section provided the information is obtained with respect to the payee and retained by the payer as long as its contents may become material in the administration of any internal revenue law. For payments to more than one winner, a separate Form W–2G, which in no event need be signed by the winner, must be filed with respect to each such winner. Each Form W–2G must contain the following:

(i) The name, address, and taxpayer identification number of the payer;

(ii) The name, address, and taxpayer identification number of the winner;

(iii) The date, amount of the payment, and amount withheld;

(iv) The type of wagering transaction;

(v) Except with respect to winnings from a wager placed in a State-conducted lottery, a general description of the two types of identification (as described in paragraph (e)(2) of this section), one of which must have the payee's photograph on it (except in the case of tribal member identification cards in certain circumstances as described in paragraph (e)(3) of this section), that the payer relied on to verify the payee's name, address, and taxpayer identification number;

(vi) The amount of winnings from identical wagers; and

(vii) Any other information required by the form, instructions, or other applicable guidance published in the Internal Revenue Bulletin.

(2) *Identification.* The following items are treated as identification for purposes of paragraph (e)(1)(v) of this section—

(i) Government-issued identification (for example, a driver's license, passport, social security card, military identification card, tribal member identification card issued by a federally-recognized Indian tribe, or voter registration card) in the name of the payee; and

(ii) A Form W–9, ''Request for Taxpayer Identification Number and Certification,'' signed by the payee that includes the payee's name, address, taxpayer identification number, and other information required by the form. A Form W–9 is not acceptable for this purpose if the payee has modified the form (other than pursuant to instructions to the form) or if the payee has deleted the jurat or other similar provisions by which the payee certifies or affirms the correctness of the statements contained on the form.

(3) *Special rule for tribal member identification cards.* A tribal member identification card need not contain the payee's photograph to meet the identification requirement described in paragraph (e)(1)(v) of this section if—

(i) The payee is a member of a federally-recognized Indian tribe;

(ii) The payee presents the payer with a tribal member identification card issued by a federally-recognized Indian tribe stating that the payee is a member of such tribe; and

(iii) The payer is a gaming establishment (as described in § 1.6041–10(b)(2)(iv) of this chapter) owned or licensed (in accordance with 25 U.S.C. 2710) by the tribal government that issued the tribal member identification card referred to in paragraph (e)(3)(ii) of this section.

(4) *Transmittal form.* Persons making payments of winnings subject to withholding must use Form 1096 to transmit Forms W–2G to the Internal Revenue Service.

(5) *Furnishing a statement to the payee.* Every payer required to make a return under paragraph (e)(1) of this section must also make and furnish to each payee, with respect to each payment of winnings subject to withholding, a written statement that contains the information that is required to be included on the return under paragraph (e)(1) of this section. The payer must furnish the statement to the payee on or before January 31st of the year following the calendar year in which payment of the winnings subject to withholding is made. The statement will be considered furnished to the payee if it is provided to the payee at the time of payment or if it is mailed to the payee on or before January 31st of the year following the calendar year in which payment was made.

(f) * * *

Example 10. (i) B places a $15 bet at the cashier window at the racetrack for horse A to win the fifth race at the racetrack that day. After placing the first bet, B gains confidence in horse A's prospects to win and places an additional $40 bet at the cashier window at the racetrack for horse A to win the fifth race, receiving a second ticket for this second bet. Horse A wins the fifth race, and B wins a total of $5,500 (100 to 1 odds) on those bets. The $15 bet and the $40 bet are identical wagers under paragraph (c)(1)(iii)(A) of this section because winning on both bets depended on the occurrence of the same event and the bets are placed in the same parimutuel pool with the same payer. This is true regardless of the fact that the amount of the wager differs in each case.

(ii) B cashes the tickets at different cashier windows. Pursuant to paragraph (d) of this section and § 1.6011–3, B completes a Form W–2G indicating that the amount of winnings is from identical wagers and provides the form to each cashier. The payments by each cashier of $1,500 and $4,000 are less than the $5,000 threshold for withholding, but under paragraph (c)(1)(iii)(A) of this section, identical wagers are treated as paid with respect to a single wager for purposes of determining the proceeds from a wager. The payment is not subject to withholding or reporting because although the proceeds from the wager are $5,445 ($1,500 + $4,000 − $55), the proceeds from the wager are not at least 300 times as great as the amount wagered ($55 × 300 = $16,500).

Example 11. B makes two $1,000 bets in a single ''show'' pool for the same jai alai game, one bet on Player X to show and one bet on Player Y to show. A show bet is a winning bet if the player comes in first, second, or third in a single game. The bets are placed at the same time at the same cashier window, and B receives a single ticket showing both bets. Player X places second in the game, and Player Y does not place first, second, or third in the game. B wins $8,000 from his bet on Player X. Because winning on both bets does not depend on the occurrence of the same event, the bets are not identical bets under paragraph (c)(1)(iii)(A) of this section. However, pursuant to the rule in paragraph (c)(1)(ii) of this section, the amount of the wager is the aggregate amount of both wagers ($2,000) because the bets were placed in a single parimutuel pool and reflected on a single ticket. The payment is not subject to withholding or reporting because although the proceeds from the wager are $6,000 ($8,000 − $2,000), the proceeds from the wager are not at least 300 times as great as the amount wagered ($2,000 × 300 = $600,000).

Example 12. B bets a total of $120 on a three-dog exacta box bet ($20 for each one of

the six combinations played) at the dog racetrack and receives a single ticket reflecting the bet from the cashier. B wins $5,040 from one of the selected combinations. Pursuant to the rule in paragraph (c)(1)(ii) of this section, the amount of the wager is $120, not $20 for the single winning combination of the six combinations played. The payment is not subject to withholding under section 3402(q) because the proceeds from the wager are $4,920 ($5,040 − $120), which is below the section 3402(q) withholding threshold.

Example 13. B makes two $12 Pick 6 bets at the horse racetrack at two different cashier windows and receives two different tickets each representing a single $12 Pick 6 bet. In his two Pick 6 bets, B selects the same horses to win races 1–5 but selects different horses to win race 6. All Pick 6 bets on those races at that racetrack are part of a single parimutuel pool from which Pick 6 winning bets are paid. B wins $5,020 from one of his Pick 6 bets. Pursuant to the rule in paragraph (c)(1)(ii) of this section, the bets are not aggregated for purposes of determining the amount of the wager because the bets are reflected on separate tickets. Assuming that the applicable rate is 25%, the racetrack must deduct and withhold $1,252 (($5,020 − $12) × 25%) because the amount of the proceeds of $5,008 ($5,020 − $12) is greater than $5,000 and is at least 300 times as great as the amount wagered ($12 × 300 = $3,600). The racetrack also must report B's winnings on Form W–2G pursuant to paragraph (e) of this section and furnish a copy of the Form W–2G to B.

Example 14. C makes two $50 bets in two different parimutuel pools for the same jai alai game. One bet is an ''exacta'' in which C bets on player M to win and player N to ''place.'' The other bet is a ''trifecta'' in which C bets on player M to win, player N to ''place,'' and player O to ''show.'' C wins both bets and is paid $2,000 with respect to the bet in the ''exacta'' pool and $3,100 with respect to the bet in the ''trifecta'' pool. Under paragraph (c)(1)(iii)(A) of this section, the bets are not identical bets. Under paragraph (c)(1)(ii) of this section, the bets are not aggregated for purposes of determining the amount of the wager for either payment because they are not wagers in the same parimutuel pool. No section 3402(q) withholding is required on either payment because neither payment separately exceeds the $5,000 withholding threshold.

Example 15. C makes two $100 bets for the same dog to win a particular race. C places one bet at the racetrack and one bet at an off-track betting establishment, but the two pools constitute a single pool. C receives separate tickets for each bet. C wins both bets and is paid $4,000 from the racetrack and $4,000 from the off-track betting establishment. Under paragraph (c)(1)(ii) of this section, the bets are not aggregated for purposes of determining the amount of the wager because the wager placed at the racetrack and the wager placed at the off-track betting establishment are reflected on separate tickets, despite being placed in the same parimutuel pool. No section 3402(q) withholding is required because neither payment separately exceeds the $5,000 withholding threshold.

Example 16. C places a $200 Pick 6 bet for a series of races at the racetrack on a particular day and receives a single ticket for the bet. No wager correctly picks all six races that day, so that portion of the pool carries over to the following day. On the following day, C places an additional $200 Pick 6 bet for that day's series of races and receives a new ticket for that bet. C wins $100,000 on the second day. Pursuant to the rule in paragraph (c)(1)(ii) of this section, the bets are on two separate tickets, so C's two Pick 6 bets are not aggregated for purposes of determining the amount of the wager. Assuming that the applicable rate is 25%, the racetrack must deduct and withhold $24,950 (($100,000 − $200) × 25%) because the amount of the proceeds of $99,800 ($100,000 − $200) is greater than $5,000, and is at least 300 times as great as the amount wagered ($200 × 300 = $60,000). The racetrack also must report C's winnings on Form W–2G pursuant to paragraph (e) of this section and furnish a copy of the Form W–2G to C.

(g) *Applicability date.* The rules in this section apply to payments made with respect to a winning event that occurs after November 13, 2017. For rules that apply to payments made with respect to a winning event on or before that date, see § 31.3402(q)–1 as contained in 26 CFR part 31, revised April 1, 2017.

■ **Par. 3.** Section 31.3406–0 is amended by adding an entry for paragraph (h) to § 31.3406(g)–2 to read as follows:

§ 31.3406–0 Outline of the backup withholding regulations.

* * * * *

§ 31.3406(g)–2 Exception for reportable payments for which backup withholding is otherwise required.

* * * * *

(h) *Applicability date.*

* * * * *

■ **Par. 4.** Section 31.3406(g)–2 is amended by revising paragraphs (d)(2) and (3) and adding paragraph (h) to read as follows:

§ 31.3406(g)–2 Exception for reportable payment for which withholding is otherwise required.

* * * * *

(d) * * *

(2) *Definition of a reportable gambling winning and determination of amount subject to backup withholding.* For purposes of withholding under section 3406, a reportable gambling winning is any gambling winning subject to information reporting under section 6041. A gambling winning (other than a winning from bingo, keno, or slot machines) is a reportable gambling winning only if the amount paid with respect to the wager is $600 or more and if the proceeds are at least 300 times as large as the amount wagered. See § 1.6041–10 of this chapter to determine whether a winning from bingo, keno, or slot machines is a reportable gambling winning and thus subject to withholding under section 3406. The amount of a reportable gambling winning is—

(i) The amount paid with respect to the amount of the wager reduced, at the option of the payer; by

(ii) The amount of the wager.

(3) *Special rules.* For special rules for determining the amount of the wager in a wagering transaction with respect to horse racing, dog racing, and jai alai, or amounts paid with respect to identical wagers, see § 31.3402(q)–1(c).

* * * * *

(h) *Applicability date.* The rules apply to reportable gambling winnings paid with respect to a winning event that occurs after November 13, 2017. For rules that apply to payments made with respect to a winning event on or before that date, see § 31.3406(g)–2 as contained in 26 CFR part 31, revised April 1, 2017.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: August 21, 2017.

David J. Kautter,

Assistant Secretary for Tax Policy.

[FR Doc. 2017–20720 Filed 9–25–17; 4:15 pm]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2016–1041]

RIN 1625–AA08

Special Local Regulation; Fautasi Ocean Challenge Canoe Race, Pago Pago Harbor, American Samoa

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent special local regulation for the Fautasi Ocean Challenge canoe races in Pago Pago Harbor, American Samoa. These annual events historically occur four separate weekend or holiday days each year. The annual dates include one day in April and three separate days between Veteran's Day and the Thanksgiving holiday weekend. Each of the four days, canoe races are held between 7 a.m. to 4 p.m. This action is necessary to safeguard the participants and

spectators, including all crews, vessels, and persons on the water in Pago Pago Harbor during the event. This regulation will functionally close the port to vessel traffic during the race, but will not require the evacuation of any vessels from the harbor. Entry into, transiting, or anchoring in the harbor would be prohibited to all vessels not registered with the sponsor as participants or not part of the race patrol, unless specifically authorized by the Captain of the Port (COTP) Honolulu or a designated representative. Vessels who are already moored or anchored in the harbor seeking permission to remain there shall request permission from the COTP unless deemed a spectator vessel that is moored to a waterfront facility within the regulated area. The area concerned for this permanent special local regulation is described below.

DATES: This rule is effective October 27, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–1041 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander John Bannon, Waterways Management Division, U.S. Coast Guard Sector Honolulu; telephone (808) 541–4359, email *john.e.bannon@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On January 18, 2017, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (82 FR 5480) entitled ''Special Local Regulation; Pago Pago Harbor, American Samoa.'' In the NPRM we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this canoe race event. During the comment period that ended February 17, 2017, we received no comments.

This event will consist of a series of three single race days within Pago Pago Harbor each November and one race day in April. The event will include 50 longboats with paddling crews of 30–50 persons each. It is anticipated that a large number of spectator pleasure craft will be drawn to the event. Spectator vessels and commercial vessel traffic would pose a significant safety hazard to the longboats, longboat crew members, and other persons and vessels involved with the event due to the longboats limited maneuverability within the port. Traditionally, the event is held on Fridays, Saturdays, or holiday week days, pending when Veteran's Day falls each year, and are dependent on local weather; both factors will dictate the event days each year.

III. Legal Authority and Need for Rule

The Captain of the Port, Honolulu (COTP), is establishing a permanent special local regulation to minimize vessel traffic in Pago Pago Harbor before, during, and after the scheduled event to safeguard persons and vessels during the longboat races. A regulated area is a water area, shore area, or water and shore area, for safety or environmental purposes, of which access is limited to authorized persons, vehicles, or vessels. The statutory basis for this rulemaking is 33 U.S.C. 1233, which gives the Coast Guard, under a delegation from the Secretary of the Department of Homeland Security, regulatory authority to enforce the Ports and Waterways Safety Act.

The Captain of the Port Honolulu has determined that potential safety hazards exist to the longboats, longboat crew members, and other persons and vessels involved with the event due to the longboats limited maneuverability within the port and large amount of spectator vessels and commercial traffic drawn to the event. The purpose of this rule is to ensure safety of vessels and navigable waters in the safety zone before, during, and after the event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published January 18, 2017. However, after the NPRM period, Coast Guard was notified by the event sponsor that an additional event occurs on April 17 annually in celebration of American Samoa's Flag Day. The Coast Guard is amending this regulation to include this event.

This rule will create a permanent special local regulation in Pago Pago Harbor. The regulated area will close the harbor to all vessels not authorized by the COTP for entry into, transiting, or anchoring within the port for the duration of the event. The COTP will authorize registered participants, support vessels, and enforcement vessels to enter and remain in the area. No other vessels will be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative. The harbor will remain closed until the Coast Guard issues an ''All Clear'' after races have concluded and the harbor is deemed safe for normal operations. This rule will not require any vessel already moored to evacuate the port, provided they are moored in such a way that they do not interfere with the event.

The COTP will use all appropriate means to notify the public when the special local regulation in this rule will be enforced. Such means may include publication in the **Federal Register** a Notice of Enforcement, Broadcast Notice to Mariners, and Local Notice to Mariners. The regulatory text appears at the end of this document.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the Special Local Regulation. Vessel traffic will be able to safety transit through the event with prior coordination and approval by the Coast Guard Captain of the Port, or designated representative. Furthermore, the annual events occur during times of the year when commercial vessel traffic is normally low. Moreover, The Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the regulation.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on

small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received zero comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit through the regulated area 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.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary and limited safety zone in Pago Pago Harbor. It is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of Commandant Instruction M16475.lD. It is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.1401 to read as follows:

§ 100.1401 Special Local Regulation; Fautasi Ocean Challenge Canoe Race, Pago Pago Harbor, America Samoa.

(a) *Location.* The following regulated area is established as a special local regulation: Breakers Point (eastern edge of Pago Pago Harbor entrance) thence southeast to 14°18′47″ S., 170°38′54.5″ W. thence southwest to 14°19′03″ S., 170° 39′14″ W., thence northwest to Tulutulu Point and then following the coastline encompassing Pago Pago Harbor. This regulated area extends from the surface of the water to the ocean floor.

(b) *Effective period.* These annual events occur on four separate dates to include: April 17; and three days to include Friday, Saturday or a holiday weekday, in November between the week of Veteran's Day and the Thanksgiving weekend, lasting between 7 a.m. to 4 p.m. each day. The Captain of the Port Honolulu will establish specific enforcement dates that will be announced in advance by Notice of Enforcement, Local Notice to Mariners, Broadcast Notice to Mariners, and prior event outreach, including local advertisement and on-scene designated representatives prior to and during the event.

(c) *Regulations.* (1) All persons and vessels not registered with the sponsor as participants or support/enforcement vessels are considered spectators. The ''support/enforcement vessels'' consist of any territory or local law enforcement vessels and sponsor-provided vessels assigned or approved by the Captain of the Port Honolulu to patrol the regulated area.

(2) No spectator shall anchor, block, loiter or impede the transit of participants or support/enforcement vessels in the regulated area during the enforcement dates and times, unless cleared for entry by or through a support/enforcement vessel.

(3) Spectator vessels may be moored to a waterfront facility within the regulated area in such a way that they shall not interfere with the progress of the event. Such mooring must be complete at least 30 minutes prior to the establishment of the regulated area and remain moored through the duration of the event.

(d) *Informational broadcasts.* The Captain of the Port Honolulu will establish enforcement dates and times with a Notice of Enforcement. If circumstances render enforcement of the regulated area unnecessary for the entirety of these periods, the Captain of the Port or his designated representative will inform the public through broadcast notices to mariners that the regulated area is no longer being enforced. The harbor will remain closed until the Coast Guard issues an ''All Clear'' for the harbor after the race has concluded and the harbor is deemed safe for normal operations.

(e) *Penalties.* Vessels or persons violating this rule may be subject to the penalties set forth in 33 U.S.C. 1233.

Dated: September 21, 2017.

M.C. Long,

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

[FR Doc. 2017–20664 Filed 9–26–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0408; FRL–9968–20–Region 3]

Air Plan Approval; Delaware; State Implementation Plan for Interstate Transport for the 2008 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a portion of a state implementation plan (SIP) revision submitted by the State of Delaware. The Clean Air Act's (CAA) good neighbor provision requires EPA and states to address the interstate transport of air pollution that affects the ability of downwind states to attain and maintain the national ambient air quality standards (NAAQS). Specifically, the good neighbor provision requires each state in its SIP to prohibit emissions that will significantly contribute to nonattainment, or interfere with maintenance, of a NAAQS in a downwind state. Delaware has submitted a SIP revision that addresses the interstate transport requirements, among other things, for the 2008 ozone NAAQS. EPA has determined that Delaware's SIP has adequate provisions to prohibit the state from significantly contributing to nonattainment, or interfering with maintenance, of the 2008 ozone NAAQS in any other state. EPA is approving Delaware's SIP revision submittal in regards to the good neighbor interstate transport provision in accordance with the requirements of the CAA.

DATES: This rule is effective on December 26, 2017 without further notice, unless EPA receives adverse written comment by October 27, 2017. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2013–0408 at *http://www.regulations.gov,* or via email to *stahl.cynthia@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Ellen Schmitt, (215) 814–5787, or by email at *schmitt.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION: On March 27, 2013, the State of Delaware through the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a revision to its SIP to satisfy the requirements of section 110(a)(2), including 110(a)(2)(D)(i), of the CAA as it relates to the 2008 ozone NAAQS.

I. Background

On March 12, 2008, EPA revised the levels of the primary and secondary ozone standards from 0.08 parts per million (ppm) to 0.075 ppm (73 FR 16436). The CAA requires states to submit, within three years after promulgation of a new or revised NAAQS, SIP revisions meeting the applicable elements of sections 110(a)(1) and (2).[1] Several of these applicable elements are delineated within section 110(a)(2)(D)(i) of the CAA. Section 110(a)(2)(D)(i) generally requires SIPs to contain adequate provisions to prohibit in-state emissions activities from having certain adverse air quality effects on neighboring states due to interstate transport of air pollution. There are four prongs within section 110(a)(2)(D)(i) of the CAA; section 110(a)(2)(D)(i)(I) contains prongs 1 and 2, while section 110(a)(2)(D)(i)(II) includes prongs 3 and 4. This direct final action addresses the first two prongs, which are also collectively known as the good neighbor provision. According to the CAA's good neighbor provision located within section 110(a)(2)(D)(i)(I), a state's SIP must contain adequate provisions to prohibit any source or other type of emissions activity within the state from emitting air pollutants that ''contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any such national primary or secondary ambient air quality standard.'' Under section 110(a)(2)(D)(i)(I) of the CAA, EPA gives independent significance to the matter of nonattainment (prong 1) and to that of maintenance (prong 2).

II. Summary of SIP Revision

On March 27, 2013, the State of Delaware through DNREC provided a SIP revision submittal to satisfy the requirements of section 110(a)(2) of the CAA for the 2008 ozone NAAQS. In this rulemaking action, EPA is approving one portion of Delaware's March 27, 2013 submittal—the portion addressing prongs 1 and 2 of section 110(a)(2)(D)(i)(I) of the CAA. EPA previously acted on other portions of Delaware's March 27, 2013 SIP submittal for the 2008 ozone NAAQS.[2]

[1] SIP revisions that are intended to meet the requirements of section 110(a) of the CAA are often referred to as infrastructure SIPs and the elements under 110(a) are referred to as infrastructure requirements.

[2] On April 3, 2014 (79 FR 18644), EPA approved portions of Delaware's March 27, 2013 submittal for

In order to demonstrate that its SIP adequately addresses interstate transport for the 2008 ozone NAAQS, Delaware's March 27, 2013 submittal identifies measures in its approved SIP that cover stationary, mobile, and area sources of volatile organic compounds (VOCs) and nitrogen oxides (NO_X), both of which are precursors to ozone. Delaware's submittal identifies SIP-approved regulations that reduce VOCs and NO_X emissions from a variety of stationary sources within the state, including power plants, industrial boilers, and peaking units. Delaware states in its submittal that its sources are generally controlled with best available control technology (BACT) or lowest achievable emission rate (LAER) level controls. Delaware notes that sources are generally controlled on a unit-by-unit basis at a cost of $1,300 to $11,000 per ton of NO_X reduced.[3] To substantiate its control costs and feasibility claims, Delaware includes an assessment of potential additional control measures on mobile and stationary sources, including both electric generating unit (EGU) and non-EGU categories. The assessment evaluates, for each source or category, the technical and economic feasibility for additional NO_X and VOC reductions. For non-EGUs, Delaware could not identify any cost efficient controls beyond those already required by the SIP; estimating that at about $5,000 per ton of pollutant (VOC, NO_X) reduced, only a small amount of air emission reductions would be seen.[4] In its submittal, Delaware identifies the following Delaware regulations, which are already included in its approved SIP: 7 DE Admin. Code 1125 (New Source Review); 7 DE Admin. Code 1112 (NO_X Reasonably Available Control Technology (RACT)); 7 DE Admin. Code 1124 (VOC RACT); 7 DE Admin. Codes 1126 and 1136 (vehicle inspection and maintenance (I/M) control measures). In its submittal, Delaware concludes that it has satisfied the requirements for section 110(a)(2)(D)(i)(I) of the CAA for the 2008 ozone NAAQS because its sources are already well controlled for NO_X and VOCs, and because further reductions beyond the State's current SIP measures for NO_X and VOCs are not economically feasible.

III. EPA Analysis

A. Cross-State Air Pollution Rule

The CAA gives EPA a backstop role to issue federal implementation plans (FIPs), as appropriate, in the event that states fail to submit approvable SIPs. On September 8, 2016, EPA took steps to effectuate this backstop role with respect to emissions in 22 eastern states (not including Delaware) by finalizing an update to the Cross-State Air Pollution Rule (CSAPR) ozone season program that addresses the obligations of good neighbor provision for the 2008 ozone NAAQS. 81 FR 74504. This CSAPR Update establishes statewide NO_X budgets for certain affected EGUs in the May-September ozone season to reduce the interstate transport of ozone pollution in the eastern United States, and thereby help downwind states and communities meet and maintain the 2008 ozone NAAQS.[5] The CSAPR Update, which specifically focuses on reducing EGU NO_X emissions, includes technical information and related analysis to assist states with meeting the requirements of section 110(a)(2)(D)(i)(I) of the CAA for the 2008 ozone NAAQS. The CSAPR Update uses the same framework EPA used when developing the original CSAPR, EPA's transport rule addressing the 1997 ozone NAAQS as well as the 1997 and 2006 fine particulate matter ($PM_{2.5}$) NAAQS. The CSAPR framework establishes the following four-step process to address the requirements of the good neighbor provision:

(1) Identify downwind receptors that are expected to have problems attaining or maintaining the NAAQS;

(2) determine which upwind states contribute to these identified problems in amounts sufficient to link[6] them to the downwind air quality problems;

(3) identify and quantify, for states linked to downwind air quality problems, upwind emissions that significantly contribute to nonattainment or interfere with maintenance of a NAAQS; and

(4) reduce the identified upwind emissions for states that are found to have emissions that significantly contribute to nonattainment or interfere with maintenance of the NAAQS downwind by adopting permanent and enforceable measures in a FIP or SIP.This four-step framework is informed by cost-effectiveness and feasibility of controls, emissions, meteorology, and air quality factors. In the CSAPR Update, EPA used this four-step framework to determine each linked upwind state's significant contribution to nonattainment or interference with maintenance of downwind air quality.

B. EPA's Assessment of Delaware

While EPA's CSAPR Update analysis included an assessment of Delaware, the State was not included in the final CSAPR Update FIPs. In the CSAPR Update, EPA found that steps 1 and 2 of the CSAPR framework linked Delaware to a downwind maintenance receptor in Philadelphia County, Pennsylvania. EPA applied step 3 of the CSAPR framework to establish EGU NO_X emission budgets that reflect NO_X reductions necessary to reduce interstate ozone transport for the 2008 ozone NAAQS.[7]

For this analysis, EPA applied a multi-factor evaluation of cost, NO_X reductions, and air quality improvements. As part of this analysis, EPA explicitly evaluated whether the budget quantified for each state would result in over-control,[8] as required by precedents of the Supreme Court and D.C. Circuit.[9] Specifically, EPA evaluated whether at each level of NO_X emission budget, the identified downwind ozone problems (*i.e.,* nonattainment or maintenance problems) are resolved or the upwind contribution from any linked state dropped below the 1% screening threshold used to link the state. This multi-factor evaluation of cost, NO_X reductions, and air quality improvements (including consideration

the 2008 ozone NAAQS addressing the following: CAA section 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). In that action, EPA stated it would take later action on the portion of the March 27, 2013 SIP submittal addressing section 110(a)(2)(D)(i)(I) of the CAA.

[3] *See* ''Attachment A,'' State Submittal—Delaware Section 110(a)(2) Infrastructure Requirements for the 2008 Ozone NAAQS, *www.regulations.gov,* Docket number EPA–R03–OAR–2013–0408.

[4] In its March 27, 2013 submittal, Delaware stated that at about $5,000 per ton, the State could reduce NO_X emissions by about 375 tons per year (tpy) and VOCs by 255 tpy.

[5] Ground-level ozone is formed when VOCs and NO_X combine in the presence of sunlight. The rate of ozone production can be limited by the availability of either VOCs or NO_X. In the case of the eastern states, ozone reduction has shown to be more effective by reducing NO_X which is why reducing NO_X emissions is the focus of both the CSAPR Update and today's rulemaking action regarding Delaware.

[6] In this rulemaking action, the terms ''link,'' ''linked,'' or ''linkage'' indicate an association or relationship between two entities and should not be construed as there being any type of physical connection.

[7] Due to the State's sources already being equivalently controlled, EPA's assessment shows no cost effective EGU NO_X reduction potential available in Delaware by the 2017 ozone season, the implementation date for the CSAPR Update. 81 FR 74504 (October 26, 2016).

[8] In this rulemaking action, the term ''over-control'' describes the possibility that a state might be compelled to reduce emissions beyond the point at which every affected downwind state is in attainment. *See EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 2014; *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118, 127 (D.C. Cir. July 28, 2015).

[9] *Id.*

of potential over-control) resulted in EPA's quantification of upwind emissions that significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS downwind.[10]

C. Air Quality Assessment Tool

The emission reductions under the various levels of emission budgets analyzed by EPA can result in air quality improvements such that individual receptors drop below the level of the 2008 ozone NAAQS based on the cumulative air quality improvement from the states analyzed. In examining emissions contribution to nonattainment and maintenance receptors for the 2008 ozone NAAQS, EPA used the Air Quality Assessment Tool (AQAT) to estimate the air quality impacts of the upwind state EGU NO_X emission budgets on downwind ozone pollution levels for each of the assessed EGU NO_X emission budget levels. EPA assessed the magnitude of air quality improvement at each receptor at each level of control, examined whether receptors are considered to be solved,[11] and looked at the individual contributions of emissions from each state to each of that state's linked receptors. EPA also examined each state's air quality contributions at each emission budget level, assessing whether a state maintained at least one linkage to a receptor that was estimated to continue to have nonattainment or maintenance problems with the 2008 ozone NAAQS.

D. Conclusion

EPA examined emission budget levels of: $0 per ton; $800 per ton; $1,400 per ton; $3,400 per ton; $5,000 per ton; and $6,400 per ton.[12] [13] This analysis accounted for existing limits on Delaware EGUs in the State's March 27, 2013 SIP submittal. Notably, for Delaware, EPA's assessment of EGUs' NO_X reduction potential showed no cost effective reductions available in Delaware within the allotted short-term implementation timeframe (by 2017 for the 2008 ozone NAAQS) at every cost threshold EPA evaluated. 81 FR at 74553 (EPA's assessment of EGU NO_X reduction potential shows no cost effective reductions available in Delaware in 2017 at any evaluated cost threshold because they are already equivalently controlled). Further, EPA estimated that implementation of the CSAPR Update along with NO_X controls in Delaware's approved SIP are anticipated to resolve the lone downwind maintenance receptor to which Delaware is linked.[14]

EPA evaluated EGU NO_X reduction potential under the CSAPR Update and the assessment showed that there was no cost effective EGU NO_X reduction potential within Delaware at any evaluated cost threshold because the Delaware EGUs are already equivalently controlled.[15] In Delaware's March 27, 2013 submittal, in addition to EGUs, Delaware evaluated sources other than EGUs and the State could not identify any cost efficient controls for reducing VOCs or NO_X beyond those already required by the SIP.

In conclusion, when evaluating all the available information, EPA finds that Delaware has implemented measures that have reduced statewide VOC and NO_X emissions and that should continue to reduce emissions within the State. The maintenance receptor that Delaware is linked to in the CSAPR Update is projected by EPA to have its maintenance issue resolved with CSAPR Update implementation [16] and existing NO_X controls in place in Delaware. EPA finds Delaware has no cost effective EGU NO_X emissions reduction potential, beyond what is already required in Delaware's SIP, at or below a $6,400 per ton threshold used in the CSAPR Update determinations by 2017 for the 2008 ozone NAAQS. Additionally, EPA finds that Delaware's non-EGU sources are also well-controlled and that there is limited VOC and NO_X emissions reduction potential, beyond what it already required in the State's SIP, at and below the $5,000 per ton threshold. Thus, EPA finds Delaware has fully satisfied its obligation with respect to the requirements of section 110(a)(2)(D)(i)(I) of the CAA for the 2008 ozone NAAQS, and we are approving the portion of the March 27, 2013 Delaware SIP submittal addressing prongs 1 and 2 of the interstate transport requirements for the 2008 ozone NAAQS.

IV. Final Action

EPA is approving the portion of the March 27, 2013 Delaware SIP revision addressing prongs 1 and 2 of the interstate transport requirements for section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS in accordance with section 110 of the CAA for the reasons discussed in this rulemaking.

On April 3, 2014 (79 FR 18644), EPA finalized approval of the following infrastructure elements or portions thereof from the March 27, 2013 submittal: CAA section 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). This action approves the remaining portions of the March 27, 2013 SIP revision, which address prongs 1 and 2 of section 110(a)(2)(D)(i)(I) of the CAA, also known as the good neighbor provision. EPA did not take action upon these elements in our prior SIP approval action, published on April 3, 2014 (79 FR 18644).

EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of this issue of the **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on *December 26, 2017* without further notice unless EPA receives adverse comment by *October 27, 2017.* If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

[10] CSAPR Update final rule. 81 FR 74504, 74519 (October 26, 2016).

[11] When the average and maximum design values of a receptor decreases to values below 76 parts per billion (ppb) or (0.076 ppm), the nonattainment and maintenance issues of the receptor would be considered solved.

[12] Due to the close timing of Pennsylvania finalizing its May 2016 regulation ''Additional RACT Requirements for Major Sources of NO_X and VOCs,'' also known as RACT II, to the publication of the CSAPR Update, EPA was not able to factor expected emission limits from RACT II directly into the previously concluded modeling for CSAPR Update when all of the other relevant in-place state and national rules were incorporated. EPA therefore conducted a separate analysis in order to incorporate the impacts of the new PA RACT emission limits in addition to the already incorporated national and state rules. The total results were incorporated into the Agency's assessment at each emission budget level (*e.g.* $0/ton through $6,400/ton) and at each stage of the rulemaking analysis. See ''Pennsylvania RACT Memo to the Docket,'' Docket No. EPA–HQ–OAR–2015–0500 for a more detailed discussion.

[13] Pennsylvania's RACT II provisions are part of Pennsylvania's strategy to meet its RACT obligations for the 2008 ozone NAAQS. EPA has not yet taken rulemaking action on Pennsylvania's RACT II.

[14] As stated in section VI.D. in the preamble of the final CSAPR Update and in the Ozone Transport Policy Analysis Technical Support Document (TSD) used to support the final CSAPR Update, EPA's AQAT assessment indicates that an emissions budget reflecting $800 per ton of NO_X reduced would resolve the maintenance problem at the Philadelphia, Pennsylvania maintenance receptor (monitor ID 4210100124).

[15] *See* 81 FR at 74553.

[16] EPA notes that the preliminary 2014–2016 design value for the identified CSAPR Update Philadelphia maintenance site does not reflect the air quality results as a result of the CSAPR Update implementation because sources began compliance with the rule in May 1, 2017.

V. Statutory and Executive Order Reviews

A. General Requirements

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 27, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this issue of the **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action. This action, addressing Delaware's interstate transport for the 2008 ozone NAAQS, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: September 11, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart I—Delaware

■ 2. In § 52.420, the table in paragraph (e) is amended by adding a second entry for Section 110(a)(2) Infrastructure Requirements for the 2008 Ozone NAAQS, immediately after the first entry titled ''Section 110(a)(2) Infrastructure Requirements for the 2008 Ozone NAAQS'' to read as follows:

§ 52.420 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
Section 110(a)(2) Infrastructure Requirements for the 2008 Ozone NAAQS.	Statewide	3/27/13	9/27/17, [insert **Federal Register** citation].	This action addresses CAA element 110(a)(2)(D)(i)(I).
*	*	*	*	*

* * * * *

[FR Doc. 2017–20598 Filed 9–26–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2014–0878; FRL–9966–67]

Fluazifop-P-Butyl; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of fluazifop-p-butyl in or multiple commodities which are identified and discussed later in this document. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective September 27, 2017. Objections and requests for hearings must be received on or before November 27, 2017, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0878, 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: Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0878 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before November 27, 2017. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0878, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

II. Summary of Petitioned-for Tolerance

In the **Federal Register** of April 6, 2015 (80 FR 18327) (FRL–9924–00), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 4E8328) by IR–4, 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the herbicide fluazifop-p-butyl in or on the raw agricultural commodities lettuce, head and leaf at 5.0 parts per million (ppm); strawberry at 3.0 ppm; onion, green at 1.5 ppm; caneberry subgroup 13–07A at 0.05 ppm; bushberry subgroup 13–07B at 0.3 ppm; tuberous and corm vegetables (except for potato) subgroup 1D at 1.5 ppm; small fruit vine climbing, except for fuzzy kiwifruit subgroup 13–07F at 0.03 ppm; and onion, bulb subgroup 3–07A at 0.5 ppm as well as tolerances with regional registration for grass hay at 15 ppm; and grass forage at 4.0 ppm. Upon the approval of the aforementioned tolerances, IR–4 requested removal of the existing tolerances for grape at 0.01 ppm; onion, bulb at 0.5 ppm; and sweet potato, roots at 0.05 ppm; and also requested amend the existing tolerance for rhubarb from 0.5 ppm to 0.4 ppm. That document referenced a summary of the petition prepared by Syngenta Crop Protection, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has modified the levels at which tolerances are being established for some commodities. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.''

Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for fluazifop-P-butyl including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with fluazifop-P-butyl follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The toxicity profile shows that the principal toxic effects of fluazifop-P-butyl are changes in the liver and kidney following exposure *via* the oral route. Liver toxicity is observed in rats, hamster, and dogs, while kidney toxicity is observed in rats.

Other adversely effected organs included the testes and eyes in rats and hamsters. Adrenal fatty vacuolation and increased incidence of thymic involution were noted in the chronic dog study. Gall bladder stones and ovarian cell hyperplasia were noted in the carcinogenicity study in hamsters. From the toxicity studies, the lowest LOAELs were observed in long-term studies, suggesting progression of toxicity with duration of treatment.

Quantitative sensitivity of the fetus was observed in the rat developmental studies in which no maternal toxicity was observed. Developmental toxicity in the rat was generally related to incomplete ossification. At higher doses, decreased fetal body weight and an increased incidence of diaphragmatic hernia were observed. In the rabbit, maternal and developmental toxicity were observed at the same dose. Maternal toxicity included abortions, weight loss, and death, and fetal toxicity included abortions, skeletal effects, and fetuses that were small and/or had cloudy eyes. In the rat reproduction and fertility study, maternal (increased liver weight, bile duct hyperplasia, geriatric nephropathy) and offspring (decreased pup viability, decreased pup body weight, and hydronephrosis) toxicity were observed at the same dose level, and decreased female fertility was observed at the highest dose.

No immunotoxicity was observed at the highest dose tested in the immunotoxicity study in rats. Although other studies indicated effects on the immune system organs (*e.g.,* thymus effects in the dog), all points of departure (PODs) are protective of any possible immunotoxic response. Delayed neurotoxicity was not observed in hens, and there was no evidence of toxicity in the subchronic neurotoxicity study. In the acute neurotoxicity study at the lowest dose tested (500 milligrams/kilogram (mg/kg)), where a bolus dose is administered by gavage, clinical signs indicative of toxicity (reduced activity, decreased rearing, hunched posture, and/or piloerection) were observed, as well as decreased motor activity (total distance and number of rearings) in both sexes. There was no evidence of carcinogenicity or mutagenicity in the toxicity profile.

Specific information on the studies received and the nature of the adverse effects caused by fluazifop-P-butyl as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document title ''*Fluazifop-P-butyl. Human-Health Risk Assessment for New Uses on Lettuce (Leaf and Head), Rhubarb, Green Onion, Strawberry, Caneberry Subgroup 13–07A, Bushberry Subgroup 13–07B, Fescue Grasses (Grown for Seed); and for Amendments to Existing Tolerances [Subgroups 1D, 3–07A, and 13–07F]*'' on page 42 in docket ID number EPA–HQ–OPP–2014–0878.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD)s and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides.*

A summary of the toxicological endpoints for fluazifop-P-butyl used for human risk assessment is shown in the Table of this unit.

TABLE—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR FLUAZIFOP-P-BUTYL FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (General population including infants and children and females 13–49 years of age).	LOAEL = 500 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF (UF_L) = 10x	Acute RfD = 0.50 mg/kg/day. aPAD = 0.50 mg/kg/day	Acute neurotoxicity—rat. LOAEL = 500 mg/kg, based on clinical signs indicative of toxicity (reduced activity, decreased rearing, hunched posture and/or piloerection), and decreased motor activity (total distance and number of rearings) in both sexes.
Chronic dietary (All populations)	NOAEL = 0.51 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = 0.0051 mg/kg/day. cPAD = 0.0051 mg/kg/day	Combined chronic toxicity/carcinogenicity—rat. LOAEL = 4.15 mg/kg/day, based on increased mortality associated with increased severity of nephropathy during the first year in males.
Incidental oral short-term (1 to 30 days).	NOAEL = 5.8 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	LOC for MOE = 100	Reproduction—rat. Offspring LOAEL = 17.5 mg/kg/day, based on decreased pup viability (both generations), decreased pup weights (↓15%) in the F2-generation, and hydronephrosis in the F1 pups.
Dermal short-term (1 to 30 days) (General population except children).	Oral study NOAEL = 2.0 mg/kg/day (dermal absorption rate = 9%). UF_A = 10x UF_H = 10x FQPA SF = 1x	LOC for MOE = 100	Developmental toxicity—rat. Developmental LOAEL = 5.0 mg/kg/day based on delayed ossification in skull bones, sternebrae bipartite, sternebrae partially ossified and calcenum unossified in fetuses and litters.
Dermal short-term (1 to 30 days) (Children only).	Dermal study NOAEL = 100 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	LOC for MOE = 100	21-Day dermal toxicity in rabbits. Offspring LOAEL = 500 mg/kg/day based on death in 1/10 males.
Inhalation short-term (1 to 30 days).	Oral study NOAEL = 2.0 mg/kg/day (inhalation absorption rate = 100%). UF_A = 10x UF_H = 10x FQPA SF (UF_{DB}) = 10x	LOC for MOE = 1,000.	Developmental toxicity—rat. Developmental LOAEL = 5.0 mg/kg/day based on delayed ossification in skull bones, sternebrae bipartite, sternebrae partially ossified and calcenum unossified in fetuses and litters.
Cancer (Oral, dermal, inhalation).	Not likely to be carcinogenic to humans.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_{DB} = to account for the absence of data or other data deficiency. UF_H = potential variation in sensitivity among members of the human population (intraspecies). UF_L = use of a LOAEL to extrapolate a NOAEL.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to fluazifop-P-butyl, EPA considered exposure under the petitioned-for tolerances as well as all existing fluazifop-P-butyl tolerances in 40 CFR 180.411. EPA assessed dietary exposures from fluazifop-P-butyl in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for fluazifop-P-butyl. In estimating acute dietary exposure, EPA used 2003–2008 food consumption information from the U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, EPA assumed 100 percent crop treated (PCT) and tolerance level residues with a ratio adjustment for additional metabolites of concern.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used 2003–2008 food consumption data from the USDA's NHANES/WWEIA. As to residue levels in food, the Agency used mean residue levels from crop field trials with a ratio adjustment for additional metabolites of concern, average percent crop treated estimates, and experimentally determined processing factors.

iii. *Cancer.* EPA has concluded that fluazifop-P-butyl does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and PCT information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

- *Condition a:* The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.
- *Condition b:* The exposure estimate does not underestimate exposure for any significant subpopulation group.
- *Condition c:* Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency estimated the average PCT for existing uses as follows:

Asparagus, 2.5%; carrots, 15%; cotton, 1%; dry beans/peas, 1%; garlic, 10%; grapefruit, 15%; grapes, 2.5%; nectarines, 1%; onions, 10%; oranges, 2.5%; peaches, 2.5%; peanuts, 1%; plums, 2.5%; potatoes, 1%, prunes, 2.5%; soybeans, 2.5%; and sugar beets, 1%.

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS) and proprietary market surveys for the chemical/crop combination for the most recent 6–7 years. EPA uses an average PCT for chronic dietary risk analysis and a maximum PCT for acute dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than 2.5%. The maximum PCT figure is the highest observed maximum value reported within the most recent 6 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%, except for situations in which the maximum PCT is less than 2.5%. In cases where the estimated value is less than 2.5% but greater than 1%, the average and maximum PCT used are 2.5%. If the estimated value is less than 1%, 1% is used as the average PCT and 2.5% is used as the maximum PCT.

The Agency believes that the three conditions discussed in Unit III.C.1.iv. have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which fluazifop-P-butyl may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for fluazifop-P-butyl in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of fluazifop-P-butyl. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide.*

Based on the Surface Water Concentration Calculator (SWCC) model and the Pesticide Root Zone Model Ground Water (PRZM–GW) model, the estimated drinking water concentrations (EDWCs) of fluazifop-P-butyl for acute exposures are estimated to be 56.6 parts per billion (ppb) for surface water and 6.8 ppb for ground water and for chronic exposures are estimated to be 4.41 ppb for surface water and 3.39 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For the acute dietary risk assessment, the water concentration value of 56.6 ppb was used to assess the contribution to drinking water. For the chronic dietary risk assessment, the water concentration of value 4.41 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Fluazifop-P-butyl is currently registered for the following uses that could result in residential exposures: Lawns/turf and ornamentals. EPA assessed residential exposure using the following assumptions: For handlers, exposure is expected as a result of application to turf and ornamentals. Post-application exposure is also expected as a result of being in an environment that has been previously treated with fluazifop-P-butyl.

For adult handlers, risk estimates are presented as an aggregated risk index (ARI) since the PODs for dermal and inhalation routes of exposure are based on the same study/effects, but have different LOCs (dermal LOC = 100 and inhalation LOC = 1000). The target ARI is 1; ARIs of less than 1 are risk estimates of concern. None of the residential handler scenarios resulted in a risk estimate of concern (*i.e.,* all ARIs ≥1).

For post-application, only dermal and incidental oral (for kids only) exposures were assessed. Since the PODs for these routes are based on the same effects and have the same LOC, risk estimates can be combined. All residential post-application MOEs are greater than the LOC of 100, and are therefore not of concern.

The Agency used the worst-case exposure scenarios for all population subgroups for recommendation for inclusion in the aggregate assessment. The residential exposure scenario used in the adult aggregate assessment is dermal and inhalation handler exposure

from applications to gardens/trees using a backpack sprayer. The residential exposure scenario used in the youth (11 to <16 years) aggregate assessment is dermal post-application exposure from golfing on treated turf. The residential exposure scenario used in the child (6 to <11 years) aggregate assessment is dermal post-application exposure from activities in treated gardens. The residential exposure scenario used in the child (1 to <2 years) aggregate assessment reflects combined dermal plus hand-to-mouth post-application exposure from high contact activities on treated turf. The PODs for the adult dermal and inhalation routes of exposure are based on the same study and based on the same effects; however, the LOCs are different (dermal LOC = 100 and inhalation LOC = 1000). Therefore, a total aggregated risk index (ARI) was used to combine risk estimates. The aggregate risk index (ARI) is calculated as follows:

Aggregate Risk Index (ARI) = 1 ÷ [(Dermal LOC ÷ Dermal MOE) + (Inhalation LOC ÷ Inhalation MOE)]. The target ARI is 1; ARIs of less than 1 are risk estimates of concern. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found fluazifop-P-butyl to share a common mechanism of toxicity with any other substances, and fluazifop-P-butyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that fluazifop-P-butyl does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* Quantitative sensitivity of the fetus was observed in the rat developmental studies in which no maternal toxicity was observed. Developmental toxicity in the rat was generally related to incomplete ossification. At higher doses, decreased fetal body weight and an increased incidence of diaphragmatic hernia were observed. In the rabbit, maternal and developmental toxicity were observed at the same dose. Maternal toxicity included abortions, weight loss, and death, and fetal toxicity included abortions, skeletal effects, and fetuses that were small and/or had cloudy eyes. In the rat reproduction and fertility study, maternal (increased liver weight, bile duct hyperplasia, geriatric nephropathy) and offspring (decreased pup viability, decreased pup body weight, and hydronephrosis) toxicity were observed at the same dose level, and decreased female fertility was observed at the highest dose.

3. *Conclusion.* For acute dietary and inhalation short-term exposure scenarios, the Agency is retaining the FQPA safety factor of 10x for the use of a LOAEL to extrapolate a NOAEL (acute dietary) and to account for the lack of a subchronic inhalation toxicity study (inhalation short-term). EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1x for the chronic dietary, incidental oral, and dermal short-term exposure scenarios. That decision is based on the following findings:

i. The toxicity database for fluazifop-P-butyl for assessing these scenarios is complete.

ii. Possible signs of neurotoxicity were observed at 500 mg/kg in the acute neurotoxicity study. The clinical signs observed included reduced activity, decreased rearing, hunched posture and/or piloerection, and decreased motor activity (total distance and number of rearings) in both sexes. However, considering that this was a bolus (gavage) dose at half the limit dose, the nature of the observations and the lack of neuropathology suggests that the findings were a result of generalized toxicity rather than neurotoxicity.

Slight increases in absolute (2.5%) and relative (1.6%) brain weights were seen in both sexes at 3,000 ppm (≈194 mg/kg/day) at termination in the carcinogenicity study in hamsters. Slight increases in brain weights were seen in female rats (2.9%) at 100 mg/kg/day and in male hamsters (4%) at 120 mg/kg/day after subchronic exposures with fluazifop-P-butyl. The toxicological significance of the marginal increases in brain weights at high doses is unknown in the absence of corroborative histopathological lesions.

The Agency concluded that there was not a concern for neurotoxicity resulting from exposure to fluazifop-P-butyl at relevant exposure levels. The only indication of potential neurotoxicity was due to a large (500 mg/kg) bolus dose (gavage) in the acute neurotoxicity study. No developmental or central nervous system malformations were seen in any of the developmental toxicity studies with rats or rabbits. No increased offspring sensitivity over parent was seen in the rabbit pre-natal developmental studies or in the rat post-natal reproduction study, and no evidence of neurotoxicity or neuropathology was observed in adult animals. Although malformed fetuses were seen at high dose levels in the absence of maternal toxicity in the rat developmental toxicity studies, the definitive developmental endpoint in five developmental studies was selected based on delayed ossification and fetal weight decrement at much lower doses (100-fold lower). Therefore, the conditions were not met for requiring a developmental neurotoxicity study.

iii. There was no indication of fetal or offspring susceptibility in rabbit developmental or rat reproduction studies. Quantitative sensitivity of the fetus was noted in the rat developmental studies as described above. However, the selected PODs are protective for all exposure scenarios where the developing fetus is of concern. Therefore, the degree of concern is low.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments include assumptions that result in high-end estimates of dietary food exposure.

EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to fluazifop-P-butyl in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by fluazifop-P-butyl.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to fluazifop-P-butyl will occupy 42% of the aPAD for children 1–2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to fluazifop-P-butyl from food and water will utilize 49% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of fluazifop-P-butyl is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Fluazifop-P-butyl is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to fluazifop-P-butyl.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate ARIs of 2.1 for adults, 51 for youths 11–16 years old, 13 for children 6–11 years old, and 1.7 for children 1–2 years old. Because EPA's level of concern for fluazifop-P-butyl is an ARI of 1 or below, these ARIs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Intermediate-term adverse effects were identified; however, fluazifop-P-butyl is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for fluazifop-P-butyl.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, fluazifop-P-butyl is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to fluazifop-P-butyl residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (High Performance Liquid Chromatography/Ultra-Violet Spectrometry (HPLC/UV)) is available to enforce the tolerance expression.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established any MRLs for fluazifop-P-butyl.

C. Revisions to Petitioned-For Tolerances

The petitioner requested a tolerance of 5.0 ppm for ''Lettuce, head and leaf''. This is not a standard commodity definition. Rather, the Agency is establishing separate tolerances for ''Lettuce, head'' and ''Lettuce, leaf'' at 3.0 and 5.0 ppm, respectively, as determined by the Organization for Economic Cooperation and Development (OECD) MRL calculation procedures. The caneberry subgroup 13–07A tolerance is being established at 0.08 ppm instead of 0.05 ppm as requested since two of the raspberry trials were determined not to be independent. The requested tolerances for grass forage and hay is being established as fescue forage and hay because the use requested for the corresponding pesticide registration is limited to fescue grass varieties. In addition, where appropriate, EPA has modified the numerical expression of tolerance values in order to conform to current Agency policy on significant figures.

V. Conclusion

Therefore, tolerances are established for residues of fluazifop-P-butyl, butyl (2*R*)-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoate, including its metabolites and degradates, in or on the bushberry subgroup 13–07B at 0.30 ppm; caneberry subgroup 13–07A at 0.08 ppm; fescue, forage at 4.0 ppm (tolerance with regional registrations); fescue, hay at 15 ppm (tolerance with regional registrations); fruit, small vine climbing, except fuzzy kiwifruit, subgroup 13–07F at 0.03 ppm; lettuce, head at 3.0 ppm; lettuce, leaf at 5.0 ppm; onion, bulb, subgroup 3–07A at 0.50 ppm; onion, green at 1.5 ppm; strawberry at 3.0 ppm; and vegetable, tuberous and corm, except potato, subgroup 1D at 1.5 ppm.

Additionally, the existing tolerances for grape; onion, bulb; and sweet potato, roots are removed as unnecessary, since they are covered by the newly established crop group tolerances, and the tolerance with regional registrations for rhubarb at 0.5 ppm, currently under section 180.411(c), will now be listed in

section 180.411(a) since it will now have a national registration.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. 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, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 30, 2017.

Michael L. Goodis,

Director, Registration Division, Office of Pesticide Programs.

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 § 180.411:

■ a. Add alphabetically the commodities ''Bushberry subgroup 13–07B''; ''Caneberry subgroup 13–07A''; and ''Fruit, small vine climbing, except fuzzy kiwifruit, subgroup 13–07F'' to the table in paragraph (a);

■ b. Remove the commodity ''Grape'' in the table in paragraph (a);

■ c. Add alphabetically the commodities ''Lettuce, head'' and ''Lettuce, leaf'' to the table in paragraph (a);

■ d. Remove the commodity ''Onion, bulb'' in the table in paragraph (a);

■ e. Add alphabetically the commodities ''Onion, bulb, subgroup 3–07A''; ''Onion, green''; ''Rhubarb''; and ''Strawberry'';

■ f. Remove the commodity ''Sweet potato, roots'' in the table in paragraph (a);

■ g. Add alphabetically the commodity ''Vegetable, tuberous and corm, except potato, subgroup 1D'' to the table in paragraph (a);

■ h. Add alphabetically the commodities ''Fescue, forage''; and ''Fescue, hay'' to the table in paragraph (c); and

■ i. Remove the commodity ''Rhubarb'' from the table in paragraph (c).

The additions read as follows:

§ 180.411 Fluazifop-P-butyl; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Bushberry subgroup 13–07B	0.30
Caneberry subgroup 13–07A	0.08
* * * * *	
Fruit, small vine climbing, except fuzzy kiwifruit, subgroup 13–07F	0.03
* * * * *	
Lettuce, head	3.0
Lettuce, leaf	5.0
* * * * *	
Onion, bulb, subgroup 3–07A	0.50
Onion, green	1.5
* * * * *	
Rhubarb	0.50
* * * * *	
Strawberry	3.0
Vegetable, tuberous and corm, except potato, subgroup 1D	1.5

* * * * *

(c) * * *

Commodity	Parts per million
* * * * *	
Fescue, forage	4.0
Fescue, hay	15
* * * * *	

* * * * *

[FR Doc. 2017–20748 Filed 9–26–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2016–0049; FRL–9966–68]

Oxathiapiprolin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of the fungicide oxathiapiprolin in or on cacao bean, dried bean. Interregional Research Project Number 4 (IR–4) requested the tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective September 27, 2017. Objections and requests for hearings must be received on or before November 27, 2017, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2016–0049, 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: Michael L. Goodis, Director, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2016–0049 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before November 27, 2017. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2016–0049, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of Tuesday, December 20, 2016 (81 FR 92758) (FRL–9956–04), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP# 6E8505) by Interregional Research Project Number 4 (IR–4). The petition requested that 40 CFR 180.685 be amended by establishing tolerances for residues of the fungicide oxathiapiprolin, 1-[4-[4-[5-(2,6-difluorophenyl)-4,5-dihydro-3-isoxazolyl]-2-thiazolyl]-1-piperidinyl]-2-[5-methyl-3-(trifluoromethyl)-1*H*-pyrazol-1-yl]-ethanone, in or on cacao bean, bean at 0.10 parts per million (ppm); cacao bean, roasted bean at 0.15 ppm; cacao bean, chocolate at 0.15 ppm; and cacao bean, cocoa powder at 0.15 ppm. A summary of the petition prepared by IR–4 is available in the docket, *http://www.regulations.gov.* There were no comments received on the notice of filing.

Based upon review of the data supporting the petition, EPA is establishing tolerances that differ from what the petitioner requested including; the commodity definition, tolerance level, and for which commodities. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has

sufficient data to assess the hazards of and to make a determination on aggregate exposure for oxathiapiprolin including exposure resulting from the tolerance established by this action, consistent with FFDCA section 408(b)(2).

In the **Federal Register** of Monday, December 5, 2016 (81 FR 87463) (FRL–9954–69), EPA established tolerances for residues of oxathiapiprolin in or on several food commodities. The risk assessments supporting that action aggregated dietary and non-occupational exposures from existing and proposed uses of oxathiapiprolin, including from the exposures associated with the tolerances requested in this action. That assessment, which included the tolerances in today's action, concluded that the tolerances are safe; therefore, EPA is incorporating the findings in that **Federal Register** document and the supporting risk assessments as the basis for the safety finding in this tolerance rulemaking. In brief, the Agency determined that the lack of toxicity of oxathiapiprolin warranted a qualitative risk assessment, without the need for the additional Food Quality Protection Act safety factor to protect infants and children.

Specific information on the studies received and the nature of the adverse effects caused by oxathiapiprolin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document, ''Oxathiapiprolin—New Active Ingredient Human Health Risk Assessment of Uses on Turf, Ornamentals, and a Number of Crops'' dated June 25, 2015, in docket ID number EPA–HQ–OPP–2016–0049–0018. In addition, an abbreviated human health risk assessment document was developed to support the proposed uses of oxathiapiprolin on multiple crops, including cacao. That document, ''SUBJECT: Oxathiapiprolin. Human Health Risk Assessment to Support the Registration of New Uses of the Fungicide on Various Crops'' dated October 31, 2016 is available in docket ID number EPA–HQ–OPP–2016–0049–0017.

In conclusion, based on the findings of the December 5, 2016 **Federal Register** document and the supporting documents, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to oxathiapiprolin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Method 30422 (Supplement No. 1) was developed for plant commodities, and Method 31138 was developed for livestock commodities. Residues of oxathiapiprolin and associated metabolites are extracted from crop or livestock commodity samples using a solution of formic acid, water and acetonitrile, and diluted with acetonitrile and water. Both methods use liquid chromotography with tandem mass spectrometry (LC/MS/MS), specifically reverse-phase liquid chromatography (LC), and detection by electrospray tandem mass spectrometry (MS/MS).

The FDA multi-residue methods are not suitable for detection and enforcement of oxathiapiprolin residues or associated metabolites. However, the European Multiresidue Method (DFG Method S19) and the QuEChERS Multiresidue Method have shown success in some matrices.

Adequate enforcement methodology (LC/MS/MS) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch/BEAD/OPP, Environmental Science Center, 701 Mapes Rd., Ft. George G. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residue methods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established maximum residue limits (MRLs) for oxathiapiprolin.

C. Revisions to Petitioned-For Tolerances

A tolerance is established for ''Cacao bean, dried bean'', rather than ''Cacao bean, bean'', to comply with current Agency crop-naming policy. Also, EPA determined that tolerances for residues of oxathiapiprolin in or on the processed commodities of cacao bean, roasted bean; cacao bean, chocolate; and cacao bean, cocoa powder are unnecessary because these commodities are covered by cacao bean, dried bean tolerance. Finally, the tolerance for cacao bean, dried bean is being established at 0.15 ppm, rather than at 0.1 ppm as requested, based on the available residue data.

V. Conclusion

Therefore, a tolerance is established for residues of the fungicide oxathiapiprolin, 1-[4-[4-[5-(2,6-difluorophenyl)-4,5-dihydro-3-isoxazolyl]-2-thiazolyl]-1-piperidinyl]-2-[5-methyl-3-(trifluoromethyl)-1*H*-pyrazol-1-yl]-ethanone, in or on cacao bean, dried bean at 0.15 ppm.

VI. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory

Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. 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, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 29, 2017.

Michael L. Goodis,

Director, Registration Division, Office of Pesticide Programs.

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 § 180.685, redesignate paragraph (a)(1) as paragraph (a) and add alphabetically the following commodity ''Cacao bean, dried bean'' to the table in paragraph (a) in alphabetical order to read as follows:

§ 180.685 Oxathiapiprolin; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Cacao bean, dried bean	0.15
* * * * *	

* * * * *

[FR Doc. 2017–20747 Filed 9–26–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2017–0085]

RIN 2127–AL68

Federal Motor Vehicle Safety Standards; Electric-Powered Vehicles: Electrolyte Spillage and Electrical Shock Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: NHTSA is issuing this final rule to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 305, ''Electric-powered vehicles: Electrolyte spillage and electrical shock protection,'' to adopt various electrical safety requirements found in Global Technical Regulation (GTR) No. 13, ''Hydrogen and fuel cell vehicles,'' and other sources. This final rule updates FMVSS No. 305 using modern and harmonized safety requirements and facilitates the introduction of new technologies, including hydrogen fuel cell vehicles (HFCVs) and 48-volt mild hybrid technologies. This final rule is a deregulatory action. It imposes no costs and adjusts FMVSS No. 305 to give more flexibility to manufacturers not only to use modern electrical safety designs to produce electric vehicles, but also to introduce new technologies to the U.S. market. To expand FMVSS No. 305's performance requirements beyond post-crash conditions, NHTSA adopts electrical safety requirements to protect against direct and indirect contact of high voltage sources during everyday operation of electric-powered vehicles. Also, NHTSA adopts an optional method of meeting post-crash electrical safety requirements, consistent with that in GTR No. 13, involving use of physical barriers to prevent direct or indirect contact (by occupants, emergency services personnel and others) with high voltage sources.

DATES:

Effective date: This final rule is effective September 27, 2017.

Compliance date: The compliance date for the amendments in this final rule is September 27, 2018. Optional early compliance is permitted.

Petitions for reconsideration: Petitions for reconsideration of this final rule must be received not later than November 13, 2017.

ADDRESSES: Petitions for reconsideration of this final rule must refer to the docket and notice number set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Note that all petitions received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: Please see the Privacy Act heading under Rulemaking Analyses and Notices.

FOR FURTHER INFORMATION CONTACT: For technical issues, you may call William J. Sánchez, Office of Crashworthiness Standards (telephone: 202–493–0248) (fax: 202–493–2990). For legal issues, you may call Deirdre Fujita, Office of Chief Counsel (telephone: 202–366–2992) (fax: 202–366–3820). Address: National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary
a. Overview
b. Summary of the Final Rule and Highlighted Differences With the NPRM
1. Every Day (Normal) Vehicle Operations
i. Direct Contact Protection From High Voltage Sources
ii. Indirect Contact Protection From High Voltage Sources
iii. Electrical Isolation of High Voltage Sources
iv. Monitoring Systems
v. Electrical Safety During Charging
vi. Mitigating Driver Error
2. Post-Crash Safety

i. Direct and Indirect Contact Protection From High Voltage Sources
ii. Electrical Isolation
3. Definitions, Figures, and Test Procedures
4. Compliance Date
II. Background
a. Overview of the GTR Process
b. Overview of GTR No. 13
c. Physical Barrier Option
d. Petitions for Rulemaking
III. Overview of the Comments
IV. Response to the Comments
a. Definitions and Terminology (General)
b. Clarification of Application of Requirements
c. Electrical Safety for Connectors and the Vehicle Charge Inlet
d. Markings
e. Indirect Contact Protection
f. Electrical Isolation Requirements
g. Electrical Safety During Charging
h. Mitigating Driver Error
i. Test Procedures and Figures in FMVSS No. 305
j. Compliance Date
V. Rulemaking Analyses and Notices

I. Executive Summary

a. Overview

NHTSA is issuing this final rule to update FMVSS No. 305, ''Electric-powered vehicles: Electrolyte spillage and electrical shock protection.'' As indicated in its title, one purpose of FMVSS No. 305 is to reduce deaths and injuries from electrical shock. Currently, the standard focuses on post-crash safety, requiring vehicles with high voltage sources to protect vehicle occupants, rescue workers and others who may contact the vehicle after a crash. To protect against electric shock, FMVSS No. 305 currently requires that, during and after the crash tests specified in the standard, high voltage sources in the vehicle must be either (a) electrically isolated from the vehicle's chassis [1] or (b) their voltage must be at levels considered safe from harmful electric shock.[2] This final rule amends the standard to adopt a physical barrier compliance option that prevents direct and indirect contact [3] of high voltage sources post-crash by way of ''electrical protection barriers.'' An electrical protection barrier is a physical barrier that encloses a high voltage source to prevent direct contact (by occupants, emergency services personnel and others) of the high voltage source from any direction of access.

This final rule is a deregulatory action as it imposes no costs and adjusts FMVSS No. 305 to give more flexibility to manufacturers not only for current electric vehicle designs, but also for introducing new technologies to the U.S. market, including hydrogen fuel cell vehicles (HFCVs) and 48-volt mild hybrid technologies. In adopting the physical barrier option, this final rule adjusts the standard to remove an obstruction that prevented HFCVs from being offered for sale in the U.S. Adopting the physical barrier option also enables manufacturers to produce 48-volt mild hybrid systems without having to use electrical isolation safety measures that involve more complexity, higher consumer costs, and higher mass, without an incremental safety benefit. This rule responds to petitions for rulemaking from Toyota Motor North America Inc. (Toyota) [4] and the Auto Alliance (Alliance).[5]

NHTSA is also issuing this final rule as part of the agency's ongoing effort to avoid unnecessary differences in the vehicle safety standards of different countries through a harmonization process under the United Nation Economic Commission for Europe (UNECE) 1998 Global Agreement (''1998 Agreement''). The efforts of the U.S.[6] and other contracting parties to the 1998 Agreement culminated in the establishment of GTR No. 13, ''Hydrogen and fuel cell vehicles.'' NHTSA voted in June 2013 in favor of establishing GTR No. 13.[7] This final rule adopts requirements based on the electrical safety requirements of GTR No. 13.[8]

Similar to FMVSS No. 305, GTR No. 13 has requirements intended to reduce deaths and injuries from electrical shock, but addresses both normal vehicle operation and post-crash safety. Also, while the various post-crash compliance options in GTR No. 13 are like those in FMVSS No. 305, GTR No. 13 includes the physical barrier option to prevent direct and indirect contact [9] of high voltage sources.

On March 10, 2016, NHTSA issued the notice of proposed rulemaking (NPRM) on which this final rule is based (81 FR 12647). The NPRM proposed adopting GTR No. 13's normal vehicle operation requirements, and proposed adopting a post-crash physical barrier compliance option like that in GTR No. 13.

Comments on the NPRM were generally supportive of the proposed changes. Some commenters requested modifying the proposed regulatory text to clarify the wording of requirements and test procedures or to align the text with GTR No. 13 and ECE R.100, ''Uniform provisions concerning the approval of vehicles with regard to specific requirements for the electric power train,'' and some suggested NHTSA should not adopt some requirements for lack of safety need.

This final rule adopts most aspects of the proposal, with some parts changed in response to commenters. The final rule improves motor vehicle safety by expanding FMVSS No. 305's protections to normal vehicle operations. The updated post-crash performance requirements ensure that new power train configurations provide a comparable level of post-crash safety as that of existing electric vehicles.

This final rule reflects the state-of-the art in vehicle electrical safety. It draws from the findings from the agency's research on the physical barrier compliance option in GTR No. 13 (Battelle study),[10] ECE R.100, and the

[1] Since the physiological impacts of direct current (DC) are less than those of alternating current (AC), the standard specifies lower minimum electrical isolation requirements for DC high voltage sources with electrical isolation monitoring systems (100 ohms/volt) than for AC components (500 ohms/volt).

[2] Under this low voltage option, electrical components are low voltage if their voltage is less than or equal to 60 VDC or 30 VAC. VDC is the voltage for direct current sources and VAC is voltage for alternating current sources. These low voltage levels will not cause electric shock.

[3] Contact of a conductive part that is energized due to loss of electrical isolation of a high voltage source is an indirect contact of a high voltage source.

[4] Petitioner Toyota requested the physical barrier option to allow HFCVs to be offered for sale in the U.S. After its submission of the petition for rulemaking, Toyota pursued and was granted a temporary exemption from FMVSS No. 305 for an HFCV (see grant of petition, January 2, 2015 (80 FR 101)). Toyota incorporates electrical protection barriers (conductively connected to the electric chassis with low resistance) and maintains at least a 100 ohms/volt electrical isolation into its design. NHTSA granted the petition for exemption on the basis that the exemption would make the development or field evaluation of a low emission (zero emission) vehicle easier and would not unreasonably reduce the safety of the vehicle.

[5] Petitioner Alliance requested the physical barrier option to facilitate the production of 48volt mild hybrid technologies as well as HFCVs.

[6] The U.S. was one of several contracting parties to the 1998 Agreement that proposed the development and establishment of GTR No. 13.

[7] Each Contracting Party that voted for a new GTR that has been established under the 1998 Agreement is obligated by that Agreement to initiate its process for adopting the GTR into national law. However, the Agreement does not obligate such a Contracting Party to adopt the GTR. The Contracting Party retains full discretion under the Agreement to decide for itself whether to adopt the GTR.

[8] NHTSA is considering initiating rulemaking in the future on other aspects of GTR No. 13 directly pertaining to the fuel system integrity of HFCVs.

[9] Contact of a conductive part that is energized due to loss of electrical isolation of a high voltage source is an indirect contact of a high voltage source.

[10] NHTSA contracted with the Battelle Memorial Research Institute to research failure modes associated with physical barriers that could result in electric shock. Battelle identified different scenarios involving failure of electrical isolation, direct contact protection, or indirect contact protection and a combination of failure of two or more these protection measures. Battelle then evaluated the possibility of electric shock in each

electrical safety requirements in a January 2014 version of SAE J1766.[11]

The rule not only gives more flexibility to manufacturers to use modern electrical safety designs to produce electric vehicles and introduce new vehicle technologies, but also paves the way globally for future innovations on vehicle electrical safety. A new GTR is under development [12] for electric vehicle safety (EVS–GTR) which includes specifications for high voltage electrical components and rechargeable electric energy storage systems. In November 2016, NHTSA and other parties developing the new draft GTR completed the document's high voltage electrical safety provisions. The parties designed the draft GTR to reflect the provisions of GTR No. 13, ECE R.100, and the requirements proposed in the March 2016 NPRM and adopted by this final rule.

We estimate that the final rule will result in essentially no cost to consumers in the U.S. This rule adopts requirements that closely mirror the electrical safety provisions of GTR No. 13, which have already been implemented by manufacturers in this country.

b. Summary of the Final Rule and Highlighted Differences With the NPRM

This section summarizes the requirements adopted by this final rule. For the convenience of the reader, we also note the few notable differences between this rule and the NPRM. The reasons underlying our decisions are explained in the body of this preamble and in the NPRM.

1. Every Day (Normal) Vehicle Operations

This final rule adds electrical safety requirements for vehicle performance during every day (normal) vehicle operations to mitigate the risk of electric shock due to direct or indirect contact of high voltage sources or loss in electrical isolation. We also adopt requirements to assure electrical safety during refueling and to mitigate driver error in vehicle operation.

i. Direct Contact Protection From High Voltage Sources

The rule specifies:

A. IPXXD protection degree for high voltage sources inside passenger and luggage compartments, and IPXXB protection degree for high voltage sources outside passenger and luggage compartments.[13]

B. IPXXB protection degree for service disconnects that can be opened or removed without tools.[14]

C. Markings on certain electrical protection barriers of high voltage sources (*i.e.,* barriers that can be physically accessed, opened, or removed without the use of tools) and on or near electric energy storage devices. As to the latter, the NPRM also proposed to require markings on or near electric energy conversion devices (fuel cells), but the agency concludes conversion devices are benign in and of themselves in that they are not high density energy sources. Thus, conversion devices do not need to be marked. (Note that the electric protection barrier around a fuel cell is required to be marked.) In another change from the NPRM, markings are not required on electrical connectors and on the vehicle charge inlet [15] because of a lack of a need for the markings.

D. In a change from the NPRM, this rule has distinct direct contact protection requirements for connectors and the vehicle charge inlet. First, it requires that the IPXXB/IPXXD protection levels be met by each connector when connected to its mating component. IPXXD protection degree is required for connectors located inside the passenger and luggage compartments. IPXXB protection degree is required for connectors and vehicle charge inlets located outside these compartments. Second, connectors must meet at least one of the following three requirements: (1) If a connector or vehicle charge inlet can be separated from its mating component without the use of tools, the IPXXB/IPXXD protection level must be provided when the connector is uncoupled from its mating component; (2) if a connector or vehicle charge inlet can be separated from its mating component without the use of tools, the voltage of live parts of the connector or vehicle charge inlet becomes less than or equal to 60 VDC or 30 VAC within one second of separating from its mating component; or, (3) the connector has a locking mechanism (at least two distinct actions are needed to separate the connector from its mating component), and there are other components that must be removed to separate the connector from its mating component and these cannot be removed without the use of tools.

E. This rule requires orange color outer coverings for cables of high voltage sources that are located outside electrical protection barriers.

ii. Indirect Contact Protection From High Voltage Sources

This rule requires exposed conductive parts of electrical protection barriers to be conductively connected to the chassis with a resistance less than 0.1 ohms, and the resistance between two simultaneously reachable exposed conductive parts of electrical protection barriers that are within 2.5 meters of each other must be less than 0.2 ohms.[16]

iii. Electrical Isolation of High Voltage Sources

A. This rule requires 500 ohms/volt or higher electrical isolation for AC high voltage sources and 100 ohms/volt or higher for DC high voltage sources.

B. Where AC and DC buses are connected, this rule permits AC high voltage sources to have electrical isolation of 100 ohms/volt or higher, provided they also have the direct and indirect contact protection described in i and ii, above.

iv. Monitoring Systems

This rule requires an electrical isolation monitoring system for DC high voltage sources on fuel cell vehicles.

of these scenarios. Battelle's evaluation noted that multiple failures in protection measures were needed for a person to experience electric shock. The final report is available at *https://www.regulations.gov/document?D=NHTSA-2016-0029-0003.*

[11] SAE J1766, ''Recommended practice for electric, fuel cell, and hybrid electric vehicle crash integrity testing,'' January 2014, SAE International, *http://www.sae.org.*

[12] In November 2011, the Executive Committee of the 1998 Agreement established a working group to develop a GTR for electric vehicle safety. The United States is a co-chair of this working group, along with the European Union, Japan, and China. *See,* draft Global Technical Regulation on Electric Vehicle Safety, September 2016. *https://www2.unece.org/wiki/display/trans/EVS+12th+session.*

[13] IPXXB and IPXXD ''protection degrees'' refer to the ability of the physical barriers to prevent entrance of a probe into the barrier, to ensure no direct contact with high voltage sources. ''IPXXB'' is a probe representing a small human finger. ''IPXXD'' is a slender wire probe. Protection degrees IPXXB and IPXXD are International Electrotechnical Commission specifications for protection from direct contact of high voltage sources.

[14] A service disconnect is a device for deactivation of an electrical circuit when conducting checks and services of the electric battery, fuel cell stack, or other high voltage source.

[15] The vehicle charge inlet is the device on the electric vehicle into which the charge connector is inserted for the purpose of transferring energy and exchanging information from an external electric power supply.

[16] This ensures that in the event of loss in electrical isolation, no dangerous voltage potentials are produced between exposed conductive parts of electrical protection barriers and the electrical chassis, and therefore very low levels of current would flow through a human body contacting different parts of the vehicle. Since current flows through the path of least resistance, most of the current flow will be through the chassis than through the human body which has a significantly higher resistance.

v. Electrical Safety During Charging

This final rule requires:

A. Electrical isolation greater than or equal to 500 ohms/volt between the electrical chassis and other high voltage sources connected to the vehicle charge inlet (for connecting to the AC external power supply). Note that this is a change from the 1 million ohms isolation resistance requirement proposed in the NPRM.

B. IPXXB/IPXXD protection level for the vehicle charge inlet when connected to the charge connector and IPXXB/IPXXD protection level or low voltage when separated from the charge connector.

C. Conductive connection of the electric chassis to earth ground before and during the application of exterior voltage to the vehicle.[17]

vi. Mitigating Driver Error

This final rule includes requirements for—

A. Providing at least a momentary indication to the driver when the vehicle is first placed in ''possible active driving mode'' after manual activation of the propulsion system.[18] This is a change from the NPRM to clarify when the momentary indication must be provided.

B. Informing the driver if the vehicle is still in a possible active driving mode,[19] by an audible or visual signal when he or she leaves the vehicle; and,

C. Preventing vehicle movement of more than 150 millimeters (mm) by its own propulsion system when the vehicle charging system is connected to the external electric power supply in such a way that charging is possible. (The 150 mm limit is a change from the NPRM, which did not specify a distance.)

2. Post-Crash Safety

This final rule also amends FMVSS No. 305's post-crash electrical safety requirements.

i. Direct and Indirect Contact Protection From High Voltage Sources

The rule adds an optional method of meeting post-crash electrical safety requirements through physical barrier protection of high voltage sources. The specifications of this optional method of electric safety include requirements ensuring that:

A. High voltage sources are enclosed in barriers that prevent direct human contact with high voltage sources (IPXXB protection level),

B. Exposed conductive parts of electrical protection barriers are conductively connected to the chassis with a resistance less than 0.1 ohms. The resistance between any two simultaneously reachable exposed conductive parts of electrical protection barriers that are less than 2.5 meters from each other must be less than 0.2 ohms.

C. Voltage between exposed conductive parts of an electrical protection barrier and the electrical chassis, and between two simultaneously reachable exposed conductive parts of the electrical protection barrier that are less than 2.5 meters from each other, must be less than or equal to 60 VDC or 30 VAC (low voltage). (The NPRM was worded to apply this requirement to voltage between any exposed conductive parts of the vehicle.)

ii. Electrical Isolation

An AC high voltage source that is conductively connected to a DC high voltage source may meet an electrical isolation requirement of 100 ohms/volt or greater, provided the AC high voltage source also has physical barrier protection specified in i(A) and i(B), above.[20] (The NPRM had proposed requiring all three elements i(A), i(B), and i(C) of physical barrier protection for such AC high voltage sources.)

3. Definitions, Figures, and Test Procedures

We make minor changes to a number of proposed definitions to clarify the standard and to achieve consistency with other definitions. We adopt terms such as ''high voltage live parts,'' ''exposed conductive parts of electrical protection barriers,'' and ''possible active driving mode'' in place of proposed terms that were less clear.

We make a minor correction to Figure 7b and clarify Figure 8.

We clarify several test procedures, including how we will use the IPXXB and IPXXD protection degree probes and how we determine the voltage between various conductive parts. We provide manufacturers the option of choosing between two methods for measuring resistance, and, in a change from the NPRM, provide that resistance between two exposed conductive parts of the electrical protection barrier may be computed from measured resistances.

4. Compliance Date

The compliance date for this final rule is one year from the date of publication of the final rule in the **Federal Register**. Optional early compliance is permitted. (The NPRM proposed a compliance date of 180 days after the publication of the final rule in the **Federal Register**.)

II. Background

a. Overview of the GTR Process

The United States is a contracting party to the 1998 Agreement, which was entered into force in 2000 and is administered by the UN ECE's Working Party (WP).29. The purpose of this agreement is to establish GTRs.

GTR No. 13 addresses hydrogen fuel cell vehicle technology. NHTSA closely collaborated with experts from contracting parties to the 1998 Agreement, particularly Germany and Japan, to develop a GTR for hydrogen fueled vehicles that establishes levels of safety that are equivalent to or exceeds those for conventional gasoline fueled vehicles. The collaborative effort in this process led to the establishment of GTR No. 13 in June 2013.

The U.S. voted on June 27, 2013 in favor of establishing GTR No. 13. In voting yes to establishing the GTR, NHTSA is obligated to submit the technical regulation to the process used in the U.S. to adopt the requirement into our law or regulation.[21] By issuance of the March 10, 2016 NPRM preceding this final rule, NHTSA initiated the process for considering adoption of GTR No. 13.

This final rule addresses the electrical safety requirements in GTR No. 13 (*i.e.,* the electrical isolation requirements, physical barrier requirements, etc.) and not GTR No. 13's hydrogen fuel system and fuel container integrity requirements. NHTSA will commence a

[17] Current will flow through the path of least resistance and therefore most of the current resulting from a loss of electrical isolation would flow through the ground connection rather than through the human body.

[18] Vehicles with an internal combustion engine that directly or indirectly provides the vehicle's propulsion power on start up are excluded from this requirement.

[19] I.e., the vehicle mode when application of pressure to the accelerator pedal or release of the brake system causes the electric power train to move the vehicle.

[20] I.e., they provide IPXXB protection degree and indirect contact protection of resistance between exposed conductive parts of the electrical protection barrier and electric chassis of 0.1 ohms and between two simultaneously reachable exposed conductive parts within 2.5 meters of each other of 0.2 ohms.

[21] As noted above, under the terms of the 1998 Agreement, NHTSA is not obligated to adopt the GTR after initiating this process. In deciding whether to adopt a GTR as an FMVSS, we follow the requirements for NHTSA rulemaking, including the Administrative Procedure Act, the National Highway and Motor Vehicle Safety Act (Vehicle Safety Act) (49 U.S.C. 30101 *et seq.*) Presidential Executive Orders, and DOT and NHTSA policies, procedures and regulations. Among other things, FMVSSs issued under the Vehicle Safety Act ''shall be practicable, meet the need for motor vehicle safety, and be stated in objective terms.'' 49 U.S.C. 30111.

separate proceeding on incorporating the latter portions of GTR No. 13 into the relevant FMVSSs.

b. Overview of GTR No. 13

HFCVs have an electric drive-train powered by a fuel cell that generates electric power electrochemically using hydrogen. The hydrogen is electrochemically combined with oxygen (from air) within the fuel cell system to produce high-voltage electric power. The electric power is supplied to the electric drive motors and/or used to charge batteries and capacitors. HFCVs may also be equipped with batteries to supplement the output of fuel cells and may also recapture energy during stopping through regenerative braking, which recharges batteries and thereby improves efficiency.

The fuel cell provides DC power while the drive motors typically operate on AC. Therefore, the power train has: (a) Inverters to convert DC power to AC to run the motors and (b) converters to convert AC power generated in the drive motor during regenerative braking to DC to store energy in the batteries. In many respects, the electric power train of an HFCV is like that of electric and hybrid electric vehicles.

GTR No. 13 specifies electrical safety requirements during normal vehicle operation and after a crash test, to protect against electric shock in the event of a failure in the high voltage propulsion system. GTR No. 13 includes a compliance option for electrical vehicle safety that prevents direct and indirect contact of high voltage sources by way of ''physical barriers.'' [22]

c. Physical Barrier Option

The industry has long requested NHTSA to adopt a physical barrier option into FMVSS No. 305. In 2010, NHTSA decided against adoption of a physical barrier option because the agency believed not enough was known about the option.[23] Commenters to an NPRM to upgrade FMVSS No. 305's electrical shock protection requirements had asked NHTSA to adopt the option in the final rule. NHTSA declined the request,[24] explaining that (a) sufficient notice might not have been provided for the provision, (b) the agency was uncertain whether the option would sufficiently account for indirect contact failure modes, and (c) the agency wished to pursue research on this safety approach. NHTSA undertook a research program (later known as the Battelle study, discussed in detail in the NPRM, 81 FR at 12656–12659) to better understand the issues related to a physical barrier option for electrical safety.

Since that decision in 2010, several milestones ensued. GTR No. 13 was established, a product of shared data and knowledge from governing bodies and international experts around the world. The Battelle study was completed and the physical barrier countermeasure design was made more robust in response to its findings, with SAE International revising SAE J1766 in January 2014 to set forth more protective safety practices than it had before. Importantly, there have now been years of worldwide recognition of the physical barrier option as an acceptable means of providing electrical safety in electric powered vehicles, with years of experience in design labs and in the field showing no evidence of associated safety problems.

d. Petitions for Rulemaking

This final rule responds not only to GTR No. 13 but also to petitions for rulemaking from Toyota and the Alliance. The petitions are discussed in detail in the March 10, 2016 NPRM. See 81 FR at 12659–12663.

Petitioner Toyota believes that an additional compliance option that includes elements of the physical barrier option in GTR No. 13 is needed to allow HFCVs to be offered for sale in the U.S.

HFCVs and other electric powered vehicles operate with their DC high voltage sources (*e.g.* high voltage battery) connected to the AC high voltage sources (*e.g.* electric motor). In a moderate to severe crash (*e.g.,* crash speeds at which an air bag would deploy), electric powered vehicles are generally designed with an automatic disconnect mechanism that activates and breaks the conductive link between the electrical energy storage system and the rest of the power train. Under these crash conditions in which an automatic disconnect mechanism activates, Toyota states that its HFCVs would be able to meet the current electrical safety requirements of FMVSS No. 305. However, in low speed crashes where the automatic disconnect mechanism is not designed to activate—so that the vehicle can be driven away after a minor crash (fender-bender)—Toyota states that its HFCVs would not be able to meet the electrical safety requirements in FMVSS No. 305. The electrical isolation for fuel cell stacks would need to be 500 ohms/volt or greater to comply with FMVSS No. 305, which may not be technically feasible. The petitioner believes that the additional compliance option requested in its petition would solve this problem and would not cause any reduction in the level of electrical safety now required by FMVSS No. 305.

Petitioner Alliance requests a physical barrier compliance option to facilitate the production of 48-volt mild hybrid technologies as well as hydrogen fuel cell vehicles. The petitioner asks NHTSA to amend FMVSS No. 305 to adopt a physical barrier option incorporated in the SAE J1766 January 2014,[25] section 5.3.4, for 48-volt mild hybrid systems. The Alliance believes that the provisions for physical barriers in section 5.3.4 incorporate the requirements of GTR No. 13 and provide for physical barriers that ensure equal levels of safety as that afforded by the current FMVSS No. 305 electrical safety requirements.

The Alliance states that while vehicles with 48-volt mild hybrid systems use mostly low-voltage components that do not present any danger of harmful electric shock, AC voltage sources contained within the system can exceed the 30 volt threshold in FMVSS No. 305 for consideration as a high voltage source. Since these systems are grounded to the vehicle chassis, they cannot meet FMVSS No. 305's existing electrical isolation option. The petitioner states that, while it is feasible to design a 48-volt mild hybrid system that is isolated from the chassis and meets FMVSS No. 305's electrical isolation requirements, such designs involve more complexity, higher consumer costs, and higher mass resulting in reduced fuel economy and increased emissions. The petitioner believes that these consequences are inappropriate when there would be no incremental safety benefit gained beyond that associated with SAE J1766's physical barrier option.

III. Overview of the Comments

NHTSA received six comments on the NPRM. Comments were received from two motor vehicle manufacturer associations (the Alliance and the Association of Global Automakers (Global)), three vehicle manufacturers (Mercedes-Benz USA LLC (Mercedes-Benz), Tesla Motors Inc. (Tesla), and Fuji Heavy Industries on behalf of Subaru of America Inc. (Subaru)), and one individual.

The commenters strongly support that FMVSS No. 305 should include

[22] A detailed description of GTR No. 13 can be found in the NPRM. See 81 FR at 12651–12654.

[23] See final rule, 75 FR 33515, June 14, 2010; response to petitions for reconsideration, 76 FR 45436, July 29, 2011.

[24] *Id.*

[25] SAE J1766, ''Recommended practice for electric, fuel cell, and hybrid electric vehicle crash integrity testing,'' January 2014, SAE International, *http://www.sae.org.*

requirements for normal vehicle operation and incorporate a physical barrier option for electrical safety. They request changes to the proposed regulatory text to improve clarity of or correct wording and to align the regulatory language, including definitions, to that in GTR No. 13 and ECE R.100. Some commenters suggest NHTSA not adopt or reduce the stringency of particular requirements for lack of safety need, such as the marking of connectors and the vehicle charge inlet, and a ''one million ohms'' isolation requirement for charging electrical energy storage devices. Several commenters suggest NHTSA adopt separate performance requirements for connectors and for the vehicle inlet, that include direct contact protection when connected and separated from its mating component. Some commenters request NHTSA change how the agency will conduct compliance tests, such as by limiting the number of resistance and voltage measurements between exposed conductive parts. Several commenters request the compliance date for the amendments be longer than 180 days.

IV. Response to the Comments

a. Definitions and Terminology (General)

Commenters request modifications to certain definitions and terms generally used in the regulatory text. The Alliance believes that the definition of ''exposed conductive part'' should be revised to clarify that the part is not normally energized (that energization can occur under a fault condition). The Alliance also requests replacing the term, ''exposed conductive parts'' in the regulatory text with ''exposed conductive parts of electrical protection barriers,'' so as to exclude conductive parts that are not part of the electrical protection barriers and the electric power train, such as hose clamps. Similarly, Global suggests the term be replaced with ''exposed conductive part of the electrical protection barrier enclosing the high voltage source,'' throughout the regulatory text. Commenters suggest ''electrical barriers,'' should be replaced with ''electrical protection barriers,'' in the regulatory text for consistency and to reduce ambiguity. The Alliance requests a broadened definition for ''external electric power supply,'' to refer to ''electric energy storage device,'' in part because the proposed definition uses the term ''propulsion battery,'' which is not defined. The Alliance requests replacing the term, ''live parts'' with ''high voltage live parts'' in the regulatory text since electrical safety requirements apply to high voltage sources.

NHTSA reviewed these comments and generally agrees with revising the definitions and terms at issue, to clarify the text of FMVSS No. 305. We summarized our decisions in Table 1 and have incorporated appropriate changes into the regulatory text.

The Alliance asks that we amend the definition of ''high voltage source'' to make clear that a component is a high voltage source based on its working voltage. The current definition states: ''*High voltage source* means any electric component contained in the electric power train or conductively connected to the electric power train that has a working voltage greater than 30 VAC or 60 VDC.'' The commenter states that the definition can be read in two different ways because ''it is not clear if the *component* or the electric *power train* is being modified by the given voltage limits.'' (Emphasis in text.) NHTSA's intent was to modify the ''component.''[26] We have clarified the definition in the regulatory text.

The Alliance and Global point out that the definition of luggage compartment mistakenly refers to ''protecting the power train'' instead of ''protecting the occupant.'' We note that the definition's reference to ''hood'' should also refer to ''trunk lid,'' as in the U.S. luggage compartments are usually thought of as trunks, which are thought to have ''trunk lids.'' We have made the corrections in the text.

The Alliance requests adding a definition for the term ''connector,'' assuming NHTSA will adopt separate electrical safety requirements for connectors (this issue is discussed in a section below). The Alliance states that a connector is a device that provides mechanical connection and disconnection of high voltage electrical conductors to a suitable mating component, including its housing. Since this final rule adopts such separate requirements for connectors, the agency agrees to add a definition for ''connector'' to the regulatory text.

The Alliance states that ''electric energy storage device'' in proposed S5.4.3.2 is too specific and thereby restrictive, and that ''electric circuit'' should be used instead. We concur the proposed term is overly specific, but since ''electric circuit'' is not used or defined in FMVSS No. 305, we will use ''electric component'' in place of the term at issue.[27]

Subaru requests clarification of the meaning of the term ''normal vehicle operation.'' Subaru asks whether the term refers to anytime the vehicle is being driven under its own power or to any vehicle operation when no system faults or abnormalities are present. Subaru asks whether the reference to normal vehicle operation in the definition of the term, ''live parts,''[28] includes the vehicle's driving under its own electric power and static charging modes.

NHTSA believes that ''normal vehicle operation'' includes operating modes and conditions that can reasonably be encountered during typical operation of the vehicle, such as driving, parking and standing in traffic, as well as, charging using chargers that are compatible with the specific charging ports installed on the vehicle. It does not include conditions where the vehicle is damaged, either by a crash or road debris, subjected to fire or water submersion, or in a state where service and or maintenance is needed or being performed.

The Alliance, Global and Subaru ask about adding a definition for an ''enclosure,'' since in the NPRM the agency used the term ''enclosure'' as though an enclosure was distinct from an electrical protection barrier. We meant the terms to be synonymous. However, rather than add the definition, for simplicity we have removed the term ''enclosure'' from the standard and only use the term ''electrical protection barrier.''

For the convenience of the reader, Table 1 below shows the notable added and revised terms.

[26] In FMVSS No. 305, an electric component that is contained in the electric power train or is conductively connected to it is considered to be a high voltage source if its working voltage is greater than 30 VAC or 60 VDC. Working voltage is defined in FMVSS No. 305 as the highest root mean square voltage of the voltage source, which may occur across its terminals or between its terminals and any conductive parts in open circuit conditions or under normal operating conditions. Therefore, the reference to working voltage in the definition of ''high voltage source'' in FMVSS No. 305 is that for the electrical component and not the power train.

[27] The term, ''electric component,'' is currently used in the definition of a ''high voltage source'' in FMVSS No. 305.

[28] The NPRM proposed to define live part to mean a conductive part of the vehicle that is electrically energized under normal vehicle operation (S4).

TABLE 1—NOTABLE TERMS AND DEFINITIONS THE COMMENTERS ASK TO BE ADDED OR AMENDED; NHTSA RESPONSE

Term at issue	Requested change	Reason for request	Does NHTSA agree	NHTSA response
Connector	NHTSA should define the term [29]	Clarity; enables distinct requirements for ''connectors''.	Yes	Defining the term will clarify the standard.
Electrical barriers	Use ''electrical protection barriers''	Consistency and reduces ambiguity	Yes	NHTSA agrees the same term should be used throughout the standard.
Electrical protection barrier.	Change the NPRM's definition to make clear the term includes ''enclosures''.	Clarity	No	See ''enclosure'' (below). The change is unnecessary.
Enclosure	NHTSA should define the term	This term should be defined since it is used several times.	No, the change is unnecessary.	Revised the text to remove references to ''enclosure'' and use electrical protection barrier instead.
Exposed conductive part.	Add to the NPRM's definition to clarify that the part is not normally energized; Use ''exposed conductive part of the electrical protection barrier'' [30].	Clarify that the part is not normally energized; energization can occur under fault condition. This also excludes conductive parts that are not part of the electric power train, such as hose clamps.	Yes	NHTSA concurs, to clarify the standard. Also, we clarify the term ''cover'' in the definition. NHTSA agrees to replace ''exposed conductive part,'' with ''exposed conductive part of the electrical protection barrier,'' in the standard.
External electric power supply.	Revise definition to refer to ''electric energy storage device'' rather than to ''propulsion battery''.	To improve accuracy of the definition	Yes	The change clarifies the standard.
High voltage source	Revise definition as ''means any electric component which is contained in the electric power train or conductively connected to the electric power train and has a working voltage greater than 30 VAC or 60 VDC''.	Should make clearer what is being modified.	Yes	We agree the change clarifies the standard.
Live parts	Use ''High voltage live parts''	To clarify the applicability of the term	Yes	Clarifies the standard.
Luggage compartment.	Correct the reference to ''power train''	Correction	Yes	We correct the error, and add ''trunk lid.''
Normal vehicle operation.	NHTSA should clarify the term	To clarify if it includes driving and charging modes.	Yes	We clarify the term in the preamble.
Electric energy storage device (specific to. S5.4.3.2)	Use ''electric circuit''	Term is too specific and restrictive	Yes, but use ''electric component''.	''Electric circuit'' is not defined.

b. Clarification of Application of Requirements

The Alliance requests we add paragraphs to the regulatory text explicitly stating that the electrical safety requirements (S5.3) and the monitoring system requirement (S5.4) of FMVSS No. 305 do not apply to the DC part of a 48-volt mild hybrid system. (This pertains to the DC part that is conductively connected to the electrical chassis and that has a working voltage less than or equal to 60 VDC, and the maximum voltage between the DC live part and any other live part is less than or equal to 30 VAC or 60 VDC.) The commenter states that the draft EVS–GTR includes such a statement.

We do not believe there is a need for such a provision in FMVSS No. 305, for several reasons.

First, as discussed in a previous section, we are amending the definition of ''high voltage source,'' as the Alliance requests, to make clear that a component is a high voltage source based on its working voltage. That change provides the clarification the commenter seeks.

Second, the Alliance asks that NHTSA provide in the preamble the following statement for further clarification. The commenter's statement is: ''Where electrical circuits, that are galvanically connected to each other, and fulfilling the condition, that the maximum voltage between a DC live part and any other live part (DC or AC) is less [than] or equal [to] 30 VAC and 60 VDC, only the components or parts of the electric circuit that operate on high voltage are classified as high voltage sources.'' We concur that the statement is consistent with NHTSA's intent.

Third, the agency does not believe the above-quoted text is needed in FMVSS No. 305 because of a fundamental difference between the standard and the draft EVS–GTR. (This difference also exists between FMVSS No. 305 and GTR No. 13 and ECE R.100.) The electrical safety requirements in FMVSS No. 305 apply to each high voltage source in the power train, while the electrical safety requirements in the draft EVS–GTR would apply to high voltage buses and electric circuits. This means that NHTSA determines whether the electrical safety requirements of FMVSS No. 305 apply to electric components that are connected to or part of the electric power train by individually assessing each component separately, analyzing its working voltage.[31] To illustrate, in a 48-volt mild hybrid system, NHTSA will assess the working voltage of each DC component. If the working voltage of the component is not greater than 60 VDC, NHTSA does not subject it to the electrical safety requirements in FMVSS No. 305, regardless of whether it is galvanically connected to other electrical components that would be considered high voltage sources.[32] Accordingly, the

[29] The Alliance suggests ''a connector is a device that provides mechanical connection and disconnection of high voltage electrical conductors to a suitable mating component, including its housing.'' This definition was suggested by the Alliance and added in the draft EVS–GTR available at *https://www2.unece.org/wiki/display/trans/EVS+13th+session.*

[30] Similar to the Alliance's request, Global requests replacing ''exposed conductive part'' with ''exposed conductive part of the electrical protection barrier enclosing the high voltage source'' in the regulatory text. Due to the similarity with the Alliance's request and because there is no need to specify that electrical protection barriers enclose high voltage sources, Global's request was not adopted in the final rule.

[31] Working voltage is defined in FMVSS No. 305 as the highest root mean square voltage of the voltage source which may occur across its terminals or between its terminals and any conductive part in open circuit conditions or under normal operating systems.

[32] In contrast, the draft EVS–GTR applies to high voltage buses and electric circuits. In a 48-volt mild hybrid system, the DC electrical sources are low voltage (working voltage is less than or equal to 60

Continued

additional text for excluding the DC part of 48-volt mild hybrid systems from electrical safety requirements requested by the Alliance is not necessary in FMVSS No. 305.

c. Electrical Safety for Connectors and the Vehicle Charge Inlet

GTR No. 13 specifies direct contact protection requirements for high voltage connectors separately. Per GTR No. 13, connectors do not need to meet IPXXB protection if they are located underneath the vehicle floor and are provided with a locking mechanism, or require the use of tools to separate the connector, or the voltage reduces to below 30 VAC or 60 VDC within one second after the connector is separated.

In the NPRM, NHTSA expressed disagreement with the GTR's exclusion of connectors under the floor. (*See* 81 FR at 12654–12655; *id.* at 12664.) NHTSA believed that if connectors are high voltage sources and if they can be accessed, opened, or removed without the use of tools, regardless of whether they are located under the floor, they should be required to meet the same requirements for direct contact protection as other high voltage sources, including barriers providing protection degree IPXXD or IPXXB, based on whether they are located inside or outside the passenger or luggage compartment areas, respectively. Additionally, the agency noted that ''vehicle floor'' and ''connector'' are not defined in GTR No. 13.

Comments Received

The agency received several comments on this issue. The Alliance and Global request the regulatory text include a separate section setting forth direct contact protection requirements that connectors and the vehicle charge inlet must meet. The Alliance suggests the following definition for ''connector'': ''A connector is a device that provides mechanical connection and disconnection of high voltage electrical conductors to a suitable mating component, including its housing.'' [33]

The Alliance and Global suggest that the separate section specify that connectors and the vehicle charge inlet must provide protection degree IPXXD or IPXXB, as appropriate, when connected to its mating component. Further, each connector or vehicle charge inlet must also meet one of the following: (1) It must provide, in an uncoupled state, protection degree IPXXD or IPXXB, as appropriate, if the connector or vehicle charge inlet can be uncoupled from its mating component without a tool; (2) the voltage of the live parts become equal to or less than 60 VDC or 30 VAC within 1 second after separating from its mating component; or (3) it has a locking mechanism that prevents the connector or vehicle charge inlet from being uncoupled from its mating component without a tool.

In its comment, Tesla asks NHTSA to confirm whether various scenarios involving its connectors underneath the floor of its vehicles would meet the proposed requirements.[34] Tesla requests that NHTSA clarify what we consider ''acceptable'' for connectors underneath the floor.[35]

Agency Response

NHTSA has reviewed the comments and agrees with the recommendations to include separate requirements for direct contact protection of connectors and vehicle charge inlets. In drafting the NPRM, we determined that connectors were high voltage sources and that they should meet all the requirements for high voltage sources. However, the commenters provide more information about connectors, pointing out that they connect high voltage cables to high voltage sources through a mating component. Like high voltage conductors (cables), connectors need to have direct contact protection. But, commenters point out, connectors are unique in that they are designed to be disconnected from their mating component. Therefore, additional safety provisions are required to ensure the safety of this coupling and re-coupling design mechanism. For this reason, we have decided there is a need to specify unique safety provisions for connectors and vehicle charge inlets.

We have based our final rule on the requirements suggested by the Alliance and Global. The requirements are harmonized with GTR No. 13, ECE R.100, and the draft EVS–GTR for electric vehicles. When a connector is connected to its mating component, it should have direct contact protection IPXXD or IPXXB based on whether the connector is inside or outside the passenger or luggage compartment, respectively. Additionally, connectors are required to meet at least one of the three following requirements: (1) It must provide protection degree IPXXD or IPXXB, as appropriate, in the uncoupled state, if the connector or vehicle charge inlet can be uncoupled from its mating component without a tool; (2) the voltage of the high voltage live parts become equal to or less than 60 VDC or 30 VAC within 1 second after separating from its mating component; or (3) it has a locking mechanism (at least two distinct actions are needed to separate the connector from its mating component) [36] and there are other components that must be removed in order to separate the connector from its mating component and these cannot be removed without the use of tools.

Regarding Tesla's recommendation that we incorporate Table 4 of ISO 6469–3 for connectors, we believe there is no need for such an amendment. ISO 6469–3 was revised in 2011 and its requirements for connectors are similar to those in this final rule.[37]

Regarding Tesla's inquiry about connectors underneath the floor, connectors and electrical protection barriers located under the vehicle's floor are treated the same as other connectors and electrical protection barriers located outside of the passenger and luggage compartments.[38] A connector located

VDC). The DC high voltage sources are conductively connected to AC electrical components such as the motor than can be a high voltage source (working voltage is greater than 30 VAC). Since the EVS draft GTR applies to high voltage buses and circuits, the electrical safety requirements for the high voltage source in a 48-volt system would also apply to the DC source though it is considered low voltage. For this reason, specific statements are needed in the EVS GTR to exclude these low voltage sources from electrical safety requirements that are intended for high voltage sources.

[33] This definition was added in the draft EVS–GTR available at *https://www2.unece.org/wiki/display/trans/EVS+13th+session*.

[34] Tesla indicates that the high voltage source in its vehicles is located underneath the vehicle's floor, in the form of a battery. The commenter states this is unlike hybrid-electric vehicles, in which the high voltage source is located in or near the vehicle trunk.

[35] While the commenter suggested incorporating Table 4 of ISO 6439–3, it later corrected that it meant to refer to the 2001 version of ISO 6469–3.

[36] Locking mechanisms on connectors are intended to prevent inadvertent disconnection of the connector from its mating component. Locking mechanism designs include locking levers and screw locking. In these types of locking mechanisms, two distinct actions are needed to uncouple the connector. For a locking lever, the lever would need to be pressed down and then the connector pulled out. For screw locking, the connector would need to be unscrewed and then pulled out.

[37] The requirements for connectors in GTR No. 13, ECE R.100, and the draft EVS–GTR are also consistent with the 2011 revision of ISO 6469–3.

[38] In the NPRM, NHTSA noted that electrical protection barriers and connectors located under the vehicle floor should not be excluded from IPXXB direct contact protection and marking requirements because it is possible that the high voltage sources enclosed by these barriers and connectors may be accessed following a rollover crash or during vehicle maintenance. 81 FR at 12654–12655. The agency stated in the NPRM that if connectors and electrical protection barriers located under the vehicle floor can be accessed, opened, or removed without the use of tools they should be required to meet the same requirements for high voltage markings and direct contact protection as electric protection barriers and connectors not located under the vehicle floor. *Id.*

under the floor that has IPXXB protection level and that cannot be separated from its mating component without tools would comply with the above direct contact protection requirements for connectors. (If it can be separated from its mating component without tools, it must provide protection degree IPXXB in the uncoupled state or the live parts must be equal to or less than 60 VDC or 30 VAC within 1 second from separating from its mating component). Regarding a connector located under the vehicle's floor where the access point to the connector is smaller than a finger could fit through, the connector would need to meet IPXXB protection degree if parts surrounding the connector (that limit access to the connector) can be opened, disassembled or removed without the use of tools.[39]

d. Markings

NHTSA proposed marking requirements (yellow high voltage symbol) on or near electric energy storage/conversion devices, and on electrical protection barriers in general. We proposed that the markings would not be required for electrical protection barriers that cannot be physically accessed, opened, or removed without the use of tools. The proposed provisions were based on GTR No. 13 requirements, but unlike GTR No. 13, the NPRM did not exclude from the marking requirement (1) electrical protection barriers or high voltage sources located under the vehicle floor; (2) connectors generally; or (3) the vehicle charge inlet. NHTSA also proposed that cables for high voltage sources that are not located within electrical protection barriers must be identified by an orange colored outer covering.

Comments Received

The agency received multiple comments on this issue.

The Alliance, Global and Subaru request that connectors be excluded from the marking requirement. The Alliance and Global state that some connectors can be so small that the markings on these connectors would be not easily read and that high voltage cables going into the connectors are required to have orange outer covers, which should signal that the cables and their connectors are high voltage. The Alliance also notes that high voltage connectors do not necessarily carry high current. The Alliance states that the inclusion of a marking requirement for connecters would necessitate product development efforts, increased economic cost and compliance burden, without a commensurate increase in safety.

Subaru believes that markings should not be necessary on or near electric storage/conversion devices which are not in plain view of vehicle occupants during normal vehicle operation. Subaru states that a device that is mounted under a seat, and that is not visible without first removing the seat, should not have to be marked.

Tesla believes that high voltage sources underneath the vehicle are subject to a harsh physical environment, and that the markings on them are not likely to survive the vehicle's life. Tesla asks NHTSA to allow for alternative placement of high voltage markings when a vehicle's high voltage source is located under the vehicle's floor.

Agency Response

The agency agrees with the Alliance and Global request to exclude connectors from requiring markings. The agency is persuaded by the commenters that connectors do not necessarily carry high current and that the increased economic cost and compliance burden resulting from a marking requirement are not warranted. The connectors are small, so markings on them would not be easily read. Further, we agree that since high voltage cables going into the connectors are required to have orange outer covers, those covers will sufficiently indicate that the cables and their connectors are high voltage. Importantly, the markings are also not needed because, in a change from the NPRM, we have decided to require connectors to have direct contact protection when connected and disconnected from their mating component. (As discussed above, the direct contact protection consists of IPXXD or IPXXB protection when connected to the mating component, and at least one of the following: (1) IPXXD or IPXXB protection when separated from its mating component if the connector can be uncoupled without a tool; (2) a low voltage requirement within 1 second after separation from its mating component; or (3) it cannot be uncoupled from its mating component without the use of tools. Thus, we conclude that connectors will sufficiently protect against the risk of electrical shock without the markings.

Similarly, the agency also agrees with the Alliance and Global request to exclude the vehicle charge inlet from requiring markings. The markings are not necessary because this final rule requires vehicle charge inlets to have direct contact protection when connected and disconnected from their mating component, like connectors.

The agency does not agree with Subaru's request to omit the high voltage marking on electric energy storage/conversion[40] devices that are not in plain view of vehicle occupants during normal vehicle operation. GTR No. 13, ECE R.100, and the draft EVS–GTR require the high voltage symbol on or near electric energy storage devices. Since an electric energy storage device is a high density energy source, we believe there is a safety need for the marking, as persons (such as maintenance, repair and rescue personnel and consumers working on their vehicles) encountering the electric energy storage device should be warned of the electrical shock risks. However, we are revising the proposed regulatory text to indicate that the marking on electric energy storage devices ''shall be present'' rather than ''shall be visible.'' This terminology is consistent with the draft EVS–GTR. The final rule's wording (''shall be present'') acknowledges that the marking is not, and does not have to be, ''visible'' on an electric energy storage device when the device is located under the floor away from view.

Thus, under this final rule, the electric energy storage device must be marked, and the electrical protection barrier for the device must also be marked with a visible high voltage symbol if it can be accessed, opened, and removed without the use of tools. To illustrate, if an electric energy storage device is accessible when the floor mat is pulled out and a floor panel is opened (without the use of tools), the floor panel has to have a high voltage symbol that is visible to the person when he/she pulls out the floor mat.

NHTSA has decided not to require electric energy conversion devices to be marked with the high voltage symbol. Electric energy conversion devices include fuel cells which convert chemical energy to electric energy. A fuel cell only becomes a high voltage source when hydrogen is supplied to it. Since conversion devices (*e.g.,* fuel cells) are not high density energy sources, we are not requiring them to be

[39] The test method to evaluate protection from direct contact with high voltage sources (S9.1) specifies that before assessing IPXXB or IPXXD protection degree for high voltage components, parts surrounding the high voltage source are opened, disassembled, or removed without the use of tools.

[40] We do not agree with the idea of excluding a device from the marking requirements simply because the device is not in plain view of the occupants. However, as discussed further below, we are omitting the marking requirement generally for electric energy conversion devices. The rest of this response to Subaru pertains to marking electric energy storage devices.

marked. However, the electric protection barrier around a conversion device (*e.g.,* fuel cell) will have to be marked, and the mark is required to be visible.

NHTSA does not agree with Tesla's request to allow alternative positions for the high voltage symbol mark on high voltage sources that are located underneath the vehicle's floor. We do not believe there is a need for the change as the regulatory text requires that the mark be ''on or near'' electric energy storage devices without providing specifics for the location of the high voltage marking. We note also that this final rule provides that electrical protection barriers that cannot be physically accessed, opened, or removed without the use of tools are excluded from the marking requirement,[41] which may bear on Tesla's labeling of its devices.

e. Indirect Contact Protection

Exposed conductive parts of electrical protection barriers must be protected against indirect contact[42] during normal vehicle operation and post-crash. The NPRM proposed that the resistance between exposed conductive parts of electrical protection barriers and the electrical chassis must be less than 0.1 ohms and that the resistance between any two simultaneously reachable exposed conductive parts of electrical protection barriers that are within 2.5 meters of each other be less than 0.2 ohms (proposed S5.3(c)(2)). The NPRM also proposed (S5.3(c)(3)) that the voltages between an electrical protection barrier and other exposed conductive parts must be less than or equal to 30 VAC or 60 VDC (''low voltage requirement''). These proposed requirements would protect against electric shock if any electrically charged components lose isolation within the protective barrier and two exposed conductive parts of the electrical protection barrier are contacted simultaneously, by shunting[43] any harmful electrical current to the vehicle chassis.

Comments Received

Global comments that the reference to ''any two simultaneously reachable exposed conductive parts'' in proposed S5.3(c)(2) ''would result in excessive testing requirements, due to the number of potential combinations of two simultaneously reachable exposed parts.'' The commenter recommends that manufacturers be authorized to identify a ''worst case'' pair of conductive parts for testing under the provision to reduce the potential number of combinations. Global also recommends that greater specification for the phrase ''any two simultaneously reachable,'' be provided, such as a measured distance.

Agency Response

NHTSA believes that the regulatory text already provides the specification that the simultaneously reachable exposed conductive parts of electrical protection barriers must be located within 2.5 meters of each other. Thus, we do not believe the requirement results in an excessive number of resistance measurements. However, NHTSA is correcting the reference to ''exposed conductive parts of the electrical protection barriers'' in S5.3(c)(2) to qualify that they are exposed conductive parts of the electrical protection barrier of the high voltage source under consideration in S5.3.

Comments Received

Global comments that the low voltage requirement (S5.3(c)(3)) is too broad in scope and recommends limiting this testing requirement to exposed conductive parts of the electrical protection barriers. Global states that in the event of a barrier failure, a voltage differential could exist with regard to all exposed conductive parts of the chassis and all metal parts connected to the chassis. The Alliance comments that the requirements in S5.3(c)(3) should be consistent with the requirement in S5.3(c)(2). I.e., the Alliance believes that the voltage measurements for S5.3(c)(3) between exposed conductive parts should be made on the same exposed conductive parts of electrical protection barriers for which resistance measurements are made for S5.3(c)(2).

Agency Response

The agency agrees with the comments of Global and the Alliance and has worded S5.3(c)(3) to reflect the recommended changes. As adopted, S5.3(c)(3) specifies that the voltage between exposed conductive parts of the electrical protection barrier and the electrical chassis must be less than or equal to 30 VAC or 60 VDC.[44] In addition, the voltage between an exposed conductive part of the electrical protection barrier and any other simultaneously reachable exposed conductive parts of electrical protection barriers within 2.5 meters of it must be less than or equal to 30 VAC or 60 VDC.

f. Electrical Isolation Requirements

Under FMVSS No. 305's current post-crash safety requirements, vehicles must meet either electrical isolation requirements or low voltage requirements. The current requirements for electrical isolation are that the electrical isolation of the high voltage source must be greater than or equal to: 500 ohms/volt for an AC high voltage source; 500 ohms/volt for a DC high voltage source without electrical isolation monitoring during vehicle operation; or 100 ohms/volt for a DC high voltage source with an electrical isolation monitoring system during vehicle operation.

The NPRM proposed to change these requirements (S5.3(a)) and add specifications that high voltage sources must have electrical isolation during normal vehicle operation (S5.4.3.1). Briefly, the proposed electrical isolation requirements are: AC high voltage sources have 500 ohms/volt or higher electrical isolation from the electric chassis; DC high voltage sources have 100 ohms/volt or higher electric isolation from the electric chassis; or, AC high voltage sources that are conductively connected to the DC high voltage sources may have 100 ohms/volt or higher electrical isolation from the electric chassis provided they also provide physical barrier protection.

[41] Markings are not required on electrical protection barriers that cannot be physically accessed, opened, or removed without the use of tools. The persons who will access the powertrain with tools will be maintenance personnel technically aware of the vehicle's electrical system, and not first responders. We believe that maintenance personnel will have basic knowledge of the workings of the electrical system, so the electrical shock warning symbol is not necessary.

[42] Indirect contact refers to the contact of persons with exposed conductive parts.

[43] Shunting is when a low-resistance connection between two points in an electric circuit forms an alternative path for a portion of the current. If a human body contacts an electrical protection barrier that is energized due to loss in electrical isolation of a high voltage source enclosed in the barrier, most of the current would flow through the chassis rather than through the human body because the current path through the chassis has significantly lower resistance (less than 0.1 ohm) than the resistance of the human body (greater or equal to 500 ohm).

[44] In the NPRM, S5.3(c)(3) was worded such that the voltage measurements were between the electrical protection barrier and ''other exposed conductive parts,'' which includes the electrical chassis. Since in this final rule we have modified the proposed wording of S5.3(c)(3) to make the voltage measurements between exposed conductive parts of electrical protection barriers (in response to Global's comment), the agency has separately added a requirement to S5.3(c)(3) to account for the voltage measurement between exposed conductive parts of the electrical protection barrier and the electrical chassis. This change in the language of S5.3(c)(3) makes it more consistent with the language of S5.3(c)(2) and is not a substantive change from the NPRM.

Comments Received and Agency Response

The Alliance first requests that the regulatory text of the electrical isolation option under post-crash conditions (S5.3(a)) and during normal vehicle operating conditions (S5.4.3.1) be replaced by the language in GTR No. 13.

The agency declines this request. The requirements of the electrical isolation option in FMVSS No. 305 and GTR No. 13 are identical, while the text in FMVSS No. 305 is more concise.

Second, the Alliance requests changes to the proposed physical barrier protection requirements for AC high voltage sources that are conductively connected to DC high voltage sources and that comply with the lower electrical isolation limit of 100 ohms/volt under post-crash conditions (S5.3(a)(2)). The proposed text in the NPRM permits an AC high voltage source to have an isolation resistance of only 100 ohms/volt if three physical protection requirements are met.[45] The Alliance suggests that the low voltage requirement is ''not logically needed.'' It states that the electric shock scenario identified in NHTSA's Battelle study[46] of physical barriers will never happen if it maintains a minimum electrical isolation of more than 100 ohms/volt, protection against direct contact (IPXXB), and protection against indirect contact (resistance between exposed conductive parts and the electrical chassis and between two exposed conductive parts of less than 0.1 ohms and 0.2 ohms, respectively).

NHTSA has carefully analyzed electrical safety implications under the conditions of a minimum electrical isolation of 100 ohms/volt, resistance between exposed conductive parts of electrical protection barriers and the chassis of 0.1 ohms, and electrical isolation between two exposed conductive parts of 0.2 ohms. The results of the analysis[47] showed that under these conditions, the electric current through the body would be significantly lower than 10 milliamps (mA) DC and 2 mA AC, which are considered safe levels of current for protection from electric shock. Therefore, the agency agrees to this change in the regulatory text requested by the Alliance. Accordingly, S5.3(a)(2) is modified so that AC high voltage sources that are conductively connected to DC high voltage sources may comply with the lower electrical isolation limit of 100 ohms/volt provided they meet the physical protection requirements of S5.3(c)(1) and S5.3(c)(2).

g. Electrical Safety During Charging

Like GTR No. 13, the NPRM proposed (S5.4.5) to require electric vehicles whose rechargeable energy storage system are charged by conductively connecting to a grounded external power supply to have a device to enable conductive connection of the electrical chassis to the earth ground during charging. This proposal was to ensure that in the event of electrical isolation loss during charging, a person contacting the vehicle does not form a ground loop with the chassis and sustain significant electric shock. Additionally, like GTR No. 13, the NPRM proposed (S5.4.3.3) to require the isolation resistance between the high voltage source and the electrical chassis to be at least 1 million ohms when the charge coupler is disconnected. This proposal was to ensure that the magnitude of current through a human body when a person contacts a vehicle undergoing charging is low and in the safe zone.

Comments Received

The agency received many comments regarding the requirement for isolation resistance of 1 million ohms during charging.

The Alliance states that the requirement should only be applicable to conductive charging with an AC external electric power supply, noting that the isolation resistance of one million ohms should be required for the high voltage source (high voltage buses) that are conductively connected to the contacts of the vehicle charge inlet, and not to the vehicle charge inlet itself.

Mercedes-Benz states that the 1 million ohms isolation resistance specification—

> is intended as a system reliability requirement, not a safety requirement. The safety relevant requirements on an isolation resistance are already specified in S5.4.3.1. . . . [T]he regulatory text [should] explicitly remove the 'one million ohm' specification and instead state that the isolation resistance, measured at the vehicle charge inlet, must comply with the requirements stated in S5.4.3.1.

Tesla states that it does not believe the insulation resistance requirement for the vehicle's inlet is aligned with the associated high voltage hazards that the NPRM proposes to mitigate. Tesla believes that the intent of the insulation resistance requirement is to prevent high voltage current from flowing through the human body. Tesla believes that Section 11.7 of the IEC 61851–1:2010[48] more accurately captures this prevention for AC equipment because it specifically applies to cord and plug-connected equipment. Tesla also recommends that NHTSA ''provide clear requirements for off-board (including charging) equipment(s)'' since any fault current that is generated while charging would be a function of both the vehicle as well as the electric vehicle supply equipment.

Agency Response

To evaluate these comments, NHTSA requested information from technical experts in the working group for the draft EVS–GTR on electric vehicle safety, in which NHTSA participates. Technical information was provided by Mr. Takahiko Miki[49] from the Organisation Internationale des Constructeurs d'Automobiles (OICA).[50] Mr. Miki noted that the one million ohms electrical isolation requirement is from IEC 61851–1. Mr. Miki also noted that the requirements in IEC 61851–1 apply to conductive charging of electric vehicles with an AC external electric power supply.

Mr. Miki provided the following detailed explanation of protective measures in vehicles during charging to prevent electric shock. Mr. Miki noted that protection against electric shock during charging by connecting to an AC external electric power supply is provided by the vehicle and the off-board electric vehicle supply equipment (*i.e.* charge connector) and provided a description of these protection systems. Protection systems in the vehicle include: (1) Protection against direct contact with high voltage live parts and (2) indirect contact protection from high voltage sources (equipotential bonding—earthing/grounding). Protection systems in the electric vehicle supply equipment (charge connector) include: (1) Earthing/grounding conductor between the electrical chassis of a vehicle and the

[45] These are proposed as: (1) IPXXB protection level (S5.3(c)(1)), (2) resistance between exposed conductive parts of the electrical protection barrier and chassis of less than 0.1 ohms and between any two simultaneously reachable exposed conductive parts of barriers less than 2.5 m apart of less than 0.2 ohms (S5.3(c)(2)), and (3) the voltage between electrical protection barrier enclosing the high voltage source and other exposed conductive parts of less than or equal to 30 VAC or 60 VDC (''low voltage requirement'') (S5.3(c)(3)).

[46] *Supra.* The NPRM discusses the Battelle study in detail, see 81 FR at 12656.

[47] We have docketed a memorandum showing our analysis. See the docket for this final rule.

[48] IEC 61851–1:2010, ''Electric vehicle conductive charging system—Part I: General Requirements,'' *https://webstore.iec.ch/publication/6029.*

[49] Miki, T., ''Personal Protection during Charging.'' Submitted at the 12th EVS GTR meeting in Paris on September 15, 2016, EVSTF09–32–TF2–04.docx. *https://www2.unece.org/wiki/display/trans/9th+Task+Force+meetings+in+Paris.*

[50] OICA is an international organization of motor vehicle manufacturers whose members include 39 national trade associations around the world.

earth/ground, (2) earthing/grounding continuity monitor, and (3) automatic disconnection of supply (residual current device (RCD),[51] charging circuit interrupting device (CCID)[52] located in the charge electric vehicle supply equipment or in the fixed electrical installation, or both) operated by the fault current that disconnects one or more of the line conductors.

The AC external electric power supply is grounded to earth ground. When an electric vehicle is connected to the AC external electric power supply by the charge connector, the vehicle electrical chassis is connected to the earth/ground through the earthing/grounding conductor. If electrical isolation/insulation is lost during charging, the leakage current (residual current)[53] would flow to the earth/ground through the earthing/grounding conductor. Under such conditions, a human body contacting high voltage-exposed conductive parts of the vehicle would not experience electric shock if the leakage current is less than or equal to maximum current levels considered to be safe. If the leakage current reaches or exceeds specified safety threshold levels, the RCD/CCID would open the circuit to interrupt the supply of electric energy. A similar form of this type of electric shock protection measure is provided in homes for use of common household electric equipment.

The electrical isolation of high voltage sources that are connected to the vehicle charge inlet during charging by connecting the AC external electric power supply is determined based on the characteristics of the RCD/CCID to ensure that leakage current would be significantly lower than the leakage current level that would trip the RCD/CCID to open the circuit. This electrical isolation requirement is not for electric shock protection but to ensure that charging is not interrupted under normal charging conditions. Mr. Miki recommends that the electrical isolation between the electrical chassis and high voltage sources that are conductively connected to the vehicle charge inlet during AC charging be greater than or equal to 500 ohms/volt because with this level of electrical isolation, the leakage current would be sufficiently lower than the leakage (residual) current level that would trip the RCD/CCID to open the circuit and interrupt the electric energy supply.[54]

In light of the new information provided by Mr. Miki and the commenters, the agency is modifying the proposed isolation resistance requirement for high voltage sources for charging the electric energy storage device (S5.4.3.3). High voltage sources conductively connected to the vehicle charge inlet during charging (through conductive connection to the AC external electric supply) are required to have electrical isolation from the electric chassis of 500 ohms/volt when the charge connector is disconnected.

We believe the modified language responds to the comments from the Alliance, Mercedes-Benz, and Tesla. Additionally, the modified requirement is consistent with that developed in the draft EVS–GTR for electric vehicles.

Regarding Tesla's recommendation for NHTSA to provide clear requirements for off-board (including charging) equipment, the agency is looking into this matter. The safety measures in the electric vehicle supply equipment, such as the RCD/CCID in the charge connector, are specified in the National Electric Code (NEC)—Article 625: Electric Vehicle Charging System and in the Underwriters Laboratory (UL) 2954, ''Electric vehicle supply equipment.'' Adding requirements for off-board equipment is not in scope of this final rule since the agency did not include any such requirements in the NPRM. The agency may consider the need for and the feasibility of requirements for off-board electric vehicle equipment in the future.

h. Mitigating Driver Error

NHTSA proposed three provisions for mitigating the likelihood of driver error in operating electric vehicles (S5.4.6). First, the heading and text of proposed S5.4.6.1 proposed that at least a momentary indication shall be given at ''start up'' when the vehicle is in a possible active driving mode.[55] (''Start up'' is also used in GTR No. 13.) Second, the NPRM proposed that drivers be provided an audible or visual signal if the vehicle is still in the possible active driving mode when the driver leaves the vehicle. Third, for vehicles that have on-board electric energy storage devices that can be charged externally, the NPRM proposed to prohibit vehicle movement by the vehicle's own propulsion system when the external electric power supply is physically connected to the vehicle charge inlet.

Comments Received and Agency Response

The agency received comments from Global, the Alliance and Tesla on the proposal. Global requests a clarification of the meaning of ''start up'' used in the first provision. Global asks if ''start up'' refers to the time of engine start or some other meaning.

NHTSA meant ''start up'' to refer to the time when the vehicle is first placed in a possible active driving mode (*e.g.,* reverse, drive, or other driving gears) after manual activation of the propulsion system. The provision at issue is intended to reduce operational errors that could have safety implications. For example, a driver might not realize the vehicle is in an active driving mode when he or she pressed on the accelerator pedal, which could result in a potential crash condition. However, to reduce ambiguity, we have modified the final rule regulatory text by replacing the phrase, ''upon start up,'' with the phrase, ''when the vehicle is first placed in possible active driving mode after manual activation of the propulsion system.'' Once driving is initiated, notification is not needed when the vehicle is put in neutral to change gears (for manual-drive vehicles).

The Alliance believes the heading of the third provision for mitigating driver error should be revised from ''Prevent drive-away during charging'' to ''Prevent drive-away'' to reflect that the concern is that the driver may drive the vehicle away after charging is

[51] RCD is a mechanical switching device designed to make, carry and break currents under normal service conditions and to cause the opening of the contacts when the residual current attains a given value under specified conditions. A residual current device can be a combination of various separate elements designed to detect and evaluate the residual current and to make and break current. [Source: IEC 61851–1, IEV 442–05–02]

[52] CCID is a device that continuously monitors the differential current among all of the current-carrying line conductors in a grounded system and rapidly interrupts the circuit under conditions where the differential current exceeds the rated Measurement Indication Unit (MIU) value of a charging circuit interrupting device. The device is identified by the letters CCID followed by the differential trip current rating of either 5 or 20 indicating the tripping rating in MIU. [Source: UL 2231–1]

[53] Leakage current is the current flowing through ground due to a fault condition. The magnitude of leakage current is determined as the difference in the current flowing through the positive terminal and that returning on the negative terminal. Therefore, it is also referred to as residual current.

[54] For DC charging, the power input to the vehicle is isolated from the ground by the isolation transformer. Therefore, electric shock protection is maintained even if isolation resistance is reduced (fault condition), because the current loop to the ground is not established. Additionally, DC charging stations monitor the combined isolation resistance of the vehicle and the electric vehicle supply equipment. If the DC charging station detects that the combined isolation resistance is lower than the specified value (for electric shock protection), the DC output cable is not energized (power supply is terminated).

[55] ''Possible active driving mode'' is the vehicle mode when the application of pressure to the accelerator pedal or release of the brake system causes the electric power train to move the vehicle.

completed without disconnecting the charge connector. The Alliance also notes that a simple physical connection without any conductive connection may not be detected by vehicle systems. The commenter recommends changing the phrase, ''physically connected to the vehicle charge inlet,'' to ''physically connected to the vehicle charge inlet in such a way that charging is possible.''

The agency agrees generally with the Alliance's recommended changes and has changed the proposed regulatory text. We believe the changes improve clarity and removes ambiguity about when and under what conditions the requirement to prevent vehicle movement applies.[56]

Tesla states that the phrase, ''preventing physical vehicle movement by its own power,'' is vague and needs clarification. Tesla requests that the agency draw a clear distinction between when a vehicle is considered stationary and when it is in ''movement under its own power.'' The commenter suggests using a provision in FMVSS No. 114, ''Theft protection and rollaway prevention.'' S5.2.5 of FMVSS No. 114 specifies that a vehicle must not move more than 150 mm on a 10 percent grade when the gear selection control is locked in ''park.''

The agency sees merit in Tesla's suggestion to improve objectivity of the requirement for preventing vehicle movement when the charge connector is connected to the vehicle charge inlet. S5.2 in FMVSS No. 114 specifies provisions to prevent rollaway in vehicles equipped with a transmission with a ''park'' position. One provision is that when the vehicle is resting on a 10 percent grade and the vehicle's gear selection control is locked in ''park,'' the vehicle must not move more than 150 mm when the brakes are released. To distinguish minor vibrations of the vehicle when it is idling from vehicle movement ''under its own power,'' the agency is modifying the proposed regulatory text to state that the vehicle must not move more than 150 mm[57] by its own propulsion system when the charge connector is physically connected to the vehicle charge inlet in such a way that charging is possible.

[56] If the charge connector is not connected correctly to the vehicle charge inlet, then charging may not even initiate and driving away with the charge connector physically connected would not result in an electric safety hazard.

[57] Vehicle movement of 150 mm is deemed sufficiently low such that the charge connector would not disengage from the vehicle inlet or damage the charging equipment.

i. Test Procedures and Figures in FMVSS No. 305

The NPRM proposed test procedures for evaluating IPXXB and IPXXD direct contact protection (S9.1), measuring resistance between exposed conductive parts and between an exposed conductive part and the electrical chassis to evaluate indirect contact protection (S9.2), and measuring voltage between exposed conductive part of an electrical protection barrier and the electrical chassis or any other exposed conductive part of the vehicle for indirect contact protection (S9.3).

For evaluating direct contact protection, the proposed test procedure in S9.1 detailed how the IPXXB and IPXXD probes are used and manipulated to determine if high voltage live parts are contacted. Subaru comments that the description of manipulating the IPXXB finger probe does not specifically note that it is only applicable to the IPXXB probe and not the IPXXD probe. NHTSA agrees and has corrected this omission to indicate that the described manipulation of the finger probe only applies to the IPXXB probe.

In proposed S9.1 the NPRM did not explicitly provide criteria for assessing whether high voltage live parts were contacted, though such information is provided in GTR No. 13. To make S9.1 clearer, and to better harmonize the test procedure in FMVSS No. 305 with that in GTR No. 13, the criteria for verification of IPXXD and IPXXB protection degree in GTR No. 13 are included in the regulatory text.

For measuring resistance between two exposed conductive parts, the NPRM at S9.2 provided two methods that could be used. Global states that the two methods were provided in GTR No. 13 as compliance options for manufacturers to select for evaluating indirect contact protection. The commenter recommends we include regulatory text to make clear that it is at the manufacturer's option to choose either test method to certify compliance. The agency agrees that the two methods were provided as compliance test options for manufacturers and has included the recommended regulatory text in S9.2 of FMVSS No.305.

Global expresses concern that provisions for indirect contact protection in S9.2 create an inordinate certification burden on manufacturers due to the phrase, ''any two exposed conductive parts.'' The commenter requests that instead of measuring the resistance between two exposed conductive parts, resistance may be calculated using the separately measured resistances of the parts of the electrical chassis.

NHTSA agrees with this requested change from Global. The agency notes that GTR No. 13, ECE R.100, and the draft EVS–GTR permit resistances to be calculated using the separately measured resistances of the relevant parts in the electric path. NHTSA believes that a calculation option is acceptable for the requirement at issue because resistances can be computed from other measured resistances on an actual vehicle in a straightforward manner, and do not involve potentially subjective judgment calls on the part of evaluators as to whether assumptions underlying a calculation are merited.

For measuring voltage between exposed conductive parts of electrical protection barriers, the NPRM specified a method in which the DC power supply, voltmeter, and ammeter are connected between measuring points. The Alliance and Global point out that the DC power supply should not be connected in this test (S9.3a). The agency agrees and has corrected the regulatory text. Additionally, NHTSA believes that calculating the voltage between two exposed conductive parts from the measured voltages between the exposed conductive parts and the electrical chassis is straightforward and unambiguous and so is permitting a calculation option for determining voltage between exposed conductive parts.

The proposal provided specifications of the IPXXB probe in Figure 7b of the regulatory text. The Alliance and Global note errors in the specification for R2 and R4. The agency has corrected the errors in Figure 7b.

The Alliance and Global provide an improved Figure 8 in which the text is clearer than the NPRM's Figure 8. The agency has included the new figure in FMVSS No. 305.

j. Compliance Date

The NPRM proposed a compliance date of 180 days after the date of publication of the final rule in the **Federal Register**, with optional early compliance permitted.

The Alliance states that, although the proposed amendments to FMVSS No. 305 are vital to enable the production of advanced fuel cell and 48-volt mild hybrid vehicles, the ''in use'' requirements may require some modification of currently-certified electric vehicles. The commenter asks that the compliance date be modified to align it with the first September 1st that is at least 180 days after the publication of the final rule in the **Federal Register**, with optional early compliance

permitted. An individual, Mr. Albert Torres, also believes that a longer compliance date should be provided.

Agency Response

The agency believes that most, if not all, electric-powered vehicles currently sold in the United States would be able to comply with the updated requirements in FMVSS No. 305 by the proposed compliance date. However, as noted by the Alliance, some vehicles may need some minor modifications to comply with some of the modifications in FMVSS No. 305, such as the marking requirements. Therefore, the agency finds good cause to provide more time to comply with this final rule. The agency believes one year from the date of publication of the final rule is sufficient time for vehicle manufacturers to comply with the updated FMVSS No. 305 requirements. Therefore, the compliance date for the amendments in FMVSS No 305 is one year after publication of the final rule. We permit optional early compliance with this final rule.

We note that in the ''DATES'' section at this beginning of this document NHTSA indicates that the ''effective date'' of this final rule is the date of publication of the rule. The ''effective date'' in the **DATES** section is the date the amendments should be incorporated into the CFR. That date is different from the ''compliance date'' discussed above. As stated above, NHTSA is permitting optional early compliance with this final rule. Because of this, we are amending 49 CFR 571.305 (FMVSS No. 305) on the date of publication of this final rule so that interested manufacturers can begin certifying the compliance of their vehicles with the amended standard from that date.

V. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed by the Office of Management and Budget (OMB) under Executive Order (E.O.) 12866. It is not considered to be significant under E.O. 12866 or the Department's Regulatory Policies and Procedures. The amendments made by this final rule will have no significant effect on the national economy, as most of the requirements are already in voluntary industry standards and international standards that current electric powered vehicles presently meet.

This final rule updates FMVSS No. 305 to incorporate the electrical safety requirements in GTR No. 13. This final rule also responds to petitions for rulemaking from Toyota and the Alliance to facilitate the introduction of fuel cell vehicles and 48-volt mild hybrid technologies into the vehicle fleet. The final rule adds electrical safety requirements in GTR No. 13 that involve electrical isolation and direct and indirect contact protection of high voltage sources to prevent electric shock during normal operation of electric powered vehicles. Today's final rule also provides an additional optional method of meeting post-crash electrical safety requirements that involve physical barriers of high voltage sources to prevent electric shock due to direct and indirect contact with live parts. Since there is widespread conformance with the requirements that would apply to existing vehicles, we anticipate no costs or benefits associated with this rulemaking.

Executive Order 13771

Executive Order 13771 titled ''Reducing Regulation and Controlling Regulatory Costs,'' directs that, unless prohibited by law, whenever an executive department or agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least two existing regulations to be repealed. In addition, any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs. Only those rules deemed significant under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' are subject to these requirements. As discussed above, this rule is not a significant rule under Executive Order 12866 and, accordingly, is not subject to the offset requirements of 13771.

NHTSA has determined that this rulemaking is a deregulatory action under E.O. 13771, as it imposes no costs and, instead, amends FMVSS No. 305 to give more flexibility to manufacturers not only to use modern electrical safety designs to produce electric vehicles, but also to introduce new technologies to the U.S. market, including hydrogen fuel cell vehicles and 48-volt mild hybrid technologies. Although NHTSA was not able to quantify any cost savings for this rule, in adopting an optional method of meeting post-crash electrical safety requirements involving use of physical barriers to prevent direct or indirect contact (by occupants, emergency services personnel and others) with high voltage sources, this final rule adjusts the standard to remove an obstruction that prevented HFCVs to be offered for sale in the U.S. Use of the physical barrier option will also enable manufacturers to produce 48-volt mild hybrid systems without having to use electrical isolation safety measures that involve more complexity, higher consumer costs, and higher mass, without an incremental safety benefit.

Regulatory Flexibility Act

NHTSA has considered the effects of this final rule under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996). I certify that this final rule will not have a significant economic impact on a substantial number of small entities. Any small manufacturers that might be affected by this final rule are already subject to the requirements of FMVSS No. 305. Further, the agency believes the testing associated with the requirements added by this final rule are not substantial and to some extent are already being voluntarily borne by the manufacturers pursuant to SAE J1766. Therefore, to the extent there is an economic impact on the manufacturers, it will only be minor.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

Executive Order 13132 (Federalism)

NHTSA has examined today's final rule pursuant to Executive Order 13132 (64 FR 43255; Aug. 10, 1999) and concluded that no additional consultation with States, local governments, or their representatives is mandated beyond the rulemaking process. The agency has concluded that the final rule does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule does 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.''

NHTSA rules can have preemptive effect in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision:

When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or

motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. 49 U.S.C. 30103(b)(1).

It is this statutory command that preempts any non-identical State legislative and administrative law [58] addressing the same aspect of performance, not today's rulemaking, so consultation would be inappropriate.

Second, the Supreme Court has recognized the possibility, in some instances, of implied preemption of State requirements imposed on motor vehicle manufacturers, including sanctions imposed by State tort law. That possibility is dependent upon there being an actual conflict between a FMVSS and the State requirement. If and when such a conflict exists, the Supremacy Clause of the Constitution makes the State requirements unenforceable. See *Geier* v. *American Honda Motor Co.,* 529 U.S. 861 (2000), finding implied preemption of state tort law on the basis of a conflict discerned by the court,[59] not on the basis of an intent to preempt asserted by the agency itself.

NHTSA has considered the nature (*e.g.,* the language and structure of the regulatory text) and objectives of today's final rule and does not discern any existing State requirements that conflict with the rule or the potential for any future State requirements that might conflict with it. Without any conflict, there could not be any implied preemption of state law, including state tort law.

Executive Order 12988 (Civil Justice Reform)

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729; Feb. 7, 1996), requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) specifies whether administrative proceedings are to be required before parties file suit in court; (6) adequately defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. The issue of preemption is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceedings before they may file suit in court.

Privacy Act

Please note that anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or online at *http://www.dot.gov/privacy.html.*

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. There are no information collection requirements associated with this NPRM.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, as amended by Public Law 107–107 (15 U.S.C. 272), directs the agency to evaluate and use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or is otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress (through OMB) with explanations when the agency decides not to use available and applicable voluntary consensus standards. The NTTAA does not apply to symbols.

FMVSS No. 305 has historically drawn largely from SAE J1766, and does so again for this current rulemaking, which updates FMVSS No. 305 to facilitate the development of fuel cell and 48-volt mild hybrid technologies. It is based on GTR No. 13 and the latest version of SAE J1766 January 2014.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). Adjusting this amount by the implicit gross domestic product price deflator for the year 2013 results in $142 million (106.733/75.324 = 1.42). This final rule will not result in a cost of $142 million or more to either State, local, or tribal governments, in the aggregate, or the private sector. Thus, this final rule is not subject to the requirements of sections 202 of the UMRA.

Executive Order 13609 (Promoting Regulatory Cooperation)

The policy statement in section 1 of Executive Order 13609 provides, in part: the regulatory approaches taken by foreign governments may differ from those taken by U.S. regulatory agencies to address similar issues. In some cases, the differences between the regulatory approaches of U.S. agencies and those of their foreign counterparts might not be necessary and might impair the ability of American businesses to export and compete internationally. In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

The agency participated in the development of GTR No. 13 to harmonize the standards of fuel cell vehicles. As a signatory member, NHTSA is obligated to initiate rulemaking to incorporate electrical safety requirements and options specified in GTR No. 13 into FMVSS No. 305. The agency has initiated rulemaking by way of the March 10, 2016 NPRM and completes it with this final rule.

Regulation Identifier Number

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in

[58] The issue of potential preemption of state tort law is addressed in the immediately following paragraph discussing implied preemption.

[59] The conflict was discerned based upon the nature (*e.g.,* the language and structure of the regulatory text) and the safety-related objectives of FMVSS requirements in question and the impact of the State requirements on those objectives.

the Unified Agenda of Federal Regulations. 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.

Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please write to us with your views.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicles, Motor vehicle safety.

In consideration of the foregoing, NHTSA amends 49 CFR part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.95.

■ 2. In § 571.305:

■ a. Revise S1 and S2;

■ b. Under S4:

■ i. Add in alphabetical order definitions for ''Charge connector,'' ''Connector,'' ''Direct contact,'' ''Electrical protection barrier,'' ''Exposed conductive part,'' ''External electric power supply,'' and ''Fuel cell system'';

■ ii. Revise the definitions of ''High voltage source'';

■ iii. Add in alphabetical order definitions for ''Indirect contact,'' ''Live part,'' ''Luggage compartment,'' ''Passenger compartment,'' and ''Possible active driving mode'';

■ iv. Revise the definition of ''Propulsion system''; and

■ v. Add in alphabetical order definitions for ''Protection degree IPXXB,'' ''Protection degree IPXXD,'' ''Service disconnect,'' and ''Vehicle charge inlet'';

■ c. Revise S5.3 and S5.4; and

■ d. Add S5.4.1, S5.4.1.1, S5.4.1.1.1, S5.4.1.2, S5.4.1.3, S5.4.1.4, S5.4.1.5, S5.4.1.6, S5.4.2, S5.4.2.1, S5.4.2.2, S5.4.3, S5.4.3.1, S5.4.3.2, S5.4.3.3, S5.4.4, S5.4.5, S5.4.6, S5.4.6.1, S5.4.6.2, S5.4.6.3, S9, S9.1, S9.2, S9.3, and figures 6, 7a, 7b, and 8.

The revisions and additions read as follows:

§ 571.305 Standard No. 305; Electric-powered vehicles: electrolyte spillage and electrical shock protection.

S1. *Scope.* This standard specifies requirements for limitation of electrolyte spillage and retention of electric energy storage/conversion devices during and after a crash, and protection from harmful electric shock during and after a crash and during normal vehicle operation.

S2. *Purpose.* The purpose of this standard is to reduce deaths and injuries during and after a crash that occur because of electrolyte spillage from electric energy storage devices, intrusion of electric energy storage/conversion devices into the occupant compartment, and electrical shock, and to reduce deaths and injuries during normal vehicle operation that occur because of electric shock or driver error.

* * * * *

S4. * * *

Charge connector is a conductive device that, by insertion into a vehicle charge inlet, establishes an electrical connection of the vehicle to the external electric power supply for the purpose of transferring energy and exchanging information.

Connector means a device providing mechanical connection and disconnection of high voltage electrical conductors to a suitable mating component, including its housing.

Direct contact is the contact of persons with high voltage live parts.

* * * * *

Electrical protection barrier is the part providing protection against direct contact with high voltage live parts from any direction of access.

Exposed conductive part is the conductive part that can be touched under the provisions of the IPXXB protection degree and that is not normally energized, but that can become electrically energized under isolation fault conditions. This includes parts under a cover, if the cover can be removed without using tools.

External electric power supply is a power supply external to the vehicle that provides electric power to charge the electric energy storage device in the vehicle through the charge connector.

Fuel cell system is a system containing the fuel cell stack(s), air processing system, fuel flow control system, exhaust system, thermal management system, and water management system.

High voltage source means any electric component which is contained in the electric power train or conductively connected to the electric power train and has a working voltage greater than 30 VAC or 60 VDC.

Indirect contact is the contact of persons with exposed conductive parts.

Live part is a conductive part of the vehicle that is electrically energized under normal vehicle operation.

Luggage compartment is the space in the vehicle for luggage accommodation, separated from the passenger compartment by the front or rear bulkhead and bounded by a roof, hood or trunk lid, floor, and side walls, as well as by electrical protection barriers provided for protecting the occupants from direct contact with high voltage live parts.

Passenger compartment is the space for occupant accommodation that is bounded by the roof, floor, side walls, doors, outside glazing, front bulkhead and rear bulkhead or rear gate, as well as electrical protection barriers provided for protecting the occupants from direct contact with high voltage live parts.

Possible active driving mode is the vehicle mode when application of pressure to the accelerator pedal (or activation of an equivalent control) or release of the brake system causes the electric power train to move the vehicle.

Propulsion system means an assembly of electric or electro-mechanical components or circuits that propel the vehicle using the energy that is supplied by a high voltage source. This includes, but is not limited to, electric motors, inverters/converters, and electronic controllers.

Protection degree IPXXB is protection from contact with high voltage live parts. It is tested by probing electrical protection barriers with the jointed test finger probe, IPXXB, in Figure 7b.

Protection degree IPXXD is protection from contact with high voltage live parts. It is tested by probing electrical protection barriers with the test wire probe, IPXXD, in Figure 7a.

Service disconnect is the device for deactivation of an electrical circuit when conducting checks and services of the vehicle electrical propulsion system.

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Vehicle charge inlet is the device on the electric vehicle into which the charge connector is inserted for the purpose of transferring energy and exchanging information from an external electric power supply.

* * * * *

S5.3 *Electrical safety.* After each test specified in S6 of this standard, each high voltage source in a vehicle must meet one of the following requirements: electrical isolation requirements of subparagraph (a), the voltage level requirements of subparagraph (b), or the physical barrier protection requirements of subparagraph (c).

(a) The electrical isolation of the high voltage source, determined in accordance with the procedure specified in S7.6, must be greater than or equal to one of the following:

(1) 500 ohms/volt for an AC high voltage source; or

(2) 100 ohms/volt for an AC high voltage source if it is conductively connected to a DC high voltage source, but only if the AC high voltage source meets the physical barrier protection requirements specified in S5.3(c)(1) and S5.3(c)(2); or

(3) 100 ohms/volt for a DC high voltage source.

(b) The voltages V1, V2, and Vb of the high voltage source, measured according to the procedure specified in S7.7, must be less than or equal to 30 VAC for AC components or 60 VDC for DC components.

(c) Protection against electric shock by direct and indirect contact (physical barrier protection) shall be demonstrated by meeting the following three conditions:

(1) The high voltage source (AC or DC) meets the protection degree IPXXB when tested according to the procedure specified in S9.1 using the IPXXB test probe shown in Figures 7a and 7b;

(2) The resistance between exposed conductive parts of the electrical protection barrier of the high voltage source and the electrical chassis is less than 0.1 ohms when tested according to the procedures specified in S9.2. In addition, the resistance between an exposed conductive part of the electrical protection barrier of the high voltage source and any other simultaneously reachable exposed conductive parts of electrical protection barriers within 2.5 meters of it must be less than 0.2 ohms when tested using the test procedures specified in S9.2; and

(3) The voltage between exposed conductive parts of the electrical protection barrier of the high voltage source and the electrical chassis is less than or equal to 30 VAC or 60 VDC as measured in accordance with S9.3. In addition, the voltage between an exposed conductive part of the electrical protection barrier of the high voltage source and any other simultaneously reachable exposed conductive parts of electrical protection barriers within 2.5 meters of it must be less than or equal to 30 VAC or 60 VDC as measured in accordance with S9.3.

S5.4 *Electrical safety during normal vehicle operation.*

S5.4.1 *Protection against direct contact.*

S5.4.1.1 *Marking.* The symbol shown in Figure 6 shall be present on or near electric energy storage devices. The symbol in Figure 6 shall also be visible on electrical protection barriers which, when removed, expose live parts of high voltage sources. The symbol shall be yellow and the bordering and the arrow shall be black.

S5.4.1.1.1 The marking is not required for electrical protection barriers that cannot be physically accessed, opened, or removed without the use of tools. Markings are not required for electrical connectors or the vehicle charge inlet.

S5.4.1.2 *High voltage cables.* Cables for high voltage sources which are not located within electrical protection barriers shall be identified by having an outer covering with the color orange.

S5.4.1.3 *Service disconnect.* For a service disconnect which can be opened, disassembled, or removed without tools, protection degree IPXXB shall be provided when tested under procedures specified in S9.1 using the IPXXB test probe shown in Figures 7a and 7b.

S5.4.1.4 *Protection degree of high voltage live parts.*

(a) Protection degree IPXXD shall be provided for high voltage live parts inside the passenger or luggage compartment when tested according to the procedures specified in S9.1 using the IPXXD test probe shown in Figure 7a.

(b) Protection degree IPXXB shall be provided for high voltage live parts in areas other than the passenger or luggage compartment when tested according to the procedures specified in S9.1 using the IPXXB test probe shown in Figures 7a and 7b.

S5.4.1.5 *Connectors.* Direct contact protection for a connector shall be provided by meeting the requirements specified in S5.4.1.4 when the connector is connected to its corresponding mating component, and by meeting at least one of the requirements of subparagraphs (a), (b), or (c).

(a) The connector meets the requirements of S5.4.1.4 when separated from its mating component, if the connector can be separated without the use of tools;

(b) The voltage of the live parts becomes less than or equal to 60 VDC or 30 VAC within one second after the connector is separated from its mating component; or,

(c) The connector is provided with a locking mechanism (at least two distinct actions are needed to separate the connector from its mating component) and there are other components that must be removed in order to separate the connector from its mating component and these cannot be removed without the use of tools.

S5.4.1.6 *Vehicle charge inlet.* Direct contact protection for a vehicle charge inlet shall be provided by meeting the requirements specified in S5.4.1.4 when the charge connector is connected to the vehicle inlet and by meeting at least one of the requirements of subparagraphs (a) or (b).

(a) The vehicle charge inlet meets the requirements of S5.4.1.4 when the charge connector is not connected to it; or

(b) The voltage of the high voltage live parts becomes equal to or less than 60 VDC or equal to or less than 30 VAC within 1 second after the charge connector is separated from the vehicle charge inlet.

S5.4.2 *Protection against indirect contact.*

S5.4.2.1 The resistance between all exposed conductive parts of electrical protection barriers and the electrical chassis shall be less than 0.1 ohms when tested according to the procedures specified in S9.2.

S5.4.2.2 The resistance between any two simultaneously reachable exposed conductive parts of the electrical protection barriers that are less than 2.5 meters from each other shall be less than 0.2 ohms when tested according to the procedures specified in S9.2.

S5.4.3 *Electrical isolation.*

S5.4.3.1 *Electrical isolation of AC and DC high voltage sources.* The electrical isolation of a high voltage source, determined in accordance with the procedure specified in S7.6 must be greater than or equal to one of the following:

(a) 500 ohms/volt for an AC high voltage source;

(b) 100 ohms/volt for an AC high voltage source if it is conductively connected to a DC high voltage source, but only if the AC high voltage source meets the requirements for protection against direct contact in S5.4.1.4 and the protection from indirect contact in S5.4.2; or

(c) 100 ohms/volt for a DC high voltage source.

S5.4.3.2 *Exclusion of high voltage sources from electrical isolation requirements.* A high voltage source that is conductively connected to an electric component which is conductively connected to the electrical chassis and has a working voltage less than or equal to 60 VDC, is not required to meet the electrical isolation requirements in S5.4.3.1 if the voltage between the high voltage source and the electrical chassis is less than or equal to 30 VAC or 60 VDC.

S5.4.3.3 *Electrical isolation of high voltage sources for charging the electric energy storage device.* For the vehicle charge inlet intended to be conductively connected to the AC external electric power supply, the electric isolation between the electrical chassis and the high voltage sources that are conductively connected to the vehicle charge inlet during charging of the electric energy storage device shall be greater than or equal to 500 ohms/volt when the charge connector is disconnected. The electrical isolation is measured at the high voltage live parts of the vehicle charge inlet and determined in accordance with the procedure specified in S7.6. During the measurement, the rechargeable electric energy storage system may be disconnected.

S5.4.4 *Electrical isolation monitoring.* DC high voltage sources of vehicles with a fuel cell system shall be monitored by an electrical isolation monitoring system that displays a warning for loss of isolation when tested according to S8. The system must monitor its own readiness and the warning display must be visible to the driver seated in the driver's designated seating position.

S5.4.5 *Electric shock protection during charging.* For motor vehicles with an electric energy storage device that can be charged through a conductive connection with a grounded external electric power supply, a device to enable conductive connection of the electrical chassis to the earth ground shall be provided. This device shall enable connection to the earth ground before exterior voltage is applied to the vehicle and retain the connection until after the exterior voltage is removed from the vehicle.

S5.4.6 *Mitigating driver error.*

S5.4.6.1 *Indicator of possible active driving mode.* At least a momentary indication shall be given to the driver each time the vehicle is first placed in possible active driving mode after manual activation of the propulsion system. This requirement does not apply under conditions where an internal combustion engine provides directly or indirectly the vehicle's propulsion power when the vehicle is first placed in a possible active driving mode after manual activation of the propulsion system.

S5.4.6.2 *Indicator of possible active driving mode when leaving the vehicle.* When leaving the vehicle, the driver shall be informed by an audible or visual signal if the vehicle is still in the possible active driving mode.

S5.4.6.3 *Prevent drive-away.* If the on-board electric energy storage device can be externally charged, vehicle movement of more than 150 mm by its own propulsion system shall not be possible as long as the charge connector of the external electric power supply is physically connected to the vehicle charge inlet in a manner that would permit charging of the electric energy storage device.

* * * * *

S9 *Test methods for physical barrier protection from electric shock due to direct and indirect contact with high voltage sources.*

S9.1 *Test method to evaluate protection from direct contact with high voltage sources.*

(a) Any parts surrounding the high voltage components are opened, disassembled, or removed without the use of tools.

(b) The selected access probe is inserted into any gaps or openings of the electrical protection barrier with a test force of 10 N ± 1 N with the IPXXB probe or 1 to 2 N with the IPXXD probe. If the probe partly or fully penetrates into the electrical protection barrier, it is placed in every possible position to evaluate contact with high voltage live parts. If partial or full penetration into the electrical protection barrier occurs with the IPXXB probe, the IPXXB probe shall be placed as follows: starting from the straight position, both joints of the test finger are rotated progressively through an angle of up to 90 degrees with respect to the axis of the adjoining section of the test finger and are placed in every possible position.

(c) A low voltage supply (of not less than 40 V and not more than 50 V) in series with a suitable lamp may be connected between the access probe and any high voltage live parts inside the electrical protection barrier to indicate whether high voltage live parts were contacted.

(d) A mirror or fiberscope may be used to inspect whether the access probe touches high voltage live parts inside the electrical protection barrier.

(e) Protection degree IPXXD or IPXXB is verified when the following conditions are met:

(i) The access probe does not touch high voltage live parts. The IPXXB access probe may be manipulated as specified in S9.1(b) for evaluating contact with high voltage live parts. The methods specified in S9.1(c) or S9.1(d) may be used to aid the evaluation. If method S9.1(c) is used for verifying protection degree IPXXB or IPXXD, the lamp shall not light up.

(ii) The stop face of the access probe does not fully penetrate into the electrical protection barrier.

S9.2 *Test method to evaluate protection against indirect contact with high voltage sources.* At the option of the manufacturer, protection against indirect contact with high voltage sources shall be determined using the test method in subparagraph (a) or subparagraph (b).

(a) *Test method using a resistance tester.* The resistance tester is connected to the measuring points (the electrical chassis and any exposed conductive part of electrical protection barriers or any two simultaneously reachable exposed conductive parts of electrical protection barriers that are less than 2.5 meters from each other), and the resistance is measured using a resistance tester that can measure current levels of at least 0.2 Amperes with a resolution of 0.01 ohms or less. The resistance between two exposed conductive parts of electrical protection barriers that are less than 2.5 meters from each other may be calculated using the separately measured resistances of the relevant parts of the electric path.

(b) *Test method using a DC power supply, voltmeter and ammeter.*

(1) Connect the DC power supply, voltmeter and ammeter to the measuring points (the electrical chassis and any exposed conductive part or any two simultaneously reachable exposed conductive parts that are less than 2.5 meters from each other) as shown in Figure 8.

(2) Adjust the voltage of the DC power supply so that the current flow becomes more than 0.2 Amperes.

(3) Measure the current I and the voltage V shown in Figure 8.

(4) Calculate the resistance R according to the formula, R=V/I.

(5) The resistance between two simultaneously reachable exposed conductive parts of electrical protection barriers that are less than 2.5 meters from each other may be calculated using the separately measured resistances of the relevant parts of the electric path.

S9.3 *Test method to determine voltage between exposed conductive parts of electrical protection barriers and the electrical chassis and between*

exposed conductive parts of electrical protection barriers.

(a) Connect the voltmeter to the measuring points (exposed conductive part of an electrical protection barrier and the electrical chassis or any two simultaneously reachable exposed conductive parts of electrical protection barriers that are less than 2.5 meters from each other).

(b) Measure the voltage.

(c) The voltage between two simultaneously reachable exposed conductive parts of electrical protection barriers that are less than 2.5 meters from each other may be calculated using the separately measured voltages between the relevant electrical protection barriers and the electrical chassis.

* * * * *

BILLING CODE 4910–59–P

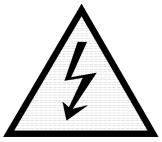


Figure 6. S5.4.1.1 Marking of high voltage equipment.

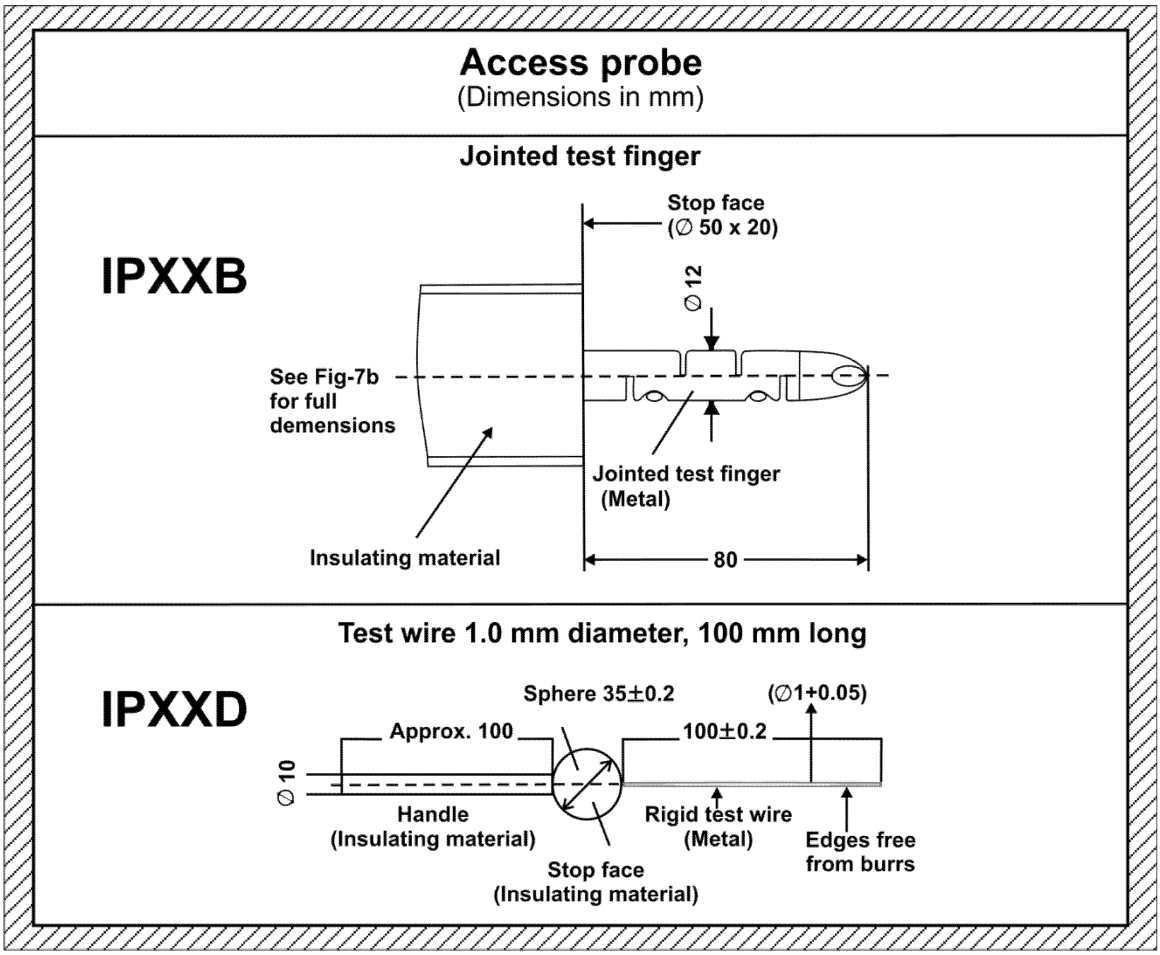
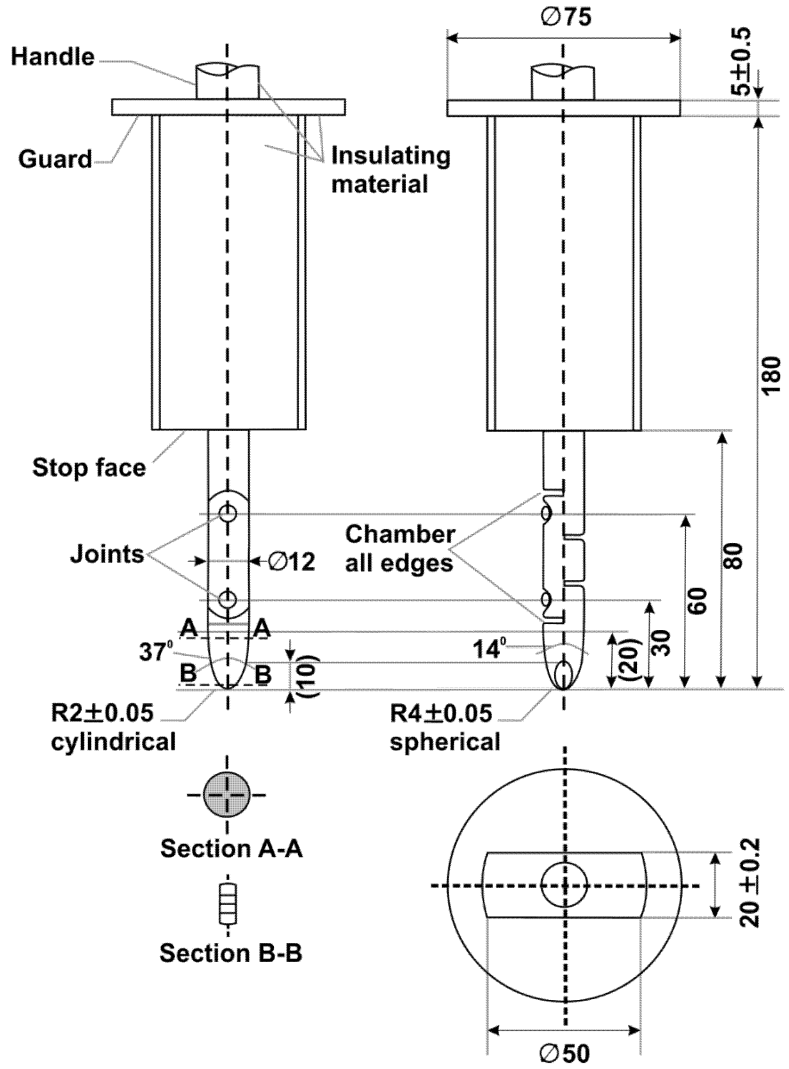


Figure 7a. S4, S5.3, S5.4.1.3, and S5.4.1.4 Access probes for the tests of direct contact protection. Access probe IPXXB (top) and Access probe IPXXD (bottom).

Access probe
(Dimensions in mm)

IPXXB **Jointed test finger**



Material: metal, except where otherwise specified
Linear dimensions in millimeters
Tolerances on dimensions without specific tolerance:
on angles, 0/10 degrees
on linear dimensions:
up to 25 mm: 0/-0.05 mm
over 25 mm: ±0.2 mm
Both joints shall permit movement in the same plane and the same direction through an angle of 90° with a 0° to +10° tolerance.

Figure 7b. S4, S5.3, S5.4.1.3, and S5.4.1.4 Jointed test finger IPXXB

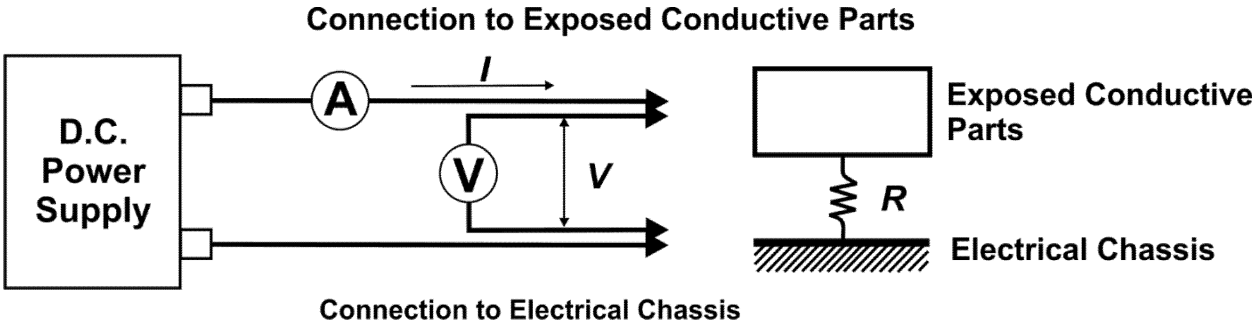


Figure 8. S9.2 Connection to determine resistance between exposed conductive parts of electrical protection barrier and electrical chassis

Jack Danielson,
Acting Deputy Administrator.

[FR Doc. 2017–20350 Filed 9–26–17; 8:45 am]
BILLING CODE 4910–59–C

Proposed Rules

Federal Register
Vol. 82, No. 186
Wednesday, September 27, 2017

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1210

[Document Number AMS–SC–16–0097]

Watermelon Research and Promotion Plan; Redistricting and Importer Representation

AGENCY: Agricultural Marketing Service.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on realigning the production districts under the Watermelon Research and Promotion Plan (Plan) for producer and handler membership on the National Watermelon Promotion Board (Board), and adding four importer seats to the Board. The Board administers the Plan with oversight by the U.S. Department of Agriculture (USDA). These changes were recommended by the Board after a review of the production volume in each district as well as assessments paid by importers. This action is necessary to provide for the equitable representation of producers, handlers and importers on the Board. The Plan requires that such a review be conducted every 5 years. This action would increase the number of importer seats from 8 to 12, thereby increasing the number of Board members from 37 to a total of 41: 14 producers, 14 handlers, 12 importers, and one public member.

DATES: Comments must be received by October 27, 2017.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments may be submitted on the internet at: *http://www.regulations.gov* or to the Promotion and Economics Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., Room 1406–S, Stop 0244, Washington, DC 20250–0244; facsimile: (202) 205–2800. All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection, including name and address, if provided, in the above office during regular business hours or it can be viewed at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Stacy Jones King, Agricultural Marketing Specialist, Promotion and Economics Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., Room 1406–S, Stop 0244, Washington, DC 20250–0244; telephone: (202) 731–2117; facsimile: (202) 205–2800; or electronic mail: *Stacy.JonesKing@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under the Plan (7 CFR part 1210). The Plan is authorized under the Watermelon Research and Promotion Act (Act) (7 U.S.C. 4901–4916).

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this proposed rule does not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. *See* OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

Executive Order 12988

In addition, this proposal has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. The Act provides that it shall not affect or preempt any other State or Federal law authorizing promotion or research relating to an agricultural commodity.

Under section 1650 of the Act (7 U.S.C. 4909), a person may file a written petition with USDA if they believe that the Plan, any provision of the Plan, or any obligation imposed in connection with the Plan, is not in accordance with the law. In any petition, the person may request a modification of the Plan or an exemption from the Plan. The petitioner will have the opportunity for a hearing on the petition. Afterwards, an Administrative Law Judge (ALJ) will issue a decision. If the petitioner disagrees with the ALJ's ruling, the petitioner has 30 days to appeal to the Judicial Officer, who will issue a ruling on behalf of USDA. If the petitioner disagrees with USDA's ruling, the petitioner may file, within 20 days, an appeal in the U.S. District Court for the district where the petitioner resides or conducts business.

Background

Under the Plan, the Board administers a nationally coordinated program of research, development, advertising and promotion designed to strengthen the watermelon's position in the market place and to establish, maintain, and expand markets for watermelons. The program is financed by assessments on producers growing 10 acres or more of watermelons, handlers of watermelons, and importers of 150,000 pounds of watermelons or more per year. The Plan specifies that handlers are responsible for collecting and submitting both the producer and handler assessments to the Board, reporting their handling of watermelons, and maintaining records necessary to verify their reporting(s). Importers are responsible for payment of assessments to the Board on watermelons imported into the United States through U.S. Customs and Border Protection (Customs).

This proposal invites comments on realigning the production districts under the Plan for producer and handler membership on the Board, and adding

four importer seats to the Board. The Board administers the Plan with oversight by USDA. These changes were recommended by the Board after a review of the production volume in each district as well as the assessments paid by importers. The Plan requires that such a review be conducted every 5 years. This action is necessary to provide for the equitable representation of producers, handlers and importers on the Board.

Section 1210.320(a) of the Plan specifies that the Board shall be composed of producers, handlers, importers and one public representative appointed by the Secretary. Under the Plan, pursuant to section 1210.320(b), the United States is divided into seven districts of comparable production volumes of watermelons, and each district is allocated two producer members and two handler members. Section 1210.320(d) specifies that importer representation on the Board shall be proportionate to the percentage of assessments paid by importers to the Board, except that at least one representative of importers shall serve on the Board.

The current Board is composed of 37 members—14 producers (one from each district), 14 handlers (one from each district), 8 importers and one public member.

Review of U.S. Districts

Section 1210.320(c) requires the Board, at least every 5 years, to review the districts to determine whether realignment is necessary. In conducting the review, the Board must consider: (1) The most recent 3 years of USDA production reports or Board assessment reports if USDA production reports are not available; (2) shifts and trends in quantities of watermelon produced, and (3) other relevant factors. As a result of the review, the Board may recommend to USDA that the districts be realigned.

Pursuant to section 1210.501 of the Plan's rules and regulations, the seven current districts are as follows:

District 1—The Florida counties of Brevard, Broward, Charlotte, Collier, Dade, Desoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Martin, Monroe, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Sarasota, Seminole, St. Lucie, and Volusia;

District 2—The Florida counties of Alachua, Baker, Bay, Bradford, Calhoun, Citrus, Clay, Columbia, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hernando, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Marion, Nassau, Okaloosa, Putnam, Santa Rosa, St. Johns, Sumter, Suwannee, Taylor, Union, Wakulla, Walton, and Washington, and the States of North Carolina and South Carolina;

District 3—The State of Georgia;

District 4—The States of Alabama, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, Vermont, Wisconsin, West Virginia, and Washington, DC;

District 5—The State of California;

District 6—The State of Texas; and

District 7—The States of Alaska, Arkansas, Arizona, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

The districts listed above were recommended by the Board in 2010 and established through rulemaking by USDA in 2011 (76 FR 42009; July 18, 2011).

The Board appointed a subcommittee in 2016 to conduct a review of the seven U.S. watermelon production districts to determine whether realignment was necessary. The subcommittee held a teleconference on July 27, 2016, and reviewed production data for 2013, 2014 and 2015 from USDA's National Agricultural Statistics Service's (NASS) Vegetables Annual Summary for 2015.[1] The data is shown in Table 1 below.

TABLE 1—U.S. WATERMELON PRODUCTION FIGURES FROM 2013–2015

State	Hundredweight			3-Year average	% of U.S. 3-year average
	2013	2014	2015		
	A	B	C	D	E
Alabama	377,000	456,000	420,000	417,667	1.2
Arizona	1,800,000	1,334,000	1,584,000	1,572,667	4.5
Arkansas	336,000	320,000	338,000	331,333	1.0
California	5,800,000	6,384,000	5,512,000	5,898,667	16.9
Delaware	864,000	833,000	761,000	819,333	2.4
Florida	6,262,000	4,827,000	5,880,000	5,656,333	16.2
Georgia	5,580,000	5,130,000	5,510,000	5,406,667	15.5
Indiana	2,414,000	2,964,000	2,415,000	2,597,667	7.5
Maryland	1,056,000	1,089,000	1,040,000	1,061,667	3.0
Mississippi	400,000	378,000	315,000	364,333	1.0
Missouri	843,000	837,000	572,000	750,667	2.2
North Carolina	1,710,000	1,155,000	1,798,000	1,554,333	4.5
Oklahoma	242,000	364,000	540,000	382,000	1.1
South Carolina	2,734,000	1,862,000	2,736,000	2,444,000	7.0
Texas	5,520,000	5,200,000	5,520,000	5,413,333	15.5
Virginia	164,000	130,000	163,000	152,333	0.4
United States	36,102,000	33,263,000	35,104,000	34,823,000	.....

Column D equals the sum of (Columns A, B and C), divided by 3.
Column E equals Column D divided by 34,823,000 pounds (the total for the U.S.), multiplied by 100.

[1] Vegetables 2015 Summary, February 2016, USDA, National Agricultural Statistics Service, p. 44. *http://usda.mannlib.cornell.edu/usda/nass/VegeSumm//2010s/2016/VegeSumm-02-040-2016.pdf.* NASS lists watermelon data for 16 producing States.

The subcommittee considered three scenarios in realigning the districts. All three scenarios would consolidate the State of Florida into District 1 and would make no changes to Districts 3 (Georgia), 5 (California), and 6 (Texas). Two of the scenarios would have moved the States of North and South Carolina into one district—District 2. Ultimately the subcommittee proposed the following changes: (1) Consolidating the State of Florida into one district by moving the Florida counties of Alachua, Baker, Bay, Bradford, Calhoun, Citrus, Clay, Columbia, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hernando, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Marion, Nassau, Okaloosa, Putnam, Santa Rosa, St. Johns, Sumter, Suwannee, Taylor, Union, Wakulla, Walton, and Washington from District 2 to District 1; (2) moving the States of Kentucky, Tennessee, Virginia and West Virginia from District 4 to District 2; and (3) moving the State of Alabama from District 4 to District 7. As shown in Table 2, under the realignment, each district would represent, on average, 14 percent of the total U.S. production based on NASS data, with a range of 11 to 17 percent.

TABLE 2—PROPOSED PERCENT OF U.S. PRODUCTION BY DISTRICT [2]

Districts	% of U.S. production
1	16
2	12
3	16
4	13
5	17
6	16
7	11

Upon review, the Board subsequently recommended through a mail ballot vote in late July 2016 that four of the seven production districts be realigned. The proposed districts would be as follows:

District 1—The State of Florida;

District 2—The States of Kentucky, North Carolina, South Carolina, Tennessee, Virginia and West Virginia;

District 3—The State of Georgia (no change);

District 4—The States of Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Wisconsin, and Washington, DC;

District 5—The State of California (no change);

District 6—The State of Texas (no change); and

District 7—The States of Alabama, Alaska, Arizona, Arkansas, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

Additionally, USDA has reviewed the NASS report that was issued in February 2017.[3] The data is shown in Table 3 below. While the data is in a slightly different format (consolidating some of the smaller producing states), the data is consistent with the Board's recommendation.

TABLE 3—U.S. WATERMELON PRODUCTION FIGURES 2016

State	Hundredweight	% of total U.S.
Alabama	* N/A	
Arizona	2,448,000	6
Arkansas	N/A	
California	6,750,000	17
Delaware	838,000	2
Florida	7,659,000	19
Georgia	6,076,000	15
Indiana	3,010,000	8
Maryland	1,070,000	3
Mississippi	N/A	
Missouri	** D	
North Carolina	D	
Oklahoma	N/A	
South Carolina	2,592,000	6
Texas	7,250,000	18
Virginia	N/A	
Other States	2,432,000	7
United States	40,125,000	

* N/A means not available; the estimates were discontinued in 2016.
** D means that the data is withheld to avoid disclosing data for individual operations.

Section 1210.501 of the Plan's rules and regulations would be revised accordingly.

Review of Imports

Section 1210.320(e) of the Plan requires USDA to evaluate the average annual percentage of assessments paid by importers during the 3-year period preceding the date of the evaluation and adjust, to the extent practicable, the number of importer representatives on the Board.

Table 4 below shows domestic and import assessment data for watermelons for the years 2013, 2014 and 2015. The data is from the Board's financial audits for 2013, 2014 [4] and 2015.[5]

[2] Table values were rounded to the nearest percent.

[3] Vegetables 2016 Summary, February 2017, USDA, National Agricultural Statistics Service, p. 103–104; *http://usda.mannlib.cornell.edu/usda/current/VegeSumm/VegeSumm-02-22-2017_revision.pdf.*

[4] National Watermelon Promotion Board, Financial Statements and Supplementary Information, Years Ending March 31, 2015, and 2014, Cross, Fernandez & Riley, LLP, Accountants and Consultants, July 7, 2014, p. 6.

[5] National Watermelon Promotion Board, Financial Statements and Supplementary Information, Years Ending March 31, 2016, and 2015, BDO USA, LLP, July 25, 2016, p. 8.

TABLE 4—U.S. AND IMPORT ASSESSMENT DATA FOR 2013–2015

Year	Domestic (U.S.) assessments	Import assessments	Total
2013	$1,829,446	$952,484	$2,781,930
2014	2,009,528	1,033,797	3,043,325
2015	2,133,552	1,100,810	3,234,362
3-Year Average	1,990,842	1,029,030	3,019,872
Percent of Total	66	34	

Based on this data, the three-year average annual import assessments for watermelons for 2013–2015 totaled $1,029,030, approximately 34 percent of the Board's assessment income. Thus, increasing the number of importers on the Board from 8 to 14 members would reflect that almost 34 percent of the assessments were paid by importers over the 3-year period. However, due to the difficulty the Board has had in finding individuals that are both eligible and willing to serve in the current eight importer seats, it will likely be very challenging to fill six additional importer seats. Furthermore, under the nomination rules of the Plan, the Board would need to recommend to the Secretary at least two importers for each open seat, which would mean that 12 eligible and willing importers would have to be secured. For these reasons, the Board recommended only adding four importer seats (representing 30 percent of the total industry members) to ensure that it would have a sufficient number of potential nominees. The Board subsequently recommended through the July 2016 mail vote increasing the number of importer seats from 8 to 12, thereby increasing the number of Board members from 37 to a total of 41: 14 producers, 14 handlers, 12 importers, and one public member. Importers would represent 30 percent of the Board's 40 industry members. (Importers (8) represent about 22 percent of the current Board's 36 industry members.)

Section 1210.502 of the Plan's rules and regulations would be revised accordingly.

If this proposed rule becomes final, nominations would be held as soon as possible to fill the four new importer seats.

Initial Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), AMS is required to examine the economic impact of this proposed rule on the small entities. Accordingly, AMS has considered the economic impact of this action on such entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms (handlers and importers) as those having annual receipts of no more than $7.5 million.

According to the Board, there are 1,251 producers, 147 handlers, and 365 importers who are required to pay assessments under the program. NASS data for the 2016 crop year estimated about 354 hundredweight (cwt.) of watermelons were produced per acre in the United States, and the 2016 grower price was $14.40 per cwt.[6] Thus, the value of watermelon production per acre in 2016 averaged about $5,098 (354 cwt. × $14.40). At that average price, a producer would have to farm over 147 acres to receive an annual income from watermelons of $750,000 ($750,000 divided by $5,098 per acre equals approximately 147 acres). Using 2012 USDA Census of Agriculture data, a maximum of 321 farms had watermelon acreage greater than or equal to 100 acres, and 12,675 out of a total of 12,996 farms producing watermelons reported less than 100 acres of watermelon on their farms.[7] Therefore, assuming watermelon producers operate no more than one farm, a majority (97.5 percent) of all U.S. watermelon farms would be classified as small businesses. Using Board assessment data, 930 of the 1,251 (roughly 74 percent) of U.S. watermelon producers currently paying assessments to the Board would be classified as small businesses.

Also based on the Board's data, using an average freight on board (f.o.b.) price of $0.186 per pound and the number of pounds handled annually, none of the watermelon handlers have receipts over the $7.5 million threshold.[8] Therefore, the watermelon handlers would all be considered small businesses. A handler would have to ship over 40 million pounds of watermelons to be considered large (40,322,580 × $.0186 f.o.b. equals approximately $7,500,000).

Based on 2016 Customs data, over 90 percent of watermelon importers shipped under $7.5 million worth of watermelons. Based on the foregoing, the majority of the producers, handlers and importers that would be affected by this proposed rule would be classified as small entities.

Regarding the value of the commodity, based on 2016 NASS data, the value of the U.S. watermelon crop was about $578 million.[9] According to Customs data, the value of 2016 imports was about $356 million.

This proposal invites comments on revising sections 1210.501 and 1210.502 of the Plan's rules and regulations, respectively, to change the boundaries of four of the seven U.S. production districts and to add four importers to the Board, increasing the size of the Board from 37 to 41 members. The Board administers the Plan with oversight by USDA.

Under the Plan, the United States is divided into seven districts of comparable production volumes of watermelons, and each district is allocated two producer members and two handler members. Further, importer representation on the Board must be, to the extent practicable, proportionate to the percentage of assessments paid by importers, except there must be at least one importer on the Board.

Every 5 years, the Board is required to evaluate, based on the preceding 3-year period, the average production in each production district and the average annual percentage of assessments paid by importers. The Board conducted this review in 2016 and recommended

[6] Vegetables 2016 Summary, February 2017, USDA, National Agricultural Statistics Service, p. 102–104. *http://usda.mannlib.cornell.edu/usda/current/VegeSumm/VegeSumm-02-22-2017_revision.pdf.*

[7] 2012 Census of Agriculture, May 2014, USDA, National Agricultural Statistics Service, p. 36; *https://www.agcensus.usda.gov/Publications/2012/Full_Report/Volume_1,_Chapter_1_US/usv1.pdf.*

[8] National Watermelon Promotion Board assessment records, 2013–2015.

[9] Vegetables, 2016 Summary, February 2017, USDA, p. 104.

changing the boundaries of four of the seven districts and increasing the importer membership by four members. Authority for these changes is provided in section 1210.320 of the Plan.

Regarding the economic impact of the proposed rule on affected entities, neither the realignment of production districts nor the expansion of Board membership imposes additional costs on industry members. Eligible importers interested in serving on the Board would have to complete a background questionnaire. Those requirements are addressed in the section titled *Reporting and Recordkeeping Requirements.* The recommended changes are necessary to provide for the equitable representation of producers, handlers and importers.

Regarding alternatives, the Board considered three scenarios in realigning the districts. All three scenarios would consolidate the State of Florida in District 1 and would make no changes to Districts 3 (Georgia), 5 (California), and 6 (Texas). Two of the scenarios would have moved the States of North and South Carolina into one district—District 2. Ultimately the Board recommended consolidating the State of Florida into one district (District 1), moving the States of Kentucky, Tennessee, Virginia and West Virginia from District 4 to District 2; and moving the State of Alabama from District 4 to District 7. The Board recommended the alignment scenario described in this proposed rule because it: (1) Would provide for a proportional geographical representation on the Board for producers and handlers; (2) would not create any producer or handler vacancies on the Board; and (3) would streamline the nomination process for District 1 by condensing all the Florida counties into a single district. The Board's recommendation is consistent with the 2011 realignment that kept States (except Florida) together.

Regarding alternatives for importer representation, as stated previously, the three-year average annual imports for watermelon totals $1,029,030. This represents almost 34 percent of the total assessments paid to the Board. One alternative would be to add five or six importer seats (representing 33 and 35 percent, respectively, of the Board's 40 industry members), so that importer representation would be proportionate to the percentage of importer assessments paid. However, due to the difficulty the Board has had in finding individuals that are both eligible and willing to serve in the current eight importer seats, it will likely be very challenging to fill six additional importer seats. Furthermore, under the nomination rules of the Plan, the Board would need to recommend to the Secretary at least two importers for each open seat, which would mean that 12 eligible and willing importers would have to be secured. For these reasons, the Board recommended only adding four importer seats (representing 30 percent of the total industry members) to ensure that it would have a sufficient number of potential nominees. This is consistent with section 1210.320(e) of the Plan which prescribes that the number of importer seats should be adjusted, to the extent practicable. The addition of four importers would allow for more importer representation in the Board's decision making and also potentially provide an opportunity to increase diversity on the Board.

Reporting and Recordkeeping Requirements

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the background form, which represents the information collection and recordkeeping requirements that are imposed by the Plan, have been approved previously under OMB number 0581–0093. The Plan requires that two nominees be submitted for each vacant position. With regard to information collection requirements, adding four importers to the Board means that eight additional importers would be required to submit background forms (Form AD–755) to USDA in order to verify their eligibility for appointment to the Board. However, serving on the Board is optional, and the burden of submitting the background form would be offset by the benefits of serving on the Board. The estimated annual cost of the eight importers providing the required information would be $66 or $8.25 per importer. The additional minimal burden would be included in the existing information collection package under OMB number 0581–0093.

As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

AMS 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.

Regarding outreach efforts, the Board formed a subcommittee to review the production, assessment and import data to assess whether changes to the district boundaries and number of importers on the Board was warranted. The subcommittee held a teleconference on July 27, 2016. All Board and subcommittee meetings, including meetings held via teleconference, are open to the public and interested persons are invited to participate and express their views.

We have performed this initial RFA analysis regarding the impact of these changes to the Plan on small entities and we invite comments concerning potential effects of this action.

USDA has determined that this proposed rule is consistent with and would effectuate the purposes of the Act.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate so that the proposed changes, if adopted, may be implemented as soon as possible to allow for nominations to be conducted to fill the four new importer seats. All written comments received in response to this proposed rule by the date specified would be considered prior to finalizing this action.

List of Subjects in 7 CFR Part 1210

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Reporting and recordkeeping requirements, Watermelon promotion.

For the reasons set forth in the preamble, 7 CFR part 1210 is proposed to be amended as follows:

PART 1210—WATERMELON RESEARCH AND PROMOTION PLAN

■ 1. The authority citation for 7 CFR part 1210 continues to read as follows:

Authority: 7 U.S.C. 4901–4916 and 7 U.S.C. 7401.

Subpart C—Rules and Regulations

■ 2. In § 1210.501, revise the introductory text and paragraphs (a), (b), (d) and (g) to read as follows:

§ 1210.501 Realignment of districts.

Pursuant to § 1210.320(c) of the Plan, the districts shall be as follows:

(a) *District 1*—The State of Florida.

(b) *District 2*—The States of Kentucky, North Carolina, South Carolina, Tennessee, Virginia and West Virginia.

* * * * *

(d) *District 4*—The States of Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode

Island, Vermont, Wisconsin, and Washington, DC.

* * * * *

(g) *District 7*—The States of Alabama, Alaska, Arizona, Arkansas, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

■ 3. Section 1210.502 is revised to read as follows:

§ 1210.502 Importer members.

Pursuant to § 1210.320(d) of the Plan, there are twelve importer representatives on the Board based on the proportionate percentage of assessments paid by importers to the Board.

Dated: September 21, 2017.

Bruce Summers,

Acting Administrator.

[FR Doc. 2017–20610 Filed 9–26–17; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2017–0138]

RIN 3150–AK05

List of Approved Spent Fuel Storage Casks: TN Americas LLC, Standardized NUHOMS® Horizontal Modular Storage System, Certificate of Compliance No. 1004, Renewal of Initial Certificate and Amendment Nos. 1 Through 11, 13, Revision 1, and 14

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage regulations by revising the Standardized NUHOMS® Horizontal Modular Storage System (NUHOMS® System) listing within the ''List of approved spent fuel storage casks'' to renew, for an additional 40-year period, Revision 1 of the initial certificate and Amendment Nos. 1 through 11, and 13, and Amendment No. 14 of Certificate of Compliance (CoC) No. 1004. These changes require, among other things, that all future amendments and revisions to this CoC include evaluations of the impacts to aging management activities (*i.e.,* time-limited aging analyses and aging management programs (AMPs)) to ensure that they remain adequate for any changes to spent fuel storage cask systems, structures, and components (SSCs) within the scope of the renewal. Each general licensee using a NUHOMS® System at a reactor site must have a program to establish, implement, and maintain written procedures for each AMP described in the AREVA Inc. (AREVA) Updated Final Safety Analysis Report (UFSAR). In addition, the renewals reflect the change in the name of the CoC holder from AREVA to TN Americas LLC, and make several other changes as described in Section IV, ''Discussion of Changes,'' in the **SUPPLEMENTARY INFORMATION** section of a companion direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

DATES: Submit comments by October 27, 2017. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0138. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

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: Christian Jacobs, Office of Nuclear Material Safety and Safeguards, 301–415–6825; email: *Christian.Jacobs@nrc.gov,* or Robert D. MacDougall, Office of Nuclear Material Safety and Safeguards, 301–415–5175; email: *Robert.MacDougall@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Obtaining Information and Submitting Comments
II. Rulemaking Procedure
III. Background
IV. Plain Writing
V. Availability of Documents

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0138 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–2017–0138.
- *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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' 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–2017–0138 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that

they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

This proposed rule is limited to the renewal of the initial certificate and Amendment Nos. 1 through 11, 13, Revision 1, and Amendment No. 14 of CoC No. 1004. Because the NRC considers this action to be non-controversial and routine, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. Adequate protection of public health and safety continues to be ensured.

The direct final rule will become effective on December 11, 2017. However, if the NRC receives significant adverse comments on this proposed rule by October 27, 2017, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to these proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or technical specifications.

For additional procedural information and the regulatory analysis, see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

III. Background

Section 218(a) of the Nuclear Waste Policy Act (NWPA) of 1982, as amended, requires that ''the Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that ''[the Commission] shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule which added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled, ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). A general license authorizes a reactor licensee to store spent fuel in NRC-approved casks at a site that is licensed to operate a power reactor under 10 CFR part 50 or 52. This rule also established a new subpart L in 10 CFR part 72 entitled, ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on December 22, 1994 (59 FR 65898) that approved the NUHOMS® System design and added it to the list of NRC-approved cask designs in 10 CFR 72.214 as CoC No. 1004.

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner that also follows other best practices appropriate to the subject or field and the intended audience. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

V. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS Accession No./ **Federal Register** citation
Final Rule: ''General License for Storage of Spent Fuel at Power Reactor Sites''	55 FR 29181
Final Rule: List of Approved Spent Fuel Storage Casks: Addition	59 FR 65898
AREVA, Inc.—Renewal Application for the Standardized NUHOMS® System—CoC 1004	ML14309A341
AREVA, Inc.—Revision 1 to Renewal Application for the Standardized NUHOMS® System—CoC 1004, Response to First Request for Additional Information.	ML15295A354
AREVA, Inc., Second Response to NRC RAI Re: Renewal Application for the Standardized NUHOMS® System—CoC 1004	ML16169A025
AREVA, Inc., Regarding Response to Re-Issue of Second Request for Additional Information—AREVA, Inc. Renewal Application for the Standardized NUHOMS® System—CoC 1004.	ML16279A368
AREVA, Inc., AREVA Internal Reorganization—Effect on Certificate of Compliance Ownership	ML16327A011
Submittal of NUH–003, ''Updated Final Safety Analysis Report (UFSAR) for the Standardized NUHOMS® Horizontal Modular Storage System For Irradiated Nuclear Fuel,'' Revision 14.	ML14255A191
Preliminary Certificate of Compliance and Preliminary Technical Specifications for CoC No. 1004, Renewed Amendment Nos. 1–11, Revision 1, and Amendment Nos. 13–14, Revision 1.	ML17131A006 (package)

Document	ADAMS Accession No./ **Federal Register** citation
TN Americas LLC, Standardized NUHOMS® Horizontal Modular Storage System—Draft SER [Safety Evaluation Report] for Renewed CoC 1004, Amendment Nos. 1–11, 13 and 14.	ML17131A121

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking Web site at *http://www.regulations.gov* under Docket ID NRC–2017–0138. The Federal Rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2017–0138); (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Hazardous waste, Indians, Intergovernmental relations, Manpower training programs, Nuclear energy, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is proposing to adopt the following amendments to 10 CFR part 72:

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 2. In § 72.214, Certificate of Compliance 1004 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1004.

Initial Certificate Effective Date: January 23, 1995, superseded by Initial Certificate, Revision 1, on April 25, 2017, superseded by Renewed Initial Certificate, Revision 1, on December 11, 2017.

Initial Certificate, Revision 1, Effective Date: April 25, 2017.

Renewed Initial Certificate, Revision 1, Effective Date: December 11, 2017.

Amendment Number 1 Effective Date: April 27, 2000, superseded by Amendment Number 1, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 1, Revision 1, on December 11, 2017.

Amendment Number 1, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 1, Revision 1, Effective Date: December 11, 2017.

Amendment Number 2 Effective Date: September 5, 2000, superseded by Amendment Number 2, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 2, Revision 1, on December 11, 2017.

Amendment Number 2, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 2, Revision 1, Effective Date: December 11, 2017.

Amendment Number 3 Effective Date: September 12, 2001, superseded by Amendment Number 3, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 3, Revision 1, on December 11, 2017.

Amendment Number 3, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 3, Revision 1, Effective Date: December 11, 2017.

Amendment Number 4 Effective Date: February 12, 2002, superseded by Amendment Number 4, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 4, Revision 1, on December 11, 2017.

Amendment Number 4, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 4, Revision 1, Effective Date: December 11, 2017.

Amendment Number 5 Effective Date: January 7, 2004, superseded by Amendment Number 5, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 5, Revision 1, on December 11, 2017.

Amendment Number 5, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 5, Revision 1, Effective Date: December 11, 2017.

Amendment Number 6 Effective Date: December 22, 2003, superseded by Amendment Number 6, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 6, Revision 1, on December 11, 2017.

Amendment Number 6, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 6, Revision 1, Effective Date: December 11, 2017.

Amendment Number 7 Effective Date: March 2, 2004, superseded by Amendment Number 7, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 7, Revision 1, on December 11, 2017.

Amendment Number 7, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 7, Revision 1, Effective Date: December 11, 2017.

Amendment Number 8 Effective Date: December 5, 2005, superseded by Amendment Number 8, Revision 1 on April 25, 2017, superseded by Renewed Amendment Number 8, Revision 1, on December 11, 2017.

Amendment Number 8, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 8, Revision 1, Effective Date: December 11, 2017. Amendment Number 9 Effective Date: April 17, 2007, superseded by Amendment Number 9, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 9, Revision 1, on December 11, 2017.

Amendment Number 9, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 9, Revision 1, Effective Date: December 11, 2017.

Amendment Number 10 Effective Date: August 24, 2009, superseded by Amendment Number 10, Revision 1, on

April 25, 2017, superseded by Renewed Amendment Number 10, Revision 1, on December 11, 2017.

Amendment Number 10, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 10, Revision 1, Effective Date: December 11, 2017.

Amendment Number 11 Effective Date: January 7, 2014, superseded by Amendment Number 11, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 11, Revision 1, on December 11, 2017.

Amendment Number 11, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 11, Revision 1, Effective Date: December 11, 2017.

Amendment Number 12 Effective Date: Amendment not issued by the NRC.

Amendment Number 13 Effective Date: May 24, 2014, superseded by Amendment Number 13, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 13, Revision 1, on December 11, 2017.

Amendment Number 13, Revision 1, Effective Date: April 25, 2017.

Renewed Amendment Number 13, Revision 1, Effective Date: December 11, 2017.

Amendment Number 14 Effective Date: April 25, 2017, superseded by Renewed Amendment Number 14, on December 11, 2017.

Renewed Amendment Number 14 Effective Date: December 11, 2017.

SAR Submitted by: Transnuclear, Inc.

SAR Title: Final Safety Analysis Report for the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel.

Docket Number: 72–1004.

Certificate Expiration Date: January 23, 2015.

Renewed Certificate Expiration Date: January 23, 2055.

Model Number: NUHOMS®–24P, –24PHB, –24PTH, –32PT, –32PTH1, –37PTH, –52B, –61BT, –61BTH, and –69BTH.

* * * * *

Dated at Rockville, Maryland, this 18th day of September, 2017.

For the Nuclear Regulatory Commission.

Frederick D. Brown,

Acting Executive Director of Operations.

[FR Doc. 2017–20709 Filed 9–26–17; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9074; Product Identifier 2016–NM–097–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM); reopening of comment period.

SUMMARY: We are revising an earlier notice of proposed rulemaking (NPRM) for all Airbus Model A318–111 and –112 airplanes; Model A319–111, –112, –113, –114, and –115 airplanes; Model A320–211, –212, and –214 airplanes; and Model A321–111, –112, –211, –212, and –213 airplanes. This action revises the NPRM by expanding the list of affected engine fan cowl door (FCD) part numbers and adding Airbus Model A320–216 airplanes to the applicability. We are proposing this Airworthiness Directive (AD) to address the unsafe condition on these products. Since these actions impose an additional burden over those proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: The comment period for the NPRM published in the **Federal Register** on September 26, 2016 (81 FR 65980), is reopened.

We must receive comments on this SNPRM by November 13, 2017.

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

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

For service information identified in this proposed AD, contact Airbus, Airworthiness Office–EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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–2016–9074; 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 (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; 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–2016–9074; Product Identifier 2016–NM–097–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

We issued an NPRM to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Model A318–111 and –112 airplanes, Model A319–111, –112, –113, –114, and –115 airplanes, Model A320–211, –212, and –214 airplanes, and Model A321–111, –112, –211, –212, and –213 airplanes. The

NPRM published in the **Federal Register** on September 26, 2016 (81 FR 65980) (''the NPRM''). The NPRM was prompted by reports of engine FCD losses on airplanes equipped with CFM56 engines due to operator failure to close the FCD during ground operations. The NPRM proposed to require modification and re-identification, or replacement, of certain FCDs. The NPRM also proposed to require installation of a placard.

Actions Since the NPRM Was Issued

Since we issued the NPRM, the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, issued AD 2016–0257, dated December 16, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''). The MCAI added part number 238–0301–509 to the list of affected FCDs. In addition, we have certified Airbus Model A320–216 airplanes, which are also affected by the identified unsafe condition. Therefore, we have added Airbus Model A320–216 airplanes to the applicability of this SNPRM.

EASA has issued the MCAI to correct an unsafe condition for all Airbus Model A318–111 and –112 airplanes; Model A319–111, –112, –113, –114, and –115 airplanes; Model A320–211, –212, –214, and –216 airplanes; and Model A321–111, –112, –211, –212, and –213 airplanes. The MCAI states:

Fan Cowl Door (FCD) losses were reported on aeroplanes equipped with CFM56 engines. Investigation results confirmed that in all cases the fan cowls were opened prior to the flight and were not correctly re-secured. During the pre-flight inspection, it was then not detected that the FCD[s] were not properly latched.

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

Prompted by these events, new FCD front latch and keeper assembly were developed, having a specific key necessary to un-latch the FCD. This key cannot be removed unless the FCD front latch is safely closed. The key, after removal, must be stowed in the flight deck at a specific location, as instructed in the applicable Aircraft Maintenance Manual. Applicable Flight Crew Operating Manuals have been amended accordingly. After modification, the FCD is identified with a different Part Number (P/N). Airbus issued Service Bulletin (SB) A320–71–1068 to provide the modification instructions. Consequently, EASA issued AD 2016–0069 to require modification and re-identification of [affected] FCD[s] [or replacement of affected FCDs].

After that [EASA] AD was published, FCD P/N 238–0301–509 was identified as missing in the list of affected FCD P/N[s] provided in the [EASA] AD.

For the reasons described above, this [EASA] AD retains the requirement of EASA AD 2016–0069, which is superseded, and expands the list of affected FCD P/N[s].

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–2016–9074.

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A320–71–1068, Revision 01, dated April 28, 2016. This service information describes procedures for modifying the left-hand and right-hand FCDs on engines 1 and 2; installing a placard; and re-identifying both the left-hand and right-hand FCDs with a new part number. 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.

Comments

We gave the public the opportunity to participate in developing this proposed AD. We considered the comments received.

Support for the NPRM

The Air Line Pilots Association, International stated that it supports the NPRM.

Requests To Revise the Costs of Compliance

American Airlines commented that the parts cost shown in the proposed AD (in the NPRM) is for only one engine instead of two.

We agree that the costs specified in the Costs of Compliance section of the proposed AD (in the NPRM) were only for one engine. We have revised the Costs of Compliance section in this SNPRM to show the cost for two engines.

American Airlines also requested that the cost of maintenance activities associated with the service information—*e.g.,* re-rigging all cowl latches during embodiment, or other recording, tracking, and supply chain costs—be included in the Costs of Compliance section of the NPRM.

We do not agree with the commenter's request. We recognize that, in accomplishing the requirements of any AD, operators might incur additional maintenance or ''incidental'' costs in addition to the ''direct'' costs that are reflected in the cost analysis presented in the preamble of a proposed AD. However, the cost analysis in AD rulemaking actions typically does not include maintenance or incidental costs. We have not changed this SNPRM regarding this issue.

Request To Change the Compliance Time for the Modification

American Airlines requested that the compliance time for the modification be changed from 35 months to 48 months. American Airlines stated that more time is necessary due to the size of its fleet and the lead time to obtain parts.

We do not agree with the commenter's request to extend the compliance time. In developing an appropriate compliance time for this action, we considered the safety implications, parts availability, and normal maintenance schedules for the timely accomplishment of the modification. In consideration of these items, as well as the reports of FCD losses in service, we have determined that a 35-month compliance time will ensure an acceptable level of safety and allow the modifications to be done during scheduled maintenance intervals for most affected operators. In addition, we find that 35 months provides sufficient time to order parts and accomplish the required modification. However, under the provisions of paragraph (n)(1) of this proposed AD, we will consider requests for approval of an extension of the compliance time if sufficient data are submitted to substantiate that the change would provide an acceptable level of safety. We have not changed this proposed AD in this regard.

Request To Be Specific About Which FCDs Require Modification

Delta Air Lines (Delta) requested that we specify which FCDs need to be modified by listing the FCD serial numbers (S/N) in paragraphs (g)(1) and (g)(3) of the proposed AD (in the NPRM). Paragraphs (g)(1) and (g)(3) of the proposed AD (in the NPRM) would mandate reworking all FCDs on the affected aircraft. Delta stated that Goodrich Service Bulletin RA32071–163, Revision 3, dated October 11, 2016, specifies which FCDs require modification by identifying the applicable serial numbers. Delta stated that FCDs with serial numbers not listed in Goodrich Service Bulletin RA32071–163, Revision 3, dated October 11, 2016, do not require modification.

We disagree with the commenter's request. The State of Design Authority (EASA) and Airbus have determined the scope of discrepant FCD part numbers, which are identified in table 1 to paragraphs (g), (h), (i), and (k) of this AD as ''old P/N.'' The objective of the

Goodrich Service Bulletin RA32071–163, Revision 3, dated October 11, 2016, is to provide instructions for modification. Delta has not provided any substantiation in support of its suggestion that the serial numbers identified in the proposed AD (in the NPRM) that are not listed in Goodrich Service Bulletin RA32071–163, Revision 3, dated October 11, 2016, are not affected by the identified unsafe condition. We have not changed this proposed AD in this regard.

Request To Remove Requirement To Re-Identify FCDs After Modification

Delta requested that paragraph (g)(3) of the proposed AD (in the NPRM) be removed. Delta indicated that the proposed AD would mandate that the modified FCD be re-identified as specified in table 1 to paragraphs (g), (h), (i), and (k) of this AD. Delta noted that this information and re-identification is already specified in Airbus Service Bulletin A320–71–1068, Revision 01, dated April 28, 2016; and Goodrich Service Bulletin RA32071–163, Revision 3, dated October 11, 2016. Delta indicated that table 1 to paragraphs (g), (h) (i) and (k) of the proposed AD is a duplication of the re-identification requirement in paragraph (g)(1) of the proposed AD, and lends itself to confusion and errors. Delta proposed to delete the requirement in paragraph (g)(3) of the proposed AD (in the NPRM). Alternatively, Delta recommended that paragraph (g)(3) of the proposed AD (in the NPRM) refer to step 3.I.H. in Goodrich Service Bulletin RA32071–163, Revision 3, dated October 11, 2016, for the correct re-identification requirement.

We do not agree to remove paragraph (g)(3) of the proposed AD or refer to Goodrich Service Bulletin RA32071–163, Revision 3, dated October 11, 2016. However, we do agree to clarify paragraph (g)(3) of this proposed AD. We have revised paragraph (g)(3) of this proposed AD to clarify that modified parts as specified in paragraph (g)(1) of this proposed AD are re-identified to the correct ''new'' part number identified in table 1 to paragraphs (g), (h), (i), and (k) of this proposed AD.

Requests To Remove Requirement for Placard

Delta requested that we remove the requirement for installing a placard on the flight deck stowage compartment area to note the location of the keys to the FCD latches. American Airlines and Delta both indicated that the placard and the location of the keys are not safety-related.

We disagree with the commenter's request. Installation of the placard is designed to ensure that the key is stowed in a particular location onboard the airplane and can be consistently retrieved from that location when needed. An operator may apply for approval of an alternative method of compliance (AMOC) using the procedures specified in paragraph (n)(1) of this AD, provided it can be shown that there is an alternative means to ensure the key is stowed onboard the airplane in a constantly retrievable and accessible location.

Request To Remove Reference to Certain Instructions for Installing Replacement FCDs

Delta requested that the alternative action in paragraphs (h) and (l)(2) of the proposed AD (in the NPRM) to install replacement FCDs using instructions ''. . . approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus's EASA Design Organization Approval (DOA),'' be removed from the proposed AD. Delta noted that neither the service information nor the MCAI indicate any airworthiness concerns with the FCD installation. Delta stated that the on-wing work does not involve checking or re-installing the FCD; it involves only replacing the latch assembly. Delta requested that the proposed AD either specify the airworthiness concern regarding the procedure or provide FAA-approved instructions.

We disagree with the commenter's request. Installation of a new part using procedures that are not approved might result in an inadvertent addition of an unsafe condition. We have coordinated with Airbus and EASA and agreed that the installation must be done in accordance with the approved methods specified in paragraphs (h) and (l)(2) of this proposed AD.

Request To Allow Modification of Spare FCDs Using Goodrich Service Bulletin

American Airlines requested that the proposed AD (in the NPRM) be revised to allow modification of spare FCDs in accordance with the Accomplishment Instructions of Goodrich Service Bulletin RA32071–163, Revision 3, dated October 11, 2016, when an FCD is modified while off the airplane. American Airlines indicated that the Accomplishment Instructions of Airbus Service Bulletin A320–71–1068, Revision 01, dated April 28, 2016, contain procedures that are only applicable to FCDs that are installed on an airplane.

We acknowledge the commenter's request and have determined that clarification is necessary. Paragraph (h) of this proposed AD allows installation of replacement parts that are acceptable for compliance with paragraphs (g)(1) and (g)(3) of this proposed AD using methods other than Airbus Service Bulletin A320–71–1068, Revision 01, dated April 28, 2016, that are approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus's EASA DOA. We have not changed this SNPRM in this regard.

Request To Allow Flight With Alternative Configuration

Delta noted that paragraph (k) of the proposed AD would prohibit installing any FCD that has an old part number after the AD effective date. Delta noted that it is possible to have an airplane on which only one FCD is removed for maintenance. Delta requested that we clarify whether it is acceptable to have an aircraft with a mix of old and new part numbers on the FCDs, prior to the compliance deadline.

We agree to provide clarification. We have revised the requirement in paragraph (k) of this proposed AD to match the corresponding requirement in the EASA AD. If an ''old'' part is installed prior to the effective date of this AD, then after modification of this part to a ''new'' part, installation of an ''old'' part is prohibited as specified in paragraph (k)(1) of this proposed AD. If a ''new'' part is installed, then as of the effective date of this AD, installation of an ''old'' part is prohibited as specified in paragraph (k)(2) of this proposed AD. These requirements apply to both engines.

Requests To Change Parts Installation Prohibition

American Airlines, Virgin America, and Delta requested that the parts installation prohibition in paragraph (k) of the proposed AD (in the NPRM) be changed to allow affected FCDs to be installed on airplanes up to 35 months after the effective date of the AD. The commenters noted that FCDs are routinely removed for maintenance, and stated that the proposed AD (in the NPRM) would require any removed FCD with an ''old'' part number to be modified immediately. The commenters indicated that this requirement was overly restrictive when compared to the MCAI requirements or the compliance time specified in paragraph (g) of this AD, which requires modifying FCDs within 35 months after the effective date of this AD.

We agree to provide clarification. As stated previously in the comment

response to ''Request To Allow Flight With Alternative Configuration,'' we have revised the requirement in paragraph (k) of this proposed AD to match the corresponding requirement in the EASA AD.

Requests To Allow Use of Later Revisions of Service Information

American Airlines and Delta requested that the proposed AD (in the NPRM) be revised to allow the use of later revisions of service information. American Airlines indicated that the MCAI states: ''The use of later approved revisions of this document is acceptable for compliance with the requirements of this AD.''

We do not concur with the commenters' request. We cannot refer to any document that does not yet exist. In general terms, we are required by the Office of the Federal Register's (OFR) regulations to either publish the service document contents as part of the actual AD language; or submit the service document to the OFR for approval as ''referenced'' material, in which case we may only refer to such material in the text of an AD. We may refer to the service document in the AD only if the OFR approved it for ''incorporation by reference.'' See 1 CFR part 51.

To allow operators to use later revisions of the referenced document (issued after publication of the AD), either we must revise the AD to reference specific later revisions, or operators must request approval to use later revisions as an AMOC with this AD under the provisions of paragraph (n)(1) of this AD.

Request To Use an Alternative Procedure for Modifying FCDs

Allegiant Air stated it has developed a procedure that requires a log entry each time an FCD is opened or closed. Allegiant Air noted that all of its FCD latches are painted bright orange in contrast to the blue color of the FCDs, which makes it easier for the crew to detect any unlatched doors and take corrective action. Allegiant Air suggested that these methods are sufficient to prevent any events caused by improperly closed and latched FCDs. Allegiant Air suggested that a modification to the FCDs is unnecessary if this procedure is followed.

We disagree with the commenter's request. EASA, as the State of Design Authority for Airbus products, has determined after conducting a risk analysis that an unsafe condition exists. EASA's analysis took into consideration the in-service events in the worldwide fleet that occurred despite some of the design or maintenance improvement methods that were implemented, including the ones noted by Allegiant Air. We agree with EASA's decision to mitigate the risk by mandating a new design solution, which makes it apparent to the flight crew on a pre-flight walk-around that an FCD is not latched. Although the commenter's specific proposal is not considered acceptable to address the identified unsafe condition, operators may request approval of an AMOC using the procedures specified in paragraph (n)(1) of this AD, provided they can show they have an alternative means to ensure the FCD is properly closed and locked. We have not changed this SNPRM in this regard.

FAA's Determination and Requirements of This SNPRM

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

Certain changes described above expand the scope of the NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Costs of Compliance

We estimate that this SNPRM affects 400 airplanes of U.S. registry.

We estimate the following costs to comply with this SNPRM:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification, placard installation, and re-identification (or replacement) of FCD.	Up to 11 work-hours × $85 per hour = $935.	$9,730	$10,665 (for two engines).	$4,266,000

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2016–9074; Product Identifier 2016–NM–097–AD.

(a) Comments Due Date

We must receive comments by November 13, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus airplanes, certificated in any category, identified in paragraphs (c)(1) through (c)(4) of this AD, all manufacturer serial numbers.

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

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

(3) Airbus Model A320–211, –212, –214 and –216 airplanes.

(4) Airbus Model A321–111, –112, –211, –212, and –213 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by reports of engine fan cowl door (FCD) losses on airplanes equipped with CFM56 engines due to operator failure to close the FCD during ground operations. We are issuing this AD to prevent in-flight loss of an engine FCD and possible consequent damage to the airplane.

(f) Compliance

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

(g) Modification of Affected FCDs

Within 35 months after the effective date of this AD, accomplish concurrently the actions in paragraphs (g)(1), (g)(2), and (g)(3) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–71–1068, Revision 01, dated April 28, 2016.

(1) Modify the left-hand and right-hand FCDs on engines 1 and 2 that have an old part number (''Old P/N''), as applicable, as specified in table 1 to paragraphs (g), (h), (i), and (k) of this AD.

(2) Install a placard on the box located at the bottom of the 120-volt unit (120 VU) panel, or at the bottom of the coat stowage, as applicable to airplane configuration.

(3) Re-identify the modified left-hand and right-hand FCDs with the new part number (''New P/N''), as applicable, as specified in table 1 to paragraphs (g), (h), (i), and (k) of this AD.

Table 1 to Paragraphs (g), (h), (i), and (k) of this AD – *Fan Cowl Door Part Number (P/N) Change*

Door Position	Old P/N	New P/N
Left-hand side – CFM56-5A engines	238-0301-501	238M0301-501
	238-0301-503	238M0301-503
	238-0301-505	238M0301-505
	238-0301-507	238M0301-507
	238-0301-509	238M0301-509
	238-0301-511	238M0301-511
	238-0301-513	238M0301-513
	238-0301-515	238M0301-515
	238-0301-517	238M0301-517
	238-0301-519	238M0301-519
	238-0301-521	238M0301-521
	238-0301-523	238M0301-523
	238-0301-525	238M0301-525
	238-0301-527	238M0301-527
	238-0301-529	238-0301-533
	238-0301-531	238-0301-535
Right-hand side – CFM56-5A engines	238-0302-501	238M0302-501
	238-0302-503	238M0302-503
	238-0302-505	238M0302-505
	238-0302-509	238M0302-509
	238-0302-511	238M0302-511
	238-0302-513	238M0302-513
	238-0302-515	238M0302-515
	238-0302-517	238M0302-517
	238-0302-519	238M0302-519
	238-0302-521	238M0302-521
	238-0302-523	238M0302-523
	238-0302-525	238M0302-525
	238-0302-527	238M0302-527
	238-0302-529	238M0302-529
	238-0302-531	238M0302-531
	238-0302-533	238M0302-533
	238-0302-535	238M0302-535
	238-0302-537	238M0302-537
	238-0302-539	238-0302-547
	238-0302-541	238-0302-549
	238-0302-543	238-0302-551
	238-0302-545	238-0302-553

Door Position	Old P/N	New P/N
Left-hand side – CFM56-5B engines	642-3001-503	642M3001-503
	642-3001-505	642M3001-505
	642-3001-507	642-3001-511
	642-3001-509	642-3001-513
Right-hand side – CFM56-5B engines	642-3002-503	642M3002-503
	642-3002-505	642M3002-505
	642-3002-507	642M3002-507
	642-3002-509	642M3002-509
	642-3002-511	642-3002-519
	642-3002-513	642-3002-521
	642-3002-515	642-3002-523
	642-3002-517	642-3002-525

(h) Optional Replacement of Affected FCDs With New Door Design

Replacing the FCDs having a P/N listed as ''Old P/N'' in table 1 to paragraphs (g), (h), (i), and (k) of this AD with the FCDs having the corresponding P/Ns listed as ''New P/N'' in table 1 to paragraphs (g), (h), (i), and (k) of this AD is acceptable for compliance with the requirements of paragraphs (g)(1) and (g)(3) of this AD. The replacement must be done in accordance with instructions approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

(i) Compliance Information for Airplanes on Which Airbus Modification 157517 Is Embodied

Accomplishment of Airbus modification 157517 on an airplane in production is acceptable for compliance with the requirements of paragraphs (g)(1) and (g)(3) of this AD, provided that no FCD having a part number identified as ''Old P/N'' in table 1 to paragraphs (g), (h), (i), and (k) of this AD is installed on that airplane.

(j) Compliance Information for Airplanes on Which Airbus Modification 157519 or Modification 157521 Is Embodied

Accomplishment of Airbus modification 157519 or modification 157521 on an airplane in production is acceptable for compliance with the requirements of paragraph (g)(2) of this AD.

(k) Parts Installation Prohibition

(1) For any airplane with any FCD installed having a P/N identified as ''Old P/N'' in table 1 to paragraphs (g), (h), (i), and (k) of this AD as of the effective date of this AD: No person may install on an airplane a part number identified as ''Old P/N'' in table 1 to paragraphs (g), (h), (i), and (k) of this AD after accomplishing the requirements of paragraph (g) of this AD on that airplane.

(2) For any airplane with only FCDs installed having P/Ns that are identified as ''New P/N'' in table 1 to paragraphs (g), (h), (i), and (k) of this AD as of the effective date of this AD: No person may install on any airplane a part number identified as ''Old P/N'' in table 1 to paragraphs (g), (h), (i), and (k) of this AD as of the effective date of this AD.

(l) Installation of Approved Parts

Installation on an airplane of a right-hand or left-hand FCD having a part number approved after the effective date of this AD is acceptable for compliance with the requirements of paragraphs (g)(1) and (g)(3) of this AD for that airplane only, provided the conditions specified in paragraphs (l)(1) and (l)(2) of this AD are met.

(1) The part number must be approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus's EASA DOA.

(2) The FCD installation must be accomplished in accordance with airplane modification instructions approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus's EASA DOA.

(m) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A320–71–1068, Revision 00, dated December 18, 2015.

(n) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(o) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0257 dated December 16, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9074.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

(3) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on September 19, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–20566 Filed 9–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0825; Airspace Docket No. 17–ASW–12]

Proposed Amendment of Class D Airspace and Establishment of Class E Airspace; Norman, OK; and Amendment of Class E Airspace; Oklahoma City, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace and establish Class E airspace designated as a surface area at University of Oklahoma Westheimer Airport, Norman, OK. The University of Oklahoma Westheimer Airport requested establishment of this airspace. This action would also amend Class E airspace extending upward from 700 feet above the surface at the University of Oklahoma Westheimer Airport, Norman, OK, contained within the Oklahoma City, OK, airspace description, by removing the Oklahoma Westheimer Airport ILS localizer and realigning the southwest segment. Additionally, the name of the University of Oklahoma Westheimer Airport would be updated to coincide with the FAA's aeronautical database in Class D airspace. This action is necessary for the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before November 13, 2017.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2017–0825; Airspace Docket No. 17–ASW–12, 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.

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

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

FOR FURTHER INFORMATION CONTACT: 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 D airspace, establish Class E airspace designated as a surface area, and amend Class E airspace extending upward from 700 feet above the surface at the University of Oklahoma Westheimer Airport, Norman, OK, to support instrument flight rule (IFR) operations at the airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. 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–2017–0825; Airspace Docket No. 17–ASW–12.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

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

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

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by:

Amending Class D airspace to within a 4.2-mile radius (reduced from 4.5-miles) of University of Oklahoma

Westheimer Airport (formerly University of Oklahoma Westheimer Airpark), Norman, OK, and updating the name of the airport to coincide with the FAA's aeronautical database;

Establishing Class E airspace designated as a surface area within a 4.2-mile radius of University of Oklahoma Westheimer Airport; and

Amending Class E airspace extending upward from 700 feet above the surface at University of Oklahoma, Westheimer Airport, Norman, OK, contained within the Oklahoma City, OK, airspace description, to within a 6.7-mile radius (reduced from 8.9-miles), removing the University of Oklahoma Westheimer Airport ILS Localizer from the airspace description, and realigning the southwest extension to 2-miles (increased from 1.8-miles) either side of the 213° bearing from the airport (previously referenced from the University of Oklahoma Westheimer Airport ILS Localizer) from the 6.7-mile radius to 7.8-miles southwest of the airport.

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000. Class D Airspace.

* * * * *

ASW OK D Norman, OK [Amended]

Norman, University of Oklahoma Westheimer Airport, OK
(Lat. 35°14′ 44″ N., long. 97°28′ 20″ W.)

That airspace extending upward from the surface to and including 3,700 feet MSL within a 4.2-mile radius of University of Oklahoma Westheimer Airport, excluding that airspace within the Oklahoma City, OK, Class C airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002. Class E Airspace Designated as a Surface Area.

* * * * *

ASW OK E2 Norman, OK [New]

Norman, University of Oklahoma Westheimer Airport, OK
(Lat. 35°14′44″ N., long. 97°28′20″ W.)

That airspace extending upward from the surface to and including 3,700 feet MSL within a 4.2-mile radius of University of Oklahoma Westheimer Airport excluding that airspace within the Oklahoma City, OK, Class C airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ASW OK E5 Oklahoma City, OK [Amended]

Oklahoma City, Will Rogers World Airport, OK
(Lat. 35°23′35″ N., long. 97°36′03″ W.)
Oklahoma City, Tinker AFB, OK
(Lat. 35°24′53″ N., long. 97°23′12″ W.)
Norman, University of Oklahoma Westheimer Airport, OK
(Lat. 35°14′44″ N., long. 97°28′20″ W.)
Goldsby, David Jay Perry Airport, OK
(Lat. 35°09′18″ N., long. 97°28′13″ W.)
Oklahoma City, Clarence E. Page Municipal Airport, OK
(Lat. 35°29′17″ N., long. 97°49′25″ W.)
El Reno Regional Airport, OK
(Lat. 35°28′22″ N., long. 98°00′21″ W.)
Oklahoma City, Wiley Post Airport, OK
(Lat. 35°32′03″ N., long. 97°38′49″ W.)
Oklahoma City, Sundance Airport, OK
(Lat. 35°36′07″ N., long. 97°42′22″ W.)

That airspace extending upward from 700 feet above the surface within an 8.1-mile radius of Will Rogers World Airport, and within an 8.2-mile radius of Tinker AFB, and within a 6.7-mile radius of University of Oklahoma Westheimer Airport, and within 2 miles each side of the 213° bearing from the airport extending from the 6.7-mile radius to 7.8 miles southwest of the airport, and within a 6.3-mile radius of David Jay Perry Airport, and within a 6.5-mile radius of Clarence E. Page Municipal Airport, and within a 6.6-mile radius of El Reno Regional Airport, and within a 6.8-mile radius of Wiley Post Airport, and within a 6.8-mile radius of Sundance Airport.

Issued in Fort Worth, Texas, on September 20, 2017.

Walter Tweedy,

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

[FR Doc. 2017–20572 Filed 9–26–17; 8:45 am]

BILLING CODE 4910–13–P

INTERNATIONAL TRADE COMMISSION

19 CFR Part 201

Rules of General Application

AGENCY: International Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States International Trade Commission (''Commission'') proposes to amend provisions of its Rules of Practice and Procedure concerning the Privacy Act. The purpose of the proposed amendment is to delete certain exemptions that pertain only to systems of records that the Commission is removing and to add exemptions that pertain to a new system of records.

DATES: To be assured of consideration, written comments must be received by 5:15 p.m. on November 27, 2017.

ADDRESSES: You may submit comments, identified by docket number MISC–043, by any of the following methods:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the instructions for submitting comments.

Agency Web site: https://edis.usitc.gov. Follow the instructions for submitting comments on the Web site.

Mail: For paper submission. U.S. International Trade Commission, 500 E Street SW., Room 112A, Washington, DC 20436.

Hand Delivery/Courier: U.S. International Trade Commission, 500 E Street SW., Room 112A, Washington, DC 20436. During the hours of 8:45 a.m. to 5:15 p.m.

Instructions: All submissions received must include the agency name and docket number (MISC–043), along with a cover letter stating the nature of the commenter's interest in the proposed rulemaking. Persons filing comments must file the original document electronically on *https://edis.usitc.gov;* any personal information provided will be viewable by the public. For paper copies, a signed original and 8 copies of each set of comments should be submitted to Lisa R. Barton, Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112A, Washington, DC 20436.

Docket: For access to the docket to read background documents or comments received, go to *https://edis.usitc.gov* and/or the U.S. International Trade Commission, 500 E Street SW., Room 112A, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary, telephone (202) 205–2000, or Clara Kuehn, Office of the General Counsel, telephone (202) 205–3012, United States International Trade Commission. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server at *https://www.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 335 of the Tariff Act of 1930 (19 U.S.C. 1335) authorizes the Commission to adopt such reasonable procedures, rules, and regulations as it deems necessary to carry out its functions and duties. This rulemaking seeks to amend provisions of the Commission's existing Rules of Practice and Procedure concerning the Privacy Act. The Commission invites the public to comment on these proposed rules amendments.

Consistent with its ordinary practice, the Commission is issuing these proposed amendments in accordance with the notice-and-comment rulemaking procedure in section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553). That procedure entails the following steps: (1) Publication of a notice of proposed rulemaking; (2) solicitation of public comments on the proposed amendments; (3) Commission review of public comments on the proposed amendments; and (4) publication of final amendments at least thirty days prior to their effective date.

The Commission proposed to revise 19 CFR 201.32, which governs exemptions to certain Privacy Act requirements. Pursuant to 5 U.S.C. 552a(k), the Commission proposes to delete two exemptions currently set forth in paragraphs 201.32(a) and (b). These two exemptions pertain only to Inspector General Investigative Files (General) and Inspector General Investigative Files (Criminal). These exemptions will be deleted because the Office of Inspector General is removing these two Privacy Act systems of records. The Commission proposes to redesignate paragraph 201.32(c) as 201.32(a) and correct a typographical error in that paragraph. Pursuant to 5 U.S.C. 552a(k)(1) and (k)(2), the Commission proposes to add exemptions for a new Privacy Act system of records, Freedom of Information Act and Privacy Act Records. The Commission proposes to promulgate this new exemption at paragraph (b) to protect from disclosure classified and other sensitive information.

Regulatory Analysis of Proposed Amendments to the Commission's Rules

The Commission certifies that the proposed amendments to the Commission's rules will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it does not create an economic impact and does not affect small entities. The proposed amendments are concerned only with the administration of Privacy Act systems of records within the Commission.

The proposed amendments to the Commission's rules do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

No actions are necessary under title II of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (2 U.S.C. 1531–1538) because the proposed amendments to the Commission's rules will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and will not significantly or uniquely affect small governments.

The Commission has determined that the proposed amendments to the Commission's rules do not constitute a ''significant regulatory action'' under section 3(f) of Executive Order 12866 (58 FR 51735, October 4, 1993).

The proposed amendments to the Commission's rules do not have Federalism implications warranting the preparation of a federalism summary impact statement under Executive Order 13132 (64 FR 43255, August 4, 1999).

The proposed amendments to the Commission's rules are not ''major rules'' as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et. seq.*).

List of Subjects in 19 CFR Part 201

Administrative practice and procedure.

For the reasons stated in the preamble, under the authority of 19 U.S.C. 1335, the United States International Trade Commission proposes to amend 19 CFR part 201 as follows:

PART 201—RULES OF GENERAL APPLICATION

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

Authority: 19 U.S.C. 1335; 19 U.S.C. 2482, unless otherwise noted.

■ 2. In § 201.32, remove paragraphs (a) and (b); redesignate paragraph (c) as paragraph (a); revise the first sentence of redesignated paragraph (a); and add paragraph (b) to read as follows:

§ 201.32 Specific exemptions.

(a) Pursuant to 5 U.S.C. 552a(k)(1), (5) and (6), records contained in the system entitled ''Personnel Security Investigative Files'' have been exempted from subsections (c)(3), (d), (e)(1), (e)(4)(G) through (I) and (f) of the Privacy Act. * * *

(b) Pursuant to 5 U.S.C. 552a(k)(1) and (k)(2), records contained in the system entitled ''Freedom of Information Act and Privacy Act Records'' have been exempted from subsections c(3), (d), (e)(1), (e)(4)(G) through (I) and (f) of the Privacy Act. Pursuant to section 552a(k)(1) of the Privacy Act, the

Commission exempts records that contain properly classified information pertaining to national defense or foreign policy. Application of exemption (k)(1) may be necessary to preclude individuals' access to or amendment of such classified information under the Privacy Act. Pursuant to section 552a(k)(2) of the Privacy Act, and in order to protect the effectiveness of Inspector General investigations by preventing individuals who may be the subject of an investigation from obtaining access to the records and thus obtaining the opportunity to conceal or destroy evidence or to intimidate witnesses, the Commission exempts records insofar as they include investigatory material compiled for law enforcement purposes. However, if any individual is denied any right, privilege, or benefit to which he is otherwise entitled under Federal law due to the maintenance of this material, such material shall be provided to such individual except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence.

By order of the Commission.

Issued: September 21, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–20615 Filed 9–26–17; 8:45 am]

BILLING CODE 7020–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0408; FRL–9968–19–Region 3]

Air Plan Approval; Delaware; State Implementation Plan for Interstate Transport for the 2008 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve a portion of the state implementation plan (SIP) revision submitted by the State of Delaware that pertains to the interstate transport requirements of the Clean Air Act (CAA) for the 2008 ozone national ambient air quality standards (NAAQS). In the Final Rules section of this issue of the **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by October 27, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2013–0408 at *http://www.regulations.gov,* or via email to *stahl.cynthia@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Ellen Schmitt, (215) 814–5787, or by email at *schmitt.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, ''State Implementation Plan for Interstate Transport for the 2008 Ozone NAAQS,'' that is located in the ''Rules and Regulations'' section of this issue of the **Federal Register**.

Dated: September 11, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

[FR Doc. 2017–20599 Filed 9–26–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

RIN 0648–BG98

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Whiting; Pacific Coast Groundfish Fishery Management Plan; Amendment 21–3; Trawl Rationalization Program

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

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council (Council) submitted Amendment 21–3 to the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) to the Secretary of Commerce for review. If approved, Amendment 21–3 would modify the PCGFMP to manage darkblotched rockfish and Pacific ocean perch (POP), currently overfished species, as set-asides or ''soft-caps'' rather than with allocations, or ''hard caps'' for the Pacific whiting at-sea sectors. This action is intended to avoid the risk of early fishery closures of the at-sea Pacific whiting sectors due to incidental catch of darkblotched rockfish and POP, while keeping the catch of these species within their respective annual catch limits (ACLs).

DATES: Comments on Amendment 21–3 must be received on or before Sunday, November 27, 2017.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2017–0102, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0102,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Barry A. Thom., Regional Administrator, 7600 Sand Point Way NE., Seattle, WA 98115.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Information relevant to Amendment 21–3, which includes a memo categorically excluding this action from National Environmental Protection Act, a regulatory impact review (RIR), and an initial regulatory flexibility analysis (RFA) are available for public review during business hours at the NMFS West Coast Regional Office at 7600 Sand Point Way NE., Seattle, WA 98115, or by requesting them via phone or the email address listed in the **FOR FURTHER INFORMATION CONTACT** section. Copies of additional reports referred to in this document may also be obtained from the Council.

FOR FURTHER INFORMATION CONTACT: Miako Ushio, phone: 206–526–4644, or email: *Miako.Ushio@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

FMP Amendment 21–3, background information and documents are available at the Council's Web site at *http://www.pcouncil.org/groundfish/fishery-management-plan/groundfish-amendments-in-development/.* Additional background documents are available at the NMFS West Coast Region Web site at *http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html.*

Background

NMFS manages the groundfish fisheries in the exclusive economic zone off Washington, Oregon, and California under the PCGFMP. The Council prepared and NMFS implemented the PCGFMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* and by regulations at 50 CFR parts 600 and 660. The Magnuson-Stevens Act requires that each regional fishery management council submit any federal management plan (FMP) or plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, immediately publish a notice that the FMP or amendment is available for public review and comment. This notice announces that proposed Amendment 21–3 to the PCGFMP is available for public review and comment. NMFS will consider the public comments received during the comment period described above in determining whether to approve, partially approve, or disapprove Amendment 21–3 to the PCGFMP.

Amendment 21–3 consists of two components: (1) Changes in the way two overfished species, darkblotched rockfish and POP are managed in the Pacific whiting at-sea sectors, and (2) allows automatic closure by NMFS of one or both of the at-sea sectors in the event that the set-aside plus the available reserve for unforeseen catch events (known as the ''buffer'') of either species is projected to be reached.

The Council has been exploring alternative management measures with the purpose of substantially reducing the risk of the Pacific whiting at-sea sectors (mothership [MS] and catcher processor [CP]) not attaining their respective whiting allocations based on the incidental catch of darkblotched rockfish or POP, which are currently overfished species subject to rebuilding plans. Timeliness and administrative feasibility were important considerations of the Council in exploring these measures. The proposed FMP amendment is intended to be an interim solution to address the immediate needs of the at-sea sectors with regards to incidental catch of darkblotched rockfish or POP.

NMFS welcomes comments on the proposed FMP amendment through the end of the comment period. A proposed rule to implement Amendment 21–3 has been submitted for Secretarial review and approval. NMFS expects to publish and request public review and comment on proposed regulations to implement Amendment 21–3 in the near future. For public comments on the proposed rule to be considered in the approval or disapproval decision on Amendment 21–3, those comments must be received by the end of the comment period on the amendment. All comments received by the end of the comment period for the amendment, whether specifically directed to the amendment or the proposed rule, will be considered in the approval/disapproval decision.

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

Dated: September 22, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–20692 Filed 9–26–17; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 82, No. 186

Wednesday, September 27, 2017

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 21, 2017.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by October 27, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: National Animal Health Monitoring System; Emergency Epidemiologic Investigations.

OMB Control Number: 0579–0376.

Summary of Collection: Collection and dissemination of animal health data and information is mandated by 7 U.S.C. 391, the Animal Industry Act of 1884, which established the precursor of the Animal and Plant Health Inspection Service (APHIS), Veterinary Services, the Bureau of Animal Industry. Legal requirements for examining and reporting on animal disease control methods were further mandated by 7 U.S.C. 8308, 8314 of the Animal Health Protection Act, ''Detection, Control, and Eradication of Disease and Pests,'' May 13, 2002. Emergency epidemiologic investigations will allow Veterinary Services Officials to rapidly implement prevention and control measures, keep the public informed, and keep international markets open.

Need and Use of the Information: The primary objective of the National Animal Health Monitoring System's emergency epidemiologic investigations are to provide for the prevention and control of animal disease and protect the U.S. livestock and poultry populations from the introduction and spread of domestic, emerging, zoonotic, and foreign animal disease. APHIS will collect information using a questionnaire, telephone interview, or direct interview. APHIS will use the data collected to: (1) Identify the scope of the problem (2) Define and describe the affected population and the susceptible population; (3) Predict or detect trends in disease occurrence and movement; (4) Understand the risk factors for disease; (5) Estimate the cost of disease control and develop intervention options; (6) Make recommendations for disease control; (7) Provide parameters for animal disease spread models; (8) Provide lessons learned and guidance on the best ways to avoid future outbreaks based on thorough analysis of data from current outbreak(s); and (9) Identify areas for further research *e.g.* mechanisms of disease transfer, vaccine technology, and diagnostic testing needs.

Description of Respondents: Private Sector; State, Local, and Tribal Governments; and Individuals or Households.

Number of Respondents: 8,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 5,798.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–20619 Filed 9–26–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Third National Survey of WIC Participants (NSWP–III)

AGENCY: Food and Nutrition Service (FNS), Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a new collection to conduct the Third National Survey of WIC Participants (NSWP–III).

DATES: Written comments must be received on or before November 27, 2017.

ADDRESSES: Comments may be sent to: Anthony Panzera, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1014, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Anthony Panzera at 703–305–2576, or via email to *Anthony.Panzera@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Anthony Panzera at *Anthony.Panzera@fns.usda.gov,* or 703–305–2309.

SUPPLEMENTARY INFORMATION:

Title: Third National Survey of WIC Participants (NSWP–III).

Form Number: N/A.

OMB Number: Not yet assigned.

Expiration Date: Not yet determined.

Type of Request: New collection.

Abstract: The Third National Survey of WIC Participants (NSWP–III) is designed to provide nationally representative estimates of improper payments in the WIC program arising from errors in the certification or denial of WIC applicants, to investigate potential State and local agency characteristics that may correlate with these errors, and to assess WIC participants' reasons for satisfaction or dissatisfaction with the program. The NSWP–III builds on three previous studies and reports spanning several decades.

The study has two purposes. The first is to obtain the data necessary to accomplish the study objectives. To accomplish study objectives, the following data collections are planned: (1) A Certification Survey with up to 2,000 recently certified WIC participants; (2) a Denied Applicant Survey with up to 240 WIC applicants who did not qualify for the program; (3) a Program Experiences Survey with up to 1,500 current WIC program participants; (4) a Former Participant Case Study with 520 inactive WIC program participants who have stopped redeeming WIC benefits; (5) a State Agency Survey with 90 agencies, including 50 States and the District of Columbia, the 34 Indian Tribal Organizations (ITOs), and 5 U.S. Territories; (6) and a Local WIC Agency Survey with 965 local WIC agency directors. In addition, 20 Local WIC Agency staff will be maintaining a Denied Applicants Log.

The second purpose is to pilot a new methodology for the future annual estimates of improper payments in the WIC program. Under this approach, the data collection instruments and recruiting materials, developed for the 2018 Certification Survey and Denied Applicants Survey, will be fielded in 2019 and 2020 by replacing one of 10 ''panels'' from the 2018 sample with newly selected WIC participants (180 per year) and denied applicants (24 per year); these data will be pooled with the extant 2018 data from the remaining (non-replaced) panels to update the estimates of improper payments in each year. Data collection activities in these 2 years will include recruiting recently certified WIC participants to complete the Certification Survey and denied WIC applicants to complete the Denied Applicant Survey.

Comments are invited on the following topics: (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 that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques, and/or other forms of information technology.

Affected Public: This study includes two respondent groups: (1) State, Local, and Tribal Government (State WIC agency directors and local WIC agency directors); and (2) Individuals or Households (current WIC program participants, denied applicants, and former WIC participants).

Estimated Number of Respondents: The total estimated number of respondents is 6,517. This figure includes 4,355 respondents and 2,162 non-respondents. This study will include six data collection activities.

The initial sample for the State Agency Survey will consist of 90 State WIC agency directors. Assuming that 100 percent respond to the web-based survey, the resulting respondent sample will include approximately 90 State WIC agency directors.

Local WIC agency directors will also complete a web-based survey, the Local WIC Agency Survey. The initial sample will include 965 local WIC agency directors and, assuming an 80 percent response rate, the final sample will result in 772 local WIC agency directors.

The initial sample size for the Certification Survey is 2,000 current WIC program participants. A portion of the current WIC program participants in the sample unit may complete up to two surveys, the Certification Survey and the Program Experiences Survey. A sample of 1,000 current WIC program participants, a subset of the sample of 2,000 WIC program participants, will be recruited to complete both the Certification Survey and the Program Experiences Survey interviews in person during the same visit. Assuming an 80 percent response rate for each survey, a total of 1,600 current WIC program participants will complete Certification Surveys, and 800 will also complete the Program Experiences Survey.

An additional sample for the Program Experiences Survey will be administered by telephone or in person during a follow-up home visit. The initial sample size is 1,500 current WIC program participants, and assuming an 80 percent response rate, the final sample will include 1,200 current program participants (750 by telephone and 450 in-person).

The Denied Applicant Survey, administered in person, will include an initial sample of 240 recently denied WIC program applicants. Assuming an 80 percent response rate, the final sample will be 192 recently denied WIC program applicants.

This study includes a Former WIC Participant Case Study with an initial sample of 520 former WIC program participants. As a qualitative case study with people who are no longer participating in the program, the expected response rate is 30 percent. This response rate will result in 156 respondents who will be asked screening questions. Assuming 20 percent are screened out, the final screened sample will be 125 former participants.

The Alternative Methodology Pilot Studies will take place in 2019 and 2020. The initial sample size for each is estimated to be 180 current WIC program participants for the Certification Survey sample and 24 recently denied WIC program applicants for the Denied Applicant Survey sample. Assuming an 80 percent response rate for each sample, the resulting respondent sample will include approximately 150 current WIC program participants and 19 recently denied WIC program applicants for each year.

As part of the 2018 data collection activities, an initial sample of 20 Local Agency staff will maintain a Denied Applicants Log. FNS expects that all of the staff will maintain this log.

There is pre-testing burden associated with this collection that was reviewed and approved by OMB on September 22, 2016, under OMB #0584–0606 FNS Generic Clearance Pre-Testing, Pilot, and Field Test Studies. A total of 2,213 responses and 102 burden hours were approved under the generic clearance.

Estimated Frequency of Responses per Respondent: FNS estimates that the frequency of responses per respondent will average 5.35 responses per

respondent (including respondents and non-respondents) across the entire collection. State agency directors, local WIC agency directors, denied applicants, and former WIC participants will provide a one-time response during their respective survey or interview. A portion of the current WIC participants will be invited to complete two surveys, although most will provide responses on only one survey. Each respondent type may be contacted several times by telephone, mail, email, and home visits to encourage participation and, when appropriate, to remind the respondent of the importance of their contribution to this study.

Estimated Total Annual Responses: The total number of responses (including respondents and non-respondents) expected across all respondent categories is 34,859. FNS estimates that 34,839 responses are related to the reporting burden and 20 responses for the recordkeeping burden.

Estimated Time per Response: The estimated time will vary depending on the respondent category and will range from 1.2 minutes (0.02 hours) to 3 hours. The following table outlines the estimated total annual burden for each type of respondent. Across all study respondents and non-respondents, the average estimated time per response is 0.14 hours.

Estimated Total Annual Burden Hours on Respondents: 4,853.98 hours (see table below for estimated total annual burden hours by type of respondent). This includes 4,793.98 hours for reporting and 60 hours for recordkeeping.

Dated: September 12, 2017.

Brandon Lipps,

Administrator, Food and Nutrition Service.

BILLING CODE 3410–30–P

Table 1. Burden Estimate for Respondents and Non-Respondents

Respondent Category	Respondent Type	Instrument	Total Sample Size	Respondents					Non-Respondents					Grand Total Burden Estimate (Hours)
				Estimated Number of Respondents	Frequency of Response	Total Annual Responses	Average Time Per Response (Hours)	Total Annual Burden Estimate (Hours)	Estimated Number of Non-Respondents	Frequency of Non-Response	Total Annual Non-Responses	Average Time Per Non- Response (Hours)	Total Annual Burden Estimate (Hours)	
REPORTING														
2018 Data Collection														
State, Local, and Tribal Government														
State, Local, and Tribal Government	State WIC Agency Directors	**State Agency Survey-Web**	90	90	1	90	1.10	99.00	0	0	0	0.00	0.00	99.00
		Notification Email to Regional and State Offices	90	90	1	90	0.02	1.50	0	0	0	0.00	0.00	1.50
		Letter to State Agencies from Regional Offices	90	90	1	90	0.02	1.50	0	0	0	0.00	0.00	1.50
		State Agency Survey Invitation Email	90	34	1	34	0.02	0.57	56	1	56	0.02	1.12	1.69
		State Agency Survey Invitation Letter with Instrument	90	56	1	56	0.05	2.79	34	1	34	0.02	0.68	3.47
		State Agency Survey Reminder Email, 1	34	13	1	13	0.02	0.22	21	1	21	0.02	0.42	0.64
		State Agency Survey Reminder Email, 2	21	8	1	8	0.02	0.13	13	1	13	0.02	0.26	0.40
		State Agency Survey Reminder Email, 3	13	5	1	5	0.02	0.08	8	1	8	0.02	0.16	0.25
		State Agency Survey Reminder Email, 4	8	3	1	3	0.02	0.05	5	1	5	0.02	0.10	0.15
		State Agency Survey Reminder Email, 5	5	2	1	2	0.02	0.03	3	1	3	0.02	0.06	0.09
		State Agency Survey Reminder Email, 6	3	1	1	1	0.02	0.02	2	1	2	0.02	0.04	0.06
		State Agency Survey Reminder Email, 7	2	2	1	2	0.02	0.03	0	0	0	0.02	0.00	0.03
		State Agency Survey Reminder Telephone Script, Call 1	56	25	1	25	0.05	1.26	31	1	31	0.02	0.61	1.87
		State Agency Survey Reminder Telephone Script, Call 2	31	14	1	14	0.05	0.69	17	0	0	0.00	0.00	0.69
		State Agency Survey Reminder Telephone Script, Call 3	17	8	1	8	0.05	0.38	9	0	0	0.00	0.00	0.38
		State Agency Survey Reminder Telephone Script, Call 4	9	4	1	4	0.05	0.21	5	1	5	0.02	0.10	0.31
		State Agency Survey Reminder Telephone Script, Call 5	5	2	1	2	0.05	0.11	3	0	0	0.00	0.00	0.11
		State Agency Survey Reminder Telephone Script, Call 6	3	1	1	1	0.05	0.06	2	0	0	0.00	0.00	0.06
		State Agency Survey Reminder Telephone Script, Call 7	2	2	1	2	0.05	0.08	0	0	0	0.02	0.00	0.08
		Study Description for State and Local WIC Agencies	90	90	1	90	0.05	4.50	0	0	0	0.00	0.00	4.50
		State Agency Survey Thank You Letter	90	90	1	90	0.02	1.50	0	0	0	0.00	0.00	1.50
	Local WIC Agency Directors	**Local Agency Survey-Web**	965	772	1	772	1.00	772.00	193	0	0	0.00	0.00	772.00
		Local Agency Survey Invitation Email	965	338	1	338	0.02	5.63	627	1	627	0.02	12.55	18.17
		Local Agency Survey Invitation Letter with Instrument	965	434	1	434	0.05	21.71	531	1	531	0.02	10.62	32.33
		Local Agency Survey Reminder Email, 1	338	186	1	186	0.02	3.10	152	1	152	0.02	3.04	6.14
		Local Agency Survey Reminder Email, 2	152	84	1	84	0.02	1.39	68	1	68	0.02	1.37	2.76
		Local Agency Survey Reminder Email, 3	68	38	1	38	0.02	0.63	30	1	30	0.02	0.61	1.24
		Local Agency Survey Reminder Email, 4	30	16	1	16	0.02	0.27	14	1	14	0.02	0.28	0.55
		Local Agency Survey Reminder Email, 5	14	8	1	8	0.02	0.14	6	1	6	0.02	0.12	0.25
		Local Agency Survey Reminder Email, 6	6	3	1	3	0.02	0.05	3	1	3	0.02	0.05	0.11
		Local Agency Survey Reminder Email, 7	3	3	1	3	0.02	0.05	0	0	0	0.00	0.00	0.05
		Local Agency Survey Reminder Telephone Script, Call 1	434	226	1	226	0.05	11.29	208	1	208	0.02	4.17	15.46
		Local Agency Survey Reminder Telephone Script, Call 2	208	108	1	108	0.05	5.42	100	0	0	0.00	0.00	5.42
		Local Agency Survey Reminder Telephone Script, Call 3	100	50	1	50	0.05	2.50	50	0	0	0.00	0.00	2.50
		Local Agency Survey Reminder Telephone Script, Call 4	50	25	1	25	0.05	1.25	25	1	25	0.02	0.50	1.75
		Local Agency Survey Reminder Telephone Script, Call 5	25	12	1	12	0.05	0.61	13	0	0	0.00	0.00	0.61
		Local Agency Survey Reminder Telephone Script, Call 6	13	6	1	6	0.05	0.31	7	0	0	0.00	0.00	0.31
		Local Agency Survey Reminder Telephone Script, Call 7	7	7	1	7	0.05	0.33	0	0	0	0.00	0.00	0.33
		Study Description for State and Local WIC Agencies	965	772	1	772	0.05	38.60	193	0	0	0.00	0.00	38.60
		Certifcation End Date Verification Email, 1	60	30	1	30	0.30	9.00	30	1	30	0.02	0.60	9.60
		Certification End Date Verification Reminder Telephone Script, Call 1	60	39	1	39	0.33	12.87	21	1	21	0.02	0.42	13.29
		Certification End Date Verification Reminder Telephone Script, Call 2	21	14	1	14	0.33	4.50	7	1	7	0.02	0.15	4.65
		Certification End Date Verification Reminder Telephone Script, Call 3	7	7	1	7	0.33	2.43	0	0	0	0.00	0.00	2.43
		Local Agency Survey Thank You Letter	772	772	1	772	0.02	15.44	0	0	0	0.00	0.00	15.44
		Subtotal of State, Local, and Tribal Government (2018)		**862**	**5**	**4580**	**0.22**	**1024.25**	**193**	**10**	**1902**	**0.02**	**38.03**	**1062.28**

Respondent Category	Respondent Type	Instrument	Total Sample Size	Respondents					Non-Respondents					Grand Total Burden Estimate (Hours)
				Estimated Number of Respondents	Frequency of Response	Total Annual Responses	Average Time Per Response (Hours)	Total Annual Burden Estimate (Hours)	Estimated Number of Non-Respondents	Frequency of Non-Response	Total Annual Non-Responses	Average Time Per Non- Response (Hours)	Total Annual Burden Estimate (Hours)	
REPORTING														
2018 Data Collection														
Individuals or Households														
Individuals or Households	Current WIC Program Participants	**Certification Survey-In Person**	2000	1600	1	1600	0.70	1120.00	400	0	0	0.00	0.00	1120.00
		Certification Survey Invitaton Telephone Script, Call 1	2000	362	1	362	0.18	65.12	1638	1	1638	0.02	32.76	97.89
		Certification Survey Invitaton Telephone Script, Call 2	1638	296	1	296	0.18	53.34	1342	0	0	0.00	0.00	53.34
		Certification Survey Invitaton Telephone Script, Call 3	1342	243	1	243	0.18	43.69	1099	0	0	0.00	0.00	43.69
		Certification Survey Invitaton Telephone Script, Call 4	1099	101	1	101	0.18	18.10	998	1	998	0.02	19.97	38.07
		Certification Survey Invitaton Telephone Script, Call 5	998	91	1	91	0.18	16.44	907	0	0	0.00	0.00	16.44
		Certification Survey Invitaton Telephone Script, Call 6	907	83	1	83	0.18	14.94	824	0	0	0.00	0.00	14.94
		Certification Survey Invitaton Telephone Script, Call 7	824	124	1	124	0.18	22.40	700	1	700	0.02	13.99	36.39
		Certification Survey In-Person Invitation Script, Door Knock 1	700	300	1	300	0.17	51.03	400	0	0	0.00	0.00	51.03
		Text Message Reminder for Scheduled Certification Survey	1600	880	1	880	0.02	17.60	720	0	0	0.00	0.00	17.60
		Telephone Reminder for Scheduled Certification Survey	720	360	1	360	0.02	7.20	360	1	360	0.02	7.20	14.40
		Certification Survey Information Letter from State Agencies	2000	1600	1	1600	0.05	80.00	400	1	400	0.02	8.00	88.00
		Participant Consent Form-Certification Survey	1600	1600	1	1600	0.08	133.33	0	0	0	0.00	0.00	133.33
		Program Experiences Survey (after complete Certification Survey)-In Person	1000	800	1	800	0.52	416.00	200.00	1	200	0.02	4.00	420.00
Individuals or Households	Current WIC Program Participants	**Program Experiences Survey-Telephone**	1500	750	1	750	0.63	475.00	750	0	0	0.00	0.00	475.00
		Program Experiences Survey Invitation Telephone Script, Call 1	1500	338	1	338	0.12	39.38	1162	1	1162	0.02	23.24	62.62
		Program Experiences Survey Invitation Telephone Script, Call 2	1162	174	1	174	0.12	20.34	988	0	0	0.00	0.00	20.34
		Program Experiences Survey Invitation Telephone Script, Call 3	988	111	1	111	0.12	12.91	877	0	0	0.00	0.00	12.91
		Program Experiences Survey Invitation Telephone Script, Call 4	877	44	1	44	0.12	5.12	833	1	833	0.02	16.66	21.78
		Program Experiences Survey Invitation Telephone Script, Call 5	833	35	1	35	0.12	4.07	798	0	0	0.00	0.00	4.07
		Program Experiences Survey Invitation Telephone Script, Call 6	798	25	1	25	0.12	2.92	773	0	0	0.00	0.00	2.92
		Program Experiences Survey Invitation Telephone Script, Call 7	773	14	1	14	0.12	1.62	759	1	759	0.02	15.19	16.81
		Program Experiences Survey Invitation Telephone Script, Call 8	759	10	1	10	0.12	1.17	749	0	0	0.00	0.00	1.17
		Program Experiences Survey Invitation Letter	749	26	1	26	0.03	0.79	723	1	723	0.02	14.46	15.25
		Program Experiences Survey Invitation Email	975	10	1	10	0.03	0.29	965	1	965	0.02	19.31	19.60
		Program Experiences Survey Invitation Postcard	750	34	1	34	0.02	0.68	716	1	716	0.02	14.33	15.00
		Program Experiences Survey Thank You Letter and Gift Card	750	750	1	750	0.02	15.00	0	0	0	0.00	0.00	15.00
		Program Experiences Survey-In Person	750	450	1	450	0.50	225.00	300	0	0	0.00	0.00	225.00
		Program Experiences Survey Invitation In-Person Script, Door Knock 1	750	450	1	450	0.08	36.00	300	0	0	0.00	0.00	36.00
		Participant Information Brochure	750	450	1	450	0.02	9.00	300	0	0	0.00	0.00	9.00
	Recently Denied WIC Program Applicants	**Denied Applicant Survey-In Person**	240	192	1	192	0.65	124.80	48	0	0	0.00	0.00	124.80
		Denied Applicant Survey Invitation Telephone Script, Call 1	240	28	1	28	0.13	3.67	212	1	212	0.02	4.24	7.91
		Denied Applicant Survey Invitation Telephone Script, Call 2	212	25	1	25	0.13	3.24	187	0	0	0.00	0.00	3.24
		Denied Applicant Survey Invitation Telephone Script, Call 3	187	22	1	22	0.13	2.86	165	0	0	0.00	0.00	2.86
		Denied Applicant Survey Invitation Telephone Script, Call 4	165	7	1	7	0.13	0.96	158	1	158	0.02	3.16	4.12
		Denied Applicant Survey Invitation Telephone Script, Call 5	158	6	1	6	0.13	0.82	152	0	0	0.00	0.00	0.82
		Denied Applicant Survey Invitation Telephone Script, Call 6	152	6	1	6	0.13	0.79	146	0	0	0.00	0.00	0.79
		Denied Applicant Survey Invitation Telephone Script, Call 7	146	5	1	5	0.13	0.70	141	1	141	0.02	2.82	3.52
		Denied Applicant Survey In-Person Invitation, Door Knock 1	141	82	1	82	0.17	14.02	59	0	0	0.00	0.00	14.02
		Denied Applicant Survey In-Person Invitation, Door Knock 2	59	11	1	11	0.17	1.88	48	0	0	0.00	0.00	1.88
		Text Message Reminder for Scheduled Denied Applicant Survey	192	106	1	106	0.02	2.11	86	1	86	0.00	0.00	2.11
		Telephone Reminder for Scheduled Denied Applicant Survey	86	43	1	43	0.08	3.46	43	1	43	0.02	0.86	4.32
		Denied Applicant Survey Information Letter from State Agencies	240	192	1	192	0.02	3.84	48	1	48	0.02	0.96	4.80
		Participant Consent Form-Denied Applicant Survey	192	192	1	192	0.10	19.20	0	0	0	0.00	0.00	19.20
	Former WIC Program Participants	**Former WIC Participant Case Study Interview Guide-Telephone**	520	125	1	125	0.50	62.50	395	0	0	0.00	0.00	62.50
		Former WIC Participant Case Study Interview Invitation Telephone Script, Call 1	520	65	1	65	0.15	9.75	455	1	455	0.02	9.10	18.85
		Former WIC Participant Case Study Interview Invitation Telephone Script, Call 2	455	34	1	34	0.15	5.12	421	1	421	0.02	8.42	13.54
		Former WIC Participant Case Study Interview Invitation Telephone Script, Call 3	421	16	1	16	0.15	2.40	405	1	405	0.02	8.10	10.50
		Former WIC Participant Case Study Interview Invitation Telephone Script, Call 4	405	6	1	6	0.15	0.91	399	1	399	0.02	7.98	8.89
		Former WIC Participant Case Study Interview Invitation Telephone Script, Call 5	399	4	1	4	0.15	0.60	395	1	395	0.02	7.90	8.49
		Former WIC Participant Case Study Interview Thank You Letter and Gift Card	125	125	1	125	0.02	2.50	0	0	0	0.00	0.00	2.50
		Subtotal of Individuals or Households (2018)		**3117**	**4**	**13404**	**0.24**	**3174.59**	**1893**	**6**	**12218**	**0.02**	**242.64**	**3417.23**
		2018 Data Collection Total		**3979**	**5**	**17984**	**0.23**	**4198.84**	**2088**	**7**	**14120**	**0.02**	**280.67**	**4479.51**

Respondent Category	Respondent Type	Instrument		Total Sample Size	Respondents					Non-Respondents					Grand Total Burden Estimate (Hours)
					Estimated Number of Respondents	Frequency of Response	Total Annual Responses	Average Time Per Response (Hours)	Total Annual Burden Estimate (Hours)	Estimated Number of Non-Respondents	Frequency of Non-Response	Total Annual Non-Responses	Average Time Per Non-Response (Hours)	Total Annual Burden Estimate (Hours)	
REPORTING															
2019 Data Collection															
State, Local, and Tribal Government															
State, Local, and Tribal Government	State WIC Agency Directors	Study Description for State and Local WIC Agencies		3	3	1	3	0.05	0.15	0	0	0	0.00	0.00	0.15
	Local WIC Agency Directors	Certification End Date Verification Email, 1		6	6	1	6	0.05	0.30	0	0	0	0.00	0.00	0.30
		Certification End Date Verification Reminder Telephone Script, Call 1		6	3	1	3	0.33	0.89	3	1	3	0.02	0.07	0.96
		Certification End Date Verification Reminder Telephone Script, Call 2		3	2	1	2	0.33	0.54	1	1	1	0.02	0.02	0.56
		Certification End Date Verification Reminder Telephone Script, Call 3		1	1	1	1	0.33	0.33	0	0	0	0.00	0.00	0.33
Subtotal of State, Local, and Tribal Government (2019)					**9**	**2**	**14**	**0.15**	**2.22**	**3**	**1**	**4**	**0.02**	**0.09**	**2.30**
Individuals or Households															
Individuals or Households	Pilot of Alternative Methodology 2019	**Certification Survey-In Person**		180	150	1	150	0.50	75.00	30	0	0	0.00	0.00	75.00
		Certification Survey Invitation Telephone Script, Call 1		180	36	1	36	0.18	6.48	144	1	144	0.02	2.88	9.36
		Certification Survey Invitation Telephone Script, Call 2		144	29	1	29	0.18	5.18	115	0	0	0.00	0.00	5.18
		Certification Survey Invitation Telephone Script, Call 3		115	23	1	23	0.18	4.15	92	0	0	0.00	0.00	4.15
		Certification Survey Invitation Telephone Script, Call 4		92	18	1	18	0.18	3.31	74	1	74	0.02	1.47	4.78
		Certification Survey Invitation Telephone Script, Call 5		74	9	1	9	0.18	1.59	65	0	0	0.00	0.00	1.59
		Certification Survey Invitation Telephone Script, Call 6		65	6	1	6	0.18	1.08	59	0	0	0.00	0.00	1.08
		Certification Survey Invitation Telephone Script, Call 7		59	6	1	6	0.18	1.08	53	1	53	0.02	1.06	2.14
		Certification Survey In-Person Invitation Script, Door Knock 1		53	23	1	23	0.17	3.87	30	0	0	0.00	0.00	3.87
		Text Message Reminder for Scheduled Certification Survey		180	99	1	99	0.02	1.98	81	0	0	0.00	0.00	1.98
		Telephone Reminder for Scheduled Certification Survey		180	90	1	90	0.02	1.80	90	1	90	0.02	1.80	3.60
		Certification Survey Information Letter from State Agencies		180	150	1	150	0.05	7.50	30	1	30	0.02	0.60	8.10
		Participant Consent Form-Certification Survey		150	150	1	150	0.10	15.00	0	0	0	0.00	0.00	15.00
		Denied Applicant Survey-In Person		24	19	1	19	0.58	11.08	5	0	0	0.00	0.00	11.08
		Denied Applicant Survey Invitation Telephone Script, Call 1		24	3	1	3	0.13	0.37	21	1	21	0.02	0.42	0.79
		Denied Applicant Survey Invitation Telephone Script, Call 2		21	2	1	2	0.13	0.26	19	0	0	0.00	0.00	0.26
		Denied Applicant Survey Invitation Telephone Script, Call 3		19	2	1	2	0.13	0.26	18	0	0	0.00	0.00	0.26
		Denied Applicant Survey Invitation Telephone Script, Call 4		18	1	1	1	0.13	0.13	17	1	17	0.02	0.34	0.47
		Denied Applicant Survey Invitation Telephone Script, Call 5		17	1	1	1	0.13	0.13	16	0	0	0.00	0.00	0.13
		Denied Applicant Survey Invitation Telephone Script, Call 6		16	1	1	1	0.13	0.13	15	0	0	0.00	0.00	0.13
		Denied Applicant Survey Invitation Telephone Script, Call 7		15	1	1	1	0.13	0.13	14	1	14	0.02	0.28	0.41
		Denied Applicant Survey In-Person Invitation, Door Knock 1		14	8	1	8	0.17	1.39	6	0	0	0.00	0.00	1.39
		Denied Applicant Survey In-Person Invitation, Door Knock 2		6	1	1	1	0.17	0.19	5	0	0	0.00	0.00	0.19
		Text Message Reminder for Scheduled Denied Applicant Survey		24	13	1	13	0.02	0.26	11	1	11	0.00	0.00	0.26
		Telephone Reminder for Scheduled Denied Applicant Survey		11	5	1	5	0.08	0.43	6	1	6	0.02	0.12	0.55
		Denied Applicant Survey Information Letter from State Agencies		24	19	1	19	0.02	0.38	5	1	5	0.02	0.10	0.48
		Participant Consent Form-Denied Applicant Survey		19	19	1	19	0.10	1.90	0	0	0	0.00	0.00	1.90
Subtotal of Individuals or Households (2019)					**169**	**5**	**885**	**0.16**	**145.06**	**35**	**13**	**485**	**0.02**	**9.08**	**154.14**
2019 Data Collection Total					**178**	**5**	**899**	**0.16**	**147.28**	**38**	**12**	**488**	**0.02**	**9.16**	**156.45**

Respondent Category	Respondent Type	Instrument		Total Sample Size	Respondents: Estimated Number of Respondents	Respondents: Frequency of Response	Respondents: Total Annual Responses	Respondents: Average Time Per Response (Hours)	Respondents: Total Annual Burden Estimate (Hours)	Non-Respondents: Estimated Number of Non-Respondents	Non-Respondents: Frequency of Non-Response	Non-Respondents: Total Annual Non-Responses	Non-Respondents: Average Time Per Non-Response (Hours)	Non-Respondents: Total Annual Burden Estimate (Hours)	Grand Total Burden Estimate (Hours)
REPORTING															
2020 Data Collection															
State, Local, and Tribal Government															
State, Local, and Tribal Government	State VMC Agency Directors	Study Description for State and Local VMC Agencies		3	3	1	3	0.05	0.15	0	0	0	0.00	0.00	0.15
	Local VMC Agency Directors	Certification End Date Verification Email 1		6	6	1	6	0.30	1.80	0	0	0	0.00	0.00	1.80
		Certification End Date Verification Reminder Telephone Script, Call 1		6	3	1	3	0.33	0.99	3	1	3	0.02	0.07	0.96
		Certification End Date Verification Reminder Telephone Script, Call 2		3	2	1	2	0.33	0.54	1	1	1	0.02	0.02	0.56
		Certification End Date Verification Reminder Telephone Script, Call 3		1	1	1	1	0.33	0.33	0	0	0	0.00	0.00	0.33
Subtotal of State, Local, and Tribal Government (2020)					**9**	**2**	**14**	**0.26**	**3.72**	**3**	**1**	**4**	**0.02**	**0.09**	**3.80**
Individuals or Households															
Individuals or Households	Pilot of Alternative Methodology 2020	**Certification Survey-In Person**		180	150	1	150	0.50	75.00	30	0	0	0.00	0.00	75.00
		Certification Survey Invitation Telephone Script, Call 1		180	36	1	36	0.18	6.48	144	1	144	0.02	2.88	9.36
		Certification Survey Invitation Telephone Script, Call 2		144	29	1	29	0.18	5.18	115	0	0	0.00	0.00	5.18
		Certification Survey Invitation Telephone Script, Call 3		115	23	1	23	0.18	4.15	92	0	0	0.00	0.00	4.15
		Certification Survey Invitation Telephone Script, Call 4		92	18	1	18	0.18	3.31	74	1	74	0.02	1.47	4.78
		Certification Survey Invitation Telephone Script, Call 5		74	9	1	9	0.18	1.59	65	0	0	0.00	0.00	1.59
		Certification Survey Invitation Telephone Script, Call 6		65	6	1	6	0.18	1.17	59	0	0	0.00	0.00	1.17
		Certification Survey Invitation Telephone Script, Call 7		59	6	1	6	0.18	1.06	53	1	53	0.02	1.06	2.12
		Certification Survey In-Person Invitation Script, Door Knock 1		53	23	1	23	0.17	3.87	30	0	0	0.00	0.00	3.87
		Text Message Reminder for Scheduled Certification Survey		180	99	1	99	0.02	1.98	81	0	0	0.00	0.00	1.98
		Telephone Reminder for Scheduled Certification Survey		180	90	1	90	0.02	1.80	90	1	90	0.02	1.80	3.60
		Certification Survey Information Letter from State Agencies		180	150	1	150	0.05	7.50	30	1	30	0.02	0.60	8.10
		Participant Consent Form-Certification Survey		150	150	1	150	0.10	15.00	0	0	0	0.00	0.00	15.00
		Denied Applicant Survey-In Person		24	19	1	19	0.58	11.08	5	0	0	0.00	0.00	11.08
		Denied Applicant Survey Invitation Telephone Script, Call 1		24	3	1	3	0.13	0.37	21	1	21	0.02	0.42	0.79
		Denied Applicant Survey Invitation Telephone Script, Call 2		21	2	1	2	0.13	0.26	19	0	0	0.00	0.00	0.26
		Denied Applicant Survey Invitation Telephone Script, Call 3		19	2	1	2	0.13	0.26	18	0	0	0.00	0.00	0.26
		Denied Applicant Survey Invitation Telephone Script, Call 4		18	1	1	1	0.13	0.13	17	1	17	0.02	0.34	0.47
		Denied Applicant Survey Invitation Telephone Script, Call 5		17	1	1	1	0.13	0.13	16	0	0	0.00	0.00	0.13
		Denied Applicant Survey Invitation Telephone Script, Call 6		16	1	1	1	0.13	0.13	15	0	0	0.00	0.00	0.13
		Denied Applicant Survey Invitation Telephone Script, Call 7		15	1	1	1	0.13	0.13	14	1	14	0.02	0.28	0.41
		Denied Applicant Survey In-Person Invitation, Door Knock 1		14	8	1	8	0.17	1.39	6	0	0	0.00	0.00	1.39
		Denied Applicant Survey In-Person Invitation, Door Knock 2		6	1	1	1	0.17	0.19	5	0	0	0.00	0.00	0.19
		Text Message Reminder for Scheduled Denied Applicant Survey		24	13	1	13	0.02	0.26	11	1	11	0.00	0.00	0.26
		Telephone Reminder for Scheduled Denied Applicant Survey		11	5	1	5	0.08	0.43	6	1	6	0.02	0.12	0.55
		Denied Applicant Survey Information Letter from State Agencies		24	19	1	19	0.02	0.38	5	1	5	0.02	0.10	0.48
		Participant Consent Form-Denied Applicant Survey		19	19	1	19	0.10	1.90	0	0	0	0.00	0.00	1.90
Subtotal of Individuals or Households (2020)					**169**	**5**	**885**	**0.16**	**145.14**	**35**	**13**	**465**	**0.02**	**9.08**	**154.22**
2020 Data Collection Total					**178**	**5**	**899**	**0.17**	**148.86**	**38**	**12**	**468**	**0.02**	**9.17**	**158.02**
Grand Total (2018, 2019, 2020) Reporting					**4335**	**5**	**19783**	**0.23**	**4494.98**	**2162**	**7**	**15056**	**0.02**	**299.00**	**4793.98**
RECORDKEEPING															
2018 Data Collection															
State, Local, and Tribal Government	Local VMC Agency Staff	Denied Applicants Log		20	20	1	20	3.00	60.00	0	0	0	0.00	0.00	60.00
Grand Total (2018, 2019, 2020) Reporting and Recordkeeping					**4355**	**5**	**19803**	**0.23**	**4554.98**	**2162**	**7**	**15056**	**0.02**	**299.00**	**4853.98**

[FR Doc. 2017–20117 Filed 9–26–17; 8:45 am]

BILLING CODE 3410–30–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

U.S. Integrated Ocean Observing System (IOOS®) Advisory Committee

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given of a meeting of the U.S. Integrated Ocean Observing System (IOOS®) Advisory Committee (Committee) at Stennis Space Center and Ocean Springs, Mississippi.

DATES AND TIMES: The meeting will be held on Tuesday, October 24, 2017, from 8:30 a.m. to 5:30 p.m., Wednesday, October 25, 2017 from 8:30 a.m.–5:30 p.m., and Thursday, October 25, 2017 from 8:30–2:45 p.m. These times and the agenda topics described below are subject to change. Refer to the Web page listed below for the most up-to-date agenda.

ADDRESSES: On Tuesday, October 24th and Thursday, October 26th, the meeting will be held in the Santa Rosa Room, Building #11111, John C. Stennis Space Center, MS 39529. On Wednesday, October 25th, the meeting will be held at Gulf Coast Research Laboratory, University of Southern Mississippi, 703 E Beach Dr., Ocean Springs, MS 39564. Venues may be subject to change. Refer to the Web page listed below for the most up-to-date information.

FOR FURTHER INFORMATION CONTACT: Carl C. Gouldman, Designated Federal Official, U.S. IOOS Advisory Committee, U.S. IOOS Program, 1315 East-West Highway, Station 2605, Silver Spring, MD 20910; Phone 240–533–9456; Fax 301–713–3281; Email *carl.gouldman@noaa.gov* or visit the U.S. IOOS Advisory Committee Web site at *http://ioos.noaa.gov/community/u-s-ioos-advisory-committee/.*

SUPPLEMENTARY INFORMATION: The Committee was established by the NOAA Administrator as directed by Section 12304 of the Integrated Coastal and Ocean Observation System Act, part of the Omnibus Public Land Management Act of 2009 (Pub. L. 111–11). The Committee advises the NOAA Administrator and the Interagency Ocean Observation Committee (IOOC) on matters related to the responsibilities and authorities set forth in section 12302 of the Integrated Coastal and Ocean Observation System Act of 2009 and other appropriate matters as the Under Secretary refers to the Committee for review and advice. The Committee will provide advice on:

(a) Administration, operation, management, and maintenance of the System;

(b) expansion and periodic modernization and upgrade of technology components of the System;

(c) identification of end-user communities, their needs for information provided by the System, and the System's effectiveness in dissemination information to end-user communities and to the general public; and

(d) any other purpose identified by the Under Secretary of Commerce for Oceans and Atmosphere or the Interagency Ocean Observation Committee.

The meeting will be open to public participation with a 15-minute public comment period on October 24, 2017, from 2:30 p.m. to 2:45 p.m., on October 25, 2017, from 4:00 p.m. to 4:15 p.m., and on October 26, 2017, from 2:30 p.m.–2:45 p.m. (check agenda on Web site to confirm time.) The Committee expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of three (3) minutes. Written comments should be received by the Designated Federal Official by October 20, 2017 to provide sufficient time for Committee review. Written comments received after October 20th, will be distributed to the Committee, but may not be reviewed prior to the meeting date. Seats will be available on a first-come, first-served basis. Pre-registration is required for those attending in person. Please send your name as it appears on driver's license and the organization/company affiliation you represent to Carl Gouldman. This information must be received by October 13, 2017. Additionally, a webinar will be provided. Sign-up information for the webinar will be posted on the Web site.

Matters To Be Considered: The meeting will focus on ongoing committee priorities, including discussions stakeholder needs specific to the Gulf Coast region and developing the next set of recommendations. The latest version of the agenda will be posted at *http://ioos.noaa.gov/community/u-s-ioos-advisory-committee/.*

Special Accomodations: These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Carl C. Gouldman, Designated Federal Official at 240–533–9456 by October 13, 2017.

Dated: September 11, 2017.

Carl C. Gouldman,

Director, U.S. IOOS Program, National Ocean Service.

[FR Doc. 2017–20679 Filed 9–26–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF607

Determination of Overfishing or an Overfished Condition

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

ACTION: Notice.

SUMMARY: This action serves as a notice that NMFS, on behalf of the Secretary of Commerce (Secretary), has found that the following stocks are, or remain, subject to overfishing or overfished: South Atlantic red grouper, Gulf of Mexico greater amberjack, and Northwestern Atlantic witch flounder. NMFS, on behalf of the Secretary, notifies the appropriate fishery management council (Council) whenever it determines that overfishing is occurring, a stock is in an overfished condition, or a stock is approaching an overfished condition.

FOR FURTHER INFORMATION CONTACT: Regina Spallone, (301) 427–8568.

SUPPLEMENTARY INFORMATION: Pursuant to section 304(e)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1854(e)(2), NMFS, on behalf of the Secretary, must notify Councils, and publish in the **Federal Register,** whenever it determines that a stock or stock complex is subject to overfishing, overfished, or approaching an overfished condition.

NMFS has determined that South Atlantic red grouper is subject to overfishing and overfished. This determination is based on the most recent stock assessment (SEDAR 53), finalized in 2017, using data through 2015. This assessment supports a finding of subject to overfishing because the current estimate of fishing mortality (F) is above the maximum fishing mortality threshold (MFMT), and overfished because the spawning stock biomass estimate is less than the

minimum stock size threshold (MSST). NMFS informed the South Atlantic Fishery Management Council that they must take action to end overfishing immediately on this stock and implement conservation and management measures to rebuild it.

NMFS has determined that the Gulf of Mexico greater amberjack is subject to overfishing. This determination is based on the most recent assessment (SEDAR 33 Update), finalized in 2016, using data through 2015. This assessment supports a finding of subject to overfishing because the current estimate of F is above the MFMT. This stock remains overfished because the spawning stock biomass estimate is less than the MSST. NMFS informed the Gulf of Mexico Fishery Management Council that they must take action to end overfishing immediately on this stock and implement conservation and management measures to rebuild it.

NMFS has determined that Northwestern Atlantic witch flounder is still overfished and the overfishing status is unknown. The assessment peer review panel for this stock rejected the most recent benchmark assessment, finalized in 2017, using data through 2015. However, this stock is at historical low levels and other signs of poor stock condition support this stock remaining listed as overfished. Lack of similar reliable indicators for overfishing status support changing the overfishing status of this stock to unknown. NMFS has notified the New England Fishery Management Council that they must implement conservation and management measures to rebuild this stock.

Dated: September 22, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–20686 Filed 9–26–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Non-Commercial Permit and Reporting Requirements in the Main Hawaiian Islands Bottomfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

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

DATES: Written comments must be submitted on or before November 27, 2017.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *pracomments@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Walter Ikehara, (808) 725–5175 or *Walter.Ikehara@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection.

Regulations at 50 CFR 665, Subpart C, require that all participants (including vessel owners, operators, and crew) in the boat-based non-commercial bottomfish fishery in the Exclusive Economic Zone around the main Hawaiian Islands obtain a federal bottomfish permit. This collection of information is needed for permit issuance, to identify actual or potential participants in the fishery, determine qualifications for permits, and to help measure the impacts of management controls on the participants in the fishery. The permit program is also an effective tool in the enforcement of fishery regulations and serves as a link between the National Marine Fisheries Service (NMFS) and fishermen.

Regulations at 50 CFR 665 require that all vessel owners or operators in this fishery submit a completed logbook form at the completion of each fishing trip. These logbook reporting sheets document the species and amount of species caught during the trip. The reporting requirements are crucial to ensure that NMFS and the Western Pacific Fishery Management Council (Council) will be able to monitor the fishery and have fishery-dependent information to develop an Annual Catch Limit for the fishery, evaluate the effectiveness of management measures, determine whether changes in fishery management programs are necessary, and estimate the impacts and implications of alternative management measures.

II. Method of Collection

Respondents have a choice of either electronic or paper forms. Methods of submittal include email of electronic forms, and mail and facsimile transmission of paper forms.

III. Data

OMB Control Number: 0648–0577.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Individuals or small businesses.

Estimated Number of Respondents: 100.

Estimated Time per Response: 10 minutes per paper permit application; 5 minutes per online permit application; 2 hours per appeal of denied permit; 20 minutes per trip report logsheet.

Estimated Total Annual Burden Hours: 98.

Estimated Total Annual Cost to Public: $3,850 in recordkeeping/reporting costs.

IV. Request for Comments

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

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

Dated: September 22, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–20711 Filed 9–26–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and

Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Interagency Electronic Reporting System (IERS).

OMB Control Number: 0648–0515.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 206.

Average Hours per Response: 35 minutes for a tLandings landing report; 30 minutes for catcher/processor eLandings landing report; 18 minutes for active response and 5 minutes for inactive response for pilot catcher vessel trawl electronic logbook (eLog); 15 minutes for active response and 5 minutes for inactive response for catcher vessel eLog, catcher/processor eLog and mothership eLog; 15 minutes for eLandings registration; 10 minutes for eLandings/seaLandings landing report; and 20 minutes for at-sea response; and 10 minutes for shoreside and stationary floating processor response for eLandings/seaLandings production report.

Burden Hours: 22,850.

Needs and Uses: This request is for an extension of a current information collection.

eLandings, seaLandings, and tLandings are data entry components of the Alaska Interagency Electronic Reporting System (IERS), which is a collaborative program run by the National Marine Fisheries Service (NMFS) Alaska Regional Office, the Alaska Department of Fish and Game (ADF&G), and the International Pacific Halibut Commission (IPHC). eLandings, seaLandings, and tLandings provide the Alaska fishing industry with a consolidated electronic means of reporting production and landings of commercial fish and shellfish to multiple management agencies with a single reporting system. NMFS collects groundfish harvest and production data for fishery management plan species in the Exclusive Economic Zone (EEZ). ADF&G collects harvest data for groundfish species taken in State of Alaska waters and has responsibility for some fisheries in the EEZ, such as lingcod and black rockfish. ADF&G and NMFS cooperatively manage the Crab Rationalization Program fisheries in the Bering Sea and Aleutian Islands Management Area. NMFS and IPHC cooperatively manage Individual Fishing Quota (IFQ) for Pacific halibut and sablefish in both State waters and in the EEZ.

eLandings is a web-based application used by vessels and processors to report groundfish, crab, Pacific halibut, and sablefish production and landings data. Processors with limited internet access, such as the at-sea fleet, use eLandings client desktop software named seaLandings, provided by NMFS, and submit the required reports as email attachments or via direct transmit over the Internet. Once data are entered and submitted, the User must print daily through eLandings each landing report, production report, logbook report, and if an IFQ delivery, each IFQ receipt. The parties to the information must acknowledge the accuracy of the printed reports by signing them and entering the date signed. In addition, the User must make the printed copies available upon request of NMFS observers and authorized officers.

tLandings is a software application for tender vessels that records landings data on a USB flash drive and creates a printable fish ticket. The fish ticket is printed on board the tender vessel and signed by the delivering catcher vessel operator. When the tender vessel delivers to the shoreside processor, the shoreside processor uploads the landing information on the USB flash drive into eLandings.

Some of the benefits of IERS include improved data quality, automated processing of data, improved process for correcting or updating information, availability of more timely data for fishery managers, and reduction of duplicative reporting of similar information to multiple agencies.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: Daily and on occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: September 22, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–20712 Filed 9–26–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy (USMA)

AGENCY: Department of the Army, DoD.

ACTION: Notice of committee meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976, the Department of Defense announces that the following Federal advisory committee meeting will take place.

DATES: The meeting will be held on Friday, October 20, 2017, Time 10:00 a.m.–12:00 p.m. Members of the public wishing to attend the meeting will be required to show a government photo ID upon entering West Point in order to gain access to the meeting location. All members of the public are subject to security screening.

ADDRESSES: The meeting will be held in the Haig Room, Jefferson Hall, West Point, New York 10996.

FOR FURTHER INFORMATION CONTACT: Mrs. Deadra K. Ghostlaw, the Designated Federal Officer for the committee, in writing at: Secretary of the General Staff, ATTN: Deadra K. Ghostlaw, 646 Swift Road, West Point, NY 10996; by email at: *deadra.ghostlaw@usma.edu* or *BoV@usma.edu;* or by telephone at (845) 938–4200.

SUPPLEMENTARY INFORMATION: The committee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150. The USMA BoV provides independent advice and recommendations to the President of the United States on matters related to morale, discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and any other matters relating to the Academy that the Board decides to consider.

Purpose of the Meeting: This is the 2017 Annual Meeting of the USMA BoV. Members of the Board will be provided updates on Academy issues. Agenda: Introduction; Board Business; Superintendent Topics (Mission, Vision, Priorities); Accreditation; Strategic Imperative 1—Develop Leaders of Character: Academic Individual Advanced Development (AIAD), Military Individual Advanced Development (MIAD), Semester Abroad; Strategic Imperative 2—Foster Relevance and Preeminence: Build

Diverse and Effective Teams, Retention trends and efforts, Sexual Harassment/Assault Response and Prevention (SHARP) Education Program; Faculty and Staff Excellence: Distinguished Chairs; Intellectual Capital: Research Centers; Stewardship: FY19 Program Objective Memorandum (POM) Cyber Engineering Academic Center (CEAC)/Parking Garage/Cemetery, Hiring authority (A76), National Defense Authorization Act (NDAA) impact on Keller Army Community Hospital (KACH), Memorialization; Culture of Excellence; Semester Highlights.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165 and subject to the availability of space, this meeting is open to the public. Seating is on a first to arrive basis. Attendees are requested to submit their name, affiliation, and daytime phone number seven business days prior to the meeting to Mrs. Ghostlaw, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Pursuant to 41 CFR 102–3.140d, the committee is not obligated to allow a member of the public to speak or otherwise address the committee during the meeting, and members of the public attending the committee meeting will not be permitted to present questions from the floor or speak to any issue under consideration by the committee. Because the committee meeting will be held in a Federal Government facility on a military post, security screening is required. A government photo ID is required to enter post. In order to enter the installation, members of the public must first go to the Visitor Control Center trailer in the Visitor Center's parking lot and go through a background check before being allowed access to the installation. Members of the public then need to park in Buffalo Soldier Field parking lot and ride the Central Post Area (CPA) shuttle bus to the meeting location. Please note that security and gate guards have the right to inspect vehicles and persons seeking to enter and exit the installation. Members of the public should allow at least an hour for security checks and the shuttle ride. The United States Military Academy, Jefferson Hall, is fully handicap accessible. Wheelchair access is available at the south entrance of the building. For additional information about public access procedures, contact Mrs. Ghostlaw, the committee's Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments or Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the committee, in response to the stated agenda of the open meeting or in regard to the committee's mission in general. Written comments or statements should be submitted to Mrs. Ghostlaw, the committee Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements should be submitted to Mrs. Ghostlaw, the committee Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Official at least seven business days prior to the meeting to be considered by the committee. The Designated Federal Official will review all timely submitted written comments or statements with the committee Chairperson and ensure the comments are provided to all members of the committee before the meeting. Written comments or statements received after this date may not be provided to the committee until its next meeting.

Pursuant to 41 CFR 102–3.140d, the committee is not obligated to allow a member of the public to speak or otherwise address the committee during the meeting. However, the committee Designated Federal Official and Chairperson may choose to invite certain submitters to present their comments verbally during the open portion of this meeting or at a future meeting. The Designated Federal Officer, in consultation with the committee Chairperson, may allot a specific amount of time for submitters to present their comments verbally.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2017–20671 Filed 9–26–17; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2017–0010; OMB Control Number 0704–0341]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Acquisition of Information Technology

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

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through December 31, 2017. DoD proposes that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD will consider all comments received by November 27, 2017.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0341, using any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: osd.dfars@mail.mil. Include OMB Control Number 0704–0341 in the subject line of the message.

Fax: 571–372–6094.

Mail: Defense Acquisition Regulations System, Attn: Ms. Jennifer Johnson, OUSD(AT&L)DPAP(DARS), 3060 Defense Pentagon, Room 3B941, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Johnson, 571–372–6100. The information collection requirements addressed in this notice are available electronically on the Internet at: *http://www.acq.osd.mil/dpap/dfars/index.htm.* Paper copies are available from Ms. Jennifer Johnson, OUSD(AT&L)DPAP(DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 239, Acquisition of Information Technology, and the associated clauses at DFARS 252.239–7000 and 252.239–7006; OMB Control Number 0704–0341.

Needs and Uses: This requirement provides for the collection of information from contractors regarding security of information technology; tariffs pertaining to telecommunications services; and proposals from common carriers to perform special construction under contracts for telecommunications services. Contracting officers and other DoD personnel use the information to ensure that information systems are protected; to participate in the establishment of tariffs for telecommunications services; and to establish reasonable prices for special construction by common carriers.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Type of Request: Revision of a currently approved collection.

Reporting Frequency: On occasion.

Number of Respondents: 750.

Responses per Respondent: 14, approximately.

Annual Responses: 10,500.

Average Burden per Response: 0.62 hour, approximately.

Annual Burden Hours: 6,542.

Summary of Information Collection

The clause at DFARS 252.239–7000, Protection Against Compromising Emanations, requires that the contractor provide, upon request of the contracting officer, documentation that information technology used or provided under the contract meets appropriate information assurance requirements.

The clause at DFARS 252.239–7006, Tariff Information, requires that the contractor provide to the contracting officer upon request—

(1) A copy of the contractor's existing tariffs (including changes);

(2) Before filing, a copy of any application to a Federal, State, or other regulatory agency for new rates, charges, services, or regulations relating to any tariff or any of the facilities or services to be furnished solely or primarily to the Government, and, upon request, a copy of all information, material, and data developed or prepared in support of or in connection with such an application; and

(3) Any application submitted by anyone other than the contractor that may affect the rate or conditions of services under the agreement or contract.

DFARS 239.7408 requires the contracting officer to obtain a detailed special construction proposal from a common carrier that submits a proposal or quotation that has special construction requirements related to the performance of basic telecommunications services.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2017–20637 Filed 9–26–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2017–0011; OMB Control Number 0704–0390]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Taxes

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

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through December 31, 2017. DoD proposes that OMB extend its approval for three additional years.

DATES: DoD will consider all comments received by November 27, 2017.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0390, using any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: osd.dfars@mail.mil. Include OMB Control Number 0704–0390 in the subject line of the message.

Fax: 571–372–6094.

Mail: Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD(AT&L)DPAP(DARS), 3060 Defense Pentagon, Room 3B941, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, 571–372–6099. The information collection requirements addressed in this notice are available electronically on the Internet at: *http://www.acq.osd.mil/dpap/dfars/index.htm.* Paper copies are available from Mr. Mark Gomersall, OUSD(AT&L)DPAP(DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 229, Taxes, and related clause at DFARS 252.229–7010; OMB Control Number 0704–0390.

Needs and Uses: DoD uses this information to determine if DoD contractors in the United Kingdom have attempted to obtain relief from customs duty on vehicle fuels in accordance with contract requirements.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Type of Request: Revision of a currently approved collection.

Reporting Frequency: On occasion.

Number of Respondents: 11.

Responses per Respondent: 1.

Annual Responses: 11.

Average Burden per Response: 4 hours.

Annual Burden Hours: 44.

Summary of Information Collection

The clause at DFARS 252.229–7010, Relief from Customs Duty on Fuel (United Kingdom), is prescribed at DFARS 229.402–70(j) for use in solicitations issued and contracts

awarded in the United Kingdom that require the use of fuels (gasoline or diesel) and lubricants in taxis or vehicles other than passenger vehicles. The clause requires the contractor to provide the contracting officer with evidence that the contractor has initiated an attempt to obtain relief from customs duty on fuels and lubricants, as permitted by an agreement between the United States and the United Kingdom.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2017–20636 Filed 9–26–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2017–0004; OMB Control Number 0704–0446]

Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, DoD.

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 27, 2017.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Evaluation Factor for Use of Members of the Armed Forces Selected Reserve; OMB Control Number 0704–0446.

Type of Request: Revision of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Reporting Frequency: On occasion.

Number of Respondents: 13.

Responses per Respondent: 1.

Annual Responses: 13.

Average Burden per Response: Approximately 20 hours.

Annual Burden Hours: 620.

Needs and Uses: DFARS 215.370–3 prescribes the use of the provision at DFARS 252.215–7005, Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve, in solicitations that include an evaluation factor to provide a preference for offerors that intend to perform the contract using employees or individual subcontractors who are members of the Selected Reserve. The documentation provided by an offeror with their proposal will be used by contracting officers to validate that Selected Reserve members will be utilized in the performance of the contract. This information collection implements a requirement of section 819 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109–163).

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection

You may also submit comments, identified by docket number and title, by the following method:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

DoD Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: WHS/ESD Directives Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Jennifer L. Hawes,

Editor,

Defense Acquisition Regulations System.

[FR Doc. 2017–20638 Filed 9–26–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2017–0004; OMB Control Number 0704–0446]

Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, DoD.

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 27, 2017.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Evaluation Factor for Use of Members of the Armed Forces Selected Reserve; OMB Control Number 0704–0446.

Type of Request: Revision of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Reporting Frequency: On occasion.

Number of Respondents: 13.

Responses per Respondent: 1.

Annual Responses: 13.

Average Burden per Response: Approximately 20 hours.

Annual Burden Hours: 620.

Needs and Uses: DFARS 215.370–3 prescribes the use of the provision at DFARS 252.215–7005, Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve, in solicitations that include an evaluation factor to provide a preference for offerors that intend to perform the contract using employees or individual subcontractors who are members of the Selected Reserve. The documentation provided by an offeror with their proposal will be used by contracting officers to validate that Selected Reserve members will be utilized in the performance of the contract. This information collection implements a requirement of section 819 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109–163).

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments, identified by docket number and title, by the following method:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

DoD Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: WHS/ESD Directives Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2017–20645 Filed 9–26–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2017–0003; OMB Control Number 0704–0386]

Submission for OMB Review; Comment Request

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

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by November 27, 2017.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Small Business Programs; OMB Control Number 0704–0386.

Type of Request: Renewal of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Reporting Frequency: On occasion.

Number of Respondents: 41.

Responses per Respondent: 1.

Annual Responses: 41.

Average Burden per Response: approximately 1 hour.

Annual Response Burden Hours: 41.

Needs and Uses: This information collection includes requirements relating to DFARS part 219, Small Business Programs. DoD needs this information to improve administration under the small business subcontracting program and to evaluate a contractor's past performance in complying with its subcontracting plan.

The information collection requirement at DFARS 252.219–7003, Small Business Subcontracting Plan, becomes necessary when: (1) A prime contractor has identified specific small business concerns in its subcontracting plan; and (2) subsequent to award substitutes one of the small businesses identified in its subcontracting plan with a firm that is not a small business. The intent of this information collection is to alert the contracting officer of this situation.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection

You may also submit comments, identified by docket number and title, by the following method:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

DoD Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: WHS/ESD Directives Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2017–20643 Filed 9–26–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2017–0002; OMB Control Number 0704–0252]

Submission for OMB Review; Comment Request

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

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 27, 2017.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Part 251, Use of Government Sources by Contractors, and an associated clause at DFARS 252.251–7000, Ordering from Government Supply Sources; OMB Control Number 0704–0252.

Type of Request: Revision of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Reporting Frequency: On occasion.

Number of Respondents: 654.

Responses per Respondent: 5.

Annual Responses: 3,270.

Average Burden per Response: .5 hour.

Annual Burden Hours: 1,635.

Needs and Uses: This information collection includes requirements relating to DFARS part 251, Contractor Use of Government Supply Sources and the clause at DFARS 252.251–7000, Ordering from Government Supply Sources. This information collection permits contractors to place orders from Government supply sources, including Federal Supply Schedules, requirements contracts, and Government stock. Contractors are required to provide a copy of their written authorization to use Government supply sources with their order. The authorization is used by the Government source of supply to verify that a contractor is authorized to place such orders and under what conditions.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection

You may also submit comments, identified by docket number and title, by the following method:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

DoD Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: WHS/ESD Directives Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2017–20642 Filed 9–26–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 16–59]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Pamela Young, (703) 697–9107, *pamela.a.young14.civ@mail.mil* or Kathy Valadez, (703) 697–9217, *kathy.a.valadez.civ@mail.mil;* DSCA/DSA–RAN.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 16–59 with attached Policy Justification.

Dated: September 22, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

SEP 08 2017

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 16-59, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Bahrain for defense articles and services estimated to cost $1.082 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided Under Separate Cover)

Transmittal No. 16–59

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Bahrain

(ii) *Total Estimated Value:*

Major Defense Equipment *	$ 406 million
Other	$ 676 million
TOTAL	$ 1.082 billion

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Twenty-three (23) F–110–GE–129 engines (includes 3 spares)
Twenty-three (23) APG–83 Active Electronically Scanned Array Radars (includes 3 spares)
Twenty-three (23) Modular Mission Computers (includes 3 spares)
Twenty-three (23) Embedded Global Navigation Systems/LN260 EGI (includes 3 spares)
Forty (40) LAU–129 Launchers
Twenty-three (23) Improved Programmable Display Generators (iPDG)
Twenty-five (25) AN/AAQ–33 SNIPER Pods (MDE Determination Pending)
Two (2) AIM–9X Sidewinder Missiles
Two (2) AGM–88B/C High-Speed Anti-Radiation Missiles (HARM)
Two (2) WGU–43 Guidance Control Unit (GCU) (for GBU–24 Paveway III)
Two (2) BSU–84 Air Foil Group (AFG) (for GBU–24 Paveway III)
Five (5) KMU–572 Joint Direct Attack Munition (JDAM) Tailkits (for GBU–38 JDAM and GBU–54 Laser JDAMs)
Two (2) GBU–39 Small Diameter Bombs (SDB) Guided Test Vehicles
Two (2) AGM–84 Harpoon Missiles
Three (3) MAU–210 ECCG (for GBU–50 Enhanced Paveway II)
Three (3) BLU–109 Inert Bomb Bodies
Four (4) MK–82/BLU 111 Inert Bomb Bodies
Two (2) FMU 152 or FMU 139 Fuzes

Non-MDE includes: One (1) Joint Mission Planning System, one (1) F–16V simulator, twenty (20) AN/ALQ–211 AIDEWS systems, one (1) avionics level test station, six (6) DB–110 Advanced Reconnaissance Systems, two (2) LAU–118A Launchers, forty-five (45) AN/ARC–238 SINCGARS Radio or equivalent, twenty-three (23) AN/APX126 Advanced Identification Friend or Foe (AIFF) system or equivalent, twenty-three (23) cryptographic appliques, two (2) CATM–9L/M, two (2) AIM–120C–7 Advanced Medium Range Air-to-Air Missile (AMRAAM) Captive Air Training Missiles (CATM), three (3) MXU–651 AFG (for GBU–50 Enhanced Paveway II), four (4) DSU–38 Precision Laser Guidance Sets (PLGS) (for GBU–54 Laser JDAM), four (4) AGM–154 Joint Standoff Weapon (JSOW) Captive Flight Vehicles (CFV), three (3) MK–84/BLU 117 Inert Bomb Bodies, two (2) FMU–152 D–1 Inert Fuzes, three (3) BRU–57 Bomb Racks, two (2) BRU–61 Bomb Racks for SDB, two (2) ADU–890 SDB adapter cable for CMBRE, two (2) ADU–891 AMRAAM/AIM 9X adapter cable for CMBRE, telemetry for all flight test assets, secure communications equipment, spares and repair parts, support equipment, personnel training and training equipment, publications and technical documentation, U.S. Government and contractor technical support services, containers, missile support and test equipment, integration test, site survey, design, construction studies/analyses/services, cybersecurity, critical computer resources support, force protection and other related elements of logistics and program support.

(iv) *Military Department:* Air Force (X7–D–QAU)

(v) *Prior Related Cases, if any:*

FMS Case BA–D–SGA—$330.9 million—21 Apr 87
FMS Case BA–D–SGG—$234.9 million—20 Feb 98

(vi) *Sales Commission, Fee, etc. Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* September 8, 2017

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Government of Bahrain—Upgrade of F–16 Block 40 Aircraft to F–16V Configuration

The Government of Bahrain requested to upgrade its existing twenty (20) F–16 Block 40 aircraft to the F–16V configuration. The requested sale comprises of twenty-three (23) F–110–GE–129 engines (includes 3 spares); twenty-three (23) APG–83 Active Electronically Scanned Array Radars (includes 3 spares); twenty-three (23) Modular Mission Computers (includes 3 spares); twenty-three (23) Embedded Global Navigation Systems/LN260 EGI (includes 3 spares); twenty-three (23) Improved Programmable Display Generators (iPDGs) (includes 3 spares); forty (40) LAU–129 launchers; twenty-five (25) AN/AAQ–33 SNIPER Pods; two (2) AIM–9X Sidewinder Missiles; two (2) AGM–88 High-speed Anti-Radiation Missiles (HARM); two (2) WGU–43 Guidance Control Unit (GBU) Guidance Control Unit (GCU) (for GBU–24 Paveway III); two (2) BSU–84 Air Foil Group (AFG) (for GBU–24 Paveway III); five (5) KMU–572 Joint Direct Attack Munition (JDAM) Tailkits (for GBU–38 JDAM and GBU–54 Laser JDAM); two (2) GBU–39 Small Diameter Bombs (SDB) Guided Test Vehicles (GTV); two (2) AGM–84 Harpoon Exercise Missiles; three (3) MAU–210 ECCG (for GBU–50 Enhanced Paveway II); three (3) BLU–109 Inert Bomb Bodies; four (4) MK–82/BLU–111 Inert Bomb Bodies; and two (2) GMU–152 or FMU–139 Fuzes.

This sale also includes one (1) Joint Mission Planning System, one (1) F–16V simulator, twenty (20) AN/ALQ–211 AIDEWS Systems, one (1) avionics level test station, six (6) DB–110 Advanced Reconnaissance Systems, two (2) LAU–118A Launchers, forty-five (45) AN/ARC–238 SINCGARS Radio or equivalent, twenty-three (23) Advanced Identification Friend or Foe (AIFF) systems or equivalent; twenty-three (23) cryptographic appliques; two (2) CATM–9L/M, two (2) AIM–120C–7 Advanced Medium Range Air-to-Air Missile (AMRAAM) Captive Air Training Missiles (CATM), three (3) MXU–651 AFG (for GBU–50 Enhanced Paveway II), four (4) DSU–38 Precision Laser Guidance sets (PLGS) (for GBU–54 Laser JDAM), four (4) AGM–154 Joint Stand-Off Weapon (JSOW) Captive Flight Vehicles (CFV), three (3) MK–84/BLU–117 Inert Bomb Bodies, two (2) FMU–152 D–1 Inert Fuzes, three (3) BRU–57 Bomb Racks, two (2) BRU–61 Bomb Racks for SDB, two (2) ADU–890 SDB adapter cable for CMBRE, two (2) ADU–891 AMRAAM/AIM–9X adapter cable for CMBRE, Telemetry for all flight test assets secure communication equipment, spares and repair parts, support equipment, personnel training and training equipment, publications and technical documentation, U.S. Government and contractor technical support services, containers, missile support and test equipment, integration test, site survey, design, construction studies/analyses/services, associate operations, maintenance, training, support facilities, cybersecurity, critical computer resources support, force protection, and other related elements of logistics and program support. The total estimated program cost is $1.082 billion.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a major Non-NATO ally which has been and continues to be an important security partner in the region. Our mutual defense interests anchor our relationship and the Royal Bahraini Air

Force (RBAF) plays a significant role in Bahrain's defense.

The proposed sale improves Bahrain's capability to meet current and future threats. Bahrain will use this capability as a deterrent to regional threats and to strengthen its homeland defense. The upgraded F–16Vs will provide an increase in the capability of existing aircraft to sustain operations, meet training requirements, and support transition training for pilots to the upgraded aircraft. This upgrade will improve interoperability with U.S. forces and other regional allies. Bahrain will have no difficulty absorbing this upgrade into its armed forces.

The proposed sale will not affect the basic military balance in the region.

The prime contractor will be Lockheed Martin. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of at least five (5) additional U.S. Government representatives to Bahrain.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 16–59

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. This sale will involve the release of sensitive technology to Bahrain. The F–16V weapon system is UNCLASSIFIED, except as noted below. The aircraft utilizes the F–16C/D airframe and features advanced avionics and systems. It contains the General Electric F–110–GE–129 engine, AN/APG–83 Active Electronically Scanned Array Radars, digital flight control system, internal and external electronic warfare equipment, AN/APX126 Advanced Identification Friend of Foe (AIFF), LN260 Embedded GPS/INS (EGI), Modular Mission Computers (MMC), improved Programmable Display Generators (iPDG), AN/AAQ–33 SNIPER Pods, Multifuncation Information Distribution System Joint Tactical Radio System (MIDS–JTRS), operational flight trainer, and software computer programs.

2. Sensitive and/or classified (up to SECRET) elements of the proposed F–16V include hardware, accessories, components, and associated software: AN/APX126 Advanced Identification Friend or Foe (AIFF), cryptographic appliques, Secure communication equipment, Joint Mission Planning System, F–16V Simulator, AN/ALQ- 211 AIDEWS Pods, Avionics Level Test Station, DB–110 Advanced Reconnaissance Systems, LAU–118A Launchers, and F–110–GE–129 engine. Additional sensitive areas include operating manuals and maintenance technical orders containing performance information, operating and test procedures, and other information related to support operations and repair. The hardware, software, and data identified are classified to protect vulnerabilities, design and performance parameters and other similar critical information.

3. The AN/APG–83 is an Active Electronically Scanned Array (AESA) radar upgrade for the F–16. It includes higher processor power, higher transmission power, more sensitive receiver electronics, infrared signature and Advanced Interference Blanker Units, and Synthetic Aperture Radar (SAR), which creates higher-resolution ground maps from a greater distance than existing mechanically scanned array radars (e.g., APG–68). The upgrade features an increase in detection range of air targets, increases in processing speed and memory, as well as significant improvements in all modes. The highest classification of the radar is SECRET.

4. AN/ALQ–211 Airborne Integrated Defensive Electronic Warfare Suite (AIDEWS) provides passive radar warning, wide spectrum RF jamming, and control and management of the entire Electronic Warfare (EW) system. The commercially developed system software and hardware is UNCLASSIFIED. The system is classified SECRET when loaded with a U.S. derived EW database, which will be provided.

5. AN/ARC–238 SINCGARS Radio or equivalent is considered UNCLASSIFIED, but employs cryptographic technology that is classified SECRET. Classified elements include operating characteristics, parameters, technical data, and keying material.

6. AN/APX–126 Advanced Identification Friend or Foe (AIFF) is a system capable of transmitting and interrogating Mode V and is supported by cryptographic appliques. It is UNCLASSIFIED unless/until Mode IV and/or Mode V operational evaluator parameters are loaded into the equipment. Classified elements of the AIFF system include software object code, operating characteristics, parameters, and technical data are SECRET.

7. The Embedded GPS–INS (EGI) LN–260 is a sensor that combines GPS and inertial sensor inputs to provide accurate location information for navigation and targeting. The EGI LN–260 is UNCLASSIFIED. The GPS crypto variable keys needed for highest GPS accuracy are classified up to SECRET.

8. The Modular Mission Computer (MMC) is the central computer for the F–16. As such it serves as the hub for all aircraft subsystems, avionics, and weapons. The hardware and software (Operational Flight Program—OFP) are classified up to SECRET.

9. An Improved Programmable Display Generator (iPDG) will support the two color MFD's, allowing the pilot to set up to twelve display programs. One of them includes a color Horizontal Situation Display, which will be, provide the pilot with a God's eye view of the tactical situation. Inside is a 20MHz, 32-bit Intel 80960 Display Processor and a 256K battery-backed RAM system memory. The color graphics controller is based on the T.I. TMS34020 Raster Graphics Chipset. The IPDG also contains substantial growth capabilities including a high-speed Ethernet interface (10/100BaseT) and all the hardware necessary to support digital moving maps. The digital map function can be enabled by the addition of software. The hardware and software are UNCLASSIFIED.

10. Joint Mission Planning System (JMPS) is a multi-platform PC-based mission planning system. JMPS hardware is UNCLASSIFIED, but the software is classified up to SECRET.

11. DB–110 is a tactical airborne reconnaissance system. This capability permits reconnaissance missions to be conducted from very short range to long range by day or night. It is an under-the-weather, podded system that produces high resolution, dual-band electro-optical and infrared imagery. The DB–110 system is UNCLASSIFIED.

12. The SNIPER (AN/AAQ–33) targeting system is UNCLASSIFIED and contains technology representing the latest state-of-the-art in in electro-optical clarity and haze, and low light targeting capability. Information on performance and inherent vulnerabilities is classified SECRET. Software (object code) is classified CONFIDENTIAL. Overall system classification is SECRET.

13. The AIM–120C–7 Advanced Medium Range Air-to-Air Missile (AMRAAM) Captive Air Training Missiles (CATM) is a supersonic, air launched, aerial intercept, guided missile featuring digital technology and micro-miniature solid-state electronics. The missile employs active radar target tacking, proportional navigation guidance, and active Radio Frequency

target detection. It can be launched day or night, in any weather and increases pilot survivability by allowing the pilot to disengage after missile launch and engage other targets. AMRAAM capabilities include lookdown/shootdown, multiple launches against multiple targets, resistance to electronic countermeasures, and interception of high- and low-flying maneuvering targets. The AMRAAM AUR is classified CONFIDENTIAL, major components and subsystems range from UNCLASSIFIED to CONFIDENTIAL, and technical data and other documentation are classified up to SECRET.

14. AIM–9X Sidewinder missile is an air-to-air guided missile that employs a passive infrared (IR) target acquisition system that features digital technology and micro-miniature solid-state electronics. The AIM–9X tactical and CATM guidance units are subsets of the overall missile and were recently designated as MDE. The AIM–9X is CONFIDENTIAL, Major components and subsystems range from UNCLASSIFIED to CONFIDENTIAL, and technical data and other documentation are classified up to SECRET. The overall system classification is SECRET.

The AIM–9X is launched from the aircraft using a LAU–129 guided missile launcher (currently in country inventory). The LAU–129 provides mechanical and electrical interface between missile and aircraft. The LAU–129 system is UNCLASSIFIED.

15. AGM–88B/C HARM is an air-to-ground missile designed to destroy or suppress enemy radars used for air defense. HARM has wide frequency coverage, is target reprogrammable in flight, and has a reprogrammable threat library. Hardware and software for the system is classified SECRET and ballistics data is CONFIDENTIAL. The overall system classification is SECRET.

The AGM–88 is launched from the aircraft using a LAU–118A guided missile launcher.

The LAU–118A provides mechanical and electrical interface between missile and aircraft.

The LAU–118A system is UNCLASSIFIED.

16. GBU–10/12: 2,000-lb (GBU–10) and 500-lb (GBU–12) laser-guided bombs (LGBs). The LGB is a maneuverable, free-fall weapon that guides on laser energy reflected off of the target. The LGB is delivered like a normal general purpose warhead and the laser guidance guides the weapon into the target. Laser designation for the weapon can be provided by a variety of laser target designators. The LGB consists of a laser guidance kit, a computer control group and a warhead specific air foil group, that attach to the nose and tail of Mk 84, Mk 82 bomb bodies.

a. The GBU–10: This is a 2,000lb (BLU–117 B/B or Mk 84) General Purpose (GP) guided bomb fitted with the MXU–651 airfoil and the MAU–169 or MAU–209 computer control group to guide to its laser designated target.

b. The GBU–12: This is a 500lb (BLU–111/B or Mk-82) guided bomb fitted with the MXU- 650 airfoil and the MAU–169 or MAU 209 computer control group to guide to its laser designated target. The weapon components are UNCLASSIFIED. Some technical data and vulnerabilities/countermeasures are SECRET. The overall weapons classification is SECRET.

17. GBU–31 and GBU–38 are 2000lb/500lb Joint Direct Attack Munitions (JDAM).

JDAM is a guidance kit that converts existing unguided free-fall bombs into precision-guided ''smart'' munitions. By adding a new tail section containing Inertial Navigation System (INS) guidance/Global Positioning System (GPS) guidance to existing inventories of BLU–109, BLU–111 and BLU–117 or Mk-84 and Mk-82 bombs, the cost effective JDAM provides highly accurate weapon delivery in any ''flyable'' weather. The INS, using updates from the GPS, helps guide the bomb to the target via the use of movable tail fins. The JDAM and all of its components are UNCLASSIFIED, technical data for JDAM is classified up to SECRET.

JDAMs use the Global Positioning System (GPS) Precise Positioning System (PPS), which provides for a more accurate capability than the commercial version of GPS.

18. GBU–49 and GBU–50 are 500lb/2000lb dual mode laser and GPS guided munitions respectively. The GBU–49/50 use airfoil groups similar to those used on the GBU–12 and GBU–10 for inflight maneuverability. Weapons components are UNCLASSIFIED. Technical data and countermeasures/vulnerabilities are SECRET. The overall system classification is SECRET.

GBU–49/50s use the GPS PPS, which provides for a more accurate capability than the commercial version of GPS.

19. GBU–54/56 are the 500lb/2000lb Laser JDAM (Joint Direct Attack Munitions): These weapons use the DSU–38/B/DSU–40 laser Sensor respectively and use both Global Position System aided inertial navigations and/or laser guidance to execute threat targets. The laser sensor enhances standard JDAM's reactive target capability by allowing rapid prosecution of fixed targets with large initial target location errors (TLE). The DSU–38/B Laser sensor also provides the additional capability to engage mobile targets. The addition of the DSU–38 laser sensor combined with additional cabling and mounting hardware turns a GBU–38 JDAM into a GBU–54 Laser JDAM. The addition of the DSU–40 laser sensor combined with additional cabling and mounting hardware turns a GBU–31 JDAM into a GBU–56 Laser JDAM. Weapons components are UNCLASSIFIED. Technical data and countermeasures/vulnerabilities are SECRET. The overall system classification is SECRET.

Laser JDAMs use the GPS PPS, which provides for a more accurate capability than the commercial version of GPS.

20. GBU–39 Small Diameter Bomb (SDB): The GBU–39 small diameter bomb (SDB) is a 250-lb class precision guided munition that allows aircraft with an ability to carry a high number of bombs. The weapon offers day or night, adverse weather, precision engagement capability against pre-planned fixed or stationary soft, non-hardened, and hardened targets, with a significant standoff range. Aircraft are able to carry four SDBs in place of one 2,000-lb bomb. The SDB is equipped with a GPS-aided inertial navigation system to attack fixed, stationary targets such as fuel depots and bunkers. The SDB and all of its components are UNCLASSIFIED; technical data is classified up to SECRET.

SDBs use the GPS PPS, which provides for a more accurate capability than the commercial version of GPS.

21. The GBU–24 Paveway III is a 2000lb class low level laser guided munition that can be employed at high, medium, and low altitudes. GBU–24 components are UNCLASSIFIED. Target designation tactics and associated aircraft maneuvers, the probability of destroying specific/peculiar targets, vulnerabilities regarding countermeasures, and the electromagnetic environment is classified SECRET.

22. The AGM–154 is a family of low-cost standoff weapons that are modular in design and incorporate either a sub-munition or a unitary warhead. Potential targets for Joint Standoff Weapon (JSOW) range from soft targets, such as troop concentration, to hardened point targets like bunkers. The AGM–154C is a penetrator weapon that carries a BROACH warhead and pay load. The AGM–154 hardware, software and maintenance data is UNCLASSIFIED. Vulnerabilities and countermeasures are classified up to

SECRET. Overall system classification is SECRET.

The AGM–154 uses the GPS PPS, which provides for a more accurate capability than the commercial version of GPS.

23. The AGM–84L–1 Harpoon is a non-nuclear tactical weapon system currently in service in the U.S. Navy and in 28 other foreign nations. It provides a day, night, and adverse weather, standoff air-to-surface capability. Harpoon Block II is a follow on to the Harpoon missile that is no longer in production. Harpoon Block II is an effective Anti-Surface Warfare missile.

The AGM–84L–1 incorporates components, software, and technical design information that are considered sensitive. These elements are essential to the ability of the Harpoon missile to selectively engage hostile targets under a wide range of operational, tactical and environmental conditions. The following Harpoon components being conveyed by the proposed sale that are considered sensitive and are classified CONFIDENTIAL include: IIR seeker, INS, OPP software and, missile operational characteristics and performance data. The overall system classification is SECRET.

24. M61A l 20mm Vulcan Cannon: The 20mm Vulcan cannon is a six barreled automatic cannon chambered in 20x120mm with a cyclic rate of fire from 2,500–6,000 shots per minute. This weapon is a hydraulically powered air cooled Gatlin gun used to damage/destroy aerial targets, suppress/incapacitate personnel targets, and damage or destroy moving and stationary light materiel targets. The M61Al and its components are UNCLASSIFIED.

25. Software, hardware, and other data/information, which is classified or sensitive, is reviewed prior to release to protect system vulnerabilities, design data, and performance parameters. Some end-item hardware, software, and other data identified above are classified at the CONFIDENTIAL and SECRET level. Potential compromise of these systems is controlled through management of the basic software programs of highly sensitive systems and software-controlled weapon systems on a case-by-case basis.

26. If a technologically advanced adversary were to obtain knowledge of the specific hardware or software source code in this proposed sale, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of systems with similar or advance capabilities.

27. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification. Moreover, the benefits to be derived from this sale, as outlined in the Policy Justification, outweigh the potential damage that could result if the sensitive technology were revealed to unauthorized persons.

28. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government.

29. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

30. All defense articles and services listed in this transmittal are authorized for release and export to the Government of Bahrain.

[FR Doc. 2017–20707 Filed 9–26–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 16–35]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Pamela Young, (703) 697–9107, *pamela.a.young14.civ@mail.mil* or Kathy Valadez, (703) 697–9217, *kathy.a.valadez.civ@mail.mil;* DSCA/DSA–RAN.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 16–35 with attached Policy Justification and Sensitivity of Technology.

Dated: September 22, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

SEP 08 2017

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 16-35, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of the Kingdom of Bahrain for defense articles and services estimated to cost $27 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified document provided under separate cover)

Transmittal No. 16–35

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* The Kingdom of Bahrain

(ii) *Total Estimated Value:*

Major Defense Equipment *	$21 million
Other	$ 6 million
Total	$27 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

One-hundred and seven (107) TOW 2A, Radio Frequency (RF) Missiles (BGM–71–4B–RF)

Seventy-seven (77) TOW 2B Aero, RF Missiles (BGM–71F-Series)

Thirty-seven (37) TOW Bunker Buster (BB), RF Missiles (BGM–71-Fl-RF)

Non-MDE: This request also includes the following Non-MDE: Government Technical Support/Logistical Support, Contractor Technical Support, and other associated equipment and services.

(iv) *Military Department:* Army

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc. Paid. Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex.

(viii) *Date Report Delivered to Congress:* September 8, 2017

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Bahrain—TOW 2ARF Missile (BGM–71–4B–RF), TOW 2B RF Missiles (BGM–71F-Series), TOW BB RF Missiles (BGM–71–F1 RF)

The Government of Bahrain has requested:

Major Defense Equipment (MDE):

One-hundred and seven (107) TOW 2A, Radio Frequency (RF) Missiles (BGM–71–4B–RF)

Seventy-seven (77) TOW 2B Aero, RF Missiles (BGM–71F-Series)

Thirty-seven (37) TOW Bunker Buster (BB), RF Missiles (BGM–71-Fl-RF)

Non-MDE: The request also includes the following Non-MDE: Government Technical Support/Logistical Support, Contractor Technical Support, and other associated equipment and services.

The estimated value of MDE is $21 million. The total overall estimated value is $27 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a major Non-NATO ally, which has been and continues to be an important security partner in the region.

The proposed sale of TOW 2A, TOW 2B, TOW BB missiles, and technical support will advance Bahrain's efforts to develop an integrated ground defense capability. Bahrain will use the capability as a deterrent to regional threats and to strengthen its homeland defense. This sale will also improve interoperability with United States and regional allies. Bahrain will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Raytheon Missile Systems, Tucson, Arizona. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the U.S. Government or contractor representatives to travel to Bahrain for multiple periods for equipment de-processing/fielding, system checkout and new equipment training. There will be no more than two contractor personnel in Bahrain at any one time and all efforts will take less than two weeks in total.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 16–35

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

Annex Item

No. vii

(vii) *Sensitivity of Technology:*

1. The Radio Frequency (RF) TOW 2A Missile (BGM–71E–4B–RF) is a direct-attack missile designed to defeat armored vehicles, reinforced urban structures, field fortifications and other such targets. TOW missiles are fired from a variety of TOW launchers used by the U.S. Army, U.S. Marine Corps, and Foreign Military Sales (FMS) customers. The TOW 2A RF missile can be launched from the same launcher platforms as the existing wire-guided TOW 2A missile without modification to the launcher. The TOW 2A missile (both wire & RF) contains two tracker beacons for the launcher to track and guide the missile in flight. Guidance commands from the launcher are provided to the missile by a RF link contained within the missile case. The hardware, software, and technical publications to be provided with the sale are UNCLASSIFIED. The highest level of classified information released through the sale of the TOW 2A is SECRET.

2. The RF TOW 2B Aero Missile (BGM–71 F–3–RF) is a fly-over-shootdown missile designed to defeat armored vehicles. TOW missiles are fired from a variety of TOW Launchers in the inventories of the U.S. Army, the U.S. Marine Corps, and Foreign Military Sales (FMS) customers. The TOW 2B Aero RF missile can be launched from the same launcher platforms as wire-guided TOW 2B and TOW 2B Aero missiles without modification to the launcher. The TOW 2B missile (both wire-guided & RF) contains two tracker beacons for the launcher to track and guide the missile in flight. Guidance commands from the launcher are provided to the missile by an RF link contained within the missile case. The hardware and technical publications to be provided with the sale are UNCLASSIFIED. Software algorithms for the system are classified SECRET. The highest level of classified information released through the sale of the TOW 2B is SECRET.

3. The RF TOW Bunker Buster (BB), BGM–71–Fl–RF is a variant of the TOW 2A that replaces the TOW 2A warhead with a high explosive blast-fragmentation warhead. This bulk charge warhead is effective against reinforced concrete walls, light armored vehicles, and earth and timber bunkers. Guidance commands from the launcher are provided to the missile by an RF link contained within the missile case. The hardware, software, and technical publications to be provided with the sale are UNCLASSIFIED. The highest level of classified information released through the sale of the TOW 2B is SECRET.

4. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements of these variants, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

5. A determination has been made by the U.S. Government that the Government of Bahrain can provide the same degree of protection for the sensitive technology being released as the U.S Government. This sale is necessary in furtherance of the U.S foreign policy and national security objectives outlined in the Policy Justification.

6. All defense articles and services listed in this transmittal have been

authorized for release and export to the Government of Bahrain.

[FR Doc. 2017–20700 Filed 9–26–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Availability of The Great Lakes and Mississippi River Interbasin Study—Brandon Road Draft Integrated Feasibility Study and Environmental Impact Statement—Will County, Illinois

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Extension of public comment period.

SUMMARY: The U.S. Army Corps of Engineers (USACE) is extending the comment period for the report ''The Great Lakes and Mississippi River Interbasin Study—Brandon Road Draft Integrated Feasibility Study and Environmental Impact Statement—Will County, Illinois'' (GLMRIS-Brandon Road) for 45 days in response to stakeholder requests for an extension, from October 2, 2017 to November 16, 2017.

DATES: The comment period is extended for the draft GLMRIS-Brandon Road report published in the **Federal Register** on August 7, 2017 (82 FR 36760). Comments must be received or postmarked by November 16, 2017.

ADDRESSES: Comments may be submitted in the following ways:

GLMRIS Project Web site: Use the Web comment function found at *http://glmris.anl.gov.*

Mail: Send comments to U.S. Army Corps of Engineers, Chicago District, ATTN: GLMRIS-Brandon Road Comments, 231 S. LaSalle St., Suite 1500, Chicago, IL 60604.

FOR FURTHER INFORMATION CONTACT: Contact Andrew Leichty, Program Manager, by mail: U.S. Army Corps of Engineers, Rock Island District, Clock Tower Building (ATTN: Leichty), P.O. Box 2004, Rock Island, IL 61204–2004, by phone: 309–794–5399; or by email: *Andrew.L.Leichty@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The GLMRIS authority directed USACE to identify the range of options and technologies available to prevent the spread of aquatic nuisance species between the Great Lakes and Mississippi River Basins through the Chicago Sanitary and Ship Canal and other aquatic pathways. The goal of the GLMRIS-Brandon Road Study is to prevent the upstream transfer of aquatic nuisance species while minimizing impacts to existing waterways uses and users.

Comments, including the names and addresses of those who comment, received during the comment period will be posted on the GLMRIS project Web site. Comments submitted anonymously will be accepted, considered, and posted. Commenters may indicate that they do not wish to have their name or other personal information made available on the Web site. However, USACE cannot guarantee that information withheld from the Web site will be maintained as confidential. Persons requesting confidentiality should be aware that, under the Freedom of Information Act, confidentiality may be granted in only limited circumstances.

Dated: September 18, 2017.

Dennis W. Hamilton,

Chief, Programs and Project Management Division.

[FR Doc. 2017–20680 Filed 9–26–17; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Record of Decision for Final Supplement I to the Final Environmental Statement, Mississippi River Between the Ohio and Missouri Rivers (Regulating Works), Missouri and Illinois

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Record of Decision.

SUMMARY: The U.S. Army Corps of Engineers (USACE), St. Louis District, is issuing this notice to advise Federal, state, and local government agencies, affected Tribes, and the public that USACE has signed a Record of Decision (ROD) for *Final Supplement I to the Final Environmental Statement, Mississippi River between the Ohio and Missouri Rivers (Regulating Works).* The ROD was rendered to declare that, after careful consideration of the purpose of and need for the Regulating Works Project, the analysis contained in Final Supplement I, input from the public, affected Tribes, state and Federal agencies, and other interested parties, and based on the Regulating Works Project's Congressional authority and continued benefit of remaining construction, USACE has determined that the public interest will best be served by implementing the Continue Construction Alternative (hereafter, the Selected Plan).

DATES: The USACE Mississippi Valley Division Commander, Major General Michael C. Wehr, signed the ROD on August 31, 2017.

ADDRESSES: U.S. Army Corps of Engineers, Regional Planning and Environmental Division North, CEMVP–PD–P (Attn: Mr. Kip Runyon), 1222 Spruce St., St. Louis, MO 63103–2833.

FOR FURTHER INFORMATION CONTACT: Kip Runyon, Environmental Planner, Regional Planning and Environmental Division North, at 314–331–8396 or by email at *RegWorksSEIS@usace.army.mil.*

SUPPLEMENTARY INFORMATION: USACE is charged with obtaining and maintaining a navigation channel on the Middle Mississippi River (MMR) that is nine feet deep and 300 feet wide with additional width in bends as necessary (commonly called the Regulating Works Project). As authorized by Congress, the Regulating Works Project is obtained by construction of revetment, rock removal, and river training structures to maintain bank stability and ensure adequate, reliable navigation depth and width. The Regulating Works Project is maintained through dredging and any needed maintenance to constructed features. The long-term goal of the Regulating Works Project, as authorized by Congress, is to obtain and maintain a navigation channel at the authorized dimensions and to reduce federal expenditures by alleviating the amount of annual maintenance dredging through the construction of river training structures. The Selected Plan consists of continuing with construction of new river training structures and revetment for navigation purposes until such time as the costs of placing more structures, including costs for any mitigation, are no longer justified by the resultant reduction in repetitive dredging quantities and associated costs. The Selected Plan also involves continuing to dredge as necessary, completing known bankline stabilization work to reduce the risk of a channel cutoff, placing additional revetment, and continuing to maintain existing structures.

The remaining construction associated with the Selected Plan is currently estimated from programmatic analysis to require approximately 4.4 million tons (2.9 million cubic yards) of rock. Dredge quantities are expected to decrease from their current average annual quantity of approximately 4 million cubic yards to approximately 2.4 million cubic yards after construction of new river training

structures and any compensatory mitigation is complete. These estimates are based on assumptions of Congressional funding levels, rock prices, dredging costs, sediment loads, mitigation costs, etc. Because these assumptions are uncertain, the estimated quantity of construction could differ from actual implementation.

Environmental impacts of the work associated with the Selected Plan will continue to be avoided and minimized to the extent practicable. Placement of river training structures is expected to increase the acreage of low-velocity habitat that is considered important habitat for many MMR fish species. However, placement of river training structures is also expected to reduce shallow to moderate-depth, moderate-to high-velocity habitat that is important for some MMR fish guilds. Analysis of the impacts of the Selected Plan to main channel border habitat suggests that future construction of river training structures will result in the consideration of compensatory mitigation measures. The specific impacts of each work area and any necessary compensatory mitigation measures will be covered in Tier II Site Specific Environmental Assessments, as appropriate.

The ROD, Final Supplement I, and supporting documentation are available at: *http://www.mvs.usace.army.mil/Missions/Navigation/SEIS/Library.aspx*.

Brian L. Johnson,

Chief, Environmental Compliance Branch, Regional Planning and Environmental Division North.

[FR Doc. 2017–20672 Filed 9–26–17; 8:45 am]

BILLING CODE 3720–58–P

DELAWARE RIVER BASIN COMMISSION

Notice of Proposed Methodology for the 2018 Delaware River and Bay Water Quality Assessment Report

AGENCY: Delaware River Basin Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the methodology proposed to be used in the 2018 Delaware River and Bay Water Quality Assessment Report is available for review and comment.

DATES: Comments on the assessment methodology or recommendations for the consideration of data sets should be submitted in writing before 5:00 p.m. EST on December 31, 2017.

ADDRESSES: Comments will be accepted *via* email to *john.yagecic@drbc.nj*.gov, with ''Water Quality Assessment 2018'' as the subject line; *via* fax to 609–883–9522; *via* U.S. Mail to DRBC, Attn: Water Quality Assessment 2016, P.O. Box 7360, West Trenton, NJ 08628–0360; *via* private carrier to DRBC, Attn: Water Quality Assessment 2016, 25 Cosey Road, West Trenton, NJ 08628–0360; or by hand to the latter address. All submissions should have the phrase ''Water Quality Assessment 2018'' in the subject line and should include the name, address (street address optional) and affiliation, if any, of the commenter.

FOR FURTHER INFORMATION CONTACT: Mr. John Yagecic, Manager, Water Quality Assessment, *john.yagecic@drbc.nj.gov,* 609–883–9500, ext. 271.

SUPPLEMENTARY INFORMATION: The Delaware River Basin Commission (''DRBC'' or ''Commission'') is an interstate and federal compact agency that was created in 1961 by concurrent legislation of the States of Delaware, New Jersey, and New York, the Commonwealth of Pennsylvania and the United States Government for purpose of jointly managing the water resources of the Delaware River Basin.

DRBC currently is compiling data for the *2018 Delaware River and Bay Water Quality Assessment Report* (''2018 Assessment'') required by the federal Clean Water Act (''CWA''). The 2018 Assessment will present the extent to which waters of the Delaware River and Bay are attaining designated uses in accordance with Section 305(b) of the CWA and the Commission's Water Quality Regulations, 18 CFR part 410, and will identify impaired waters, which consist of waters in which surface water quality standards are not being met.

The proposed assessment methodology to be used in the 2018 Assessment is available for review at the following URL:

http://www.nj.gov/drbc/library/documents/WQAssessmentReport2018_MethodologyDRAFTsept2017.pdf.

Dated: September 21, 2017.

Pamela M. Bush,

Commission Secretary.

[FR Doc. 2017–20682 Filed 9–26–17; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0098]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; State Lead Agency Record Keeping and Reporting Requirements Under Part C of the Individuals With Disabilities Education Act (IDEA)

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, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before October 27, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0098. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–32, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Rebecca Walawender, 202–245–7399.

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: State Lead Agency Record Keeping and Reporting Requirements under Part C of the Individuals with Disabilities Education Act (IDEA).

OMB Control Number: 1820–0682.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 56.

Total Estimated Number of Annual Burden Hours: 4,268.

Abstract: OMB Information Collection 1820–0682 was created to reflect the requirements in Part C of the IDEA in 20 U.S.C.1431–1443 and the final Part C regulations. These regulations require the 56 State lead agencies (LAs) that receive Part C funds to collect and maintain information or data and, in some cases, report information or data to other public agencies or to the public. These record-keeping requirements are not new and do not require reporting to the Secretary. This Information Collection was created to ensure that all Part C information responsibilities are documented and have been submitted for OMB review. The following table describes the information under Part C to be collected or maintained and identifies the legal requirement for each collection. These required listed collections are consolidated into 1820–0682.

Dated: September 22, 2017.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–20658 Filed 9–26–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2017–ICCD–0122]

Agency Information Collection Activities; Comment Request; Survey on the Use of Funds Under Title II, Part A: Improving Teacher Quality State Grants—State-Level Activity Funds

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 27, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0122. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–44, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Tawanda Avery, 202–453–6471.

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: Survey on the Use of Funds Under Title II, Part A: Improving Teacher Quality State Grants—State-Level Activity Funds.

OMB Control Number: 1810–0711.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 52.

Total Estimated Number of Annual Burden Hours: 520.

Abstract: Survey on the Use of Funds Under Title II, Part A: Improving Teacher Quality State Grants—State-Level Activity Funds. The Elementary and Secondary Education Act of 1965, as reauthorized by the Every Student Succeeds Act of 2015 (ESSA), provides funds to States to prepare, train, and recruit high-quality teachers, principals, and other school leaders. These funds are provided to districts through Title II, Part A (Supporting Effective Instruction Grants). The purpose of these surveys is to provide the U.S. Department of Education with a better understanding of how State Educational Agencies (SEAs) utilize these funds. This survey also collects data on teacher, principal, and other school leader effectiveness and retention for States to meet new reporting requirements.

Similar data have been collected under the Survey on the Use of Funds Under Title II, Part A prior to reauthorization of ESEA. This OMB clearance request is to continue these types of analyses, but using new data collection instruments updated to reflect changes due to the reauthorization of ESEA by the ESSA. The request is to begin data collection and analyses for the 2018–19 school year and subsequent years.

Dated: September 22, 2017.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–20713 Filed 9–26–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Extension of the Application Deadline Date for Certain Fiscal Year 2018 Education Research and Special Education Research Grant Programs

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Notice.

SUMMARY: The Institute of Education Sciences extends, for certain prospective eligible applicants described elsewhere in this notice, the deadline date for transmittal of applications for new awards for fiscal year (FY) 2018 under the Education Research and Development Centers competition and the Research Networks Focused on Critical Problems of Policy and Practice in Special Education competition, Catalog of Federal Domestic Assistance (CFDA) numbers 84.305C and 84.324N. The Institute takes this action to allow more time for the preparation and submission of applications by prospective eligible applicants affected by Hurricanes Harvey and Irma.

The extension of the application deadline date for this competition is intended to help eligible applicants that are located in a Federally declared disaster area, as determined by the Federal Emergency Management Agency (FEMA), in Texas and Florida to compete fairly with other eligible applicants under these competitions.

DATES: *Deadline for Transmittal of Applications:* October 26, 2017.

FOR FURTHER INFORMATION CONTACT: For the Education Research and Development Centers competition, Corinne Alfeld at *Corinne.Alfeld@ed.gov* or (202) 245–8203. For the Research Networks Focused on Critical Problems of Policy and Practice in Special Education competition, Amy Sussman at *Amy.Sussman@ed.gov* or (202) 245–7424.

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

SUPPLEMENTARY INFORMATION: On May 30, 2017, we published in the **Federal Register** (82 FR 24695) a notice inviting applications (NIA) for new awards for FY 2018 for Education Research and Development Centers and Research Networks Focused on Critical Problems of Policy and Practice in Special Education. The application deadline in the NIA was September 21, 2017. We are extending the application deadline for this competition for applicants in affected areas in Texas and Florida in order to allow applicants more time to prepare and submit their applications.

Eligibility: The extension of the application deadline date in this notice applies to eligible applicants under the Education Research and Development Centers competition and the Research Networks Focused on Critical Problems of Policy and Practice in Special Education competition, CFDA numbers 84.305C and 84.324N, that are located in a Federally declared disaster area, as determined by the Federal Emergency Management Agency (FEMA) (see *www.fema.gov/news/disasters.fema*), in the State of Texas in the counties of Aransas, Bee, Bexar, Brazoria, Calhoun, Chambers, Dallas, Fort Bend, Galveston, Goliad, Harris, Jackson, Kleberg, Liberty, Matagorda, Nueces, Refugio, San Patricio, Tarrant, Travis, Victoria, and Wharton.

The extension of the application deadline date in this notice also applies to eligible applicants that are located in a Federally declared disaster area, as determined by the Federal Emergency Management Agency (FEMA) (see *http://www.fema.gov/news/disasters.fema*), in the State of Florida, which includes all counties in that State.

In accordance with the NIA, eligible applicants for these competitions have the ability and capacity to conduct scientifically valid research. Eligible applicants include, but are not limited to, nonprofit and for-profit organizations and public and private agencies and institutions, such as colleges and universities.

Note: All information in the NIA published on May 30, 2017 (82 FR 24695), for these competitions remains the same, except for the deadline date.

Program Authority: 20 U.S.C. 9501 *et seq.*

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to either of the program contact persons listed under **FOR FURTHER INFORMATION CONTACT**.

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

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: September 22, 2017.

Thomas Brock,

Commissioner for Education Research, Delegated the Duties of the Director of the Institute of Education Sciences.

[FR Doc. 2017–20684 Filed 9–22–17; 4:15 pm]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2017–ICCD–0099]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Annual State Application Under Part C of the Individuals With Disabilities Education Act as Amended in 2004

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, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before October 27, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0099. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by

postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–44, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Rebecca Walawender, 202–245–7399.

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: Annual State Application under Part C of the Individuals with Disabilities Education Act as Amended in 2004.

OMB Control Number: 1820–0550.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 56.

Total Estimated Number of Annual Burden Hours: 560.

Abstract: In order to be eligible for a grant under 20 U.S.C. 1433, a State must provide assurance to the Secretary that the State has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State, infants and toddlers with disabilities who are homeless children and their families, and has in effect a statewide system that meets the requirements of 20 U.S.C. 1435. Some policies, procedures, methods, and descriptions must be submitted to the Secretary.

This collection is conducted in a manner that is consistent with the guidelines in 5 CFR 1320.5.

Dated: September 22, 2017.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–20659 Filed 9–26–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0088]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Report of Infants and Toddlers Receiving Early Intervention Services and of Program Settings Where Services Are Provided in Accordance With Part C, and Report on Infants and Toddlers . . .

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, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before October 27, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0088. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–42, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Amanda Hoffman, 202–245–6951.

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: Report of Infants and Toddlers Receiving Early Intervention Services and of Program Settings Where Services are Provided in Accordance with Part C, and Report on Infants and Toddlers.

OMB Control Number: 1820–0557.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 56.

Total Estimated Number of Annual Burden Hours: 5,311.

Abstract: This data collection provides instructions and forms necessary for States to report the number of children receiving early intervention services under Part C of Individuals with Disabilities Education Act (IDEA), the settings in which these children are provided services, and the reasons by which these children exit Part C of IDEA. The form satisfies reporting requirements and is used by

OSEP to monitor State agencies and for Congressional reporting.

Dated: September 22, 2017.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–20660 Filed 9–26–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[OE Docket No. PP–438]

Application for Presidential Permit; Central Maine Power Company

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Central Maine Power Company (CMP) has applied for a Presidential permit to construct, operate, maintain, and connect an electric transmission line across the United States border with Canada.

DATES: Comments or motions to intervene must be submitted on or before October 27, 2017.

ADDRESSES: Comments or motions to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability (OE–20), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence (Program Office) at 202–586–5260 or via electronic mail at *Christopher.Lawrence@hq.doe.gov;* Rishi Garg (Program Attorney) at 202–586–0258.

SUPPLEMENTARY INFORMATION: The construction, operation, maintenance, and connection of facilities at the international border of the United States for the transmission of electric energy between the United States and a foreign country is prohibited in the absence of a Presidential permit issued pursuant to Executive Order (EO) 10485, as amended by EO 12038.

On July 27, 2017, Central Maine Power Company (CMP or ''The Applicant'') filed an application with the Office of Electricity Delivery and Energy Reliability of the Department of Energy (DOE) for a Presidential permit for the New England Clean Energy Connect (NECEC) project. CMP has its principal place of business in Augusta, Maine. CMP Group, Inc. owns 100% of outstanding shares of CMP's common stock. CMP Group, Inc. is a wholly-owned subsidiary of Avangrid Networks, Inc., which in turn is a wholly-owned subsidiary of AVANGRID, a New York corporation listed on the New York Stock Exchange (NYSE: AGR). Iberdrola, a corporation (*sociedad anónima*) organized under the laws of the Kingdom of Spain (BME: IBE), directly owns approximately 81.5% of the outstanding shares of AVANGRID common stock, with the remaining shares publicly traded on the New York Stock exchange. Iberdrola's shares are listed in the Madrid, Bilbao, Barcelona, and Valencia (Spain) stock exchanges.

CMP proposes to construct, operate, maintain, and connect the NECEC project, which would cross the U.S.-Canada (Québec-Maine) international border in Beattie Township, Maine. From that point, the NECEC's transmission facilities would extend to the point of first interconnection with the ISO-New England operated power grid at CMP's Larrabee Road Substation in Lewiston, Maine. The proposed project includes (1) a 100-foot segment crossing the border; (2) approximately 145.3 miles of +/−320 kilovolt (kV) overhead high-voltage direct current (HVDC) transmission line from the border crossing to (3) a new 345 kV alternating current (AC) to +/−320 kV HVDC 1,200 megawatt (MW) converter station at the Merrill Road Substation in Lewiston, Maine (Merrill Road Converter Station), which would convert the electrical power from DC to AC; (4) a 1.2-mile, above-ground 345 kV AC transmission line from Merrill Road Converter Station to the existing Larrabee Road Substation (and associated rebuild of 0.8 mile of lower-voltage 34.5 kV transmission line to make room in the corridor for the new 1.2-mile line); and (5) a 345 kV line terminal at the Larrabee Road Substation. The proposed project facilities would be capable of transmitting up to 1200 MW of power.

Since the restructuring of the electric industry began, resulting in the introduction of different types of competitive entities into the marketplace, DOE has consistently expressed its policy that cross-border trade in electric energy should be subject to the same principles of comparable open access and non-discrimination that apply to transmission in interstate commerce. DOE has stated that policy in export authorizations granted to entities requesting authority to export electric energy over international transmission facilities. Specifically, DOE expects transmitting utilities owning border facilities to provide access across the border in accordance with the principles of comparable open access and non-discrimination contained in the Federal Power Act and articulated in Federal Energy Regulatory Commission (FERC) Order No. 888 (Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; FERC Stats. & Regs. ¶ 31,036 (1996)), as amended.

Procedural Matters: Any person may comment on this application by filing such comment at the address provided above. Any person seeking to become a party to this proceeding must file a motion to intervene at the address provided above in accordance with Rule 214 of FERC's Rules of Practice and Procedure (18 CFR 385.214). Two copies of each comment or motion to intervene should be filed with DOE on or before the date listed above.

Additional copies of such motions to intervene also should be filed directly with: Randall S. Rich, Pierce Atwood LLP, 1875 K Street NW., Suite 700, Washington, DC 20006, *rrich@pierceatwood.com,* AND Bernardo Escudero Morandeira, Central Maine Power Company, 83 Edison Drive, Augusta, Maine 04336, *bernardo.escudero@cmpco.com,* AND Jared S. des Rosiers, Pierce Atwood LLP, 254 Commercial Street, Portland, Maine 04101, *jdesrosiers@pierceatwood.com.*

Before a Presidential permit may be issued or amended, DOE must determine that the proposed action is in the public interest. In making that determination, DOE considers the environmental impacts of the proposed project pursuant to the National Environmental Policy Act of 1969, as amended, determines the project's impact on electric reliability by ascertaining whether the proposed project would adversely affect the operation of the U.S. electric power supply system under normal and contingency conditions, and any other factors that DOE may also consider relevant to the public interest. Also, DOE must obtain the concurrences of the Secretary of State and the Secretary of Defense before taking final action on a Presidential permit application.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/oe/services/electricity-policy-coordination-and-implementation/international-electricity-regulatio-2.*

Issued in Washington, DC, on September 21, 2017.

Christopher A. Lawrence,

Electricity Policy Analyst, National Electricity Delivery Division, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2017–20681 Filed 9–26–17; 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: ER17–694–001.
Applicants: California Independent System Operator Corporation.
Description: Compliance filing: 2017–09–21 Compliance—Transmission Control Agreement Notice of Effective Date to be effective 9/15/2017.
Filed Date: 9/21/17.
Accession Number: 20170921–5095.
Comments Due: 5 p.m. ET 10/12/17.

Docket Numbers: ER17–1639–002.
Applicants: AEP Generation Resources Inc.
Description: Tariff Amendment: AEP GR Stuart Station Unit 1 Reactive Filing RS3 to be effective 10/1/2017.
Filed Date: 9/21/17.
Accession Number: 20170921–5123.
Comments Due: 5 p.m. ET 10/12/17.

Docket Numbers: ER17–1717–002.
Applicants: Dynegy Conesville, LLC.
Description: Tariff Amendment: Response to Second Deficiency Letter to be effective 5/9/2017.
Filed Date: 9/20/17.
Accession Number: 20170920–5175.
Comments Due: 5 p.m. ET 10/11/17.

Docket Numbers: ER17–1718–002.
Applicants: Dynegy Dicks Creek, LLC.
Description: Tariff Amendment: Response to Second Deficiency Letter to be effective 8/1/2017.
Filed Date: 9/20/17.
Accession Number: 20170920–5176.
Comments Due: 5 p.m. ET 10/11/17.

Docket Numbers: ER17–1719–002.
Applicants: Dynegy Killen, LLC.
Description: Tariff Amendment: Response to Second Deficiency Letter to be effective 8/1/2017.
Filed Date: 9/20/17.
Accession Number: 20170920–5177.
Comments Due: 5 p.m. ET 10/11/17.

Docket Numbers: ER17–1720–002.
Applicants: Dynegy Miami Fort, LLC.
Description: Tariff Amendment: Response to Second Deficiency Letter to be effective 8/1/2017.
Filed Date: 9/20/17.
Accession Number: 20170920–5178.
Comments Due: 5 p.m. ET 10/11/17.

Docket Numbers: ER17–1840–000.
Applicants: Canton Mountain Wind, LLC.
Description: Fourth Supplement to June 15, 2017 Canton Mountain Wind, LLC tariff filing.
Filed Date: 9/20/17.
Accession Number: 20170920–5215.
Comments Due: 5 p.m. ET 10/2/17.

Docket Numbers: ER17–2523–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Attachment Y to Add A Competitive Project Minimum Threshold to be effective 11/19/2017.
Filed Date: 9/20/17.
Accession Number: 20170920–5146.
Comments Due: 5 p.m. ET 10/11/17.

Docket Numbers: ER17–2524–000.
Applicants: Alabama Power Company.
Description: § 205(d) Rate Filing: Florida Power & Light Company Interconnection Contract Filing to be effective 8/15/2017.
Filed Date: 9/20/17.
Accession Number: 20170920–5187.
Comments Due: 5 p.m. ET 10/11/17.

Docket Numbers: ER17–2525–000.
Applicants: Georgia Power Company.
Description: § 205(d) Rate Filing: Florida Power & Light Company Interconnection Contract Filing to be effective 8/15/2017.
Filed Date: 9/20/17.
Accession Number: 20170920–5188.
Comments Due: 5 p.m. ET 10/11/17.

Docket Numbers: ER17–2526–000.
Applicants: Gulf Power Company.
Description: § 205(d) Rate Filing: Florida Power & Light Company Interconnection Contract Filing to be effective 8/15/2017.
Filed Date: 9/20/17.
Accession Number: 20170920–5189.
Comments Due: 5 p.m. ET 10/11/17.

Docket Numbers: ER17–2527–000.
Applicants: Mississippi Power Company.
Description: § 205(d) Rate Filing: Florida Power & Light Company Interconnection Contract Filing to be effective 8/15/2017.
Filed Date: 9/20/17.
Accession Number: 20170920–5190.
Comments Due: 5 p.m. ET 10/11/17.

Docket Numbers: ER17–2528–000.
Applicants: Lathrop Irrigation District.
Description: Petition for Limited Waiver of Tariff Provisions of Lathrop Irrigation District.
Filed Date: 9/20/17.
Accession Number: 20170920–5207.
Comments Due: 5 p.m. ET 10/11/17.

Docket Numbers: ER17–2529–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2888R2 Arkansas Electric Cooperative Corp. NITSA and NOA to be effective 9/1/2017.
Filed Date: 9/21/17.
Accession Number: 20170921–5028.
Comments Due: 5 p.m. ET 10/12/17.

Docket Numbers: ER17–2529–001.
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment: 2888R2 Arkansas Electric Cooperative Corp. NITSA and NOA) to be effective 9/1/2017.
Filed Date: 9/21/17.
Accession Number: 20170921–5097.
Comments Due: 5 p.m. ET 10/12/17.

Docket Numbers: ER17–2530–000.
Applicants: Midcontinent Independent System Operator, Inc. Ameren Illinois Company.
Description: § 205(d) Rate Filing: Ameren Illinois-Wabash Valley-EnerStar Switching Agreement to be effective 8/22/2017.
Filed Date: 9/21/17.
Accession Number: 20170921–5055.
Comments Due: 5 p.m. ET 10/12/17.

Docket Numbers: ER17–2531–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original Service Agreement No. 4794; Queue AC1–116 (WMPA) to be effective 8/22/2017.
Filed Date: 9/21/17.
Accession Number: 20170921–5068.
Comments Due: 5 p.m. ET 10/12/17.

Docket Numbers: ER17–2532–000.
Applicants: Massachusetts Electric Company.
Description: § 205(d) Rate Filing: 2017 Rate Update Filing for Massachusetts Electric Borderline Sales Agreement to be effective 8/1/2014.
Filed Date: 9/21/17.
Accession Number: 20170921–5079.
Comments Due: 5 p.m. ET 10/12/17.

Docket Numbers: ER17–2533–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: § 205(d) Rate Filing: ISO–NE and NEPOOL—Clarifying Revisions to Force Majeure to be effective 11/21/2017.
Filed Date: 9/21/17.
Accession Number: 20170921–5094.
Comments Due: 5 p.m. ET 10/12/17.

Docket Numbers: ER17–2534–000.
Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Service Agreement No. 300 to be effective 1/1/2017.

Filed Date: 9/21/17.

Accession Number: 20170921–5099.

Comments Due: 5 p.m. ET 10/12/17.

Docket Numbers: ER17–2535–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: PSCo—PSCoES—LGIA—464—0.0.0 Refiling to be effective 9/22/2017.

Filed Date: 9/21/17.

Accession Number: 20170921–5109.

Comments Due: 5 p.m. ET 10/12/17.

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: September 21, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–20668 Filed 9–26–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0406; FRL–9966–02]

Certain New Chemicals; Receipt and Status Information for June 2017

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA) to publish in the **Federal Register** a notice of receipt of a premanufacture notice (PMN); an application for a test marketing exemption (TME), both pending and/or expired; and a periodic status report on any new chemicals under EPA review and the receipt of notices of commencement (NOC) to manufacture those chemicals. This document covers the period from June 1, 2017 to June 30, 2017.

DATES: Comments identified by the specific case number provided in this document, must be received on or before October 27, 2017.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0406, and the specific PMN number or TME number for the chemical related to your comment, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Jim Rahai, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitters of the actions addressed in this document.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR parts 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What action is the Agency taking?

This document provides receipt and status reports, which cover the period from June 1, 2017 to June 30, 2017, and consists of the PMNs and TMEs both pending and/or expired, and the NOCs to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. What is the Agency's authority for taking this action?

Under TSCA, 15 U.S.C. 2601 *et seq.,* EPA classifies a chemical substance as either an ''existing'' chemical or a ''new'' chemical. Any chemical substance that is not on EPA's TSCA Inventory is classified as a ''new chemical,'' while those that are on the TSCA Inventory are classified as an ''existing chemical.'' For more information about the TSCA Inventory, please go to: *http://www.epa.gov/opptintr/newchems/pubs/inventory.htm.*

Anyone who plans to manufacture or import a new chemical substance for a non-exempt commercial purpose is required by TSCA section 5 to provide EPA with a PMN, before initiating the activity. Section 5(h)(1) of TSCA authorizes EPA to allow persons, upon application, to manufacture (includes import) or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a), for ''test marketing'' purposes, which is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5(d)(2) and 5(d)(3), EPA is required to publish in the **Federal Register** a notice of receipt of a PMN or an application for a TME

and to publish in the **Federal Register** periodic reports on the status of new chemicals under review and the receipt of NOCs to manufacture those chemicals.

IV. Receipt and Status Reports

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that the information in the table is generic information because the specific information provided by the submitter was claimed as CBI.

For the 36 PMNs received by EPA during this period, Table 1 provides the following information (to the extent that such information is not claimed as CBI): The EPA case number assigned to the PMN; The date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer/importer; the potential uses identified by the manufacturer/importer in the PMN; and the chemical identity.

TABLE 1—PMNS RECEIVED FROM JUNE 1, 2017 TO JUNE 30, 2017

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–17–0116	6/1/2017	8/30/2017	Cardolite Corporation.	(S) Polyurethane foam to raise the concrete slab.	(G) Cashew nut shell liquid, branched polyester-polyether polyol.
P–17–0176	6/9/2017	9/7/2017	CBI	(G) Battery ingredient	(G) Carbonic acid, alkyl carbomonocyclic ester.
P–17–0191	6/19/2017	9/17/2017	CBI	(S) Polyurethane catalyst	(G) Alkyldiamine, aminoalkyl dimethylaminoalkyl dimethyl-, reaction products with propylene oxide.
P–17–0223	6/26/2017	9/24/2017	CBI	(G) Additive, open, non-dispersive use.	(G) Fatty acids, tall-oil, reaction products with 2-[(2-aminoalkyl)amino]alkanol, compounds (compds) with alkylene oxide-glycidyl o-tolyl ether polymer dihydrogen phosphate alkyl ether.
P–17–0239	6/5/2017	9/3/2017	CBI	(G) Adhesive for open non-descriptive use.	(G) Substituted carboxylic acid, polymer with 2,4-diisocyanato-1-methylbenzene, hexanedioic acid, alpha-hydro-omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 1,1′-methylenebis[4-isocyanatobenzene], 2,2′-oxybis[ethanol], 1,1′-oxybis[2-propanol] and 1,2-propanediol.
P–17–0245	6/8/2017	9/6/2017	CBI	(G) Adhesive for open, non-dispersive use.	(G) Polyfluoropolyether derivative.
P–17–0270	6/7/2017	9/5/2017	CBI	(G) Low refractive index coating	(G) Alkyl perfluorinated acryloyl ester.
P–17–0282	6/13/2017	9/11/2017	Elantas Pdg, Inc.	(S) This is a component of a mixture that is used as an impregnating varnish for stators and motors.	(S) Isocyanic acid, polymethylenepolyphenylene ester, caprolactam- and phenol-blocked.
P–17–0290	6/28/2017	9/26/2017	Cytec Industries, Inc.	(S) Resins for use in adhesive formulations which will be used for bonding of aircraft and industrial parts.	(G) Cycloaliphatic phenolic epoxy adduct.
P–17–0302	6/5/2017	9/3/2017	CBI	(G) Synthetic lubricant for contained use industrial lubricant.	(G) Neopentyl glycol ester of mixed linear and branched carboxylic acids.
P–17–0303	6/23/2017	9/21/2017	CBI	(G) Component for tire	(G) Modified copolymer of buta-1,3-diene and styrene.
P–17–0312	6/9/2017	9/7/2017	CBI	(G) Additive for electrocoat formulas.	(G) Organic acid, compds. with bisphenol A-epichlorohydrin-polypropylene glycol diglycidyl ether polymer-disubstituted amine-disubstituted polypropylene glycol reaction products.

TABLE 1—PMNS RECEIVED FROM JUNE 1, 2017 TO JUNE 30, 2017—Continued

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–17–0313	6/9/2017	9/7/2017	CBI	(G) Additive for electrocoat formulas.	(G) Phenol, 4,4′-(1-methylethylidene)bis-, polymer with 2-(chloromethyl)oxirane and alpha-(2-oxiranylmethyl)-omega-(2-oxiranylmethoxy)poly[oxy(methyl-1,2-ethanediyl)], reaction products with disubstituted amine and disubstituted polypropylene glycol, organic acid salts.
P–17–0314	6/9/2017	9/7/2017	CBI	(G) Additive for electrocoat formulas.	(G) Organic acid, 2-substituted-, compds. with bisphenol A-epichlorohydrin-polypropylene glycol diglycidyl ether polymer-disubstituted amine-disubstituted polypropylene glycol reaction products.
P–17–0315	6/9/2017	9/7/2017	CBI	(G) Additive for electrocoat formulas.	(G) Phenol, 4,4′-(1-methylethylidene)bis-, polymer with alpha-(2-substituted-methylethyl)-omega-(2-substituted-methylethoxy)poly[oxy(methyl-1,2-ethanediyl)], 2-(chloromethyl)oxirane and alpha-(2-oxiranylmethyl)-omega-(2-oxiranylmethoxy)poly[oxy(methyl-1,2-ethanediyl)], alkylphenyl ethers, reaction products with disubstituted amine, organic acid salts.
P–17–0316	6/9/2017	9/7/2017	CBI	(G) Additive for electrocoat formulas.	(G) Organic acid, compds. with bisphenol A-epichlorohydrin-disubstituted polypropylene glycol-polypropylene glycol diglycidyl ether polymer alkylphenyl ethers-disubstituted amine reaction products.
P–17–0317	6/9/2017	9/7/2017	CBI	(G) Additive for electrocoat formulas.	(G) Organic acid, compounds with bisphenol A-epichlorohydrin-polypropylene glycol diglycidyl ether polymer-disubstituted polypropylene glycol reaction products.
P–17–0322	6/20/2017	9/18/2017	CBI	(G) Auxiliary drier has little drying action in itself but is very useful in combination with Active driers in vehicles that show poor tolerance for lead, calcium can replace part of the lead with a larger amount of calcium to prevent the precipitation of the lead & maintain drying efficiency. Calcium is also useful as pigment wetting & dispersing agents & help to improve hardness & gloss & reduce ‘‘silkins’’ when ground with drier adsorbing pigments, calcium minimizes loss of dry by being preferentially absorbed.	(G) Zinc naphthenate complexes.
P–17–0323	6/5/2017	9/3/2017	CBI	(S) Reactive monomer for use in producing polymers.	(G) 2-propenoic acid, branched alkyl ester.
P–17–0324	6/7/2017	9/5/2017	CBI	(S) Chemical intermediate destructive use.	(S) 2,4-hexadien-1-ol, 1-acetate, (2e,4e)-.
P–17–0326	6/8/2017	9/6/2017	CBI	(G) Ultraviolet curable monomer	(G) Allyloxymethylacrylate.

TABLE 1—PMNS RECEIVED FROM JUNE 1, 2017 TO JUNE 30, 2017—Continued

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–17–0327	6/8/2017	9/6/2017	Evonik Corporation.	(S) Compounding, (S) Injection molding of special applications.	(G) Polymer of aliphatic dicarboxylic acid and dicyclo alkane amine.
P–17–0328	6/13/2017	9/11/2017	AGC Electronics America, Inc.	(S) Tetrahydrofuran-2-carboxylic acid is used as an additive for controlling selectivity of chemical mechanical polishing (cmp) slurry used for semiconductor wafer polishing the additive helps to selectively protect certain thin film layers from polishing while some other layers are being polished from the wafer surface during cmp process.	(S) Tetrahydrofuran-2-carboxylic acid.
P–17–0329	6/9/2017	9/7/2017	CBI	(G) Intermediate used in synthesis	(G) Substituted haloaromatic trihaloalkyl-aromatic alkanone.
P–17–0330	6/23/2017	9/21/2017	CBI	(S) Polyurethane which is cured and used in a sprocket for water treatment.	(G) Hexanedioic acid, polymer with trifuntional polyol, 1,1′-methylenebis [isocyanatobenzene], and 2,2′-oxybis [ethanol].
P–17–0332	6/19/2017	9/17/2017	Archroma U.S., Inc.	(S) Optical brightener for use in paper applications.	(G) Benzenesulfonic acid, (alkenediyl)bis[[[(hydroxyalkyl)amino]-(phenylamino)-triazin-2-yl]amino]-, *N*-(hydroxyalkyl) derivs., salts.
P–17–0333	6/26/2017	9/24/2017	Miwon North America, Inc.	(S) Reactive diluent for optical film coating.	(G) 2-propenoic acid, mixed esters with heterocyclic dimethanol and heterocyclic methanol.
P–17–0336	6/27/2017	9/25/2017	CBI	(S) Cathode material for lithium ion batteries.	(S) Aluminum cobalt lithium nickel oxide.
P–17–0337	6/27/2017	9/25/2017	CBI	(S) Cathode material for lithium ion batteries.	(S) Aluminum boron cobalt lithium nickel oxide.
P–17–0338	6/27/2017	9/25/2017	CBI	(S) Cathode material for lithium ion batteries.	(S) Aluminum boron cobalt lithium magnesium nickel oxide.
P–17–0339	6/28/2017	9/26/2017	Sasol Chemicals (USA), LLC.	(S) Industrial/commercial surfactant.	(S) Poly(oxy-1,2-ethanediyl), alpha-(2-butyloctyl)-omega-hydroxy-.
P–17–0339	6/28/2017	9/26/2017	Sasol Chemicals (USA), LLC.	(S) Agricultural chemicals, (S) Paints	(S) Poly(oxy-1,2-ethanediyl), alpha-(2-butyloctyl)-omega-hydroxy-.
P–17–0339	6/28/2017	9/26/2017	Sasol Chemicals (USA), LLC.	(S) Metal working fluid	(S) Poly(oxy-1,2-ethanediyl), alpha-(2-butyloctyl)-omega-hydroxy-.
P–17–0340	6/28/2017	9/26/2017	Sasol Chemicals (USA), LLC.	(S) Industrial/commercial surfactant,. (S) Metal working fluid, (S) Agricultural Chemicals, (S) Paints	(S) Poly(oxy-1,2-ethanediyl), alpha-(2-hexyldecyl)-omega-hydroxy-.
P–17–0341	6/28/2017	9/26/2017	Sasol Chemicals (USA), LLC.	(S) Paints, (S) Agricultural chemicals, (S) Metal working fluid, (S) Industrial/commercial surfactant.	(S) Alcohols, C_{16-20}-branched, ethoxylated.
P–17–0342	6/28/2017	9/26/2017	Sasol Chemicals (USA), LLC.	(S) Agricultural chemicals, (S) Paints, (S) Metal working fluid, (S) Industrial/commercial surfactant.	(S) Poly(oxy-1,2-ethanediyl), alpha-(2-octyldodecyl)-omega-hydroxy-.
P–17–0343	6/28/2017	9/26/2017	CBI	(G) Corrosion inhibitor in aqueous systems.	(G) Modified benzimidazole.
P–17–0345	6/30/2017	9/28/2017	CBI	(G) Resin intermediate	(G) Polyurethane, methacrylate blocked.

For the 17 NOCs received by EPA during this period, Table 2 provides the following information (to the extent that such information is not claimed as CBI): The EPA case number assigned to the NOC; the date the NOC was received by

EPA; the projected date of commencement provided by the submitter in the NOC; and the chemical identity.

TABLE 2—NOCS RECEIVED FROM JUNE 1, 2017 TO JUNE 30, 2017

Case No.	Received date	Commencement date	Chemical
J–15–0036	6/30/2017	6/6/2017	(G) Zymomonas mobilis genetically modified.
P–12–0277	6/28/2017	6/5/2017	(S) Alkanes, $C_{20–28}$, chloro.
P–12–0282	6/28/2017	6/5/2017	(S) Alkanes, $C_{14–16}$, chloro.
P–12–0283	6/28/2017	6/5/2017	(S) Tetradecane, chloro derivs.
P–13–0303	6/29/2017	6/22/2017	(G) Substituted phenol formaldehyde polymer.
P–13–0872	6/23/2017	5/31/2017	(G) Alkyl triazine.
P–14–0311	6/15/2017	6/1/2017	(S) Benzenepropanamide, 3,5-bis(1,1-dimethylethyl)-4-hydroxy-, *N*-$C_{16–18}$-alkyl derivs.
P–14–0373	6/14/2017	8/4/2016	(S) Neononanoic acid, ethenyl ester, polymer with butyl 2-methyl-2-propenoate, butyl 2-propenoate, ethenylbenzene, 2-hydroxyethyl 2-methyl-2-propenoate, methyl 2-methyl-2-propenoate and rel-(1r, 2r, 4r)-1,7,7-trimethylbicyclo [2.2.1]heptyl-2-yl 2 -methyl-2-propenoate.
P–14–0427	6/30/2017	6/26/2017	(S) Nitrile hydratase.
P–14–0683	6/30/2017	6/28/2017	(S) Tetradecane, chloro derivatives.
P–14–0684	6/30/2017	6/8/2017	(S) Alkanes, $C_{14–16}$, chloro.
P–14–0834	6/14/2017	7/8/2016	(S) Cyclohexane, 1,1′-methylenebis[4-isocyanato-, homopolymer, 2-butoxyethanol- and polyethylene glycol mono-me ether-blocked.
P–15–0099	6/14/2017	2/19/2017	(S) Phenol, 4,4′-(1-methylethylidene) bis-, polymer with 1,3-diisocyanatomethylbenzene, 1,1′-methylenebis [4-isocyanatobenzene], 2-methyloxirane and 2-methyloxirane polymer with oxirane ether with 1,2,3-propanetriol (3:1), me et ketone oxime-blocked.
P–15–0141	6/20/2017	6/5/2017	(S) D-glucitol, 1-deoxy-1-(methylamino)-, *N*-($C_{16–18}$ and C_{18}-unsaturated (unsatd.) acyl) derivs.
P–15–0431	6/19/2017	6/2/2017	(G) $C_{16–18}$ and C_{18}-unsatd., polymer with alkyl triol and acid anhydride.
P–16–0079	6/14/2017	3/13/2017	(G) Benzenedicarbonyl dichloride, polymer with 4,4′-(1-methylethylidene)bis hydroxy carbomonocycle.
P–16–0273	6/26/2017	6/4/2017	(G) Alkyl heteromonocycle, polymer with heteromonocycle, carboxyalkyl alkyl ether.
P–16–0274	6/26/2017	6/4/2017	(G) Alkyl heteromonocycle, polymer with heteromonocycle, carboxyalkyl alkyl ether.
P–16–0534	6/21/2017	5/31/2017	(G) Alkyl alkenoic acid, polymer with alkenylcarbomonocycle telomer with substituted alkanoic acid hydroxyl alkyl substituted alkenyl substituted alkyl ester, polyalkylene glycol alkyl ether alkyl alkenoate, dialkylene glycol diheteromonocyclic ether and alkylcarbomonocyclic alkenoate, metal salt.
P–16–0535	6/21/2017	5/31/2017	(G) Alkyl alkenoic acid, polymer with alkenylcarbomonocycle telomer with substituted alkanoic acid hydroxyl alkyl substituted alkenyl substituted alkyl ester, alkanediol diheteromonocyclic ether, polyalkylene glycol alkyl ether alkyl alkenoate and alkylcarbomonocyclic alkenoate, metal salt.
P–16–0536	6/21/2017	5/31/2017	(G) Alkyl alkenoic acid, polymer with bis heteromonocyclic substituted alkyl carbomonocycle, alkenylcarbomonocycle telomer with substituted alkanoic acid hydroxyl alkyl substituted alkenyl substituted alkyl ester, polyalkylene glycol alkyl ether alkyl alkenoate and alkylcarbomonocyclicalkenoate, metal salt.
P–16–0543	6/23/2017	5/26/2017	(G) Halogenophosphoric acid metal salt.
P–17–0010	6/30/2017	6/30/2017	(G) Alkyl substituted alkenoic acid, alkyl ester, polymer with alkyl substituted alkenoate and alkenoic acid, hydroxy substituted[(oxoalkyl)oxy]alkyl ester, reaction products with alkanoic acid, dipentaerythritol and isocyanate substituted carbomonocycle, compounds with alkylamine.
P–17–0218	6/15/2017	6/15/2017	(S) Bicycle[2.2.1]heptane-1-methanesulfonic acid, 7,7-dimethyl-2-oxo-, compd. with *N,N*-diethylethanamine (1:1).
P–17–0246	6/19/2017	6/5/2017	(G) Polycarbonate polyol.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: August 31, 2017.

Pamela Myrick,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2017–20749 Filed 9–26–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0407; FRL–9967–08]

Certain New Chemicals; Receipt and Status Information for July 2017

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA) to publish in the **Federal Register** a notice of receipt of a premanufacture notice (PMN); an application for a test marketing exemption (TME), both pending and/or expired; and a periodic status report on any new chemicals under EPA review and the receipt of notices of commencement (NOC) to manufacture those chemicals. This document covers the period from July 3, 2017 to July 31, 2017.

DATES: Comments identified by the specific case number provided in this document, must be received on or before October 27, 2017.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0407, and the specific PMN number or TME number for the chemical related to your

comment, by one of the following methods:

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

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

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

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

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Jim Rahai, IMD 7407M, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitters of the actions addressed in this document.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR parts 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What action is the Agency taking?

This document provides receipt and status reports, which cover the period from July 3, 2017 to July 31, 2017, and consists of the PMNs and TMEs both pending and/or expired, and the NOCs to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. What is the Agency's authority for taking this action?

Under TSCA, 15 U.S.C. 2601 *et seq.,* EPA classifies a chemical substance as either an ''existing'' chemical or a ''new'' chemical. Any chemical substance that is not on EPA's TSCA Inventory is classified as a ''new chemical,'' while those that are on the TSCA Inventory are classified as an ''existing chemical.'' For more information about the TSCA Inventory, please go to: *http://www.epa.gov/opptintr/newchems/pubs/inventory.htm.*

Anyone who plans to manufacture or import a new chemical substance for a non-exempt commercial purpose is required by TSCA section 5 to provide EPA with a PMN, before initiating the activity. Section 5(h)(1) of TSCA authorizes EPA to allow persons, upon application, to manufacture (includes import) or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a), for ''test marketing'' purposes, which is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5(d)(2) and 5(d)(3), EPA is required to publish in the **Federal Register** a notice of receipt of a PMN or an application for a TME and to publish in the **Federal Register** periodic reports on the status of new chemicals under review and the receipt of NOCs to manufacture those chemicals.

IV. Receipt and Status Reports

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that the information in the table is generic information because the specific information provided by the submitter was claimed as CBI.

For the 49 PMNs received by EPA during this period, Table 1 provides the following information (to the extent that such information is not claimed as CBI): The EPA case number assigned to the PMN; The date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer/importer; the potential uses identified by the manufacturer/importer in the PMN; and the chemical identity.

TABLE 1—PMNS RECEIVED FROM JULY 3, 2017 TO JULY 31, 2017

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–17–0110	7/6/2017	10/4/2017	CBI	(G) Masking photopolymer	(G) Phenol formaldehyde glycidyl ether acrylate cycloalkene ester.
P–17–0121	7/3/2017	10/1/2017	CBI	(S) Polyurethane used in an adhesive	(G) Methylene diphenyl diisocyanate terminated polyurethane resin.
P–17–0149	7/20/2017	10/18/2017	CBI	(G) Electronic use	(G) Fluorocyanophenyl alkylbenzoate.
P–17–0150	7/20/2017	10/18/2017	CBI	(G) Electronic use	(G) Fluorocyanophenyl alkylbenzoate.
P–17–0151	7/20/2017	10/18/2017	CBI	(G) Electronic use	(G) Fluorocyanophenyl alkylbenzoate.
P–17–0154	7/27/2017	10/25/2017	CBI	(G) Coating	(G) Carboxylic acid amine (1:1).
P–17–0155	7/27/2017	10/25/2017	CBI	(G) Coating	(G) Mix fatty acids compd with amine (1:1).
P–17–0156	7/27/2017	10/25/2017	CBI	(G) Coating	(G) Mix fatty acids, compd with amine (1:1).
P–17–0165	7/20/2017	10/18/2017	CBI	(G) Electronic use	(G) Fluorocyanophenyl alkylbenzoate.
P–17–0177	7/21/2017	10/19/2017	Shin-Etsu Microsi	(G) Microlithography for electronic device manufacturing.	(G) Monoheteropentacycloalkane-4-carboxylic acid, substituted-cycloalkyl ester.

TABLE 1—PMNS RECEIVED FROM JULY 3, 2017 TO JULY 31, 2017—Continued

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–17–0178	7/21/2017	10/19/2017	Shin-Etsu Microsi	(G) Microlithography for electronic device manufacturing.	(G) Sulfonium, triphenyl-, salt with substituted-alkyl 4-substituted-benzoate.
P–17–0187	7/24/2017	10/22/2017	CBI	(S) Latex incorporating catalyst monomer for generation of singlet oxygen, production %: 100.0 optional pollution information: This product provides for self-sanitizing surfaces without heavy metals or mobile toxic chemicals.	(G) Polymer with benzoic acid tetra halogen hydroxy tetrahalogen oxo h xanthenyl alkenylaryl alkyl ester alkalai metal salt, butyl-2-propenoate, ethenyl neodecanoate, methyl-2-methyl-2- propenoate and 2-methyl-2-propenoic acid.
P–17–0230	7/6/2017	10/4/2017	CBI	(G) Additive, open, non-dispersive use	(G) Oxirane, 2-alkyl-, polymer with oxirane, mono[*N*-[3-(carboxyamino)-4(or 6)-alkylphenyl]carbamate], alkyl ether, ester with 2,2′,2″-nitrilotris-[alkanol].
P–17–0244	7/12/2017	10/10/2017	CBI	(S) A down converting phosphor particle for use in an optical filter.	(G) Metal oxide reaction products with cadmium metal selenide sulfide, and amine.
P–17–0272	7/28/2017	10/26/2017	CBI	(G) Component in asphalt emulsions	(G) Fatty acid amide alkyl amine salts.
P–17–0273	7/28/2017	10/26/2017	CBI	(G) Component in asphalt emulsions	(G) Fatty acid amide alkyl amine salts.
P–17–0274	7/28/2017	10/26/2017	CBI	(G) Component in asphalt emulsions	(G) Fatty acid amide alkyl amine salts.
P–17–0275	7/28/2017	10/26/2017	CBI	(G) Component in asphalt emulsions	(G) Fatty acid amide alkyl amine salts.
P–17–0276	7/28/2017	10/26/2017	CBI	(G) Component in asphalt emulsions	(G) Fatty acid amide alkyl amine salts.
P–17–0277	7/28/2017	10/26/2017	CBI	(G) Component in asphalt emulsions	(G) Fatty acid amide alkyl amine salts.
P–17–0283	7/13/2017	10/11/2017	CBI	(G) Lubricating oil additive for automotive engine oils.	(G) Arenesulfonic acid, alkyl derivatives, metal salts.
P–17–0286	7/23/2017	10/21/2017	Shin-Etsu Microsi	(G) This material is added Ca.0.05–10% in resist composition.	(G) Bicyclo[2.2.1] alkane-1-alkanesulfonic acid, 7,7-dimethyl-2-oxo-, [(3,5-dimethoxy-2- naphthalenyl) carbonyl] methylazanyl ester, (1s,4r)-.
P–17–0287	7/23/2017	10/21/2017	Shin-Etsu Microsi	(G) This material is added Ca.0.05–10% in resist composition.	(G) Phenylsulfonic acid, 4-methyl-, [(dimethoxy-2-naphthalenyl) carbonyl]methylazanyl ester.
P–17–0320	7/28/2017	10/26/2017	H.B. Fuller Company	(G) Industrial adhesive	(G) Dodecanedioic acid and 1,6-hexanediol polymer with 3-hydroxy-2,2-dimethylpropyl 2,2-dimethylhydracrylate, neopentylglycol, 1,2 ethanediol, adipic acid, isophthalic acid, terephthalic acid, 2-oxooxopane, bayflex 2002h and 1,1′-methylenebis[isocyanatobenzene].
P–17–0331	7/29/2017	10/27/2017	Shin-Etsu Microsi	(S) Solbin M5 is used as a binder in formulations of coatings, inks, paints and adhesives.	(G) Vinyl chloride-vinyl acetate based copolymer.
P–17–0333	7/13/2017	10/11/2017	Miwon North America, Inc.	(S) Reactive diluent for optical film coating	(G) 2-propenoic acid, mixed esters with heterocyclic dimethanol and heterocyclic methanol.
P–17–0334	7/10/2017	10/8/2017	CBI	(G) Chemical precursor	(G) Halogenated alkyl monocyclicamide.
P–17–0346	7/10/2017	10/8/2017	Suterra LLC	(G) Destructive use	(G) Triarylalkyl phosphonium halide salt.
P–17–0347	7/6/2017	10/4/2017	Sasol Chemicals (USA) LLC.	(G) Oilfield surfactant	(S) Oxirane, 2-methyl-, polymer with oxirane, mono(2-butyloctyl) ether.
P–17–0348	7/6/2017	10/4/2017	Sasol Chemicals (USA) LLC.	(G) Oilfield surfactant	(S) Oxirane, 2-methyl-, polymer with oxirane, mono(2-hexyldecyl) ether.
P–17–0349	7/6/2017	10/4/2017	Sasol Chemicals (USA) LLC.	(G) Oilfield surfactant	(S) Oxirane, 2-methyl-, polymer with oxirane, mono(2-octyldodecyl) ether.
P–17–0350	7/6/2017	10/4/2017	Sasol Chemicals (USA) LLC.	(G) Oilfield surfactant	(S) Oxirane, 2-methyl-, polymer with oxirane, mono(2-decyltetradecyl) ether.
P–17–0351	7/6/2017	10/4/2017	Sasol Chemicals (USA) LLC.	(G) Oilfield surfactant	(S) Oxirane, 2-methyl-, polymer with oxirane, mono(2-dodecylhexadecyl) ether.
P–17–0352	7/6/2017	10/4/2017	Sasol Chemicals (USA) LLC.	(G) Oilfield surfactant	(S) Oxirane, 2-methyl-, polymer with oxirane, mono(2-tetradecyloctadecyl) ether.
P–17–0353	7/11/2017	10/9/2017	CBI	(G) Additive in resin manufacture	(G) Heteromonocycle, 2-[(bicarbomonocycle-2-substituted)alkyl]-.
P–17–0353	7/14/2017	10/12/2017	CBI	(G) Additive in resin manufacture	(G) Heteromonocycle, 2-[(bicarbomonocycle-2-substituted)alkyl]-.
P–17–0354	7/21/2017	10/19/2017	CBI	(G) Function as a solvent in electrolyte solution in batteries which will improve the performance of the batteries in consumer electronics and automotive applications.	(G) (substituted-dialkyl(c=1~7)silyl)alkanenitrile.
P–17–0356	7/14/2017	10/12/2017	Reichhold LLC 2	(S) Pultrusion	(G) Mono methacrylate terminated polyester, reaction products with diisocyanate and hydroxypropyl methacrylate.
P–17–0356	7/14/2017	10/12/2017	Reichhold LLC 2	(S) Filament winding	(G) Mono methacrylate terminated polyester, reaction products with diisocyanate and hydroxypropyl methacrylate.
P–17–0357	7/14/2017	10/12/2017	Reichhold LLC 2	(S) Intermediate base resin	(G) Monomethacrylate terminated polyester.
P–17–0358	7/25/2017	10/23/2017	CBI	(G) Component for tire	(G) Buta-1,3-diene reaction product with styrene and alkyl silyl substances.
P–17–0359	7/21/2017	10/19/2017	CBI	(G) Lubricant additive	(G) Zinc alkyl salicylate.
P–17–0361	7/21/2017	10/19/2017	Allnex USA Inc	(S) Dual Cure/Ultra violet (Uv) Cure Adhesion/Barrier Coating.	(G) Substituted heteromonocycle, polymer with diisocyanatoalkane and alkanediol, substituted heteromonocycle homopolymer ester with substituted alkyl acrylate-blocked.

TABLE 1—PMNS RECEIVED FROM JULY 3, 2017 TO JULY 31, 2017—Continued

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–17–0362 ...	7/26/2017	10/24/2017	CBI	(G) Industrial Flame Retardant	(G) Aliphatic phosphoric amide ester.
P–17–0364 ...	7/27/2017	10/25/2017	CBI	(S) Metal Coating	(G) Dicyloalkyl-alkane-di-isocyanate homopolymer, alkyl alcohol and polyalkyl glycol mono-alkyl-ether-blocked.
P–17–0364 ...	7/27/2017	10/25/2017	CBI	(S) Wood Coating	(G) Dicyloalkyl-alkane-di-isocyanate homopolymer, alkyl alcohol and polyalkyl glycol mono-alkyl-ether-blocked.
P–17–0364 ...	7/27/2017	10/25/2017	CBI	(S) Parquet Coating	(G) Dicyloalkyl-alkane-di-isocyanate homopolymer, alkyl aLCohol and polyalkyl glycol mono-alkyl-ether-blocked.
P–17–0364 ...	7/27/2017	10/25/2017	CBI	(S) Plastic Coating	(G) Dicyloalkyl-alkane-di-isocyanate homopolymer, alkyl alcohol and polyalkyl glycol mono-alkyl-ether-blocked.
P–17–0364 ...	7/27/2017	10/25/2017	CBI	(S) Furniture Coating	(G) Dicyloalkyl-alkane-di-isocyanate homopolymer, alkyl alcohol and polyalkyl glycol mono-alkyl-ether-blocked.

For the 30 NOCs received by EPA during this period, Table 2 provides the following information (to the extent that such information is not claimed as CBI): The EPA case number assigned to the NOC; the date the NOC was received by EPA; the projected date of commencement provided by the submitter in the NOC; and the chemical identity.

TABLE 2—NOCS RECEIVED FROM JULY 3, 2017 TO JULY 31, 2017

Case No.	Received date	Commencement date	Chemical
P–11–0088	7/6/2017	6/7/2017	(G) Polyfluoroalkyl phosphoric acid salt, aqueous solution.
P–11–0089	7/6/2017	6/7/2017	(G) Polyfluoroalkyl phosphoric acid salt, aqueous solution.
P–12–0070	7/7/2017	6/30/2017	(G) Fatty acids with butanamine.
P–12–0278	7/5/2017	6/5/2017	(S) Slack wax (petroleum), chloro.
P–12–0280	7/5/2017	6/5/2017	(S) Hexacosane, chloro derivs.
P–12–0280	7/5/2017	6/5/2017	(S) Octacosane, chloro derivs.
P–12–0281	7/5/2017	6/5/2017	(S) Alkanes, $C_{20–24}$, chloro.
P–12–0284	7/5/2017	6/5/2017	(S) Octadecane, chloro derivs.
P–12–0433	7/7/2017	6/2/2017	(S) Alkanes, $C_{18–20}$, chloro long chain chlorinated paraffin (lccp).
P–12–0453	7/7/2017	6/2/2017	(S) Alkanes, $C_{14–17}$, chloro(medium chain chlorinated paraffin) mccp.
P–12–0505	7/7/2017	6/2/2017	(S) Alkanes, $C_{22–30}$ chloro, (very long chain chlorinated paraffin) vlccp.
P–14–0043	7/25/2017	5/4/2017	(S) Poly[oxy(methyl-1,2-ethanediyl)], .alpha.-[methyl-2-[(phenylmethylene)amino]ethyl]-.omega.-[methyl-2-[(phenylmethylene)amino]ethoxy]-.
P–14–0148	7/20/2017	7/18/2017	(G) Hydroxy-functional siloxane.
P–14–0630	7/10/2017	6/23/2017	(S) Bismuth bromide iodide oxide.
P–15–0482	7/21/2017	7/14/2017	(G) Poly[oxy(methyl-alkyl)], alpha-phenyl-omega-hydroxy-, polyisobutylene derivs.
P–15–0706	7/27/2017	7/19/2017	(G) Trade name NCP polysiloxane resingeneric name mixture of aliphatic *N*-alkyl ureas containing substituted cyclohexyl and terminal alkoxysilane groups.
P–15–0707	7/28/2017	7/19/2017	(G) Trade name NCP polysiloxane resingeneric name mixture of aliphatic *N*-alkyl ureas containing aspartic ester and terminal alkoxysilane groups.
P–16–0046	7/5/2017	6/27/2017	(G) Aromatic derivative, polymer with alkyl diol, alkene and oxiranylalkyl-alkyl-alkyl ester.
P–16–0178	7/27/2017	7/3/2017	(S) Benzene, 1,3-diisocyanatomethyl-, reaction products with alcohols, $C_{11–14}$-iso-, C_{13}-rich and 1,3-benzenedimethanamine.
P–16–0231	7/7/2017	6/22/2017	(G) Polysiloxane with functional groups.
P–16–0315	7/17/2017	7/13/2017	(G) Alkyldiene, polymer, hydroxy terminated alkoxysilylalkylcarbamate.
P–16–0379	7/20/2017	7/14/2017	(S) Silane, 1,1′-(1,2-ethanediyl)bis[1,1-dichloro-1-methyl-], hydrolysis products with chloroethenyldimethylsilane.
P–16–0438	7/14/2017	7/7/2017	(S) 3-butenenitrile, 2-(acetyloxy).
P–16–0515	7/5/2017	6/29/2017	(G) Diamine substituted arylimidazole.
P–16–0596	7/21/2017	7/1/2017	(G) Alkenoic acid, reaction products with polyethylene glycol ether with hydroxyalkyl substituted alkane.
P–17–0154	7/27/2017	7/17/2017	(G) Carboxylic acid amine (1:1).
P–17–0170	7/18/2017	7/16/2017	(G) Alkanediol, 2,2-bis (substituted alkyl)-, polymer with substituted alkane, heteromonocycles, alkenoate.
P–17–0226	7/19/2017	7/11/2017	(S) Manganese(2+),bisoctahydro-1,4,7-trimethyl-1h-(1,4,7-triazonine-.kappa.n1,.kappa.n4,.kappa.n7)tri-.mu.-oxidi-hexafluorophosphate(1-)(1:2).
P–17–0227	7/12/2017	6/23/2017	(G) 2-propenoic acid, alkyl-, alkyl ester, polymer with alkyl 2-propenoate and alpha-(2-alkyl-1-oxo-2-propen-1-yl-omega-methoxypoly(oxy-1,2-alkanediyl), ester with alpha-2-propen-1-yl-omega-hydroxypoly(oxy-1,2-ethanediyl).

TABLE 2—NOCS RECEIVED FROM JULY 3, 2017 TO JULY 31, 2017—Continued

Case No.	Received date	Commencement date	Chemical
P–17–0255	7/19/2017	6/24/2017	(G) Carbomonocyclic dicarboxylic acid, polymer with carbomonocyclic dicarboxylic acid, alkanedioic acid, alkenedioic acid, substituted dioxoheteropolycyclic, substituted dioxo-heteropolycyclic, alkanedioic acid, alkoxylated alkylidene dicarbomonocycle and alkoxylated alkylidene dicarbomonocycle, ester.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: August 31, 2017.

Pamela Myrick,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2017–20727 Filed 9–26–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Issuance of Statement of Federal Financial Accounting Concepts (SFFAC) 8, Federal Financial Reporting

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules Of Procedure, as amended in October 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued Statement of Federal Financial Accounting Concepts (SFFAC) 8, *Federal Financial Reporting.*

The Statement is available on the FASAB Web site at *http://www.fasab.gov/accounting-standards/.* Copies can be obtained by contacting FASAB at (202) 512–7350.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy M. Payne, Executive Director, 441 G Street NW., Mailstop 6H19, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act, Pub. L. 92–463.

Dated: September 22, 2017.

Wendy M. Payne,

Executive Director.

[FR Doc. 2017–20675 Filed 9–26–17; 8:45 am]

BILLING CODE 1610–02–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 17–918]

Change in Filing Location for Commercial Overnight Documents FCC Warehouse Address Change

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: As part of our cost savings initiative, the FCC will close our current Warehouse/Mailroom at 9300 East Hampton Drive, Capitol Heights, MD 20743 at the end of September.

DATES: September 25, 2017.

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

FOR FURTHER INFORMATION CONTACT: John Zentner at *john.zentner@fcc.gov* (202) 418–0119 or Geraldine Taylor at *geraldine.taylor@fcc.gov* (202) 418–0305.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, DA 17–918, released September 21, 2017. The complete text of this document can be downloaded at *https://apps.fcc.gov/edocs_public/attachmatch/DA-17-918A1.pdf.*

Effective September 25, 2017, all documents, packages and equipment sent to FCC Headquarters via UPS, FedEx, Freight, or any overnight mail (other than United States Postal Service Express Mail), must be sent to our new Warehouse address: FCC, 9050 Junction Drive, Annapolis Junction, MD 20701.

Please note that this change has no effect on mail sent through the United States Postal Service (USPS). All USPS First Class Mail, Express Mail and Priority Mail should continue to be sent to FCC Headquarters at 445 12th Street SW., Washington, DC 20554 and will continue being processed through USPS.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–20708 Filed 9–26–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 17–911]

Opening of Second Filing Window for Eligible Full Power and Class A Television Stations

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces that the second filing window for eligible full power and Class A television stations to file applications for alternate channels or expanded facilities will be open from October 3, 2017 through November 2, 2017.

DATES: September 27, 2017.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, *Joyce.Bernstein@fcc.gov,* or Kevin Harding, *Kevin.Harding@fcc.gov,* Video Division, Media Bureau, Federal Communications Commission.

SUPPLEMENTARY INFORMATION: Auction 1000, which was conducted pursuant to Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, was completed on April 13, 2017, and the Commission initiated a transition period during which broadcast television stations that received new channel assignments in the April 13, 2017 Closing and Channel Reassignment Public Notice will be reauthorized and relicensed. The deadline for applications for construction permits consistent with the requirements of that Public Notice were due July 12, 2017. The first priority filing window, which limited eligibility to a discrete number of stations, closed on September 15, 2017.

The second filing window opens on Tuesday, October 3, 2017 and closes at 11:59 p.m. EDT on Thursday, November 2, 2017, and any broadcast television station that received a new channel reassignment in the incentive auction repacking process may file during the second window. Eligible stations may file applications for expanded facilities that qualify as a minor change under the Commission's rules, or for alternate channels which will be treated as major change applications under the

Commission's rules. Applicants must protect the construction permit facilities of stations assigned to new channels, whether those stations' applications have been granted or remain pending, the facilities specified in applications that were filed before the April 2013 freeze on applications proposing to extend a station's contour, and the facilities proposed in the first priority filing window, whether those station's applications have been granted or remain pending. Applications filed by Class A stations must also demonstrate that the proposal would not cause interference to a low power television or translator facility previously authorized or proposed. A station that files an application that is incomplete or defective will be afforded an opportunity to submit an amendment to correct any defects, and failure to correct will result in dismissal of the application.

Applications filed during the second filing window will be treated as filed on the last day of the window for purposes of determining mutual exclusivity. Stations with mutually exclusive applications will be notified and given a 90-day period to resolve their mutual exclusivity by proposing a technical solution or settlement in an amendment to their pending applications.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

[FR Doc. 2017–20656 Filed 9–26–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 17–906]

Disability Advisory Committee; Announcement of Next Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the date of the next meeting of the Commission's Disability Advisory Committee (Committee or DAC). The meeting is open to the public. During this meeting, members of the Committee will receive and discuss summaries of activities and recommendations from its subcommittees.

DATES: The Committee's next meeting will take place on Monday, October 16, 2017, from 9:00 a.m. to approximately 3:30 p.m. (EST).

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, in the Commission Meeting Room.

FOR FURTHER INFORMATION CONTACT: Elaine Gardner, Consumer and Governmental Affairs Bureau: 202–418–0581 (voice); email: *DAC@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Committee was established in December 2014 to make recommendations to the Commission on a wide array of disability matters within the jurisdiction of the Commission, and to facilitate the participation of people with disabilities in proceedings before the Commission. The Committee is organized under, and operated in accordance with, the provisions of the Federal Advisory Committee Act (FACA). The Committee held its first meeting on March 17, 2015.

At its October 16, 2017 meeting, the Committee is expected to receive and consider: Reports on the activities of its Video Programming Subcommittee; a report and recommendation from its Relay & Equipment Distribution Subcommittee regarding IP CTS quality metrics; a report and recommendation from its Technology Transitions Subcommittee regarding the technical and practical challenges of supporting compatibility of real-time text with refreshable Braille displays and similar assistive technologies; and a report and recommendation from its Emergency Communications Subcommittee regarding how to accelerate the integration of real time text by public safety answering points.

The Committee is also expected to receive presentations from Commission staff on matters of interest to the Committee. A limited amount of time may be available on the agenda for comments and inquiries from the public. The public may comment or ask questions of presenters via the email address *livequestions@fcc.gov.*

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. If making a request for an accommodation, please include a description of the accommodation you will need and tell us how to contact you if we need more information. Make your request as early as possible by sending an email to *fcc504@fcc.gov* or calling the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY). Last minute requests will be accepted, but may be impossible to fill. The meeting will be webcast with open captioning, at: *www.fcc.gov/live.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Federal Communications Commission.

Suzanne Singleton,

Chief, Disability Rights Office, Consumer and Governmental Affairs Bureau.

[FR Doc. 2017–20670 Filed 9–26–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Wednesday, September 27, 2017, to consider the following matters:

Summary Agenda:

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' Meetings.

Memorandum and resolution re: Final Rule Establishing Restrictions on Qualified Financial Contracts of Certain FDIC supervised Institutions; Revisions to the Definition of Qualifying Master Netting Agreement and Related Definitions.

Memorandum and resolution re: Designated Reserve Ratio for 2018.

Summary reports, status reports, reports of actions taken pursuant to authority delegated by the Board of Directors, and reports of the Office of Inspector General.

Discussion Agenda:

Update of Projected Deposit Insurance Fund Losses, Income, and Reserve Ratios for the Restoration Plan.

Memorandum and resolution re: Regulatory Capital Rule: Simplification to the Capital Rule Pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996.

The meeting will be held in the Board Room located on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, DC.

This Board meeting will be Webcast live via the Internet and subsequently made available on-demand

approximately one week after the event. Visit *http://fdic.windrosemedia.com* to view the event. If you need any technical assistance, please visit our Video Help page at: *https://www.fdic.gov/video.html.*

The FDIC will provide attendees with auxiliary aids (*e.g.,* sign language interpretation) required for this meeting. Those attendees needing such assistance should call 703–562–2404 (Voice) or 703–649–4354 (Video Phone) to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at 202–898–7043.

Dated: September 25, 2017.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2017–20790 Filed 9–25–17; 4:15 pm]

BILLING CODE P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012067–021.

Title: U.S. Supplemental Agreement to the HLC Agreement.

Parties: BBC Chartering Carriers GmbH & Co. KG and BBC Chartering & Logistics GmbH & Co. KG (acting as a single party); Hanssy Shipping Pte. Ltd.; and Industrial Maritime Carriers, L.L.C.

Filing Party: Wade S. Hooker, Attorney; 211 Central Park W; New York, NY 10024.

Synopsis: The amendment deletes Rickmers-Linie GmbH & Cie. KG as a party to the U.S. Supplemental Agreement and to delete NPC Projects A/S and Rickmers-Linie GmbH & Cie. KG as a joint party to the HLC Agreement.

By Order of the Federal Maritime Commission.

Dated: September 22, 2017.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2017–20685 Filed 9–26–17; 8:45 am]

BILLING CODE 6731–AA–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 October 11, 2017.

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. *Susan C. Patout, the Patout Family Voting Trust, the estate of William S. Patout III, and Susan C. Patout acting in her capacity as trustee of the trust and as executrix of the estate,* all of Franklin, Louisiana; to acquire and also retain shares of Jeanerette First National Bancorp, Inc., Jeanerette, Louisiana, and thereby join the existing Patout family group previously approved to own shares of Jeanerette First National Bancorp, Inc., which is the parent holding company of The First National Bank of Jeanerette, Jeanerette, Louisiana.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Arnold G. Leng Revocable Trust, Susan Leng Irrevocable Trust, and Arnold G. Leng, as trustee of both trusts,* all of Primghar, Iowa; *Steve Leng and Kathy Leng,* both of Hartley, Iowa; *Jean Triplett and Darryl Triplett,* both of Primghar, Iowa; *Mary Thomson and Jim Thomson,* both of Primghar, Iowa; *and Jan Westergard and Mark Westergard,* both of Omaha, Nebraska; to join the Leng Family Control Group and acquire voting shares of Capital Bancshares, Inc., and thereby indirectly acquire shares of Savings Bank, both in Primghar, Iowa.

Board of Governors of the Federal Reserve System, September 21, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–20600 Filed 9–26–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the mandatory Recordkeeping Requirements Associated with the Real Estate Lending Standards Regulation for State Member Banks (Reg H–5; OMB No. 7100–0261).

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

DATES: Comments must be submitted on or before November 27, 2017.

ADDRESSES: You may submit comments, identified by *Reg H–5,* by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW.) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Federal Reserve should modify the proposal prior to giving final approval.

Proposal to Approve Under OMB Delegated Authority the Extension for Three Years, Without Revision, of the Following Report

Report title: Recordkeeping Requirements Associated with the Real Estate Lending Standards Regulation for State Member Banks.

Agency form number: Reg H–5.

OMB control number: 7100–0261.

Frequency: Policy statement, annually; policy statement (de novo), annually; recordkeeping for loans with LTV's that exceed supervisory limits and maintaining a system of review, quarterly.

Respondents: State member banks.

Estimated number of respondents: 829.

Estimated average hours per response: Policy statement, 5 hours; policy statement (de novo), 20 hours; recordkeeping for loans with LTV's that exceed supervisory limits and maintaining a system of review, 5 hours.

Estimated annual burden hours: Policy statement, 4,145 hours; policy statement (de novo), 20 hours; recordkeeping for loans with LTV's that exceed supervisory limits and maintaining a system of review, 16,580 hours.

General Description of Report: State member banks must adopt and maintain a written real estate lending policy that is reviewed and approved by the bank's board of directors at least annually. Also, these banks must identify in their loan records loans in excess of the Board's supervisory loan-to-value (LTV) limits.

Legal authorization and confidentiality: The Board has determined that section 304 of FDICIA (12 U.S.C. 1828 (o)) authorizes the Federal Reserve to require the recordkeeping requirements associated with the Board's Regulation H (12 CFR 208.51). The obligation of state member banks to comply with the Reg H recordkeeping requirements is mandatory. Since the information is not collected by the Federal Reserve, no issue of confidentiality under the Freedom of Information Act (FOIA) normally arises. However, information gathered by the Federal Reserve during examinations of state member banks would be deemed exempt from FOIA disclosure by exemption 8 (5 U.S.C. 552(b)(8)). In addition, exemptions (b)(4) and (b)(6) of FOIA, (5 U.S.C. 552(b)(4) and (b)(6)) also may exempt from disclosure certain data (specifically, individual loans identified as in excess of supervisory LTV limits) collected in response to these requirements if gathered by the Federal Reserve, depending on the particular circumstances. These additional exemptions relate to confidential commercial and financial information and personal information, respectively. Applicability of these exemptions would be determined on a case-by-case basis.

Board of Governors of the Federal Reserve System, September 21, 2017.

Ann E. Misback

Secretary of the Board.

[FR Doc. 2017–20604 Filed 9–26–17; 8:45 am]

BILLING CODE 6210–01–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 October 12, 2017.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Catherine Rottinghaus,* Charles City, Iowa; *Janet Rydberg,* Des Moines, Iowa; *and Julie Woodhouse,* Carroll, Iowa; to each acquire voting shares of Community Grain Company, and thereby indirectly acquire voting shares of Iowa Savings Bank, both in Carroll, Iowa, and join the Hess Family Control Group previously approved on February 12, 2015.

2. *Susan A. Volkert,* individually, Montgomery, Illinois; to acquire voting shares of Montgomery Bancshares, Inc., and thereby indirectly acquire voting shares of Bank of Montgomery, both in Montgomery, Illinois.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Charese Yanney,* Sioux City, Iowa; to retain voting shares of Clarkson Management Company, and thereby indirectly retain voting shares of Clarkson Bank, both in Clarkson, Nebraska.

Board of Governors of the Federal Reserve System, September 22, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–20674 Filed 9–26–17; 8:45 am]

BILLING CODE 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 October 20, 2017.

A. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521. Comments can also be sent electronically to *Comments.applications@phil.frb.org:*

1. *Mid Penn Bancorp, Inc.,* Millersburg, Pennsylvania; to acquire The Scottdale Bank & Trust Company, Scottdale, Pennsylvania.

B. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *First Savings Financial Group, Inc.,* Clarksville, Indiana; to acquire Dearmin Bancorp, Inc., and thereby indirectly acquire The First National Bank of Odon, both in Odon, Indiana.

C. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Farmers & Merchants Bancorp,* Lodi, California; to acquire up to 54.45 percent of the voting shares of Bank of Rio Vista, Rio Vista, California.

Board of Governors of the Federal Reserve System, September 21, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–20601 Filed 9–26–17; 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 October 23, 2017.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *First Capital, Inc.,* Corydon, Indiana; to become a bank holding company through the conversion of its subsidiary, First Harrison Bank, Corydon, Indiana, to a state-chartered commercial bank.

B. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *First Choice Bancorp,* Cerritos, California; to become a bank holding company by acquiring First Choice Bank, Cerritos, California.

Board of Governors of the Federal Reserve System, September 22, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–20673 Filed 9–26–17; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2017–0084, NIOSH–298]

Draft—National Occupational Research Agenda for Construction

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Request for Comments.

SUMMARY: As steward of the National Occupational Research Agenda (NORA), the National Institute for Occupational Safety and Health of the Centers for Disease Control and Prevention announces the availability of the draft National Occupational Research Agenda for Construction for public comment. Written by the NORA Construction Sector Council, the Agenda identifies the most important occupational safety

and health research needs for the next decade, 2016–2026. A copy of the draft Agenda is available at *https://www.regulations.gov* (search Docket Number CDC–2017–0084).

DATES: Electronic or written comments must be received by November 27, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2017–0084 and docket number NIOSH–298, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226–1998.

Instructions: All submissions received must include the agency name and Docket Number [CDC–2017–0084; NIOSH–298]. All relevant comments received will be posted without change to *https://regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Emily Novicki (*NORACoordinator@cdc.gov*), National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Mailstop E–20, 1600 Clifton Road NE., Atlanta, GA 30329, phone (404) 498–2581 (not a toll free number).

SUPPLEMENTARY INFORMATION: The National Occupational Research Agenda (NORA) is a partnership program created to stimulate innovative research and improved workplace practices. The national agenda is developed and implemented through the NORA sector and cross-sector councils. Each council develops and maintains an agenda for its sector or cross-sector.

The National Occupational Research Agenda for Construction is intended to identify the research, information, and actions most urgently needed to prevent occupational injuries and illnesses in the construction sector. The National Occupational Research Agenda for Construction provides a vehicle for industry stakeholders to describe the most relevant issues, gaps, and safety and health needs for the sector. Each NORA research agenda is meant to guide or promote high priority research efforts on a national level, conducted by various entities, including: Government, higher education, and the private sector.

The first National Occupational Research Agenda for Construction was published in 2008 for the second decade of NORA (2006–2016). This draft is an updated agenda for the third decade of NORA (2016–2026). The revised agenda was developed considering new information about injuries and illnesses, the state of the science, and the probability that new information and approaches will make a difference. As the steward of the NORA process, NIOSH invites comments on the draft National Occupational Research Agenda for Construction. A copy of the draft Agenda is available at *https://www.regulations.gov* (see Docket Number CDC–2017–0084, NIOSH–298).

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2017–20605 Filed 9–26–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB No.: 0970–0004]

Proposed Information Collection Activity; Comment Request

Title: Annual Statistical Report on Children in Foster Homes and Children in Families Receiving Payment in Excess of the Poverty Income Level From a State Program Funded Under Part A of Title IV of the Social Security Act

Description: The Department of Health and Human Services is required to collect these data under section 1124 of Title I of the Elementary and Secondary Education Act of 1965, as amended by Public Law 114–95. The data are used by the U.S. Department of Education for allocation of funds for programs to aid disadvantaged elementary and secondary students. Respondents include various components of State Human Service agencies.

Respondents: The 52 respondents include the 50 States, the District of Columbia, and Puerto Rico.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Annual Statistical Report on Children in Foster Homes and Children Receiving Payments in Excess of the Poverty Level From a State Program Funded Under Part A of Title IV of the Social Security Act	52	1	264.35	13,746.20

Estimated Total Annual Burden Hours: 13,746.20.

In compliance with the requirements of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chap 35), the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., 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.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2017–20634 Filed 9–26–17; 8:45 am]

BILLING CODE 4184–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Home Visiting Career Trajectories.

OMB No.: New Collection.

Description: The Administration for Children and Families (ACF) at the U.S. Department of Health and Human Services (HHS), in collaboration with the Health Resources and Services Administration (HRSA), seeks approval to collect information from home visiting program staff in programs receiving funding through the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program as part of the Home Visiting Career Trajectories study. ACF is interested in collecting information about the state of the home visiting workforce, career trajectories of home visitors, and strategies for building a pipeline of qualified home visitors and supervisors.

Through the proposed information collection, the researchers will obtain information about the characteristics, qualifications, and career trajectories of home visiting staff. The study will include a national survey of the MIECHV workforce, interviews with training and technical assistance experts, and site visits to home visiting programs in eight states that vary in terms of geography, population demographics, labor markets, and home visiting program offerings.

Respondents: Home visiting program managers, supervisors, home visitors, and training and technical assistance experts.

ANNUAL BURDEN ESTIMATES

Instrument	Total/annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Home visitor and supervisor survey	3,000	1	0.38	1,140
Program manager survey	700	1	0.33	231
Focus group moderator's guide	480	1	2	960
Self-administered questionnaire for focus group participants	480	1	0.03	14
Key informant interview guide—management and supervisory staff	80	1	1.5	120
Key informant interview guide—training and technical assistance experts	30	1	1.5	45

Estimated Total Annual Burden Hours: 2,510.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW., Washington, DC 20201, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Mary Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2017–20676 Filed 9–26–17; 8:45 am]

BILLING CODE 4184–74–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB No.: 0970–0351]

Submission for OMB Review; Comment Request; State Plan for Grants to States for Refugee Resettlement

Description: A State Plan is required by 8 U.S.C. 1522 of the Immigration and Nationality Act (the Act) [Title IV, Sec. 412 of the Act] for each State agency requesting Federal funding for refugee resettlement under 8 U.S.C. 524 [Title IV, Sec. 414 of the Act], including Refugee Cash and Medical Assistance, Unaccompanied Minor Refugee Program, Refugee Social Services, and Targeted Assistance program funding. The State Plan is a comprehensive narrative description of the nature and scope of a States programs and provides assurances that the programs will be administered in conformity with the specific requirements stipulated in 45 CFR 400.4–400.9. The State Plan must include all applicable State procedures, designations, and certifications for each requirement as well as supporting documentation.

The plan assures ORR that the State is capable of administering refugee assistance and coordinating employment and other social services for eligible caseloads in conformity with specific requirements. ORR proposes organizational and formatting changes to make the checklist more accessible to the user. Additionally, ORR proposes streamlining language to make the checklist easier to read. These proposed changes include technical corrections to regulatory citations. ORR proposes removing a number of requirements, including an assurance regarding the inclusion of refugee resettlement programs in pandemic influenza emergency plans and a basic description of providers conducting medical screening. ORR proposes to remove a requirement that all states describe a plan for the care, supervision of, and legal responsibility for, refugee children who become unaccompanied in the state. ORR also proposes to remove requirements specific to the Cuban/Haitian entrants and replace them with an assurance that states will provide all ORR-eligible populations with the

benefits and services described in the State Plan.

ORR proposes adding language to clarify the following requirements related to the Unaccompanied Refugee Minors (URM) program: State policy on education and training vouchers, medical coverage, the location of URM providers, monitoring procedures, the process for establishing legal responsibility, and information about sub-contractors.

States must use a pre-print format for required components of State Plans for ORR-funded refugee resettlement services and benefits prepared by the Office of Refugee Resettlement (ORR) of the Administration for Children and Families (ACF).

States must submit by August 15 each year new or amended State Plan for the next Federal fiscal year. For previously approved plan, States must certify no later than October 31 each year that the approved State plan is current and continues in effect.

Respondents: State Agencies, the District of Columbia, Replacement Designees under 45 CFR 400.301(c), and Wilson-Fish Grantees (State 2 Agencies) administering or supervising the administration of programs under Title IV of the Act.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Title IV State Plan	57	1	15	855

Estimated Total Annual Burden Hours: 855.

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201. Attention Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*, Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2017–20649 Filed 9–26–17; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Collection; Public Comment Request; Revision of a Currently Approved Information Collection (ICR–Rev) (OMB Approval Number 0985–0004); Title III Supplemental Form to the Financial Status Report (SF–425)

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing that the proposed collection of information listed above has been submitted to the Office of Management and Budget (OMB) for review and clearance as required under section 506(c)(2)(A) of the Paperwork Reduction Act of 1995 (the PRA). This 30-day notice requests comments on the information collection requirements related to the proposed revision of an existing data collection regarding the information collection requirements in the Title III Supplemental Form to the Financial Status Report for all ACL/AoA Title III Grantees.

DATES: Submit written or electronic comments on the collection of information by October 27, 2017.

ADDRESSES: Submit written comments on the collection of information: by fax at 202.395.5806 or by email to *OIRA_submission@omb.eop.gov,* Attn: OMB Desk Officer for ACL.

FOR FURTHER INFORMATION CONTACT: Jesse Moore at (202) 795–7578 or *Jesse.Moore@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with Section 44 U.S.C. 3507, ACL has submitted the following proposed collection of information to OMB for review and clearance. ACL is requesting approval for three years of an extension of the currently approved data collection with modifications.

The Title III Supplemental Form to the Financial Status Report (SF–425) is used by ACL/AoA for all grantees to obtain a more detailed understanding of how projects funded under Title III of the Older Americans Act (OAA) of 1965, as amended, are being administered, and to ensure compliance with legislative requirements, pertinent Federal regulations and other applicable instructions and guidelines issued by the ACL. The level of data detail necessary is not available through the SF–425 form. The Supplemental Form provides necessary details on non-federal required match, administration expenditures, Older Relative Caregivers expenditures, and Long Term Care Ombudsman expenditures.

In addition to renewing OMB approval of this data collection, minor changes are being proposed to it to reflect changes in statutory language that occurred as a result of the 2016 reauthorization of the OAA. Specifically, the term ''Grandparents Only'' has been changed to ''Older Relative Caregivers,'' the new term in the OAA that describes this population of eligible service recipients. Similarly, the accompanying instructions for completing the Title III Supplemental Form to the Financial Status Report were also modified to include this same language. References in the Code of Federal Regulation (CFR) have been updated addressing financial reporting requirements and non-substantive technical edits have been made to the instructions.

Comments in Response to the 60 Day Federal Register Notice

A 60-day notice was published in the **Federal Register** in Vol. 82, No. 117, pg. 28068 on June 20, 2017. No comments were received.

Annual Burden Estimates

ACL estimates the burden of this collection of information as follows: 56 State Units on Aging (SUA) respond semi-annually which have an average estimated burden of 2 hours per grantee for a total of 112 hours per submission.

The proposed data collection tool may be found on the ACL Web site for review at: *https://www.acl.gov/about-acl/public-input.*

Respondent/data collection activity	Number of respondents	Responses per respondent	Hours per response	Total annual burden hours
Title III Supplemental Form to the Financial Status Report	56	2/yr	2	224
Total	56	2/yr	2	224

Dated: September 19, 2017.

Mary Lazare,

Principal Deputy Administrator.

[FR Doc. 2017–20666 Filed 9–26–17; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0001]

Advisory Committee; National Mammography Quality Assurance Advisory Committee; Renewal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; renewal of advisory committee.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of the National Mammography Quality Assurance Advisory Committee by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the National Mammography Quality Assurance Advisory Committee for an additional 2 years beyond the charter expiration date. The new charter will be in effect until July 7, 2019.

DATES: Authority for the National Mammography Quality Assurance Advisory Committee will expire on July 7, 2017, unless the Commissioner formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Sara Anderson, Office of Device Evaluation, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G616, Silver Spring, MD 20993–0002, 301–796–7047, *Sara.Anderson@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 41 CFR 102–3.65 and approval by the Department of Health and Human Services (HHS) pursuant to 45 CFR part 11 and by the General Services Administration, FDA is announcing the renewal of the National Mammography Quality Assurance Advisory Committee (Committee). The Committee is a non-discretionary Federal advisory committee established to provide advice to the Commissioner. The HHS Secretary and, by delegation, the Assistant Secretary for the Office of Public Health and Science and the Commissioner are charged with the administration of the Federal Food, Drug, and Cosmetic Act and various provisions of the Public Health Service Act. The Mammography Quality Standards Act of 1992 amends the Public Health Service Act to establish national uniform quality and safety standards for mammography facilities. The Committee advises the HHS Secretary and, by delegation, the Commissioner in discharging their responsibilities with respect to establishing a mammography facilities certification program. The Committee shall advise FDA on:

- Developing appropriate quality standards and regulations for mammography facilities;
- Developing appropriate standards and regulations for bodies accrediting mammography facilities under this program;
- Developing regulations with respect to sanctions;
- Developing procedures for monitoring compliance with standards;
- Establishing a mechanism to investigate consumer complaints;
- Reporting new developments concerning breast imaging which should be considered in the oversight of mammography facilities;
- Determining whether there exists a shortage of mammography facilities in rural and health professional shortage areas and determining the effects of personnel on access to the services of such facilities in such areas;
- Determining whether there will exist a sufficient number of medical physicists after October 1, 1999; and
- Determining the costs and benefits of compliance with these requirements.

The Committee shall consist of a core of 15 members, including the Chair. Members and the Chair are selected by the Commissioner or designee from among physicians, practitioners, and other health professionals, whose clinical practice, research specialization, or professional expertise includes a significant focus on mammography. Members will be invited to serve for overlapping terms of up to 4 years. Almost all non-Federal members of this Committee serve as Special Government Employees. The core of voting members shall include at least four individuals from among national breast cancer or consumer health organizations with expertise in mammography, and at least two practicing physicians who provide mammography services. In addition to the voting members, the Committee shall include two nonvoting industry representatives who have expertise in mammography equipment. The Committee may include one technically qualified member, selected by the Commissioner or designee, who is identified with consumer interests.

Further information regarding the most recent charter and other information can be found at *https://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/Radiation-EmittingProducts/NationalMammographyQualityAssuranceAdvisoryCommittee/ucm520365.htm* or by contacting the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). In light of the fact that no change has been made to the Committee name or description of duties, no amendment will be made to 21 CFR 14.100.

This document is issued under the Federal Advisory Committee Act (5 U.S.C. app.). For general information related to FDA advisory committees,

please visit us at *https://www.fda.gov/AdvisoryCommittees/default.htm.*

Dated: September 22, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–20683 Filed 9–26–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Ryan White HIV/AIDS Program, Part F AIDS Education and Training Centers

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of non-competitive, HRSA-initiated, Secretary's Minority AIDS Initiative Fund (SMAIF) supplemental funding award: Fiscal Year (FY) 2017 Ryan White HIV/AIDS Program (RWHAP) AIDS Education and Training Centers (AETC) to the National Clinician Consultation Center (NCCC) at the University of California, San Francisco.

SUMMARY: This non-competitive supplemental funding award will provide a phone consultation line staffed by clinicians dedicated to providing technical support and real-time clinical consultation to health professionals who treat people living with HIV (PLWH) who are coinfected with the hepatitis C virus (HCV).

FOR FURTHER INFORMATION CONTACT: Ms. Sherrillyn Crooks, Chief, HIV Education Branch, HIV/AIDS Bureau, Health Resources and Services Administration, 5600 Fishers Lane, 09N09, Rockville, MD 20857, Phone: (301) 443–7662, Email: *scrooks@hrsa.gov.*

SUPPLEMENTARY INFORMATION:

Intended Recipient of the Award: The University of California, San Francisco.

Amount of Non-Competitive Award: $200,000.

Period of Funding: July 1, 2017, through June 30, 2018.

CFDA Number: 93.145.

Authority: The Consolidated Appropriations Act, 2017 (Pub. L. 115–31), Division H, Title II.

Justification

HRSA's SMAIF HIV/HCV initiatives seek to improve the prevention, screening, care, treatment, and cure of HCV in areas affected by HIV/HCV coinfection, particularly in disproportionately affected low-income, uninsured and underserved racial and ethnic minority populations in the United States. Despite the fact that HIV treatment outcomes continue to improve among PLWH, HIV/HCV coinfection remains a major concern with approximately one quarter of PLWH also coinfected with HCV.

The University of California, San Francisco's NCCC is funded under the RWHAP AETC Program, which comprises a network of three national centers and eight regional centers (with more than 130 local affiliated sites) that conduct targeted, multidisciplinary education, training, and technical assistance to health care providers who treat PLWH. The NCCC provides nationwide expert technical support, and clinical consultation services to health professionals who treat PLWH. Supplemental funding will enable the NCCC to leverage its existing infrastructure to add an HIV/HCV phone consultation line to deliver immediate clinical consultation and education services to RWHAP clinical providers funded through the SMAIF HIV/HCV initiatives and to clinical providers nationwide. Clinical providers will receive guidance based on up-to-date clinical HCV guidelines. Subject to the availability of funds and the recipient's satisfactory performance, up to $200,000 will also be awarded in FY18 (budget period July 1, 2018 through June 30, 2019) and FY19 (budget period July 1, 2019 through June 30, 2020).

Denial of this request will prevent RWHAP clinical providers from achieving the goals of the SMAIF HIV/HCV initiative and from gaining critical and immediate access to a national network of HIV/HCV resources, including clinical experts who would provide education and technical assistance that meets the unique needs of this initiative.

Dated: September 14, 2017.

George Sigounas,

Administrator.

[FR Doc. 2017–20687 Filed 9–26–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Request for Comments on the Draft Department Strategic Plan for FY 2018–2022

AGENCY: Office of the Secretary, Office of the Assistant Secretary for Planning and Evaluation, Health and Human Services.

ACTION: Request for Comments on the Draft Strategic Plan FY 2018–2022.

SUMMARY: The Department of Health and Human Services (HHS) is seeking public comment on its draft Strategic Plan for Fiscal Years 2018–2022.

DATES: Submit comments on or before October 26, 2017.

ADDRESSES: Written comments can be provided by email, fax or U.S. mail.

Email: HHSPlan@hhs.gov.

Fax: (202) 690–5882.

Mail: U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, Strategic Planning Team, Attn: Strategic Plan Comments, 200 Independence Avenue SW., Room 415F, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Sarah Potter, (202) 260–6518.

SUPPLEMENTARY INFORMATION: The draft Department of Health and Human Services Strategic Plan FY 2018–2022 is provided as part of the strategic planning process under the Government Performance and Results Modernization Act of 2010 (GPRA–MA) (Pub. L. 111–352) to ensure that Agency stakeholders are given an opportunity to comment on this plan.

This document articulates how the Department will achieve its mission through five strategic goals. These five strategic goals are (1) Reform, Strengthen, and Modernize the Nation's Health Care System, (2) Protect the Health of Americans Where They Live, Learn, Work, and Play, (3) Strengthen the Economic and Social Well-Being of Americans across the Lifespan, (4) Foster Sound, Sustained Advances in Sciences, and (5) Promote Effective and Efficient Management and Stewardship. Each goal is supported by objectives and strategies.

The strategic planning consultation process is an opportunity for the Department to refine and strengthen the HHS Strategic Plan FY 2018–2022. The Department has made significant progress in its strategic and performance planning efforts. As we build on this progress we look forward to receiving your comments by October 26, 2017. The text of the draft HHS Strategic Plan FY 2018–2022 is available through the Department of Health and Human Services Web site at *https://www.hhs.gov/draft-strategic-plan.*

For comparison purposes, the current HHS Strategic Plan FY 2014–2018 can be viewed at *https://www.hhs.gov/about/strategic-plan/index.html.*

For those who may not have Internet access, a hard copy can be requested from the contact point, Sarah Potter, (202) 260–6518.

Dated: September 20, 2017.

John R. Graham,

Acting Assistant Secretary for Planning and Evaluation.

[FR Doc. 2017–20613 Filed 9–26–17; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the 2018 Physical Activity Guidelines Advisory Committee

AGENCY: Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act (FACA), the U.S. Department of Health and Human Services (HHS) is hereby giving notice that the fifth and final meeting of the 2018 Physical Activity Guidelines Advisory Committee (2018 PAGAC or Committee) will be held. This meeting will be open to the public via videocast.

DATES: The meeting will be held on October 17, 2017, from 1:00 p.m. E.D.T. to 4:30 p.m. E.D.T., on October 18, 2017, from 8:00 a.m. to 11:15 a.m. E.D.T., on October 19, 2017, from 8:00 a.m. to 11:15 a.m. E.D.T., and on October 20, 2017, from 8:00 a.m. E.D.T. to 11:15 a.m. E.D.T.

ADDRESSES: The meeting will be accessible by videocast on the Internet.

FOR FURTHER INFORMATION CONTACT: Designated Federal Officer, 2018 Physical Activity Guidelines Advisory Committee, Richard D. Olson, M.D., M.P.H. and/or Alternate Designated Federal Officer, Katrina L. Piercy, Ph.D., R.D., Office of Disease Prevention and Health Promotion (ODPHP), Office of the Assistant Secretary for Health (OASH), HHS; 1101 Wootton Parkway, Suite LL–100; Rockville, MD 20852; Telephone: (240) 453–8280. Additional information is available at *www.health.gov/paguidelines.*

SUPPLEMENTARY INFORMATION: The inaugural *Physical Activity Guidelines for Americans* (PAG), issued in 2008, represents the first comprehensive guidelines on physical activity issued by the federal government. The PAG serves as the benchmark and primary, authoritative voice of the federal government for providing science-based guidance on physical activity, fitness, and health for Americans. The second edition of the PAG will build upon the first edition and provide a foundation for federal recommendations and education for physical activity programs for Americans, including those at risk for chronic disease.

Description of the Committee's Mission and Composition: The 2018 PAGAC was established to perform a single, time-limited task. The work of the Committee is solely advisory in nature. The Committee is charged to examine the current PAG, take into consideration new scientific evidence and current resource documents, and develop a scientific report to the Secretary of HHS that outlines its science-based advice and recommendations for development of the second edition of the PAG. The Committee consists of 17 members, who were appointed by the Secretary in June 2016. Information on the Committee membership is available at *www.health.gov/paguidelines/second-edition/committee/.*

It has been planned for the Committee to hold five meetings to accomplish its mission. The first meeting was held in July 2016, the second meeting was held in October 2016, the third meeting was held in March 2017, the fourth meeting was held in July 2017, and the fifth meeting will be held in October 2017. It is stipulated in the charter that the Committee will be terminated after delivery of its report to the Secretary of HHS or two years from the date the charter was filed, whichever comes first.

Purpose of the Meeting: In accordance with FACA and to promote transparency of the process, deliberations of the Committee will occur in a public forum. At this meeting, the Committee will conclude its deliberations.

Meeting Agenda: The meeting will include subcommittee reports on the remainder of their literature review questions, discussion of overarching issues, and discussion of plans for finalizing the Committee's report to the Secretary.

Meeting Registration: The meeting is open to the public via videocast; pre-registration is required. To register, please visit *www.health.gov/paguidelines.* After registration, individuals will receive videocast access information via email. To request a special accommodation, please email *jennifer.gillissen@kauffmaninc.com.*

Public Comments and Meeting Documents: Written comments from the public to the Committee will continue to be accepted until November 10, 2017; they can be submitted and/or viewed at *www.health.gov/paguidelines/pcd/.* Documents pertaining to Committee deliberations, including meeting agendas and summaries are available on *www.health.gov/paguidelines.* Meeting information will continue to be accessible online and upon request at the Office of Disease Prevention and Health Promotion, OASH/HHS; 1101 Wootton Parkway, Suite LL100 Tower Building; Rockville, MD 20852; Telephone: (240) 453–8280; Fax: (240) 453–8281.

Dated: September 21, 2017.

Don Wright,

Deputy Assistant Secretary for Health (Deputy Prevention and Health Promotion).

[FR Doc. 2017–20607 Filed 9–26–17; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Secretary's Advisory Committee on Human Research Protections

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a) of the Federal Advisory Committee Act, U.S.C. Appendix 2, notice is hereby given that the Secretary's Advisory Committee on Human Research Protections (SACHRP) will hold a meeting that will be open to the public. Information about SACHRP and the full meeting agenda will be posted on the SACHRP Web site at: *http://www.dhhs.gov/ohrp/sachrp-committee/meetings/index.html.*

DATES: The meeting will be held on Tuesday, October 17, 2017, from 8:30 a.m. until 5:00 p.m., and Wednesday, October 18, 2017, from 8:30 a.m. until 4:00 p.m.

ADDRESSES: Fishers Lane Conference Center, Terrace Level, 5635 Fishers Lane, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Julia Gorey, J.D., Executive Director, SACHRP; U.S. Department of Health and Human Services, 1101 Wootton Parkway, Suite 200, Rockville, Maryland 20852; telephone: 240–453–8141; fax: 240–453–6909; email address: *SACHRP@hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, SACHRP was established to provide expert advice and recommendations to the Secretary of Health and Human Services, through the Assistant Secretary for Health, on issues and topics pertaining to or associated with the protection of human research subjects.

The Subpart A Subcommittee (SAS) was established by SACHRP in October 2006 and is charged with developing recommendations for consideration by SACHRP regarding the application of subpart A of 45 CFR part 46 in the current research environment.

The Subcommittee on Harmonization (SOH) was established by SACHRP at its July 2009 meeting and charged with identifying and prioritizing areas in which regulations and/or guidelines for human subjects research adopted by various agencies or offices within HHS would benefit from harmonization, consistency, clarity, simplification and/or coordination.

The SACHRP meeting will open to the public at 8:30 a.m., on Tuesday, October 17, 2017, followed by opening remarks from Dr. Jerry Menikoff, Director, Office for Human Research Protections (OHRP) and Dr. Stephen Rosenfeld, SACHRP Chair.

The SAS will present their recommendations regarding the revised Common Rule's (*https://www.gpo.gov/fdsys/pkg/FR-2017-01-19/html/2017-01058.htm*) expedited review requirements, followed by a discussion of the meaning of ''context'' when considering requirement for single IRB review. This will be followed by a discussion of SOH recommendations on the revised Common Rule's HIPAA exemption, section 104(d)(4)(iii), and a panel discussion with a representative of the Office for Civil Rights. The day will conclude with a presentation by OHRP staff on a new public outreach Web site, *About Participation.* The Tuesday meeting will adjourn at approximately 5:00 p.m.

The Wednesday, October 18, meeting will begin at 8:30 a.m. with a presentation and discussion led by FDA staff on a recent FDA experience with IRB review under 21 CFR 50.54, and the lessons learned. Time is allotted for review of the previous day's recommendations. The meeting will adjourn at approximately 4:00 p.m., October 18, 2017.

Time for public comment sessions will be allotted both days. On-site registration is required for participation in the live public comment session. Note that public comment must be relevant to issues currently being addressed by the SACHRP. Individuals submitting written statements as public comment should email or fax their comments to SACHRP at *SACHRP@hhs.gov* at least five business days prior to the meeting.

Public attendance at the meeting is limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify one of the designated SACHRP points of contact at the address/phone number listed above at least one week prior to the meeting.

Dated: September 21, 2017.

Julia G. Gorey,

Executive Director, Secretary's Advisory Committee on Human Research Protections.

[FR Doc. 2017–20651 Filed 9–26–17; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment: 60 Day Notice for Extension of Fast Track Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery: IHS Customer Service Satisfaction and Similar Surveys

AGENCY: Indian Health Service, HHS.

ACTION: Notice and request for comments. Request for extension of approval.

SUMMARY: In compliance the Paperwork Reduction Act of 1995, the Indian Health Service (IHS) invites the general public to take this opportunity to comment on the information collection Office of Management and Budget (OMB) Control Number 0917–0036, ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' for approval under the Paperwork Reduction Act. 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 the Office of Management and Budget (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 IHS_FRDOC_0001-[insert number]).

DATES: Consideration will be given to all comments received by November 27, 2017.

For Comments: Submit comments to Evonne Bennett-Barnes by one of the following methods:

- *Mail:* Evonne Bennett-Barnes, Information Collection Clearance Officer, Indian Health Service, 5600 Fishers Lane, Rockville, MD 20857.
- *Phone:* 301–443–4750.
- *Email: Evonne.Bennett-Barnes@ihs.gov.*
- *Fax:* 301–594–0899.

Comments submitted in response to this notice will be made available to the public by publishing them in the 30 day **Federal Register** notice for this information collection. For this reason, please do not include information of a confidential nature, such as sensitive personal information or proprietary information. If comments are submitted via email, the 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: To request additional information, please contact Evonne Bennett-Barnes, *Evonne.Bennett-Barnes@ihs.gov* or 301–443–4750.

SUPPLEMENTARY INFORMATION: The IHS is submitting the proposed information collection to OMB for review, as required by section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995. This notice is soliciting comments from members of the public and affected agencies as required by 44 U.S.C. 3506(c)(2)(A) concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques of other forms of information technology, *e.g.,* permitting electronic submission of responses.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery: IHS Customer Service Satisfaction and Similar Surveys.

Type of Information Collection Request: Three year extension approval of this information collection.

OMB Control Number: 0917–0036.

Abstract: The proposed information collection activity provides a means to garner qualitative customer and

stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. Qualitative feedback is information that provides useful insights on perceptions and opinions, but is not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. 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 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 qualitative information; and
- 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 qualitative information will not be used for quantitative 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 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: Extension of approval for a collection of information.

Type of Review: Extension.

Affected Public: Individuals and households, businesses and organizations, and Tribal governments.

Estimated Number of Respondents: 105,000.

Below are projected annual average estimates for the next three years:

Average Expected Annual Number of activities: 100.

Average number of Respondents per Activity: 1050.

Annual responses: 105,000.

Frequency of Response: Once per request.

Average minutes per response: 10.

Burden hours: 17,500.

There are no direct costs to respondents to report.

All written comments will be available for public inspection on *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 OMB control number.

Comment Due Date: Your comments regarding this information collection are best assured of having full effect if received within 60 days of the date of this publication.

Dated: August 25, 2017.

Chris Buchanan,

Assistant Surgeon General, Deputy Director, Indian Health Service.

[FR Doc. 2017–20606 Filed 9–26–17; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Neurodevelopment, Synaptic Plasticity and Neurodegeneration.

Date: October 16–17, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Washington, DC Downtown, 1199 Vermont Ave. NW., Washington, DC 20005.

Contact Person: Mary Schueler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7846, Bethesda, MD 20892, 301–451–0996, *marygs@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Shared Instrumentation Grants for Confocal Imaging and Microscopy.

Date: October 16–17, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: Jonathan Arias, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, 301–435–2406, *ariasj@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Chronic Dysfunction and Integrative Neurodegeneration Study Section.
Date: October 16–17, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Wyndham Grand Chicago Riverfront, 71 East Wacker Drive, Chicago, IL 60601.
Contact Person: Alexei Kondratyev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–435–1785, *kondratyevad@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Metabolism and Reproductive Sciences.
Date: October 16, 2017.
Time: 2:00 p.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Clara M. Cheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, 301–435–1041, *chengc@csr.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Sensorimotor Integration Study Section.
Date: October 17, 2017.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Washington Plaza Hotel, 10 Thomas Circle NW., Washington, DC 20005.
Contact Person: John Bishop, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408–9664, *bishopj@csr.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Somatosensory and Chemosensory Systems Study Section.
Date: October 17, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Washington Plaza Hotel, 10 Thomas Circle NW., Washington, DC 20005.
Contact Person: M. Catherine Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, 301–435–1766, *bennettc3@csr.nih.gov*.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Biochemistry and Biophysics of Membranes Study Section.
Date: October 17–18, 2017.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Beacon Hotel and Corporate Quarters, 1615 Rhode Island Avenue NW., Washington, DC 20036.
Contact Person: Nuria E. Assa-Munt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892, (301) 451–1323, *assamunu@csr.nih.gov*.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Instrumentation and Systems Development Study Section.
Date: October 17–18, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.
Contact Person: Michael L. Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301–451–0132, *bloomm2@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–17–057/058 Global Infectious Disease Research Training/Planning.
Date: October 17, 2017.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Tamara Lyn McNealy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, Bethesda, MD 20747, *tamara.mcnealy@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Mentored Training in Comparative and Veterinary Medicine.
Date: October 17, 2017.
Time: 10:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Raj K. Krishnaraju, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, Bethesda, MD 20892, 301–435–1047, *kkrishna@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Methodology and Measurement in the Behavioral and Social Sciences.
Date: October 17, 2017.
Time: 11:00 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, 301–594–3163, *champoum@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Infectious Diseases.
Date: October 17, 2017.
Time: 12:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20814 (Telephone Conference Call).
Contact Person: Neerja Kaushik-Basu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, 301–435–2306, *kaushikbasun@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Area: Immunology.
Date: October 17, 2017.
Time: 12:30 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Liying Guo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4016F, Bethesda, MD 20892, 301–435–0908, *lguo@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 22, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–20697 Filed 9–26–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review

Group; Modeling and Analysis of Biological Systems Study Section.
Date: October 20, 2017.
Time: 8:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.
Contact Person: Craig Giroux, Ph.D., Scientific Review Officer, BST IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, Bethesda, MD 20892, 301–435–2204, *girouxcn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Microbiome and Related Sciences.
Date: October 20, 2017.
Time: 10:30 a.m. to 1:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Renaissance Washington DC, Dupont Circle, 1143 New Hampshire Avenue NW., Washington, DC 20037.
Contact Person: Aiping Zhao, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, MSC 7818, Bethesda, MD 20892–7818, (301) 435–0682, *zhaoa2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Immune Mechanism Review.
Date: October 20, 2017.
Time: 11:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.
Contact Person: Alok Mulky, Ph.D., Scientific Review Officer, Center for Scientific Review (CSR), National Institutes of Health (NIH), 6701 Rockledge Dr, Room 4203, Bethesda, MD 20817, (301) 435–3566, *alok.mulky@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Perception and Cognition Research to Inform Cancer Image Interpretation.
Date: October 20, 2017.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Catamaran Resort, 3999 Mission Boulevard, San Diego, CA 92109.
Contact Person: Andrea B Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, (301) 455–1761, *kellya2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Collaborative Applications: Child Psychopathology.
Date: October 20, 2017.
Time: 2:00 p.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Gaylord National Resort and Convention Center, 201 Waterfront Street, National Harbor, MD 20745.
Contact Person: Jane A. Doussard-Roosevelt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435–4445, *doussarj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR16–216: Outcome Measures for Use in Treatment Trials for Individuals with IDD.
Date: October 20, 2017.
Time: 3:00 p.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Gaylord National Resort and Convention Center, 201 Waterfront Street, National Harbor, MD 20745.
Contact Person: Jane A. Doussard-Roosevelt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435–4445, *doussarj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: BTSS and SAT.
Date: October 20, 2017.
Time: 12:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Guo Feng Xu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–237–9870, *xuguofen@csr.nih.gov.*

Name of Committee: Vascular and Hematology Integrated Review Group; Molecular and Cellular Hematology Study Section.
Date: October 23–24, 2017.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.
Contact Person: Luis Espinoza, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6183, MSC 7804, Bethesda, MD 20892, 301–495–1213, *espinozala@mail.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Bacterial Pathogenesis Study Section.
Date: October 23, 2017.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Handlery Union Square Hotel, 351 Geary Street, San Francisco, CA 94102.
Contact Person: Marci Scidmore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301–435–1149, *marci.scidmore@nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Biomedical Computing and Health Informatics Study Section.
Date: October 23–24, 2017.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Renaissance Orlando at SeaWorld, Orlando, FL 32821.
Contact Person: Xin Yuan, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, Bethesda, MD 20892, 301–827–7245, *yuanx4@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Language and Communication Study Section.
Date: October 23–24, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Wind Cowles, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, Bethesda, MD 20892, 301–437–7872, *cowleshw@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Biology of the Visual System Study Section.
Date: October 23–24, 2017.
Time: 8:00 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Michael H. Chaitin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, *chaitinm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Nursing and Related Clinical Sciences.
Date: October 23–24, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Martha L. Hare, RN, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3154, Bethesda, MD 20892, (301) 451–8504, *harem@mail.nih.gov.*

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Cancer Genetics Study Section.
Date: October 23–24, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Westin St. Francis, 335 Powell Street, San Francisco, CA 94102.
Contact Person: Juraj Bies, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301 435 1256, *biesj@mail.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Cancer Biomarkers Study Section.
Date: October 23–24, 2017.
Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Lawrence Ka-Yun Ng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7804, Bethesda, MD 20892, 301–357–9318, *ngkl@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Radiation Therapeutics and Biology Study Section.

Date: October 23–24, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Bo Hong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–996–6208, *hongb@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Addiction Risks and Mechanisms Study Section.

Date: October 23–24, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Contessa, 306 W Market Street, San Antonio, TX 78205.

Contact Person: Kristen Prentice, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3112, MSC 7808, Bethesda, MD 20892, (301) 496–0726, *prenticekj@mail.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Clinical Oncology Study Section.

Date: October 23, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Reston Hotel, 11810 Sunrise Valley Drive, Reston, VA 20191.

Contact Person: Malaya Chatterjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, 301–806–2515, *chatterm@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Adult Psychopathology and Disorders of Aging Study Section.

Date: October 23–24, 2017.

Time: 8:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Lorien Hotel & Spa, 1600 King Street, Alexandria, VA 22314.

Contact Person: Serena Chu, Ph.D., Scientific Review Officer, BBBP IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 500–5829, *sechu@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Virology—B Study Section.

Date: October 23–24, 2017.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Marriott, 1221 22nd St. NW., Washington, DC 20037.

Contact Person: John C. Pugh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1206, MSC 7808, Bethesda, MD 20892, (301) 435–2398, *pughjohn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Larynx and Voice Disorders.

Date: October 23, 2017.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Unja Hayes, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–6830, *unja.hayes@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Investigations on Primary Immunodeficiency Diseases.

Date: October 23, 2017.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jin Huang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095G, MSC 7812, Bethesda, MD 20892, 301–435–1230, *jh377p@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 21, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–20629 Filed 9–26–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Rare Diseases SBIR.

Date: October 16, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Bethesda North, 5701 Marinelli Rd, Rockville, MD 20852

Contact Person: Yin Liu, Ph.D., MD., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Institute of Health, 6701 Democracy Blvd., Suite 824, Bethesda, MD 20892, 301–594–4952, *liuy@exchange.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: September 21, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–20630 Filed 9–26–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Initial Review Group; Genome Research Review Committee.

Date: November 2–3, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.
Contact Person: Keith McKenney, Ph.D., Scientific Review Officer, National Human Genome Research Institute Initial Review Group, 5635 Fishers Lane, Suite 4076, MSC 9306, Bethesda, MD 20814, 301–594–4280, *mckenneyk@mail.nih.gov*.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; DAP (Diversity Action Plan).
Date: November 6, 2017.
Time: 10:00 a.m. to 1:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Human Genome Research Institute Initial Review Group, 5635 Fishers Lane, Suite 3146, Rockville, MD (Telephone Conference Call).
Contact Person: Rudy O. Pozzatti, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, 5635 Fishers Lane, Suite 4076, MSC 9306, Rockville, MD 20852, (301) 402–0838, *pozzattr@mail.nih.gov*.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; Advance Sequencing Technology SEP.
Date: November 17, 2017.
Time: 12:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Human Genome Research Institute Initial Review Group, 5635 Fishers Lane, 3rd Floor Conference Room, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Ken D. Nakamura, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Suite 4076, MSC 9306, Rockville, MD 20852, 301–402–0838, *nakamurk@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: September 22, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–20698 Filed 9–26–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Special Emphasis Panel; Multicenter Clinical Grants.
Date: October 11, 2017.
Time: 10:00 a.m. to 1:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, One Democracy Plaza, Room 703, 6701 Democracy Boulevard, Bethesda, MD 20892.
Contact Person: Tamizchelvi Thyagarajan, Ph.D., Scientific Review Officer, National Institute of Nursing Research, National Institutes of Health, Bethesda, MD 20892, (301) 594–0343, *tamizchelvi.thyagarajan@nih.gov*.

Name of Committee: National Institute of Nursing Research Special Emphasis Panel; Fellowship Training Grants.
Date: October 12, 2017.
Time: 10:00 a.m. to 1:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, One Democracy Plaza, Room 703, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Mario Rinaudo, MD, Scientific Review Officer, Office of Review, National Inst of Nursing Research, National Institutes of Health, 6701 Democracy Blvd. (DEM 1), Suite 710, Bethesda, MD 20892, 301–594–5973, *mrinaudo@mail.nih.gov*.

Name of Committee: National Institute of Nursing Research Special Emphasis Panel; NINR Clinical Trial Planning Grant.
Date: October 16, 2017.
Time: 10:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, One Democracy Plaza, Room 703, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Tamizchelvi Thyagarajan, Ph.D., Scientific Review Officer, National Institute of Nursing Research, National Institutes of Health Bethesda, MD 20892, (301) 594–0343, *tamizchelvi.thyagarajan@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: September 21, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–20631 Filed 9–26–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of American Cargo Assurance, Pasadena, TX, as a Commercial Gauger

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

ACTION: Notice of approval of American Cargo Assurance, Pasadena, TX, as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that American Cargo Assurance, Pasadena, TX, has been approved to gauge petroleum and petroleum products for customs purposes for the next three years as of August 10, 2016.

DATES: As of August 10, 2016, American Cargo Assurance, Pasadena, TX, was reapproved as a Customs-approved commercial gauger. The next triennial inspection date will be scheduled for August 2019.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Cassata, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that American Cargo Assurance, 1404 South Houston Rd., Suite B, Pasadena, TX 77502, has been approved to gauge petroleum and petroleum products in accordance with the provisions of 19 CFR 151.13. American Cargo Assurance, is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API chapters	Title
3	Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculation of Petroleum Quantities.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete

listing of CBP approved gaugers and accredited laboratories: *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: September 18, 2017.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2017–20662 Filed 9–26–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of Altol Petroleum Products Services, Inc., Toa Baja, PR, as a Commercial Gauger

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

ACTION: Notice of approval of Altol Petroleum Products Services, Inc., Toa Baja, PR, as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Altol Petroleum Products Services, Inc., Toa Baja, PR, has been approved to gauge petroleum and petroleum products for customs purposes for the next three years as of September 15, 2016.

DATES: As of September 15, 2016, Altol Petroleum Products Services, Inc., Toa Baja, PR, was reapproved as a Customs-approved commercial gauger. The next triennial inspection date will be scheduled for September 2019.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Cassata, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that Altol Petroleum Products Services, Inc., Calle Gregorio Ledesma HMNN–55 URB., Levittown, Toa Baja, PR 00949, has been approved to gauge petroleum and petroleum products in accordance with the provisions of 19 CFR 151.13. Altol Petroleum Products Services, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API chapters	Title
3	Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculation of Petroleum Quantities.
17	Marine Measurements.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories: *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: September 18, 2017.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2017–20663 Filed 9–26–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–62]

30-Day Notice of Proposed Information Collection: HUD-Owned Real Estate Dollar Home Sales Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* October 27, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Colette.Pollard@hud.gov,* or telephone 202–402–3400. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 12, 2017 at 82 FR 32194.

A. Overview of Information Collection

Title of Information Collection: HUD-Owned Real Estate Dollar Home Sales Program.

OMB Approval Number: 2502–0569.

Type of Request: Extension of currently approved collection.

Form Number: None.

Description of the need for the information and proposed use: The information collection is used to determine the eligibility of prospective program participants and in binding contracts between the purchaser and HUD in implementing the Dollar Home Sales program. The sale of these properties makes it possible for government entities to rehabilitate the homes and make them available as low and moderate income housing.

Respondents (i.e. affected public): Government Entities.

Estimated Number of Respondents: 38.

Estimated Number of Responses: 567.

Frequency of Response: On occasion.

Average Hours per Response: 10 minutes to 1 hour.

Total Estimated Burdens: 361.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: Including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 20, 2017.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–20725 Filed 9–26–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–58]

30-Day Notice of Proposed Information Collection: Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark to Market)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* October 27, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRASubmission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Inez C. Downs, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Inez.C.Downs@hud.gov,* or telephone 202–402–8046. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Downs.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 12, 2017 at 82 FR 32192.

A. Overview of Information Collection

Title of Information Collection: Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark to Market).

OMB Approval Number: 2502–0533.

Type of Request: Revision of a currently approved collection.

Form Number: HUD–9624, HUD–9625, OPG 2.1, OPG 2.2, OPG 2.7, OPG 2.9, OPG 2.15, OPG 2.16, OPG 2.17, OPG 3.1, OPG 3.2, OPG 3.3, OPG 3.4, OPG 3.5, OPG 3.7, OPG 3.8, OPG 4.1, OPG 4.2, OPG 4.3, OPG 4.4, OPG 4.5, OPG 4.6, OPG 4.7, OPG 4.8, OPG 4.10, OPG 4.11, OPG 4.12, OPG 5.1, OPG 5.4, OPG 5.5, OPG 6.2, OPG 6.5, OPG 6.8, OPG 6.9, OPG 7.1, OPG 7.2, OPG 7.3, OPG 7.3, OPG 7.5, OPG 7.6, OPG 7.7, OPG 7.8, OPG 7.9, OPG 7.11, OPG 7.12, OPG 7.13, OPG 7.14, OPG 7.16, OPG 7.21, OPG 7.22, OPG 7.23, OPG 7.24, OPG 7.25, OPG 8.1, OPG 9.10, OPG 9.11, OPG 10.2, OPG 10.4a, OPG 10.4b, OPG 10.6a, OPG 10.8, OPG Appendix M, Attachment 1, OPG Appendix M Attachment 2, OPG 11.1.

Description of the need for the information and proposed use: The Mark to Market Program is authorized under the Multifamily Assisted Housing Reform and Affordability Act of 1997 as extended by the Market to Market Extension Act of 2001. The information collection is required and will be used to determine the eligibility of FHA-insured multifamily properties for participation in the Mark to Market program and the terms on which such participation should occur as well as to process eligible properties from acceptance into the program through closing of the mortgage restructure in accordance with program guidelines. The result of participation in the program is the refinancing and restructure of the property's FHA-insured mortgage and, generally the reduction of Section 8 rent payments and establishment of adequately funded accounts to fund required repair and rehabilitation of the property.

Respondents (i.e. affected public): Contractors and Tenants.

Estimated Number of Respondents: 126.

Estimated Number of Responses: 1,922.

Frequency of Response: On occasion.

Average Hours per Response: 1.26.

Total Estimated Burden: 2,412.3.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: Including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 20, 2017.

Inez C. Downs,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–20717 Filed 9–26–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–61]

30-Day Notice of Proposed Information Collection: Loan Sales Bidder Qualification Statement

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* October 27, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRASubmission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management

Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Colette.Pollard@hud.gov,* or telephone 202–402–3400. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 14, 2017 at 82 FR 32570.

A. Overview of Information Collection

Title of Information Collection: Loan Sales Bidder Qualification Statement.

OMB Approval Number: 2502–0576.

Type of Request: Extension of currently approved collection.

Form Number: HUD–90092.

Description of the need for the information and proposed use: The Qualification Statement solicits from Prospective bidders to the HUD Loan Sales the basic qualifications required for bidding including but not limited to, Purchaser Information (Name of Purchaser, Corporate Entity, Address, Tax ID), Business Type, Net Worth, Equity Size, Prior History with HUD Loans and prior sales participation. By executing the Qualification Statement, the purchaser certifies, represents and warrants to HUD that each of the statements included are true and correct.

Respondents (i.e. affected public): Business.

Estimated Number of Respondents: 542.

Estimated Number of Responses: 1,264.

Frequency of Response: On occasion.

Average Hours per Response: 0.5 hours.

Total Estimated Burdens: 316.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: Including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 20, 2017.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–20729 Filed 9–26–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–60]

30-Day Notice of Proposed Information Collection: Quality Control Requirements for Direct Endorsement Lenders

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* October 27, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRASubmission@omb.eop.gov*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Colette.Pollard@hud.gov,* or telephone 202–402–3400. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 14, 2017 at FR 32572.

A. Overview of Information Collection

Title of Information Collection: Quality Control Requirements for Direct Endorsement Lenders.

OMB Approval Number: 2502–0600.

Type of Request: Extension of a currently approved collection.

Form Number: None.

Description of the need for the information and proposed use: Under 24 CFR 202.8(3), Direct Endorsement (DE) lenders which sponsor third-party originators (TPOs) are responsible to the Secretary for the actions of TPOs or mortgagees in originating loans or mortgages, unless applicable law or regulation requires specific knowledge on the part of the party to be held responsible. As a result, DE lenders are responsible for conducting quality control on TPO originations of FHA-insured mortgage loans, and ensuring that their quality control plans contain appropriate oversight provisions. This creates an information collection burden on DE lenders, since these institutions must conduct quality control on all loans they originate and underwrite.

In addition, under 24 CFR 203.255(c) and (e), HUD conducts both pre- and post-endorsement reviews of loans submitted for FHA insurance by DE lenders. As part of those reviews, the Secretary is authorized to determine if there is any information indicating that any certification or required document is false, misleading, or constitutes fraud or misrepresentation on the part of any party, or that the mortgage fails to meet a statutory or regulatory requirement. In order to assist the Secretary with this directive, FHA requires that lenders self-report all findings of fraud and material misrepresentation, as well any material findings concerning the origination, underwriting, or servicing of the loan that the lender is unable to mitigate or otherwise resolve. The obligation to self-report these findings creates an additional information collection burden on DE lenders.

In accordance with the requirements of 5 CFR 1320.8(d), a Notice soliciting

comments on this collection of information was initially published in the **Federal Register** on December 21, 2010 (Volume 75, Number 244, page 80066). At that time, FHA still allowed for loan correspondents to participate in its programs and had not yet transitioned to the use of TPOs. Therefore, FHA estimated information collection burdens based on the expected used of TPOs by DE lenders. Three years later, FHA has revised these estimates with real data, which has substantially reduced the information collection burden associated with OMB Control Number 2502–0600.

Respondents (*i.e.,* affected public): Business or other for-profit.

Estimated Number of Respondents: 1,831.

Estimated Number of Responses: 135,682.

Frequency of Response: Annually.

Average Hours per Response: .52.

Total Estimated Burdens: 71,017.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: Including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 20, 2017.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–20730 Filed 9–26–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–59]

30-Day Notice of Proposed Information Collection: Manufactured Home Construction and Safety Standards Act Reporting Requirements

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* October 27, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA Submission@omb.eop.gov*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Colette.Pollard@hud.gov,* or telephone 202–402–3400. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 13, 2017 at 82 FR 32373.

A. Overview of Information Collection

Title of Information Collection: Manufactured Home Construction and Safety Standards Act Reporting Requirements.

OMB Approval Number: 2502–0253.

Type of Request: Revision.

Form Number: None.

Description of the need for the information and proposed use: The Federal Standards and Procedural Regulations require manufactured home producers to place labels and notices in and on manufactured homes and mandate State and Private agencies participating in the Federal program to issue reports. Under revisions to the current reporting requirements and regulations, a streamlined procedure was added that will allow manufacturers, under certain circumstances, to complete construction of their homes on-site rather than in the factory without first having to obtain advance approval from HUD.

In addition, some information collected assists both HUD and State Agencies in locating manufactured homes with defects, which then would create the need for notification and/or correction by the manufacturer.

Respondents (*i.e.,* affected public): Business or other for-profit.

Estimated Number of Respondents: 182.

Estimated Number of Responses: 105,479.

Frequency of Response: Monthly.

Average Hours per Response: 1.5.

Total Estimated Burdens: 147,515.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: Including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 20, 2017.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–20715 Filed 9–26–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–61]

30-Day Notice of Proposed Information Collection: Loan Sales Bidder Qualification Statement

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* October 27, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax:202–395–5806, Email: *OIRA Submission@omb.eop.gov.*

FOR FURTHER INFORMATION, CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Colette.Pollard@hud.gov,* or telephone 202–402–3400. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 14, 2017 at 82 FR 32570.

A. Overview of Information Collection

Title of Information Collection: Loan Sales Bidder Qualification Statement.

OMB Approval Number: 2502–0576.

Type of Request: Extension of currently approved collection.

Form Number: HUD–90092.

Description of the need for the information and proposed use: The Qualification Statement solicits from Prospective bidders to the HUD Loan Sales the basic qualifications required for bidding including but not limited to, Purchaser Information (Name of Purchaser, Corporate Entity, Address, Tax ID), Business Type, Net Worth, Equity Size, Prior History with HUD Loans and prior sales participation. By executing the Qualification Statement, the purchaser certifies, represents and warrants to HUD that each of the statements included are true and correct.

Respondents (i.e. affected public): Business.

Estimated Number of Respondents: 542.

Estimated Number of Responses: 1,264.

Frequency of Response: On occasion.

Average Hours per Response: 0.5 hours.

Total Estimated Burdens: 316.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 20, 2017.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–20728 Filed 9–26–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–63]

30-Day Notice of Proposed Information Collection: Rehabilitation Mortgage Insurance Underwriting Program Section 203(k)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* October 27, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax:202–395–5806, Email: *OIRA Submission@omb.eop.gov*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Colette.Pollard@hud.gov,* or telephone 202–402–3400. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 12, 2017.

A. Overview of Information Collection

Title of Information Collection: Rehabilitation Mortgage Insurance Underwriting Program Section 203(k).

OMB Approval Number: 2502–0527.

Type of Request: Extension of a currently approved collection.

Form Number: HUD–92700–A, HUD–9746–A, HUD–92577

Description of the need for the information and proposed use: This

request for OMB review involves an extension request for information collected under OMB approval 2502–0527 for lenders that originate and service Section 203(k) mortgages.

The information collection specifically focuses on documenting rehabilitation loan expenses, maintaining the repair escrow accounts and the use of FHA approved 203(k) consultants. This program does not operate independent of FHA's established process. The loan origination process and underwriting follows the same standards and systems as all 203(b) loans as documented in OMB Control Numbers 2502–0059 & 2502–0556. Per the existing collection 15,871 respondents are borrowers and lenders, including approximately 20 nonprofits, who annually apply for Standard 203(k) and Limited 203(k) loans the 203(k) program. Also, 1,939 consultants are on FHA's 203(k) Consultant Roster.

Respondents (i.e. affected public): Business or other for-profit.

Estimated Number of Respondents: 15,871.

Estimated Number of Responses: 222,222.

Frequency of Response: Once per loan.

Average Hours per Response: .94.

Total Estimated Burdens: 7,107,425.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: Including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 20, 2017.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–20716 Filed 9–26–17; 8:45 am]

BILLING CODE 4210–67–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–566 and 731–TA–1342 (Final)]

Softwood Lumber Products From Canada; Revised Schedule for the Subject Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: September 20, 2017.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On June 30, 2017, the Commission established a schedule for the conduct of the final phase of the subject investigations (82 FR 32376, July 13, 2017). Subsequently, the Department of Commerce extended the date for its final determinations in the investigations from no later than September 6, 2017 to no later than November 13, 2017 (82 FR 41609, September 1, 2017). The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the investigations is as follows: The deadline for filing posthearing briefs is September 25, 2017; the Commission will make its final release of information on November 30, 2017; and final party comments are due on December 4, 2017. Final comments shall only concern information disclosed to the parties after they have filed their posthearing briefs, pursuant to 19 CFR 207.30(b); the Commission has extended the page limit for such comments to not exceed 25 pages due to the particular circumstances of this proceeding.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 21, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–20621 Filed 9–26–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Privacy Act of 1974; Systems of Records

AGENCY: United States International Trade Commission.

ACTION: Rescindment of Systems of Records Notices.

SUMMARY: The system of records ITC–3 (Office of Inspector General Investigative Files (General)) contained records on individuals and contractors, who were the focus of an OIG investigation relating to the programs and operations of the Commission. The records were used to investigate and/or take other actions to address allegations of fraud, waste and abuse of a non-criminal nature by Commission employees or contractors.

The system of records ITC–4 (Office of Inspector General Investigative Files (Criminal)) contained records on individuals and contractors, who were the focus of an OIG criminal investigation relating to the programs and operations of the Commission. The records were used to investigate allegations of criminal violations by Commission employees or contractors.

DATES: Maintenance of these systems of records ended on or about March 1, 2007.

ADDRESSES: Written comments on the rescindment of these systems of records notices must be received by the Secretary to the Commission no later than October 27, 2017. The rescindment will become effective on that date unless otherwise published in the **Federal Register**.

You may submit comments, identified by docket number MISC–043, by any of the following methods:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the instructions for submitting comments.

Agency Web site: https://edis.usitc.gov. Follow the instructions for submitting comments on the Web site.

Mail: For paper submission. U.S. International Trade Commission, 500 E Street SW., Room 112A, Washington, DC 20436.

Hand Delivery/Courier: U.S. International Trade Commission, 500 E Street SW., Room 112A, Washington, DC 20436. From the hours of 8:45 a.m. to 5:15 p.m.

Instructions: All submissions received must include the agency name and docket number (MISC–043), along with a cover letter. Persons filing comments must file the original document electronically on *https://edis.usitc.gov.* any personal information provided will be viewable by the public. For paper copies, a signed original and 8 copies of each set of comments should be submitted to Lisa R. Barton, Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112A, Washington, DC 20436. For access to the docket to read background documents or comments received, go to *https://edis.usitc.gov* and/or the U.S. International Trade Commission, 500 E Street SW., Room 112A, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Clara Kuehn, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, tel. 202–205–3012. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION: The Commission's Inspector General proposes to rescind these two systems of records notices because these systems of records no longer exist. When maintenance of these systems of records ended (on or about March 1, 2007), no records existed in either of these systems.

SYSTEM NAMES AND NUMBERS:

ITC–3 (Office of Inspector General Investigative Files (General)) and ITC–4 (Office of Inspector General Investigative Files (Criminal)).

HISTORY:

The Commission previously published notice of these systems of records at 71 FR 35294 (June 19, 2006).

By order of the Commission.

Issued: September 21, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–20618 Filed 9–26–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Privacy Act of 1974; Systems of Records

AGENCY: United States International Trade Commission.

ACTION: Notice of new and modified systems of records.

SUMMARY: The Commission issues this notice to satisfy the Privacy Act's requirement to publish notice of the existence and character of records systems maintained by the Commission and of any new use or intended use of information in the Commission's systems of records.

The U.S. International Trade Commission (''Commission'') proposes to add the following four new systems of records: (1) Roster of Mediators. This system contains records of individuals selected as roster members to serve as potential mediators as part of the Commission's mediation program. Records in this system are used to identify potential mediators for participation in the Commission's mediation program. (2) Personnel Photograph Records. This system contains photographs of Commission personnel. Records in this system are used to enhance the security of the Commission's building, educate the public, assist Commission personnel in interfacing with customers and the public, and promote open and collaborative electronic communication with Commission personnel. (3) Employment Law Records. This system contains documents relating to employment law matters including adverse actions, grievances, unfair labor practice charges, civil actions against Commission employees in their official capacities, and employee claims. (4) Freedom of Information Act and Privacy Act Records. This system contains correspondence and other documents relating to FOIA and Privacy Act requests and administrative appeals.

The Commission proposes to revise the following thirteen existing systems of records: (1) Pay and Leave Records. This system contains payroll and personnel information. These records are used for the purposes of administering pay and leave, activity accounting, and budget preparation, and are used to prepare related reports to other Federal agencies. (2) Grievance Records. This system contains records of grievances filed by Commission employees under 5 CFR part 771, 5 U.S.C. 7121, or under negotiated grievance procedures. (3) Telephone Call Detail Records. This system contains records relating to the location of Commission telephones, the assignment of telephone numbers to employees, the use of Commission mobile devices, and the use of Commission telephones to place long-distance telephone calls or facsimile transmissions. (4) Security Access Records. This system contains records relating to the assignment and use of electronic security keys at the Commission and records identifying visitors to the Commission building. (5) Personnel Security Investigative Files. This system contains personnel security investigative records pertaining to current and former employees, applicants for employment including interns and volunteers, and contractors, subcontractors, and consultants. The records in this system are used to make national security, suitability, fitness, and HSPD–12 credentialing determinations; provide a current record of Commission employees with security clearance(s); and provide access cards and keys to Commission buildings and offices. (6) Library Circulation Records. Records in this system pertain to individuals with borrowing privileges, who have borrowed materials from the Main Library. Records are used to locate Main Library materials in circulation and to control and inventory borrowed materials. (7) Parking and Mass Transit Subsidy Records. Records in this system pertain to individuals who participate in the Commission mass transit and car pool subsidy programs. These records are used to allocate and control agency-subsidized parking spaces and mass transit subsidies, assist in creating car pools, and ensure that employees qualify for subsidized parking spaces or mass transit subsidies. (8) Congressional Correspondence Records. Records in this system pertain to Members of Congress and their constituents. These records are used to respond to Congressional inquiries and inform

Congress about Commission activities. (9) System Access Records. This system contains information pertaining to a computer user's access to Commission computers and other information technology resources. It also includes records relating to name, address, country, telephone number, fax number, email address, employer type, agency or firm name, the computer's Internet protocol addresses, and account number gathered while accessing the Commission's internet and intranet Web sites. (10) Administrative Protective Order Breach and Related Records. The records in this system are used to determine whether a person has breached an administrative protective order and/or should be sanctioned. The records relate to a person's name, firm, address, the basis for the investigation, the Commission's determinations with respect to the facts of the investigation, and any sanctions or other actions taken in response to the agency's determinations. (11) Import and Export Records. This system contains records relating to an importer's, exporter's, or producer's name, organization, title or position, business role, address, telephone number, electronic mail address, Web site address, and Dun's number, as well as quantity and value information on imports and exports. Some contact information is for the homes of individuals. (12) Telecommuting Program Records. Records in this system pertain to individuals who participate in the Commission telecommuting program. These records are used to administer the program and may be used to monitor employee compliance with telecommuting procedures. (13) Emergency Notification Records. These records are maintained to notify and identify Commission employees or their designees under emergency conditions.

DATES: Written comments must be received by the Secretary to the Commission no later than October 27, 2017. The proposed revision to the Commission's systems of records will become effective on that date unless otherwise published in the **Federal Register**.

ADDRESSES: You may submit comments, identified by docket number MISC–043, by any of the following methods:

—*Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

—*Agency Web site: https://edis.usitc.gov.* Follow the instructions for submitting comments on the Web site.

—*Mail:* For paper submission. U.S. International Trade Commission, 500 E Street SW., Room 112A, Washington, DC 20436.

—*Hand Delivery/Courier:* U.S. International Trade Commission, 500 E Street SW., Room 112A, Washington, DC 20436. From the hours of 8:45 a.m. to 5:15 p.m.

Instructions: All submissions received must include the agency name and docket number (MISC–043), along with a cover letter. Persons filing comments must file the original document electronically on *https://edis.usitc.gov;* any personal information provided will be viewable by the public. For paper copies, a signed original and 8 copies of each set of comments should be submitted to Lisa R. Barton, Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112A, Washington, DC 20436.

For access to the docket to read background documents or comments received, go to *https://edis.usitc.gov.* and/or the U.S. International Trade Commission, 500 E Street SW., Room 112A, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Clara Kuehn, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, tel. 202–205–3012. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION: Under the Privacy Act of 1974 (''Privacy Act''), 5 U.S.C. 552a, the Commission proposes to add the description of four new systems of records and revise the descriptions of thirteen existing systems of records. The Commission invites interested persons to submit comments on the actions proposed in this notice.

The Commission proposes to add a new system of records entitled ITC–17 (Roster of Mediators). The Commission has established a mediation program for disputes brought pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The Commission will maintain a list of potential mediators and information on potential candidates which may include home and business addresses, telephone and facsimile numbers, electronic mail addresses, and certain financial information (for determinations concerning potential conflicts of interest).

The Commission proposes to add a new system of records entitled ITC–18 (Personnel Photograph Records). The Commission takes photographs of Commission personnel, including employees, Commissioners, and administrative law judges for such purposes as providing information to the public, promoting open and collaborative communication with Commission personnel, and ensuring physical security of agency office space. These photographs are maintained together with the names and titles of the pictured individuals.

The Commission proposes to add a new system of records entitled ITC–19 (Employment Law Records). This system will cover records maintained mostly in the Office of the General Counsel that pertain to employment law matters, including adverse actions, grievances, unfair labor practice charges, civil actions against Commission employees in their official capacities, and Equal Employment Opportunity and other employee claims.

The Commission proposes to add a new system of records entitled ITC–20 (Freedom of Information Act and Privacy Act Records). This system will cover records pertaining to FOIA and Privacy Act requests and administrative appeals. These records are used to monitor, process, and track requests and appeals made under those statutes; support litigation arising from such requests and appeals; assign, process, and track FOIA workloads; and provide management information reports.

The Commission proposes to revise the system of records entitled ITC–1 (Pay & Leave Records) to clarify the location of the system, and to provide additional detail on the pay and personnel information contained in the system, such as by adding references to fitness service use logs and relocation expense authorizations and amounts. The Commission is also clarifying that the purpose of the system includes not only administering pay and leave, activity accounting, and budget preparation, but also preparing related reports to other Federal agencies. The Commission is also adding routine uses for the disclosure of information from this system in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act, for unemployment and health insurance purposes, for the collection of debts owed to the Federal Government, and to another Federal agency to which an employee has transferred.

The Commission proposes to revise the system of records entitled ITC–2 (Grievance Records) by expanding the purposes of the system to include ensuring consistent treatment of similarly situated individuals. As revised, this system will cover records of grievances filed by employees that are

maintained in the Office of Administrative Services and in the office where the grievance originated.

The Commission proposes to revise the system of records entitled ITC–5 (Telephone Call Detail Records) to include records pertaining to the assignment and use of Commission mobile devices and to update the description of the retrievability of records in the system to include by name and mobile device number.

The Commission proposes to revise the system of records entitled ITC–6 (Security Access Records) to clarify the location of the system, to provide additional detail on the security key records contained in the system, to update references to visitor records contained in the system, and to clarify that the purpose of the system is to restrict and authorize physical access to Commission facilities.

The Commission proposes to revise the system of records entitled ITC–7 (Personnel Security Investigative Files) to clarify the location of the system, to expand the purpose of the system to include making suitability, fitness, and HSPD–12 credentialing determinations, to expand the categories of covered individuals to include interns and volunteers, to provide additional detail on the categories of records in the system, to expand the description of the retrievability of records to include by Social Security number, and to add routine uses for disclosures to the Office of Management and Budget (OMB) and to enable intelligence agencies to carry out their responsibilities under certain authorities.

The Commission proposes to revise the system of records entitled ITC–8 (Library Circulation Records) to cover additional individuals with borrowing privileges from the Main Library, such as contractors.

The Commission proposes to revise the system of records entitled ITC–9 (Parking and Mass Transit Subsidy Records) to clarify the location of the system, to provide additional detail on the categories of records contained in the system, and to expand the description of the retrievability of records in the system to include by parking permit number.

The Commission proposes to revise the system of records entitled ITC–11 (Congressional Correspondence Records) to clarify the location of the system, to add constituents of Members of Congress to the categories of individuals covered by the system, to clarify the categories of records contained in the system, to expand the description of the retrievability of records in the system to include by the name of the Chairman of a Congressional committee or subcommittee, to add a routine use for disclosure to the National Archives and Records Administration or General Services Administration for records management purposes, to add a routine use for disclosure to agency contractors and others engaged to assist the agency with an activity necessitating access to this system, and to add a routine use for disclosure to the public through the Commission's Web site.

The Commission proposes to rename the system of records ITC–12 (Computer Access Records) to ITC–12 (System Access Records). The Commission proposes to revise this system of records to clarify the categories of covered individuals and to add additional details to the categories and description of the retrievability of records in the system to reflect current practice.

The Commission proposes to revise the system of records entitled ITC–13 (Administrative Protective Order Breach and Related Records) to clarify the location of the system, to expand the description of the retrievability of records in the system to include by administrative protective order breach identification number, and to modify an existing routine use to permit disclosure of information to other persons subject to the same breach investigation of whether there is good cause to sanction persons under 19 CFR 201.15.

The Commission proposes to revise the system of records entitled ITC–14 (Import and Export Records) to include in the categories of information in the system that some contact information is for residential addresses of individuals and add routine uses for disclosure to representatives of parties to investigations under judicial protective order and to certain tribunals and U.S. courts.

The Commission proposes to revise the system of records entitled ITC–15 (Telecommuting Program Records) to clarify the location of the system and the categories of records in the system.

The Commission proposes to revise the system of records entitled ITC–16 (Emergency Notification Records) to clarify the categories of records in the system.

The Commission proposes to revise all systems of records to add data elements provided for in the Document Drafting Handbook of the Office of the Federal Register, to provide more detail on the safeguards used to protect information, and to make additional clarifying changes. Where necessary, addresses are being changed to reflect the Commission's current organization and its arrangements with contractors, records retention and disposal practices are being updated, and a requirement is being removed so that a requester will no longer need to provide a date of birth when making an inquiry or requesting an amendment to a record in any system.

By Memorandum M–07–16, ''Safeguarding Against and Responding to the Breach of Personally Identifiable Information,'' OMB called on agencies to publish a routine use for the disclosure of information in connection with response and remedial efforts in the event of a data breach. On January 3, 2017, OMB issued Memorandum M–17–12, which updated breach notification policies and guidelines, rescinded M–07–16, and directed agencies to include two routine uses in each agency SORN to facilitate agencies' response to breaches of their own records and to ensure that agencies are able to disclose records that may reasonably be needed by another agency in responding to a breach. These new routine uses will serve to protect the interest of the individual or individuals whose information is at issue by allowing agencies to take steps to facilitate a timely and effective response to the breach. Accordingly, the Commission proposes to add these new routine uses, applicable to all Commission systems of records, to authorize the disclosure, in the event of a suspected or confirmed breach, to certain agencies, entities, and persons of information maintained in the systems.

The Commission also proposes to clarify that an existing routine use, applicable to many Commission systems of records, permits disclosure of records to and use by the Department of Justice in litigation under certain circumstances.

The Commission also proposes to clarify that an existing general routine use permitting disclosure to agency contractors and Federal agencies providing services to the Commission also allows disclosure when information security services are being provided.

Attachment A is a list of the general routine uses applicable to more than one system of records.

Attachment B is an updated list of the government-wide systems of records, noticed by other agencies, applicable to the Commission.

As required by subsection 552a(r) of the Privacy Act of 1974 (5 U.S.C. 552a(r)), the proposed revisions will be reported to the Office of Management and Budget, the Chair of the Committee on Oversight and Government Reform of the House of Representatives, and the Chair of the Committee on Homeland

Security and Governmental Affairs of the Senate.

Table of Contents

ITC–1 Pay and Leave Records
ITC–2 Grievance Records
ITC–3 [Reserved]
ITC–4 [Reserved]
ITC–5 Telephone Call Detail Records
ITC–6 Security Access Records
ITC–7 Personnel Security Investigative Files
ITC–8 Library Circulation Records
ITC–9 Parking and Mass Transit Subsidy Records
ITC–10 [Reserved]
ITC–11 Congressional Correspondence Records
ITC–12 System Access Records
ITC–13 Administrative Protective Order Breach and Related Records
ITC–14 Import and Export Records
ITC–15 Telecommuting Program Records
ITC–16 Emergency Notification Records
ITC–17 Roster of Mediators
ITC–18 Personnel Photograph Records
ITC–19 Employment Law Records
ITC–20 Freedom of Information Act and Privacy Act Records
Appendix A: General Routine Uses Applicable to More Than One System of Records
Appendix B: Government-Wide Systems of Records Applicable to the Commission

ITC–1

SYSTEM NAME AND NUMBER:

ITC–1 Pay and Leave Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

1. Payroll, attendance, leave, retirement, and benefits records for current employees are located in the Office of Human Resources, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. The Commission has an interagency agreement with the U.S. Department of the Interior, Interior Business Center (DOI/IBC), 7301 West Mansfield Avenue, MS–D–2210, Lakewood, CO 80235–2230, to maintain electronic personnel information and perform payroll and personnel processing activities for its employees.

2. Records relating to the Health and Fitness Program are maintained in the Office of Security and Support Services, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

3. Records relating to relocation expenses are maintained in the Office of Finance, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

4. Records relating to the Student Loan Reimbursement Program and waivers of recovery of overpayment debt are maintained in the Office of Human Resources, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

5. Records relating to the Labor Cost Code Database (Activity Accounting) are maintained by the Office of Finance, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

6. Retired Personnel Files are located at the National Archives and Records Administration National Personnel Records Center (Civilian Personnel Records Center), 111 Winnebago Street, St. Louis, MO 63118.

Duplicate systems may exist, in part, for administrative purposes in the office to which the employee is assigned.

SYSTEM MANAGER(S):

For Health and Fitness Program Reimbursement Claims, Director, Office of Security and Support Services, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. For relocation expenses and Labor Cost Code Database (Activity Accounting), Director, Office of Finance, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

For all other payroll and leave records, including Student Loan Reimbursement Program Claims and waivers of recovery of overpayment debt, Director, Office of Human Resources, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 5 U.S.C. Chapters 53, 55, 61, and 63; and Executive Order 9397.

PURPOSE(S) OF THE SYSTEM:

These records are used for the purposes of administering pay and leave, activity accounting, and budget preparation; and to prepare related reports to other Federal agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former Commission employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains payroll and personnel information. This includes information such as: Name; title; date of birth; home address; Social Security number; telephone number; W–2 address; grade; employing organization; timekeeper number; salary; pay plan; number of hours worked; leave accrual rate, usage, and balances; compensatory time; credit hours; activity accounting reports; Civil Service Retirement and Federal Retirement System contributions; FICA withholdings; Federal, State, and local tax withholdings; Federal Employee's Group Life Insurance withholdings; Federal Employee's Health Benefits withholdings; charitable deductions; allotments to financial organizations; levy, garnishment, and salary and administrative offset documents; savings bonds allotments; union and management association dues withholding allotments; Combined Federal Campaign and other allotment authorizations; direct deposit information; information on the leave transfer program; tax fringe benefits; health and fitness program designation and cost; fitness program reimbursement amounts; fitness services use logs; student loan lenders' names and addresses; student loan account numbers; student loan account balances; and relocation expense authorizations and amounts. The payroll, retirement and leave records described in this notice form a part of the information contained in the DOI/IBC integrated Federal Personnel and Payroll System (FPPS). Personnel records contained in the FPPS are covered under the government-wide system of records notice published by the Office of Personnel Management (OPM/GOVT–1).

RECORD SOURCE CATEGORIES:

Information in this system is obtained from official personnel documents, the individual to whom the record pertains, and Commission officials responsible for pay, leave, relocation expense justifications and authorizations, and activity reporting requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General Routine Uses A–K and M–N apply to this system.

Data in this system may be transmitted electronically by the Commission to the DOI/IBC, which provides payroll and personnel processing services under an interagency agreement. The Commission and the U.S. Department of the Interior may disclose relevant portions of records in this system as necessary to the following: (a) To the Treasury Department for issuance of pay checks; (b) to the Treasury Department for issuance of savings bonds; (c) to OPM for retirement, health, and life insurance purposes, and to carry out OPM's Government-wide personnel management functions; (d) to the Federal Retirement Thrift Investment Board with respect to Thrift Savings Fund contributions; (e) to the Social

Security Administration for reporting wage data in compliance with the Federal Insurance Compensation Act; (f) to the Internal Revenue Service and to State and local tax authorities for tax purposes, including reporting of withholding, audits, inspections, investigations, and similar tax activities; (g) to the Combined Federal Campaign for charitable contribution purposes; (h) to officials of labor organizations recognized under 5 U.S.C. Chapter 71 for the purpose of identifying Commission employees contributing union dues each pay period and the amount of dues withheld; (i) to designated student loan lenders for repayment of federally insured student loans; (j) the names, Social Security numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information, and State of hire of employees may be disclosed to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purpose of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform law, Pub. L. 104–193); (k) to another Federal agency to which an employee has transferred; (l) to appropriate Federal and State agencies to provide required reports including data on unemployment insurance; (m) to insurance carriers to report withholdings for health insurance; (n) to a Federal agency for the purpose of collecting a debt owed the Federal government through administrative or salary offset; (o) to disclose debtor information to the Internal Revenue Service, or to another Federal agency or its contractor solely to aggregate information for the Internal Revenue Service, to collect debts owed to the Federal government through the offset of tax refunds. Relevant information in this system may be disclosed as necessary to other Federal agencies or Federal contractors with statutory authority to assist in the collection of Commission debts.

Disclosures may be made from this system pursuant to 5 U.S.C. 552a(b)(12) and 31 U.S.C. 3711(e) to ''consumer reporting agencies'' as defined in 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records at the Commission are maintained on paper in file folders and internal Commission electronic information systems. DOI/IBC maintains records in this system in accordance with an interagency agreement.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by the name and Social Security number of the individuals on whom they are maintained.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Payroll and salary and administrative offset records are retained in accordance with the National Archives and Records Administration (NARA) General Records Schedule (GRS) 2 (various items). Records that have met required retention periods will be disposed of in accordance with NARA guidelines and Commission policy and procedures. Paper records are shredded, and records maintained on internal Commission electronic information systems are electronically removed. Commission electronic storage media that is no longer in service is purged in accordance with National Institute of Standards and Technology guidelines for media sanitization (NIST SP 800–88). DOI/IBC manages and disposes of Commission records in this system under the interagency agreement in accordance with this notice and applicable General Records Schedule 2 items.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

IBC/DOI information systems hosting Commission data under the interagency agreement are compliant with Federal information technology (IT) security requirements, including assessment and authorization, and Federal Information Security Modernization Act (FISMA) reporting. On these systems, security controls (*e.g.,* physical, logical, and personnel controls) are designed to provide reasonable assurance that IT resources (including data files, application programs, and computer-related facilities and equipment) are protected against unauthorized modification, disclosure, loss, or impairment.

At the Commission, access to the records in this system is limited to persons whose official duties require access, such as individuals who validate and certify employee timecards and personnel in the Office of Human Resources for personnel and payroll processing. Paper records in this system are maintained in a building with restricted public access, patrolled by guards. Both standard and electronic locks are used to restrict access. The paper records in this system are kept in limited access areas within the building, in locked file cabinets or in file cabinets in locked offices. Commission electronic information systems, like IBC/DOI systems, are subject to Federal IT security requirements. Electronic records in this system that are maintained on internal Commission electronic information systems may be accessed only by individuals whose official duties require access through the use of safeguards such as passwords.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment; and
3. Signature.

CONTESTING RECORD PROCEDURES:

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment; and
3. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment; and
3. Signature.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

71 FR 35294 (June 19, 2006).

ITC–2

SYSTEM NAME AND NUMBER:

ITC–2 Grievance Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Administrative Services and the office where the grievance originated, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

SYSTEM MANAGER(S):

If the grievance is pending at or was never raised beyond the office level, the system manager is the head of the office; otherwise, the system manager is the Chief Administrative Officer, Office of Administration, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 5 U.S.C. 7121; 5 CFR part 771.

PURPOSE(S) OF THE SYSTEM:

These records are used to process grievances submitted by Commission employees for relief in a matter of concern or dissatisfaction which is subject to the control of agency management, to ensure consistent treatment of similarly situated individuals, and to provide individuals who submit grievances with a copy of their records in accordance with the grievance process.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former Commission employees who have submitted grievances in accordance with part 771 of the regulations of the Office of Personnel Management (the ''OPM'') (5 CFR part 771), under 5 U.S.C. 7121, or through a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of grievances filed by agency employees under part 771 of regulations issued by the OPM, under 5 U.S.C. 7121 or under negotiated grievance procedures. These case files contain all documents made part of the grievance files, including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decisions, and related correspondence and exhibits. The system includes files and records of internal grievance and arbitration systems established through negotiations with recognized labor organizations.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. The individual filing the grievance;
b. The testimony of witnesses;
c. Agency and union officials; and
d. Related correspondence from organizations or persons.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General Routine Uses A–C and E–N apply to this system.

Information in this system may be disclosed as necessary to other Federal agencies or Federal contractors with statutory authority to assist in the collection of Commission debts.

Disclosures may be made from this system pursuant to 5 U.S.C. 552a(b)(12) and 31 U.S.C. 3711(e) to ''consumer reporting agencies'' as defined in 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained on internal Commission electronic information systems and on paper in file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by the names of the individuals on whom they are maintained.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained in accordance with NARA GRS 1, item 30a: Administrative Grievance Files. Records that have met required retention periods will be disposed of in accordance with NARA guidelines and Commission policy and procedures. Paper records are shredded, and records maintained on internal Commission electronic information systems are electronically removed. Commission electronic storage media that is no longer in service is purged in accordance with National Institute of Standards and Technology guidelines for media sanitization (NIST SP 800–88).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to this system of records is limited to persons who have a need to know the information for the performance of their official duties, such as individuals involved in adjudicating grievances. Paper records in this system are maintained in locked file cabinets or file cabinets in locked offices. The file cabinets are maintained in a building with restricted public access, patrolled by guards. Both standard and electronic locks are used to restrict access. The electronic records in this system may only be accessed by authorized individuals through the use of safeguards such as passwords.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment;
3. Approximate date of closing of the case (if applicable); and
4. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment;
3. Approximate date of closing of the case (if applicable); and
4. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment; and
3. Signature.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

71 FR 35294 (June 19, 2006).

ITC–3

[Reserved]

ITC–4

[Reserved]

ITC–5

SYSTEM NAME AND NUMBER:

ITC–5 Telephone Call Detail Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Chief Information Officer, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436; General Services Administration, 13221 Woodland Park Rd., Herndon, VA 22071; CenturyLink, Customer Service, DEPT COOR, 6000 Parkwood Place, Dublin, OH 43016; Verizon Wireless, P.O. Box 4003, Acworth, GA 30101.

SYSTEM MANAGER(S):

Office of the Chief Information Officer, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 19 U.S.C. 1331(a)(1)(A)(iii).

PURPOSE(S) OF THE SYSTEM:

Records in this system are used to verify telephone and mobile device usage and resolve billing discrepancies so that telephone and mobile device bills can be paid. They may also be used to identify and seek reimbursement for unofficial calls, and as a basis for taking action when agency employees or other persons misuse or abuse Commission telephone or mobile device services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Commission employees and all contractors, sub-contractors, consultants and other individuals who (1) are assigned telephone numbers by the Commission and who make long-distance telephone calls or long-distance facsimile transmissions from or charged to the Commission telephone system or (2) are assigned Commission mobile devices and make calls from or charged to those devices.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to use of Commission telephones to place long-distance telephone calls, including personal calls, or long-distance facsimile transmissions; records relating to use of Commission mobile devices; records indicating assignment of telephone numbers to employees; and records relating to location of telephones.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from telephone/mobile device assignment records; call detail listings and electronic files from the telephone and mobile device service providers; supervisors' confirmation of employees' responsibility for calls; and certification of telephone/mobile device bills.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General Routine Uses A–C, E–I, and K–N apply to this system.

Relevant information in this system may be disclosed as necessary to other Federal agencies or Federal contractors with statutory authority to assist in the collection of Commission debts.

Disclosures may be made from this system pursuant to 5 U.S.C. 552a(b)(12) and 31 U.S.C. 3711(e) to ''consumer reporting agencies'' as defined in 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records at the Commission are maintained on an internal Commission electronic information system.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by name and/or telephone/mobile device number assigned to an individual, by date, number called, and city called.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are generally retained in accordance with NARA GRS 12, item 4: Telephone Use (Call Detail). Records that have met required retention periods will be disposed of in accordance with NARA guidelines and Commission policy and procedures. Records maintained on internal Commission electronic information systems are electronically removed. Commission electronic storage media that is no longer in service is purged in accordance with National Institute of Standards and Technology guidelines for media sanitization (NIST SP 800–88).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

At the Commission, access to the records in this system is limited to persons whose official duties require access, such as individuals responsible for verifying telephone and mobile device usage. Electronic records in this system that are maintained on internal Commission electronic information systems may be accessed only by individuals whose official duties require access through the use of safeguards such as passwords.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable);
3. Assigned telephone/mobile device number; and
4. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable);
3. Assigned telephone/mobile device number; and
4. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable);
3. Assigned telephone/mobile device number; and
4. Signature.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

71 FR 35294 (June 19, 2006).

ITC–6

SYSTEM NAME AND NUMBER:

ITC–6 Security Access Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records covered by this system are maintained by a contractor at the contractor's site, Datawatch Systems, 4401 East West Highway, Suite 500, Bethesda, MD 20814.

SYSTEM MANAGER(S):

Director, Office of Security and Support Services, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 19 U.S.C. 1331(a)(1)(A)(iii).

PURPOSE(S) OF THE SYSTEM:

These records are used to restrict and authorize physical access to Commission facilities. These records permit tracking of individual movements in circumstances such as when there has been a security breach or theft, to monitor access to restricted areas, and to verify time and attendance records of Commission employees to the extent permitted by applicable law and except as prohibited by Commission policy.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Commission employees and all contractors, sub-contractors, consultants and other individuals who are assigned electronic security keys; all visitors to the Commission building.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to the use of electronic security keys at the Commission, including records on which keys were used to gain or seek access to controlled areas, the time at which access was gained or sought, and the name and photograph of the individual assigned the key. This system also contains records identifying visitors to the Commission building, including the visitor's name, photograph, and expiration date of visitor's identification document (*e.g.,* driver's license or passport) to facilitate security procedures.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from the Commission's security contractor and from visitors to the Commission building.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General Routine Uses A–C, E–I, and K–N apply to this system.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained on computer media (such as an electronic database) by a contractor.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

The security key records are retrieved by area accessed, date and time of entry, key number, and name of individual. The visitor records may be retrieved by name and time of entry.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records will be retained until the proposed records schedule authorizing the disposal of such records is approved by NARA.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The security key records can be accessed remotely through a Web site by Commission personnel with a need to know the information for performance of their duties, such as the personnel security officer. The visitor records can be accessed by Commission personnel with a need to know the information for performance of their duties, such as the personnel security officer. Access to the records is restricted to authorized personnel through the use of safeguards such as passwords.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

71 FR 35294 (June 19, 2006).

ITC–7

SYSTEM NAME AND NUMBER:

ITC–7 Personnel Security Investigative Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Security and Support Services, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

SYSTEM MANAGER(S):

Director, Office of Security and Support Services, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: Executive Orders 10450, 12968, and 13526; 5 CFR parts 5, 731, 732, and 736; Homeland Security Presidential Directive (HSPD) 12, Policy for a Common Identification Standard for Federal employees and Contractors, August 27, 2004; 19 U.S.C. 1331(a)(1)(A)(iii).

PURPOSE(S) OF THE SYSTEM:

Records in this system are used to: Make national security, suitability, fitness, and HSPD–12 credentialing

determinations; provide a current record of Commission employees with security clearance(s); and provide access cards and keys to Commission buildings and offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former employees; all applicants for employment, including interns and volunteers; and contractors, subcontractors, and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to adjudicative actions, determinations, and decisions on summary investigation packages and associated documentation from federal investigative organizations (*e.g.,* U.S. Office of Personnel Management (OPM) and locator references to such investigations); records relating to name, former names, date of birth, place of birth, Social Security number, home address, phone numbers, citizenship, fingerprints, credit references, credit records, financial information, tax return information, education, employment history, residential history, criminal history, mental health history, drug use, dates and purposes of visits to foreign countries, U.S. and foreign passports and passport number(s), names of spouse(s), names of relatives, birthdates and places of relatives, citizenship of relatives, names of relatives who work for the federal government, names of associates and references and their contact information, date(s) of appointment, position title(s), grade, duty station(s), type of employment, type of clearance granted, clearance date, clearance termination date, suitability date, investigation basis, investigation completion date, case summaries documenting fitness, suitability and clearance determinations, results of suitability decisions, Commission termination date, security briefing data, notes of security personnel on information obtained during the pre-employment screening process, security investigator's notes on information gathered during the investigation, follow-up inquiries and responses, requests for appeal, witness statements, reports of security-related incidents, suspension of eligibility and/or access, denial or revocation of eligibility and/or access, eligibility recommendations or decisions made by an appellate authority, non-disclosure agreements and execution dates, indoctrination briefing dates, level(s) of access granted, debriefing date(s) and reasons for debriefing, foreign travel and contacts, and security reporting, including results from continuous evaluation and insider threat, and self-reporting. Forms in the system include SF–306, SF–312, SF–85, SF–85P, and SF–86.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual on whom record is maintained; Office of Personnel Management; and any contractor who has been retained by the Commission to conduct background investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General Routine Uses A–D, E–K, and M–N apply to this system.

To a Federal, State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.

Relevant information in this system may be disclosed as necessary to other Federal agencies or Federal contractors with statutory authority to assist in the collection of Commission debts.

Disclosures may be made from this system pursuant to 5 U.S.C. 552a(b)(12) and 31 U.S.C. 3711(e) to ''consumer reporting agencies'' as defined in 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained on paper in file folders (until completion of any investigation and adjudication) and electronically on an internal Commission electronic information system.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by name and Social Security number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained in accordance with NARA GRS 18: Personnel Security Clearance Files. Records that have met required retention periods will be disposed of in accordance with NARA guidelines and Commission policy and procedures. Paper records are shredded, and records maintained on internal Commission electronic information systems are electronically removed. Commission electronic storage media that is no longer in service is purged in accordance with National Institute of Standards and Technology guidelines for media sanitization (NIST SP 800–88).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to the records in this system is limited to persons whose official duties require access such as the personnel security officer for personnel security investigations. Paper records are maintained in limited access areas in a building with restricted public access, patrolled by guards. Both standard and electronic locks are used to restrict access. Electronic records in this system may be accessed only by individuals whose official duties require access through the use of safeguards such as passwords.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(5) and (k)(6), this system of records is exempted from (c)(3), (d), (e)(1), (e)(4)(G)–(I) and (f) of the Privacy Act. These exemptions are established in the Commission rules at 19 CFR 201.32.

HISTORY:

71 FR 35294 (June 19, 2006); 72 FR 35068 (June 26, 2007).

ITC–8

SYSTEM NAME AND NUMBER:

ITC–8 Library Circulation Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Progressive Technology Federal Systems Inc., 11501 Huff Court, North Bethesda, MD 20895.

SYSTEM MANAGER(S):

Chief Librarian, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 40 U.S.C. 524(a); 19 U.S.C. 1331(a)(1)(A)(iii).

PURPOSE(S) OF THE SYSTEM:

Records in this system are used to locate Main Library materials in circulation and to control and inventory Main Library materials loaned.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Commission employees, contractors, and other individuals with borrowing privileges, who have borrowed materials from the Main Library.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to titles and other identifying data on materials borrowed from the Main Library, and the name, agency, office, office telephone number, and office room number of borrower, and the scheduled return date for each item borrowed.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual who borrows materials, from Main Library records on materials borrowed, and from the Commission telephone directory.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General Routine Uses E, H, I, and L–N apply to this system.

Relevant information in this system may be disclosed as necessary to other Federal agencies or Federal contractors with statutory authority to assist in the collection of Commission debts.

Disclosures may be made from this system pursuant to 5 U.S.C. 552a(b)(12) and 31 U.S.C. 3711(e) to ''consumer reporting agencies'' as defined in 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained on computer media by an outside contractor.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by name, by title of item borrowed, and by call number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

These records are maintained until library staff electronically remove an employee-borrower entry from the system, which is done when the individual in question is no longer employed or working at the Commission. However, a borrowed item is electronically removed from a borrower's entry when the item is returned to the library.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic records in this system can be accessed remotely through a Web site by Commission personnel with a need to know the information for performance of their duties, such as library staff. Access to the system is restricted to authorized personnel through the use of safeguards such as passwords. Individual borrowers may establish a login and password that permits access only to their own records.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment; and
3. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment; and
3. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment; and
3. Signature.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

71 FR 35294 (June 19, 2006); 72 FR 35068 (June 26, 2007).

ITC–9

SYSTEM NAME AND NUMBER:

ITC–9 Parking and Mass Transit Subsidy Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Security and Support Services, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436; Washington Metropolitan Area Transit Authority, 600 5th Street NW., Washington, DC 20001.

SYSTEM MANAGER(S):

Director, Office of Security and Support Services, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 19 U.S.C. 1331(a)(1)(A)(iii); 41 CFR 102–74; 5 U.S.C. 7905.

PURPOSE(S) OF THE SYSTEM:

Records in this system are used to allocate and control agency-subsidized parking spaces and mass transit subsidies, assist in creating car pools, and insure that employees qualify for subsidized parking spaces or mass transit subsidies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former Commission employees and other authorized individuals who participate in the Commission mass transit and car pool subsidy programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to participant's name, agency, office room number and phone number, name of participant's supervisor, participant's home address, automobile type (make and model) and license number, permit number, participant's length of government service and type of work schedule, participant's type of transportation used for commuting, carpool payment amounts and names of others in carpool, mass transit benefit amounts, assigned SmarTrip card number and card usage information (*e.g.,* time, date, and location).

RECORD SOURCE CATEGORIES:

Information is obtained from the individual to whom the records pertain.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General Routine Uses A–C, E–I, K, and L–N apply to this system.

Relevant information in this system may be disclosed as necessary to other Federal agencies or Federal contractors with statutory authority to assist in the collection of Commission debts.

Disclosures may be made from this system pursuant to 5 U.S.C. 552a(b)(12) and 31 U.S.C. 3711(e) to ''consumer reporting agencies'' as defined in 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records at the Commission are maintained on paper in file folders and on an internal Commission electronic information system.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by applicant name or, in the case of parking records, space assignment or parking permit number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained in accordance with NARA GRS 9, item 7: Federal Employee Transportation Subsidy Records. Records that have met required retention periods will be disposed of in accordance with NARA guidelines and Commission policy and procedures. Paper records are shredded, and records maintained on internal Commission electronic information systems are electronically removed. Commission electronic storage media that is no longer in service is purged in accordance with National Institute of Standards and Technology guidelines for media sanitization (NIST SP 800–88).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

At the Commission, access to records in this system is limited to persons who have a need to know the information for the performance of their official duties, such as persons administering the parking and mass transit subsidy programs. Paper records in this system are maintained in locked file cabinets behind locked doors in a building with restricted public access, patrolled by guards. Both standard and electronic locks are used to restrict access. The electronic records in this system may only be accessed by authorized individuals through the use of safeguards such as passwords.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

71 FR 35294 (June 19, 2006).

ITC–10

[Reserved].

ITC–11

SYSTEM NAME AND NUMBER:

ITC–11 Congressional Correspondence Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of External Relations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Copies of these records may exist in other Commission offices, located at the same street address, with information pertaining to the correspondence; copies of records in this system concerning inquiries relating to specific Commission investigations may be included in the administrative record of such investigations.

SYSTEM MANAGER(S):

Director, Office of External Relations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any

revisions or amendments: 44 U.S.C. 3101; 19 U.S.C. 1331(a)(1)(A)(iii).

PURPOSE(S) OF THE SYSTEM:

Records in this system are used to respond to Congressional inquiries and inform Congress about Commission activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of Congress, and their constituents.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to the name, address and title of, and referrals of constituents' inquiries, from Members of Congress and responses thereto, and any other personal information in correspondence with Members of Congress and Congressional committees and/or subcommittees.

RECORD SOURCE CATEGORIES:

Information from this system comes from Members of Congress, their staffs, and individuals on whose behalf there have been Congressional inquiries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Records in this system may be made available to the public through the Commission's Web site. General routine uses A, D–H, and K–N apply to this system.

Referral may be made to other Federal, State, or local government agencies for appropriate action when the matter complained of or inquired about comes within the jurisdiction of such agency.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained on paper in file folders and on internal Commission electronic information systems.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by name of Member of Congress or by name of the Chairman of a Congressional committee or subcommittee.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are generally retained in accordance with USITC records schedule NC1–081–78–001, item F21: Correspondence with Members of Congress. This USITC records schedule is being revised to change the retention period to two years after the Member of Congress departs from office. The retention period for item F21, NC1–081–78–001 remains in effect until the revision is approved by NARA. Records that have met required retention periods will be disposed of in accordance with NARA guidelines and Commission policy and procedures. Paper records are shredded, and records maintained on internal Commission electronic information systems are electronically removed. Commission electronic storage media that is no longer in service is purged in accordance with National Institute of Standards and Technology guidelines for media sanitization (NIST SP 800–88).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to the records is limited to persons whose official duties require access, such as individuals who prepare responses to Congressional inquiries. Paper records in this system are maintained in a building with restricted public access, patrolled by guards. Both standard and electronic locks may be used to restrict access. The paper records in this system are kept in limited access areas within the building. Electronic records in this system may only be accessed by authorized individuals through the use of safeguards such as passwords.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

71 FR 35294 (June 19, 2006).

ITC–12

SYSTEM NAME AND NUMBER:

ITC–12 System Access Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Chief Information Officer, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

SYSTEM MANAGER(S):

Office of the Chief Information Officer, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 19 U.S.C. 1331(a)(1)(A)(iii).

PURPOSE(S) OF THE SYSTEM:

These records are used to permit tracking of individual computer access to prevent improper use of Commission equipment. These records also are used as a tool for investigation in the event of an unauthorized intrusion into the Commission's information systems. Additionally, these records are used for statistical analysis of computer usage.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former Commission employees and all current and former contractors, sub-contractors, consultants, and other individuals who use Commission computers or visit the Commission's internet and intranet Web sites.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information pertaining to a computer user's access to

Commission computers and other information technology resources, including such information as the identification of the computer assigned to a particular user, Internet sites visited, actions performed, dates, and time. It also includes records relating to name, address, country, telephone number, fax number, email address, employer type, agency or firm name, the computer's Internet protocol addresses, and account number gathered while accessing the Commission's internet and intranet Web sites.

RECORD SOURCE CATEGORIES:

Information in this system comes from the Commission's information technology systems such as web servers and firewall devices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General Routine Uses A–C and E–N apply to this system.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The System Access Records are maintained on Commission servers, electronic tape, magnetic disk, or other data storage media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

The System Access Records are retrieved by searching for specific data elements (such as user name or Internet Protocol (IP) address) on the electronic tape or magnetic disk or other data storage media.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained in accordance with NARA GRS 3.2, items 030 and 031: System Access Records. Records that have met required retention periods will be disposed of in accordance with NARA guidelines and Commission policy and procedures. Records maintained on internal Commission electronic information systems are electronically removed. Commission electronic storage media that is no longer in service is purged in accordance with National Institute of Standards and Technology guidelines for media sanitization (NIST SP 800–88).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The records are maintained in secure locations with access limited to persons whose official duties require access such as network administrators. The computer files can only be accessed by authorized individuals through the use of safeguards such as passwords.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

NOTIFICATION OF PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable);
3. Signature.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

HISTORY:

71 FR 35294 (June 19, 2006).

ITC–13

SYSTEM NAME AND NUMBER:

ITC–13 Administrative Protective Order Breach and Related Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, and the Office of the General Counsel.

SYSTEM MANAGER(S):

Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 19 U.S.C. 1337, 1677f, 2252, 2451, and 2451a.

PURPOSE(S) OF THE SYSTEM:

Records in this system are used to determine whether a person has breached an administrative protective order and/or should be sanctioned.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons subject to investigations of alleged breaches of administrative protective orders and/or investigations of whether there is good cause to sanction persons under section 201.15 of the Commission's Rules of Practice and Procedure (19 CFR 201.15).

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to a person's name, firm, address, the basis for the investigation, the Commission's determinations with respect to the facts of the investigation, and any sanctions or other actions taken in response to the agency's determinations.

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual on whom the record is maintained and investigative records compiled by Commission staff.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General Routine Uses A–C, E–K, and M–N apply to this system.

Relevant information in this system may be disclosed to the public as necessary where the Commission determines that a public sanction is warranted or where the Commission determines that such disclosure is necessary to facilitate the recovery of business proprietary information or confidential business information which has been disclosed to unauthorized persons.

Information from this system of records concerning one person may be disclosed to other persons subject to the same Administrative Protective Order (''APO'') breach investigation, to other persons subject to the same breach investigation of whether there is good cause to sanction persons under section

201.15 of the Commission's Rules of Practice and Procedure (19 CFR 201.15), and/or to other parties participating in the underlying trade remedy proceeding.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained on paper in file folders and on internal Commission electronic information systems.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by name and APO breach identification number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained in accordance with USITC records schedule N1–081–97–001, items 1a and 1b: Files maintained by the Office of the Secretary on Investigations of Possible Violations of Administrative Protective Orders and Commission Rules. Records that have met required retention periods will be disposed of in accordance with NARA guidelines and Commission policy and procedures. Paper records are shredded, and records maintained on internal Commission electronic information systems are electronically removed. Commission electronic storage media that is no longer in service is purged in accordance with National Institute of Standards and Technology guidelines for media sanitization (NIST SP 800–88).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to this system of records is limited to persons who have a need to know the information for the performance of their official duties, such as Commission employees conducting APO breach investigations. Paper records in this system are maintained in locked offices or in limited access areas in a building with restricted public access, patrolled by guards. Both standard and electronic locks may be used to restrict access. The electronic records in this system may only be accessed by authorized individuals through the use of safeguards such as passwords.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish their full name and signature for their records to be located and identified.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish their full name and signature for their records to be located and identified.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish their full name and signature for their records to be located and identified.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

71 FR 35294 (June 19, 2006); 72 FR 35068 (June 26, 2007).

ITC–14

SYSTEM NAME AND NUMBER:

ITC–14 Import and Export Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Operations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

SYSTEM MANAGER(S):

Chief of the Statistical and Data Services Division, Office of Analysis and Research Services, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 19 U.S.C. 1330–1335, 1337, 1671 *et seq.,* 2151, 2213, 2251–54, 2436, 2451–51a, 2482, 2704, 3204, 3353, 3372, 3381, 3804; 7 U.S.C. 624.

PURPOSE(S) OF THE SYSTEM:

Records in this system are used to conduct statutorily mandated investigations and studies, such as antidumping, countervailing duty, global safeguard, and intellectual property-related investigations and industry and economic analysis.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals importing to and/or exporting from the United States, and individuals producing articles for import and/or export.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to an importer's, exporter's, or producer's name, organization, title or position, business role, address, telephone number, electronic mail address, Web site address, and Dun's number, as well as quantity and value information on imports and exports. Some contact information is for the homes of individuals.

RECORD SOURCE CATEGORIES:

Information is obtained from U.S. Customs and Border Protection and other agencies that collect the information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General Routine Uses A–C, E–I, K, and M–N apply to this system.

Records in this system may be disclosed as necessary to the Office of the United States Trade Representative and other agencies in safeguard and intellectual-property related investigations.

Records in this system may be disclosed as necessary to U.S. Customs and Border Protection in intellectual-property and import injury investigations in accordance with statutory authority to facilitate that agency's fraud investigations and administration of entry exclusions.

Records in this system may be disclosed as necessary to representatives of parties to investigations under administrative protective order and/or judicial protective order.

Records in this system may be publicly disclosed as necessary in aggregated form that is not individually identifiable.

Records in this system may be disclosed as necessary to North American Free Trade Agreement panels and other tribunals, and U.S. courts reviewing trade remedy investigations.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained on internal Commission electronic information systems and in hard copies in internal Commission offices.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are generally retained in accordance with USITC records schedule N1–081–03–1, item B1 (Import Injury Investigation Case Files), item B2 (Research Program Case Files), and item B3 (Intellectual Property-Based Import Investigations). Retention periods may be subject to interagency agreements. Records that have met required retention periods will be disposed of in accordance with NARA guidelines and Commission policy and procedures. Paper records are shredded, and records maintained on internal Commission electronic information systems are electronically removed. Commission electronic storage media that is no longer in service is purged in accordance with National Institute of Standards and Technology guidelines for media sanitization (NIST SP 800–88).

Disposal procedures for records in this system shall comply with requirements in applicable interagency agreements.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to this system of records is limited to persons who have a need to know the information for the performance of their official duties, such as individuals participating in certain Commission statutory investigations. Safeguard procedures for records in this system shall comply with requirements in applicable interagency agreements. Paper records in this system are maintained in limited access spaces in locked offices in a building with restricted public access, patrolled by guards. Both standard and electronic locks are used to restrict access. The electronic records in this system may only be accessed by authorized individuals through the use of safeguards such as passwords.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

71 FR 35294 (June 19, 2006).

ITC–15

SYSTEM NAME AND NUMBER:

ITC–15 Telecommuting Program Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records relating to special circumstances telework requests are located in the Office of Human Resources and other telecommuting program records are located in the Office of Security and Support Services, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

SYSTEM MANAGER(S):

Director, Office of Security and Support Services, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 19 U.S.C. 1331(a)(1)(A)(iii); Pub. L. 106–346, § 359, 114 Stat. 1356, 1356A–36 (2000).

PURPOSE(S) OF THE SYSTEM:

Records in this system are used to administer the agency's telecommuting program. They may also be used to monitor employee compliance with the agency's telecommuting procedures.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former Commission employees and other authorized individuals who participate in the Commission telecommuting program.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to a person's name, title, office, supervisor, electronic mail address, telephone number, and alternate duty station address (which is often a home address). The telecommuting program records in this system do not include time and attendance records otherwise covered by ITC–1 (Pay and Leave Records).

RECORD SOURCE CATEGORIES:

Information is obtained from the individual to whom the records pertain.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General Routine Uses A–C and E–N apply to this system.

Relevant information in this system may be disclosed as necessary to the United States Congress in a form that does not identify covered individuals.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained on paper in file folders and on internal Commission electronic information systems.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained in accordance with NARA GRS–1, item 42: Alternate Worksite Records. Records that have met required retention periods will be disposed of in accordance with NARA guidelines and Commission policy and procedures. Paper records are shredded, and records maintained on internal Commission electronic information systems are electronically removed. Commission electronic storage media

that is no longer in service is purged in accordance with National Institute of Standards and Technology guidelines for media sanitization (NIST SP 800–88).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to records in this system is limited to persons whose official duties require access, such as Commission personnel who approve telecommute agreements. The Office of Human Resources maintains paper records pertaining to special circumstances telecommute requests in a locked filing cabinet in a locked room in a building with restricted public access, patrolled by guards. Both standard and electronic locks are used to restrict access. The electronic records in this system may only be accessed by authorized individuals through the use of safeguards such as passwords.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

71 FR 35294 (June 19, 2006).

ITC–16

SYSTEM NAME AND NUMBER:

ITC–16 Emergency Notification Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The various offices within the U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

SYSTEM MANAGER(S):

Director, Office of Human Resources, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 19 U.S.C. 1331(a)(1)(A)(iii) and 44 U.S.C. 3101.

PURPOSE(S) OF THE SYSTEM:

Records are maintained in this system for the purpose of notifying and identifying employees or their designees under emergency conditions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current Commission employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to a person's name, title, office, home address, office and home electronic mail addresses, and office and personal telephone numbers, as well as the name, address, and telephone number of the employee's designated emergency contact.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual to whom the records pertain.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General Routine Uses A–C and E–N apply to this system.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained on paper in file folders in internal Commission offices, on Commission mobile devices, and on internal Commission electronic information systems.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Emergency Notification Records are retained by the Commission until the proposed records schedule authorizing the disposal of such records is approved by NARA.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to records in this system is limited to persons whose official duties require access, including individuals (such as supervisors) who are responsible for contacting employees in an emergency. Paper records in this system are maintained in limited access areas in a building with restricted public access, patrolled by guards. Both standard and electronic locks are used to restrict access. Electronic records in this system may only be accessed by authorized individuals through the use of safeguards such as passwords.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

71 FR 35294 (June 19, 2006); 72 FR 35068 (June 26, 2007).

ITC–17

SYSTEM NAME AND NUMBER:

ITC–17 Roster of Mediators.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

SYSTEM MANAGER(S):

Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 19 U.S.C. 1331(a)(1)(A)(iii); 5 U.S.C. 572–574.

PURPOSE(S) OF THE SYSTEM:

Records in this system are used to identify potential mediators for participation in the Commission's mediation program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals selected as roster members to serve as potential mediators as part of the Commission's mediation program.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of individuals, including their name, organization, business or home address, telephone number, facsimile number, electronic mail address, and financial or business interests.

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual to whom the record pertains.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The name of the mediator and brief biographical information will be posted on the Commission's mediation Web page, and also may be published in the **Federal Register**. Outside counsel for a party subject to a mediation also may obtain information, subject to a confidentiality agreement, about potential mediators and the mediator selected for its particular mediation. General Routine Uses A–N apply to this system.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained on internal Commission electronic information systems.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

USITC will propose a records schedule authorizing the disposition of these records. Records are retained by the Commission until the proposed records disposition schedule is approved by NARA.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to this system of records is limited to persons who have a need to know the information for the performance of their official duties, such as individuals in the Office of the Secretary involved in the mediator selection process and to counsel subject to a confidentiality agreement. Electronic records in this system may only be accessed by authorized individuals through the use of safeguards such as passwords.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

ITC–18

SYSTEM NAME AND NUMBER:

ITC–18 Personnel Photograph Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of External Relations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, and other offices in the U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

SYSTEM MANAGER(S):

For Commissioner and administrative law judge portraits: Director of External Relations, Office of External Relations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436;

For employee photographs: Chief Administrative Officer, Office of Administration, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 19 U.S.C. 1331(a)(1)(A)(iii).

PURPOSE(S) OF THE SYSTEM:

These records are used for the purposes of enhancing the security of the Commission's building by familiarizing Commission staff with the identities and appearance of Commission personnel, educating the public, assisting Commission personnel in interfacing with customers and the public, and promoting open and collaborative electronic communication with Commission personnel.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commission personnel, including employees and contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains photographs of Commission personnel.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from the individual to whom the record pertains.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General Routine Uses A–L and M–N apply to this system. Records in this system can be accessed and publicly disclosed to assist the Commission in its relations with its customers and the public. To promote open electronic communication with Commission personnel, records in this system may be accessed and emailed by users of the Commission's email system, and may be further distributed by any recipient.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained in print, as photographic negatives, on computer media (*e.g.,* digital image files on CD and stand-alone computer systems) and on internal Commission electronic information systems.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by the name or identification number of the individuals on whom they are maintained.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained in accordance with (a) USITC records schedule NC1–081–78–001, item B9: Photographs and Biographies of Commissioners and (b) NARA GRS 21, item 2: Personnel Identification or Passport Photographs. Records that have met required retention periods will be disposed of in accordance with NARA guidelines and Commission policy and procedures. Photographs of personnel maintained in print are shredded, and records maintained on internal Commission electronic information systems are electronically removed. Commission electronic storage media that is no longer in service is purged in accordance with National Institute of Standards and Technology guidelines for media sanitization (NIST SP 800–88). Commissioner portraits are permanent records. These records, in any format, are transferred to the National Archives five years after the Commissioner leaves the Commission.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

These records are maintained in offices in a building with restricted public access, patrolled by guards. Both standard and electronic locks are used to restrict access. The records in this system are kept in limited access areas within the offices. The paper files are maintained in secure file cabinets or rooms, and access is limited to persons whose official duties require access, such as the Commission's public affairs officer for purposes of public education. The computer files can be accessed only by authorized individuals through the use of safeguards such as passwords.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment; and
3. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment; and
3. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment; and
3. Signature.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

ITC–1

SYSTEM NAME AND NUMBER:

ITC–19 Employment Law Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the General Counsel and other Commission offices, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

SYSTEM MANAGER(S):

General Counsel, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 44 U.S.C. 3101; 19 U.S.C. 1331(a)(1)(A)(iii).

PURPOSE(S) OF THE SYSTEM:

The Office of the General Counsel provides legal representation to Commission management in all administrative matters including, but not limited to, adverse actions, grievances, EEO, and unfair labor practices; represents the Commission and its employees in district court actions brought against them for acts taken in the course of official duties; and represents the Commission in other actions in which its interests are involved. Effective representation in such matters requires that records be retrievable by individual identifiers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted grievances (in accordance with part 771 of the regulations of the Office of Personnel Management (the ''OPM'') (5 CFR part 771), under 5 U.S.C. 7121, or through a negotiated grievance procedure), initiated EEO complaints, or initiated administrative proceedings or civil litigation against the Commission and/or or its personnel; individuals who have provided information, testimony, affidavits, or declarations concerning such matters; Commission attorneys assigned to such matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains documents relating to employment law matters. Such matters include adverse actions, grievances, unfair labor practice charges, civil actions against Commission employees in their official capacities, and Equal Employment Opportunity and other employee claims. Documents contained in the system include names of persons involved and Commission attorneys handling the matter, correspondence, internal reports and related documents concerning the merits, attorney notes and recommendations; records on actions taken by the Commission giving rise to appeals, attorney notes, recommendations and strategy for defending appeals; documents submitted or filed by plaintiffs/grievants/complaints in civil actions or administrative proceedings against the Commission, such as complaints, grievances, unfair labor practice claims, motions and briefs; documents submitted by the Commission to defend or respond, such as answers to complaints, motions to dismiss or for summary judgment, replies to administrative complaints, grievances, or unfair labor practice claims; administrative determinations at issue; discovery and investigatory materials such as witness statements, reports of interviews, attorney notes, affidavits, declarations, correspondence, records, exhibits, and other documentary evidence; litigation materials, such as legal memoranda, attorney notes and recommendations, hearing transcripts, and related correspondence and exhibits; and final judgments, orders, decisions, decrees, and settlement agreements.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. Plaintiffs, grievants, complainants, and aggrieved individuals;

b. Current and former Commission employees and officials;

c. Statements of witnesses and parties;

d. Transcripts of hearings, depositions, and court proceedings;

e. Work product of Commission attorneys and their assistants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General Routine Uses A–C, E–K, and M–N apply to this system.

Information in this system may be disclosed to any federal, state or local agency, organization or individual to the extent necessary to obtain information or witness cooperation if there is reason to believe the recipient possesses information related to the matter.

Information in this system may be disclosed to an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion of such matters as settlement or informal discovery proceedings.

Information in this system may be disclosed as necessary to other Federal agencies or Federal contractors with statutory authority to assist in the collection of Commission debts.

Disclosures may be made from this system pursuant to 5 U.S.C. 552a(b)(12) and 31 U.S.C. 3711(e) to ''consumer reporting agencies'' as defined in 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained on an internal Commission electronic information system and on paper in file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by the names of the grievant, complainant, plaintiff, litigant, or aggrieved individual, by the caption or forum of the related civil action or administrative proceeding, or by the name of the Commission attorney handling the matter. Affidavits, declarations, testimony, witness statements, and similar materials may be retrieved by the names of any concerned indivSAFEiduals.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained in accordance with USITC records schedule N1–081–06–001, item C1: Litigation Case Files. Records that have met required retention periods will be disposed of in accordance with NARA guidelines and Commission policy and procedures. Paper records are shredded, and records maintained on internal Commission electronic information systems are electronically removed. Commission electronic storage media that is no longer in service is purged in accordance with National Institute of Standards and Technology guidelines for media sanitization (NIST SP 800–88).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to this system of records is limited to persons who have a need to know the information for the performance of their official duties, such as Commission attorneys representing the Commission in administrative matters and Commission paralegals assisting in such matters. Paper records in this system are maintained in locked file cabinets in limited access areas within a building with restricted public access that is patrolled by guards. Both standard and electronic locks are used to restrict access. Access to the keys to the file cabinets is limited to persons whose official duties require access to the files. The electronic records in this system may only be accessed by authorized individuals through the use of safeguards such as passwords.

RECORD ACCESS PROCEDURES:

The records described herein are compiled in reasonable anticipation of a civil action or proceeding. Pursuant to section (d)(5) of the Privacy Act of 1974, as amended, 5 U.S.C. 552a(d)(5), an individual is precluded from access to such records.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment at the Commission (if applicable);
3. Forum, filing/closing date, caption, and docket number of the action/proceeding involved (if available); and
4. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the

Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment at the Commission (if applicable);
3. Forum, filing/closing date, caption, and docket number of the action/proceeding involved (if available); and
4. Signature.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

The records described herein are compiled in reasonable anticipation of a civil action or proceeding. Pursuant to section (d)(5) of the Privacy Act of 1974, as amended, 5 U.S.C. 552a(d)(5), an individual is precluded from access to such records.

Information from other systems of records may be incorporated into this system (*e.g.,* ITC–7, Personnel Security Investigative Files). To the extent that copies of exempt records from other systems of records are entered into this system, the Commission claims the same exemptions for those records that are claimed for the original primary system of records from which they originated.

HISTORY:

None.

ITC–20

SYSTEM NAME AND NUMBER:

ITC–20 Freedom of Information Act and Privacy Act Records.

SECURITY CLASSIFICATION:

Classified and Unclassified.

SYSTEM LOCATION:

Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

SYSTEM MANAGER(S):

For Freedom of Information Act (FOIA) records, Chief FOIA Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. For Privacy Act records, Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: the Freedom of Information Act, 5 U.S.C. 552, as amended; the Privacy Act of 1974, 5 U.S.C. 552a, as amended.

PURPOSE(S) OF THE SYSTEM:

These records are used to effectively monitor, process, and track individuals' requests and administrative appeals made under the provisions of the Freedom of Information Act (FOIA) and the Privacy Act. In addition, these records support agency participation in litigation arising from requests and appeals; assigning, processing, and tracking FOIA workloads; and, providing management information reports.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records and related correspondence on individuals who have submitted requests for information and administrative appeals under the provisions of the Freedom of Information Act (FOIA) (5 U.S.C. 552) or the Privacy Act (5 U.S.C. 552a), as well as individuals whose records have been the subject of a FOIA or Privacy Act request. Other individuals covered by the system include Commission staff assigned to process a request and staff that may have responsive records or are mentioned in such records.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains correspondence and other documents related to FOIA and Privacy Act requests and administrative appeals. The information maintained by the system may include: (1) Records received, copied, created, or compiled during the search and processing of initial requests and administrative appeals; (2) fee schedules, cost calculations, and costs assessed for processing FOIA requests (disclosed FOIA records—cost can be incurred even for records that are not provided to requesters); (3) appeals, intra-agency or interagency memorandums, and correspondence with the requesters or entities who submitted the requests and appeals; (4) the Commission's responses and transferals to other agencies; (5) copies of records disclosed or withheld; (6) requesters' names, organizations, titles, addresses, emails, telephone numbers, fax numbers, Social Security numbers (which may be submitted with documentation or as proof of identification when requesting access to Privacy Act records); (7) information compiled on and about the parties who made written requests or appeals, including individuals on whose behalf such written requests or appeals were made; (8) FOIA tracking numbers; (9) descriptions of the types of requests or appeals, and dates the requests or appeals were received by the Commission; (10) and may include the requester's original Privacy Act/FOIA requests. The system also includes information on the Commission personnel involved in the processing of FOIA and/or Privacy Act requests and appeals (*e.g.,* FOIA staff and/or Privacy Act staff, appeals officials, and members of the Office of General Counsel staff) who respond to requests or appeals and process any final dispositions. The system also covers records related to requests for OGIS assistance.

RECORD SOURCE CATEGORIES:

Information in the system comes from the individual(s) on whom the record is maintained, FOIA staff, and official Commission documents.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General Routine uses A–D, F–K, and M–N apply to these systems.

POLICIES AND PRACTICE FOR STORAGE OF RECORDS:

The records are maintained in paper file folders stored in metal file cabinets and on internal Commission electronic information systems.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by the name of the individual and also by case file number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records relating to the agency's implementation of FOIA and the Privacy Act are disposed of in accordance with the General Records Schedule (GRS) 14 issued by the National Archives and Records Administration. Records that have met required retention periods will be disposed of in accordance with NARA guidelines and Commission policy and procedures. Paper records are shredded, and records maintained on internal Commission electronic information systems are electronically removed. Commission electronic storage media that is no longer in service is purged in accordance with National Institute of Standards and Technology guidelines for media sanitization (NIST SP 800–88).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to the records is limited to persons whose official duties require access, such as the Chief FOIA Officer, the FOIA Liaison or a designee. Paper records in this system are stored in file cabinets located in secure areas that are either occupied by staff involved in

processing FOIA and Privacy Act requests and administrative appeals or locked up during nonworking hours or whenever staff is not present in these areas in a building with restricted public access, patrolled by guards. Both standard and electronic locks may be used to restrict access. The paper records in this system are kept in limited access areas within the building. Electronic records in this system may only be accessed by authorized individuals through the use of safeguards such as User ID and passwords. Access to the systems records is limited to those staff members who are familiar with FOIA- and Privacy Act-related requests and who have a need to know. System managers are held responsible for safeguarding the records that are under their control.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR 201.25).

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Dates of employment (if applicable); and
3. Signature.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(l) and (k)(2), this system of records is exempted from (c)(3), (d), (e)(1), (e)(4)(G)–(I) and (f) of the Privacy Act. These exemptions are established in the Commission rules at 19 CFR 201.32. During the course of monitoring, processing, and tracking individuals' requests and administrative appeals, exempt materials from other systems of records may be incorporated into this system. To the extent that copies of exempt records from other systems of records are entered into this system, the Commission claims the same exemptions for those records that are claimed for the original primary system of records from which they originated.

HISTORY:

None.

Appendix A: General Routine Uses Applicable to More Than One System of Records

A. Disclosure for Law Enforcement Purposes

When information indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity.

B. Disclosure Incident to Requesting Information

Information may be disclosed to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), when necessary to obtain information relevant to an agency decision concerning retention of an employee or other personnel action (other than hiring), retention of a security clearance, the letting of a contract, or the issuance or retention of a grant, or other benefit.

C. Disclosure to Requesting Agency

Disclosure may be made to a Federal, State, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.

D. Disclosure to Office of Management and Budget

Information may be disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

E. Disclosure to Congressional Offices

Information may be disclosed to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the written request of the individual about whom the record is maintained. Disclosure will not be made until the Congressional office has furnished appropriate documentation of the individual's request, such as a copy of the individual's written request.

F. Disclosure for Use in Litigation

Information may be disclosed to and used by the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the Commission is authorized to appear, when:

1. The Commission, or any component thereof; or
2. Any employee of the Commission in his or her official capacity; or
3. Any employee of the Commission in his or her individual capacity where the Department of Justice or the Commission has agreed to represent the employee; or
4. The United States is a party to litigation or has an interest in such litigation, and the Commission determines that the records are both relevant and necessary to the litigation and the use of such records is deemed by the Commission to be for a purpose that is compatible with the purpose for which the records were collected.

G. Disclosure to the National Archives and General Services Administration

Information may be disclosed to the National Archives and Records Administration or General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

H. Disclosure to Contractors, Grantees, Etc.

Information may be disclosed to agency contractors, grantees, consultants, or volunteers who have been engaged to assist the agency in the performance of a contract, service, grant, cooperative agreement, job, or other activity for the Commission related to this system of records and who need to have

access to the records in order to perform the activity for the Commission. This includes Federal agencies providing payroll, management, information security, or administrative services to the Commission. When appropriate, recipients shall be required to comply with the requirements of the Privacy Act of 1974 as provided in 5 U.S.C. 552a(m).

I. Disclosures for Administrative Claims, Complaints and Appeals

Information from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other person properly engaged in investigation or settlement of an administrative grievance, complaint, claim, or appeal filed by an employee or former employee, but only to the extent that the information is relevant and necessary to the proceeding. Agencies that may obtain information under this routine use include, but are not limited to, the Office of Personnel Management, Office of Special Counsel, Merit Systems Protection Board, Federal Labor Relations Authority, Equal Employment Opportunity Commission, and Office of Government Ethics.

J. Disclosure to the Office of Personnel Management

Information from this system of records may be disclosed to the Office of Personnel Management pursuant to that agency's responsibility for evaluation and oversight of Federal personnel management.

K. Disclosure in Connection With Litigation

Information from this system of records may be disclosed in connection with litigation or settlement discussions regarding claims by or against the Commission, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions and except where court orders are otherwise required under section (b)(11) of the Privacy Act of 1974, 5 U.S.C. 552a(b)(11).

L. Disclosure to Labor Unions

Information from this system of records may be disclosed to provide information to officials of labor organizations when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

M. Disclosure in Connection With Breach of the System of Records

Disclosure may be made to appropriate agencies, entities, and persons when (1) the Commission suspects or has confirmed that there has been a breach of the system of records; (2) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

N. Disclosure To Assist With Breach Response Efforts

Disclosure may be made to another Federal agency or Federal entity, when the Commission determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

Appendix B: Government-Wide Systems of Records Applicable to the Commission

The Commission maintains some records covered by Government-wide systems of records notices published by other agencies. There may not be actual Commission files in all Government-wide systems. This list is based on Privacy Act Issuances, 2015 Compilation, available at *https://www.gpo.gov/fdsys/browse/collection.action?collectionCode=PAI.* Any later established Government-wide systems notices may also be applicable.

DOL/GOVT-1 Office of Workers' Compensation Programs, Federal Employees' Compensation Act File.

DOL/GOVT-2 Jobs Corps Student Records.

DOT/ALL-8 Parking and Transit Benefit System.

EEOC/GOVT-1 Equal Employment Opportunity in the Federal Government Complaint and Appeal Records.

EPA/GOVT-1 Emissions Inspection and Maintenance Records for Federal Employees Parking at Federal Parking Facilities.

EPA/GOVT-2 Federal Docket Management System (FDMS).

DHS/FEMA/GOVT-1 Federal Emergency Management Agency National Defense Executive Reserve System.

GSA/GOVT-2 Employment Under Commercial Activities Contracts.

GSA/GOVT-3 Travel Charge Card Program.

GSA/GOVT-4 Contracted Travel Services Program.

GSA/GOVT-5 Access Certificates for Electronic Services (ACES).

GSA/GOVT-6 GSA SmartPay Purchase Charge Card Program.

GSA/GOVT-7 HSPD-12 USAccess.

MSPB/GOVT-1 Appeals and Case Records.

OGE/GOVT-1 Executive Branch Personnel Public Financial Disclosure Reports and Other Name-Retrieved Ethics Program Records.

OGE/GOVT-2 Executive Branch Confidential Financial Disclosure Reports.

OPM/Central-1 Civil Service Retirement and Insurance Records.

OPM/Central-2 Complaints and Inquiries Records.

OPM/Central-4 Inspector General Investigations Case Files.

OPM/Central-5 Intergovernmental Personnel Act Assignment Records.

OPM/Central-6 Administrative Law Judge Application Records.

OPM/Central-7 Litigation and Claims Records.

OPM/Central-9 Personnel Investigations Records.

OPM/Central-10 Federal Executive Institute Program Participant Records.

OPM/Central-11 Presidential Management Fellows (PMF) Program Records.

OPM/Central-13 Executive Personnel Records.

OPM/Central-15 Health Claims Data Warehouse (HCDW).

OPM/Central-16 Health Claims Disputes External Review Services.

OPM/Central-X Federal Competency Assessment Tool.

OPM/Central-18 Federal Employees Health Benefits Program Claims Data Warehouse.

OPM/GOVT-1 General Personnel Records.

OPM/GOVT-2 Employee Performance File System Records.

OPM/GOVT-3 Records of Adverse Actions, Performance Based Reduction in Grade and Removal Actions, and Termination of Probationers.

OPM/GOVT-5 Recruiting, Examining, and Placement Records.

OPM/GOVT-6 Personnel Research and Test Validation Records.

OPM/GOVT-7 Applicant Race, Sex, National Origin, and Disability Status Records.

OPM/GOVT-9 File on Position Classification Appeals, Job Grading Appeals, Retained Grade or Pay Appeals, Fair Labor Standards Act (FLSA) Claims and Complaints, Federal Civilian Employee Compensation and Leave Claims, and Settlement of Accounts for Deceased Civilian Officers and Employees.

OPM/GOVT-10 Employee Medical File System Records.

OSC/GOVT-1 OSC Complaint, Litigation and Political Activity Files.

By order of the Commission.

Issued: September 21, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–20617 Filed 9–26–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1040]

Certain Basketball Backboard Components and Products Containing the Same; Commission Determination Not To Review an Initial Determination Terminating the Investigation in Its Entirety Based on a Settlement Agreement; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'')

(Order No. 15) of the presiding administrative law judge (''ALJ'') terminating the investigation in its entirety based on a settlement agreement. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3115. Copies of non-confidential documents filed in connection with this investigation are or 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 *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''Section 337''), on February 7, 2017, based on a complaint filed by Lifetime Products, Inc. of Clearfield, Utah (''Lifetime''). 82 FR 9595–96 (Feb. 7, 2017). The complaint, as amended, alleges a violation of Section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain basketball backboard components and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 7,749,111; 8,845,463; and 8,852,034. The named respondents are Russell Brands, LLC d/b/a Spalding of Bowling Green, KY (''Russell Brands'') and Reliable Sports Equipment (Wujiang) Co. Ltd. of Wujiang City, Jiangsu, China (''Reliable Sports''). 82 FR at 9595–96. The Commission's Office of Unfair Import Investigations was not named as a party. *Id.* at 9596.

On August 24, 2017, Complainant Lifetime and Respondents Russell Brands and Reliable Sports filed a joint motion to terminate the investigation on the basis of a settlement agreement.

On September 6, 2017, the ALJ issued an ID (Order No. 15) granting the joint motion and terminating the investigation in its entirety based on the settlement agreement. The ALJ found that termination of this investigation is in the public interest because it will not adversely affect the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers. Order No. 15 at 2. No party petitioned for review of the subject ID, and the Commission has determined not to review it.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: September 21, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–20644 Filed 9–26–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Privacy Act of 1974; System of Records

AGENCY: United States International Trade Commission.

ACTION: Rescindment of a system of records notice.

SUMMARY: The system of records ITC–10 (Mailing List Records) contained records of requests by individuals for placement on a Commission mailing list. These records were used to maintain the names and addresses of individuals and/or organizations that requested copies of agency publications.

DATES: The Commission stopped maintaining this system of records on June 11, 2014.

ADDRESSES: Written comments on the rescindment of this system of records notice must be received by the Secretary to the Commission no later than October 27, 2017. The rescindment will become effective on that date unless otherwise published in the **Federal Register**.

You may submit comments, identified by docket number MISC–043, by any of the following methods:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the instructions for submitting comments.

Agency Web site: https://edis.usitc.gov. Follow the instructions for submitting comments on the Web site.

Mail: For paper submission. U.S. International Trade Commission, 500 E Street SW., Room 112A, Washington, DC 20436.

Hand Delivery/Courier: U.S. International Trade Commission, 500 E Street SW., Room 112A, Washington, DC 20436. From the hours of 8:45 a.m. to 5:15 p.m.

Instructions: All submissions received must include the agency name and docket number (MISC–043), along with a cover letter. Persons filing comments must file the original document electronically on *https://edis.usitc.gov;* any personal information provided will be viewable by the public. For paper copies, a signed original and 8 copies of each set of comments should be submitted to Lisa R. Barton, Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112A, Washington, DC 20436.

For access to the docket to read background documents or comments received, go to *https://edis.usitc.gov.* and/or the U.S. International Trade Commission, 500 E Street SW., Room 112A, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, tel. 202–205–2000. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION: The Commission discontinued providing paper copies of its publications in June 2014, and no longer has a need for mailing list records. The records contained in this system have been destroyed.

SYSTEM NUMBER

ITC–10

SYSTEM NAME:

(Mailing List Records)

HISTORY:

The Commission previously published notice of this system of records at 71 FR 35294 (June 19, 2006).

By order of the Commission.

Issued: September 21, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–20616 Filed 9–26–17; 8:45 am]

BILLING CODE 7020–02–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 LED Lighting Devices, LED Power Supplies, and Components Thereof, DN 3256;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

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 *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Philips Lighting North America Corp. and Philips Lighting Holding B.V. on September 21, 2017. 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 led lighting devices, led power supplies, and components thereof. The complaint names as respondents Feit Electric Company, Inc. of Pico Rivera, CA; Feit Electric Company Inc. (China) of China; Lowe's Companies, Inc. of Mooresville, NC; L G Sourcing, Inc. of North Wilkesboro, NC; MSi Lighting, Inc. of Boca Raton, FL; RAB Lighting Inc. of Northvale, NJ; Satco Products, Inc. of Brentwood, NY; Topaz Lighting Corp. of Holtsville, NY; Wangs Alliance Corporation d/b/a WAC Lighting Co. of Port Washington, NY; and WAC Lighting (Shanghai) Co. Ltd. of China. The complainant requests that the Commission issue a limited exclusion, 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 § 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 § 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. 3256'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). 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 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 information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: September 22, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–20657 Filed 9–26–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under CERCLA

On September 21, 2017, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of New York in the lawsuit entitled *United States* v. *Mazza & Sons, Inc.,* Civil Case No. 6:17-cv-01041–GTS–TWD.

The proposed settlement resolves the United States' claims under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9607, against Mazza & Sons, Inc., for recovery of past response costs incurred at the Frankfort Asbestos Superfund Site. The Site is located at 3720 Southside Road (Old New York State 5S), approximately one mile northwest of the Town of Frankfort, in Herkimer County, New York. Under the proposed Consent Decree, Mazza & Sons, Inc. will pay $250,000 in past response costs to resolve the United States' claims.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America* v. *Mazza & Sons, Inc.,* Case No. 6:17–cv–01041–GTS–TWD, D.J. Ref. No. 90–11–3–10738/4. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request for a paper copy and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $5.75 (25 cents per page reproduction cost), payable to the United States Treasury.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–20648 Filed 9–26–17; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Advisory Board on Toxic Substances and Worker Health: Joint Subcommittee Meeting Between Subcommittee on Medical Advice Re: Weighing Medical Evidence and Subcommittee on Industrial Hygienists (IH) & Contract Medical Consultants (CMC) and Their Reports

AGENCY: Office of Workers' Compensation Programs, Department of Labor.

ACTION: Announcement of joint meeting of the Subcommittee on Medical Advice Re: Weighing Medical Evidence and the Subcommittee on IH & CMC and Their Reports of the Advisory Board on Toxic Substances and Worker Health (Advisory Board) for the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

SUMMARY: The subcommittees will meet via teleconference on October 23, 2017, from 1:00 p.m. to 2:30 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: For press inquiries: Ms. Amy Louviere, Office of Public Affairs, U.S. Department of Labor, Room S–1028, 200 Constitution Ave. NW., Washington, DC 20210; telephone (202) 693–4672; email *Louviere.Amy@dol.gov.*

SUPPLEMENTARY INFORMATION: The Advisory Board is mandated by Section 3687 of EEOICPA. The Secretary of Labor established the Board under this authority and Executive Order 13699 (June 26, 2015). The purpose of the Advisory Board is to advise the Secretary with respect to: (1) The Site Exposure Matrices (SEM) of the Department of Labor; (2) medical guidance for claims examiners for claims with the EEOICPA program, with respect to the weighing of the medical evidence of claimants; (3) evidentiary requirements for claims under Part B of EEOICPA related to lung disease; and (4) the work of industrial hygienists and staff physicians and consulting physicians of the Department of Labor and reports of such hygienists and physicians to ensure quality, objectivity, and consistency. The Advisory Board sunsets on December 19, 2019. This joint subcommittee meeting is being held to analyze data and information and continue working on advice under Area #2, Medical Advice Re: Weighing Medical Evidence, and Area #4, IH & CMC and Their Reports.

The Advisory Board operates in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and its implementing regulations (41 CFR part 102–3).

Agenda: The tentative agenda for this joint subcommittee meeting includes: Discuss results of meeting with DEEOIC medical and industrial hygiene experts; planning for upcoming full-Board meeting.

OWCP transcribes Advisory Board subcommittee meetings. OWCP posts the transcripts on the Advisory Board Web page, *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm,* along with written comments and other materials submitted to the subcommittee or presented at subcommittee meetings.

Public Participation, Submissions, and Access to the Public Record

Subcommittee meeting: The subcommittees will meet via teleconference on Monday, October 23, 2017, from 1:00 p.m. to 2:30 p.m. Eastern time. Advisory Board subcommittee meetings are open to the public. The teleconference number and other details for listening to the meeting will be posted on the Advisory Board's Web site no later than 72 hours prior to the meeting. This information will be posted at *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm.*

Requests for special accommodations: Please submit requests for special accommodations to participate in the subcommittee meeting by email, telephone, or hard copy to Ms. Carrie Rhoads, OWCP, Room S–3524, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 343–5580; email *EnergyAdvisoryBoard@dol.gov.*

Submission of written comments for the record: You may submit written

comments, identified by the subcommittee name and the meeting date of October 23, 2017, by any of the following methods:

• *Electronically:* Send to: *EnergyAdvisoryBoard@dol.gov* (specify in the email subject line, ''Subcommittee on Medical Advice re: Weighing Medical Evidence'').

• *Mail, express delivery, hand delivery, messenger, or courier service:* Submit one copy to the following address: U.S. Department of Labor, Office of Workers' Compensation Programs, Advisory Board on Toxic Substances and Worker Health, Room S–3522, 200 Constitution Ave. NW., Washington, DC 20210. Due to security-related procedures, receipt of submissions by regular mail may experience significant delays.

Comments must be received by October 16, 2017. OWCP will make available publically, without change, any written comments, including any personal information that you provide. Therefore, OWCP cautions interested parties against submitting personal information such as Social Security numbers and birthdates.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available on the Advisory Board's Web page at *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm.*

For further information regarding this meeting, you may contact Douglas Fitzgerald, Designated Federal Officer, at *fitzgerald.douglas@dol.gov,* or Carrie Rhoads, Alternate Designated Federal Officer, at *rhoads.carrie@dol.gov,* U.S. Department of Labor, 200 Constitution Avenue NW., Suite S–3524, Washington, DC 20210, telephone (202) 343–5580.

This is not a toll-free number.

Signed at Washington, DC, this 15th day of September, 2017.

Julia K. Hearthway,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2017–20620 Filed 9–26–17; 8:45 am]

BILLING CODE 4510–24–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0048]

Information Collection: Domestic Licensing of Special Nuclear Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Domestic Licensing of Special Nuclear Material.''

DATES: Submit comments by October 27, 2017.

ADDRESSES: Submit comments directly to the OMB reviewer at: Aaron Szabo, Desk Officer, Office of Information and Regulatory Affairs (3150–0009), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–3621; email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0048 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–2017–0048.

• *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 supporting statement and burden spreadsheet are available in ADAMS under Accession Nos. ML17222A115 and ML16309A062, respectively.

• *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.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''10 CFR part 70, Domestic Licensing of Special Nuclear Material.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on June 1, 2017 (82 FR 25343).

1. *The title of the information collection:* 10 CFR part 70, ''Domestic Licensing of Special Nuclear Material.''
2. *OMB approval number:* 3150–0009.
3. *Type of submission:* Extension.
4. *The form number if applicable:* Not applicable.
5. *How often the collection is required or requested:* Required reports are collected and evaluated on a continuing basis as events occur. Applications for new licenses and amendments may be submitted at any time. Generally, renewal applications are submitted every 10 years, although the Commission has allowed longer periods for major fuel cycle facilities; updates of

the Integrated Safety Analysis are submitted annually.

6. *Who will be required or asked to respond:* Applicants for and holders of specific and General Licenses to receive title to, own, acquire, deliver, receive, possess, use, or initially transfer special nuclear material.

7. *The estimated number of annual responses:* 1,620.

8. *The estimated number of annual respondents:* 606.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 89,222 hours (81,781 hours reporting + 7,371 hours recordkeeping + 70 hours third-party disclosure).

10. *Abstract:* Part 70 of title 10 of the *Code of Federal Regulations* (10 CFR), establishes requirements for licensees to own, acquire, receive, possess, use, and transfer special nuclear material. The information in the applications, reports, and records is used by the NRC to make licensing and or regulatory determinations concerning the use of special nuclear material.

Dated at Rockville, Maryland, this 20th day of September, 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–20665 Filed 9–26–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0191]

Requirements Regarding Mandatory Review for Declassification

AGENCY: Nuclear Regulatory Commission.

ACTION: Mandatory Review for Declassification; notice of availability.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is updating its requirements regarding Mandatory Review for Declassification pursuant to Section 3.5 of Executive Order (E.O.) 13526, ''Classified National Security Information.'' The NRC's requirements regarding Mandatory Review for Declassification were previously published in the **Federal Register** on November 5, 1996. This notice informs the public of these updates. This notice also presents instructions for submitting suggestions or questions regarding the NRC's information security program.

DATES: The requirements are available as of September 27, 2017.

ADDRESSES: Please refer to Docket ID NRC–2017–0191 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–2017–0191. 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: Darryl H. Parsons, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–7751, email: *Darryl.Parsons@nrc.gov.*

SUPPLEMENTARY INFORMATION: Purusant to Executive Order (E.O.) 13526, issued on December 29, 2009, and published in the **Federal Register** on January 5, 2010 (75 FR 707), and part 2001 of title 32 of the *Code of Federal Regulations,* ''Classified National Security Information,'' published June 28, 2010 (75 FR 37254), the NRC is updating its mandatory review for declassification requirements to read as follows:

I. Mandatory Review for Declassification Requirements

A. NRC information classified under E.O. 13526 or predecessor orders shall be subject to a review for declassification by NRC, if:

1. The request for a review describes the document or material containing the information with sufficient specificity to enable the agency to locate it with a reasonable amount of effort;

2. The document or material containing the information responsive to the request is not contained within an operational file exempted from search and review, publication, and disclosure under section 552 of title 5, *United States Code* in accordance with law; and

3. The information is not the subject of pending litigation.

B. Any person desiring a mandatory review for declassification of NRC documents containing classified information should address these requests to the Director, Division of Security Operations, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

C. Requests need not be made on any special form, nor does the requested information have to be identified by date or title, but shall, as specified in E.O. 13526, describe the information with sufficient specificity to enable the NRC to locate the records containing the information sought with a reasonable amount of effort. Requests for broad types of information, entire file series of records, or similar non-specific requests may be denied a mandatory review for declassification by the NRC.

D. The Director, Division of Security Operations, Office of Nuclear Security and Incident Response, will acknowledge receipt of the request and initiate action to obtain the requested information.

E. If the information contained in the requested matter has been reviewed for declassification within the past 2 years, another review need not be conducted, but instead the NRC may inform the requester of this fact and of the results of the prior review decision and advise the requester of appeal rights.

F. Documents required to be submitted for pre-publication review or other administrative process pursuant to an approved nondisclosure agreement are not subject to mandatory declassification review (MDR).

G. The NRC performs an MDR as follows:

1. Conducts a line-by-line review of the matter.

2. Withholds any information that meets the standards for classification under E.O. 13526.

3. Declassifies National Security Information under the NRC's purview that no longer meets the standards for classification under E.O. 13526 or successor orders.

4. If the matter is originated by another agency, the NRC will refer the request and pertinent records to the originating agency, unless the originating agency has agreed that the NRC may review its records in

accordance with the declassification guides or guidelines provided by the originating agency. If referred, the originating agency will process the request in accordance with its agency's procedures for mandatory review for declassification and communicate its determination to the NRC. The NRC will be responsible for collecting all agency review results and informing the requester of any final decision regarding the declassification of the requested information unless a prior arrangement has been made with the originating agency. Requests for an MDR made to an element of the Intelligence Community by anyone other than a citizen of the United States or an alien lawfully admitted for permanent residence may be denied by the receiving Intelligence Community element.

5. If the matter is marked as, or potentially contains, Restricted Data, Formerly Restricted Data, or Transclassified Foreign Nuclear Information, then the MDR is processed in accordance with 10 CFR part 1045, ''Nuclear Classification and Declassification.''

6. If the matter contains cryptologic information then the NRC shall process the MDR in accordance with special procedures issued by the Secretary of Defense and, when cryptologic information pertains to intelligence activities, the Director of National Intelligence.

7. If the matter contains information pertaining to intelligence sources, methods, and activities then the NRC shall process the MDR in accordance with the special procedures issued by the Director of National Intelligence.

8. If the matter contains foreign government information and the NRC initially received or classified the foreign government information, then the NRC shall be responsible for making a declassification determination after consultation with concerned governments/agencies. If the NRC did not initially receive or classify the foreign government information, the NRC shall refer the request to the agency that received or classified the foreign government information for appropriate action. In all instances, the NRC may consult with the foreign government(s) through appropriate channels prior to declassification.

9. If the matter also contains unclassified information that is potentially exempt from release under the Freedom of Information Act, the matter is further processed to ensure unclassified information that is exempt from public release is identified and that the appropriate officials responsible for denying any classified portion of the matter are provided and listed with the notice of denial.

10. When information cannot be declassified in its entirety, the NRC will make reasonable efforts to release, consistent with other applicable laws, those declassified portions of the requested information that constitute a coherent segment.

11. A final determination shall be made on each request within 1 year from the date of receipt.

12. Upon completion of the review, the NRC releases the information to the requester, unless that information is prohibited from release under the provisions of a statutory authority.

13. Upon denial, in whole or in part, of an initial request, the NRC's response shall also notify the requester of the right to an administrative appeal.

H. When the Director, Division of Security Operations, Office of Nuclear Security and Incident Response, denies the release of classified matter requested under an MDR, the requester may appeal the determination to the NRC within 60 days of receipt of the denial.

I. The appeal must be in writing and submitted to the Office of the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The appeal:

1. Must include reference to the determination being appealed; and

2. Should specify why the requester believes the information does not warrant classification.

J. The NRC shall normally make a determination within 60 working days following the receipt of an appeal. If additional time is required in rendering a decision, the NRC will notify the requester of the additional time needed and the reason for the extension.

K. The NRC will notify the requester in writing of the final decision and of the reason(s) for any denial. The NRC may refuse to confirm or deny the existence or nonexistence of the requested information whenever the fact of its existence or nonexistence is itself classified under E.O. 13526 or successor orders.

L. If the appeal has been denied, the NRC shall notify the requester in writing of the right to appeal the final NRC decision to the Interagency Security Classification Appeals Panel (ISCAP). The rules and procedures for bringing mandatory declassification appeals before the ISCAP are published in ''The Interagency Security Classification Appeals Panel (ISCAP) Bylaws, Rules, and Appeal Procedures,'' dated July 9, 2012 (77 FR 40261). The appeal to the ISCAP must be filed within 60 days of:

1. The date of the final agency decision;

2. The agency's failure to provide an initial decision on the request for an MDR from the agency within 1 year of its filing; or

3. The agency's failure to provide a final decision on an agency-level appeal within 180 days of the filing of the appeal.

M. Charges for services (*e.g.,* locating and reproducing copies of records) will be made, when deemed applicable, in accordance with NRC regulations and will be consistent with charges for information requested under section 9701 of title 31, *United States Code* and the NRC's regulations implementing the Freedom of Information Act (10 CFR 9.35—Duplication Fees), or the Privacy Act (10 CFR 9.85—Fees).

II. Instructions for Submitting Suggestions or Questions Regarding the NRC's Classified Information Security Program

Requirements regarding the NRC's Classified Information Security Program are contained in NRC Management Directive 12.2, ''NRC Classified Information Security Program,'' which is available for review and printing in ADAMS under Accession No. ML14142A085. Suggestions or questions regarding NRC's Classified Information Security Program should be submitted in writing to the U.S. Nuclear Regulatory Commission, Director, Division of Security Operations, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission Washington, DC 20555–0001.

Dated at Rockville, Maryland, this 18th day of September, 2017.

For the U.S. Nuclear Regulatory Commission,

Michael R. Johnson,

Acting Executive Director for Operations.

[FR Doc. 2017–20706 Filed 9–26–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0056]

Emergency Planning for Research and Test Reactors and Other Non-Power Production and Utilization Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide, issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing revision 2 of Regulatory Guide (RG) 2.6, ''Emergency Planning for Research and Test Reactors and Other Non-Power

Production and Utilization Facilities.'' This RG provides licensees and applicants with a method the NRC staff considers acceptable for use in complying with the regulations on the content of emergency plans for research and test reactors and other non-power production and utilization facilities.

DATES: Revision 2 of RG 2.6 is available on September 27, 2017.

ADDRESSES: Please refer to Docket ID NRC–2017–0056 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–2017–0056. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals 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 a document is referenced. Revision 2 of RG 2.6 and the regulatory analysis may be found in ADAMS under Accession numbers ML17263A472 and ML16035A477 respectively.
- *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.

Regulatory guides are not copyrighted, and the NRC's approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Geoffrey Wertz, Office of Nuclear Reactor Regulation, telephone: 301–415–0893, email: *Geoffery.Wertz@nrc.gov;* or Stanley Gardocki, Office of Nuclear Regulatory Research, telephone: 301–415–1067, email: *Stanley.Gardocki@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

Revision 2 of RG 2.6 was issued with a temporary designation of Draft Regulatory Guide, DG–2004. The purpose of issuing this RG is to provide licensees and applicants with a method that the staff of the NRC considers acceptable for use in complying with the regulations on the content of emergency plans for research and test reactors and other non-power production and utilization facilities licensed under part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities.''

II. Additional Information

The NRC published a notice of the availability of DG–2004 in the **Federal Register** on February 24, 2017, (82 FR 11660) for a 60-day public comment period. The public comment period closed on April 25, 2017. The NRC received one public comment on DG–2004. That comment and the NRC's response to it are available in ADAMS under Accession No. ML17137A099.

Revision 2 of RG 2.6 addresses new issues identified since the guide was last revised in March 1983. This revision endorses the latest version of a consensus standard developed by the American National Standards Institute (ANSI) and American Nuclear Society (ANS), ANSI/ANS–15.16–2015, ''Emergency Planning for Research Reactors.'' The NRC also expanded the scope of the guide to address non-power facilities under 10 CFR part 50, other than research and test reactors. Other changes to RG 2.6 include editorial changes and the current program guidance for RGs.

Revising this regulatory guide to adopt, in whole or in part, a consensus standard is consistent with the NRC policy of evaluating the latest versions of national consensus standards to determine their suitability for endorsement by regulatory guides. This approach also complies with the NRC's Management Directive 6.5, ''NRC Participation in the Development and Use of Consensus Standards'' (ADAMS Accession No. ML16193A497), and is in accordance with Public Law 104–113, ''National Technology Transfer and Advancement Act of 1995.''

Copies of ANSI/ANS–15.16–2015 may be purchased from the ANS Web site (*http://www.new.ans.org/store/*); or by writing to: American Nuclear Society, 555 North Kensington Avenue, La Grange Park, Illinois 60526, U.S.A., telephone: 1–800–323–3044.

III. Congressional Review Act

This regulatory guide is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting

The regulatory positions in this guidance document demonstrate the method that the NRC staff finds acceptable for an applicant or holder of a license under 10 CFR part 50 for a research and test reactor and other non-power production or utilization facility to meet the requirements of the underlying NRC regulations. The issuance of this RG is not backfitting, as that term is defined in 10 CFR 50.109, ''Backfitting,'' because non-power facilities licensed under 10 CFR part 50 are not included within the scope of entities protected by 10 CFR 50.109.

Dated at Rockville, Maryland, this 21st day of September 2017.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2017–20693 Filed 9–26–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0057]

Regulatory Guide: ''Physical Inventories and Material Balances at Fuel Cycle Facilities''

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 0 of Regulatory Guide (RG) 5.88, ''Physical Inventories and Material Balances at Fuel Cycle Facilities.'' This regulatory guide (RG) describes approaches and methods that the staff considers acceptable for licensees and

applicants to use when developing material control and accounting (MC&A) system capabilities. This RG pertains to the performance, evaluation, and reporting of physical inventories and material balances at fuel cycle facilities.

DATES: Revision 0 to RG 5.88 is available on September 27, 2017.

ADDRESSES: Please refer to Docket ID NRC–2017–0057 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–2017–0057. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals 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 Document 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. Regulatory Guide 5.88 is available in ADAMS under Accession No. ML17167A292. The regulatory analysis supporting Revision 1 is available in ADAMS under Accession No. ML15268A457.
- *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: Glenn Tuttle, Office of Nuclear Material Safety and Safeguards, 301–415–7230, email: *Glenn.Tuttle@nrc.gov;* or Mekonen Bayssie, Office of Nuclear Regulatory Research, 301–415–1699, email: *Mekonen.Bayssie@nrc.gov.* Both are staff members of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a new guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

Revision 0 of RG 5.88 was issued with a temporary identification of draft Regulatory Guide, DG–5056. The new RG provides updated guidance for uranium enrichment facilities as well as other type of facilities by incorporating relevant guidance from three NUREGs without making substantive changes to that guidance.

The RG is titled ''Physical Inventories and Material Balances at Fuel Cycle Facilities,'' provides guidance for meeting the nuclear material control and accounting (MC&A) requirements in part 74 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Material Control and Accounting of Special Nuclear Material,'' that cover these topics.

Regulatory Guide 5.88 updates and combines in one document guidance previously provided by RG 5.13, ''Conduct of Nuclear Material Physical Inventories,'' published in November 1973; and RG 5.33, ''Statistical Evaluation of Material Unaccounted For,'' published in June 1974.

Due to several rulemakings that occurred from 1985 to 2002 which significantly amended the MC&A requirements, the above regulatory guides became outdated as they no longer cite the correct sections of the regulations. Accordingly, RG 5.13 and RG 5.33 are being withdrawn concurrent with the issuance of RG 5.88, which provides the correct citations to the 10 CFR part 74 regulations.

The NRC's guidance on the MC&A requirements pertaining to the performance, evaluation, and reporting of physical inventories and material balances at fuel cycle facilities is also provided in the following NUREGs that were issued in conjunction with the 1985–2002 MC&A rulemakings:

- NUREG–1280, ''Standard Format and Content Acceptance Criteria for the Material Control and Accounting (MC&A) Reform Amendment,'' applicable to facilities using formula quantities of strategic special nuclear material (SNM).
- NUREG–1065, ''Acceptable Standard Format and Content for the Fundamental Nuclear Material Control (FNMC) Plan Required for Low-Enriched Uranium Facilities,'' applicable to fuel fabrication facilities using low-enriched uranium.
- NUREG/CR–5734, ''Recommendations to the NRC on Acceptable Standard Format and Content for the Fundamental Nuclear Material Control (FNMC) Plan Required for Low-Enriched Uranium Enrichment Facilities,'' applicable to uranium enrichment plants.

The RG 5.88 incorporates guidance from these NUREGs that relates to physical inventories and material balances for strategic SNM. In addition to providing guidance on these topics, the NUREGs listed above cover other MC&A requirements as well. Accordingly, these NUREGs are not being withdrawn.

II. Additional Information

The NRC published a notice of the availability of DG–5056 in the **Federal Register** on February 24, 2017 (82 FR 11661) for a 60-day public comment period. The public comment period closed on April 25, 2017. There were no public comments received on DG–5056.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

Issuance of RG 5.88 in final form would not constitute backfitting as defined in 10 CFR 70.76. As discussed in the ''Implementation'' section of RG 5.88, the NRC has no current intention to impose this guidance on holders of part 70 licenses. Additionally, RG 5.88 incorporates relevant guidance from NUREG–1280, NUREG–1065, and NUREG/CR–5734 without making substantive changes to that guidance. Accordingly, the issuance of RG 5.88 does not constitute a ''new'' or ''different'' staff position within the definition of ''backfitting'' in 10 CFR 70.76.

Dated at Rockville, Maryland, this 20th day of September, 2017.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2017–20694 Filed 9–26–17; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF SPECIAL COUNSEL

Privacy Act of 1974; System of Records

AGENCY: U.S. Office of Special Counsel.

ACTION: Notice of a modified system of records.

SUMMARY: This system of records contains the U.S. Office of Special Counsel's (OSC) case file and other records related to the performance of our statutory duties, including: Investigating or reviewing allegations of wrongdoing; pursuing corrective action and resolution through mediation, litigation, or otherwise; conducting defensive litigation; responding to requests for Hatch Act Unit advisory opinions; and responding to requests and appeals seeking agency information.

DATES: The proposed revisions to the system of records are effective upon publication of this notice, except that the revised routine use will become effective on October 27, 2017, unless OSC determines otherwise based on comments received about the routine use revision. OSC will consider comments received by October 27, 2017. OSC's routine use ''v.'', as published April 23, 2012 (77 FR 24242), will remain in effect until the revised routine use becomes final. In accordance with 5 U.S.C. 552a(r) and guidance from the Office of Management and Budget (OMB), OSC provided a report to OMB and the Congress for a 30-day review of the proposed modifications.

ADDRESSES: Submit written comments to: Office of the Clerk, U.S. Office of Special Counsel, by mail at 1730 M Street NW., Suite 218, Washington, DC 20036–4505; by fax to (202) 653–5151, or by email to *khendricks@osc.gov.* Please mark envelopes, fax cover pages, or email subject lines with the words ''Comment on System of Records Modification.''

FOR FURTHER INFORMATION CONTACT: Kenneth Hendricks, Clerk of the U.S. Office of Special Counsel, at (202) 804–7000, or write to the address above.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended, OSC is publishing notice of proposed revisions to its system of records entitled ''OSC/GOVT–1, OSC Complaint, Litigation, Political Activity, and Disclosure Files,'' last published in full in the **Federal Register** on April 23, 2012 (77 FR 24242). OSC proposes to modify this system of records with the revisions noted below.

1. OSC clarifies that the purposes for maintaining the system include OSC's performance of its statutory duties, and that the types of records maintained include records related to advisory opinions of OSC's Hatch Act Unit.

2. OSC provides notice of information technology updates to the system's storage location/environment to reflect OSC's use of a FedRAMP-approved government cloud environment, to reflect OSC's development of a new electronic case management system that will provide full-text searching capability for records maintained within that system, and to reflect changes to the system manager information.

3. OSC revises the system location information to clarify that OSC's program offices include the agency's field offices.

4. OSC proposes revisions to routine use ''v'' pursuant to new requirements announced by OMB on January 3, 2017, in its memorandum M–17–12, *Preparing for and Responding to a Breach of Personally Identifiable Information.* The memorandum directs agencies to establish two prescribed routine uses by which agencies can disclose information as necessary in response to an actual or suspected breach. OSC's routine use ''v'' was similar to the first of these two new requirements. OSC revised that provision to meet the new requirement, and now proposes to codify the revised provision as a sub-element of routine use ''v.'' OSC proposes to codify the second required provision as a second sub-element of routine use ''v.''

The revised OSC/GOVT–1 reads:

SYSTEM NUMBER

OSC/GOVT–1

SYSTEM NAME:

OSC Complaint, Litigation, Political Activity, and Disclosure Files.

SECURITY CLASSIFICATION:

In nearly all instances, OSC's work related to this system of records involves records that do not contain classified information. While this system of records generally does not contain classified information, it may include a small volume of records containing classified information. OSC would maintain such records using methods approved for handling classified material. OSC would not maintain or transmit those records using the enterprise information technology system referenced in this notice.

SYSTEM LOCATION:

At OSC's headquarters offices (including program offices and the Document Control Branch), U.S. Office of Special Counsel (OSC), 1730 M Street NW., Suite 218, Washington, DC 20036–4505; at OSC's field offices in Oakland, California, Detroit, Michigan, and Dallas, Texas; and within OSC's FedRAMP-approved government cloud. Some records may also be located at other agencies. Some FOIA records are maintained for OSC in the FOIAXpress system at AINs, 806 W. Diamond Avenue, Suite 400, Gaithersburg, MD 20878.

SYSTEM MANAGER(S):

The official responsible for records management functions associated with OSC program and administrative files, including those in the OSC/GOVT–1 system of records, is the Clerk of the U.S. Office of Special Counsel, 1730 M Street NW., Suite 218, Washington, DC 20036–4505. The official responsible for management of the enterprise information technology system referred to in this notice is the Chief Information Officer and Information Branch Chief, located at the same address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552, 552a, 571–584, 1211–1221, 1501–1508, and 7321–7326; 38 U.S.C. 4324, Sec. 204 of the Veterans Benefits Improvement Act of 2004, Public Law 108–454 and Sec. 105 of the Veterans' Benefits Act of 2010, Public Law 111–175, both codified at 38 U.S.C. 4301 note.

PURPOSE(S) OF THE SYSTEM:

OSC maintains the records to: (1) Document how OSC handled each matter; (2) provide a resource for consistency in interpretation and application of the law; and (3) allow for statistical reports and analysis of matters processed at OSC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The principal categories of individuals covered by the system are persons filing allegations of prohibited personnel practices or other prohibited activities; persons identified as engaging or participating in improper political activity; persons filing disclosures of alleged wrongdoing by federal agencies; persons requesting advisory opinions on political activity, or third party subjects of such advisory opinions; persons charged by OSC in disciplinary action complaints filed by OSC with the Merit Systems Protection Board (MSPB); persons on whose behalf OSC seeks corrective action before the MSPB; persons filing allegations of wrongdoing in Uniformed Services Employment and Reemployment Rights Act (USERRA) matters referred or transferred to OSC; plaintiffs seeking remedies or discovery against OSC in litigation or administrative claims; and persons

filing requests for information or administrative appeals under the Freedom of Information Act (FOIA) or the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The principal types of records in the system are complaints alleging prohibited personnel practices, improper political activity, or other violations of law or regulation; disclosures of information about alleged wrongdoing by federal agencies; written requests that result in formal advisory opinions on political activity; allegations of USERRA violations; litigation documents served on or filed by OSC in litigation; correspondence with persons (or their representatives) filing such complaints, disclosures, requests, or litigation; communications with other agencies, entities, or individuals referring matters to OSC for review or investigation; exhibits and other documentation received from filers and requesters, governmental entities or third parties; interview records, including notes, summaries, or transcripts; affidavits; reports or other summaries of investigation; factual and legal summaries or analyses; administrative determinations; referrals to other governmental entities for appropriate action; records created or compiled in connection with litigation by or against OSC, or pertinent to OSC operations; records relating to attempts to resolve matters as part of OSC's Alternative Dispute Resolution (ADR) Program; records of or related to OSC's FOIA and Privacy Act Program, including but not limited to, requests, appeals, and decisions; information about complaints, disclosures, requests and litigation maintained in OSC's electronic case tracking system; and other correspondence and documents created or obtained in the performance of OSC functions under 5 U.S.C. 1211–1221, 1501–1508, and 7321–7326; 5 U.S.C. 552 and 552a; 38 U.S.C. 4324, and other applicable law, regulation, or OSC memoranda of understanding.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from a variety of sources, consisting of complainants or others on whose behalf allegations, disclosures of information, or requests for information, have been submitted or referred to OSC; legal, congressional, or other representatives or points of contact; other government bodies; witnesses and subjects in matters under review; principals involved in litigation matters, including parties and their representatives; and other persons or entities furnishing information pertinent to the discharge of functions for which OSC is responsible.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The following routine uses permit OSC to:

a. Disclose information to appropriate federal entities with subject matter expertise to the extent necessary to obtain advice on any authorities, programs, or functions associated with records in this system;

b. Disclose information to the Office of Personnel Management (OPM) pursuant to Civil Service Rule 5.4 (5 CFR 5.4), or obtain an advisory opinion concerning the application or effect of civil service laws, rules, regulations, or OPM guidelines in particular situations;

c. Disclose to the Equal Employment Opportunity Commission or any other agency or office concerned with the enforcement of the anti-discrimination laws, information concerning any allegation or complaint of discrimination based on race, color, religion, sex, national origin, age, or handicapping condition;

d. Disclose information to the MSPB or the President upon the filing or referral of a disciplinary action complaint against an employee on the basis of an OSC investigation;

e. Disclose information to an agency, the MSPB, OPM, or the President, under 5 U.S.C. 1214, the results of investigations which disclose reasonable grounds to believe a prohibited personnel practice has occurred, exists, or is to be taken;

f. Disclose information to Congress in connection with the submission of an annual report on activities of the Special Counsel;

g. Disclose information:

1. To any agency or person, regarding allegations of prohibited personnel practices or other prohibited activity, or prohibited political activity filed against an agency or any employee thereof, for the purpose of conducting an investigation; resolving an allegation before OSC by settlement or otherwise; or giving notice of the status or outcome of an investigation;

2. to an agency, Office of Inspector General, complainant (whistleblower), the President, Congressional Committees, or the National Security Advisor regarding violations of law, rule, or regulation, or other disclosures under 5 U.S.C. 1213 for the purposes of transmitting information or reports as required under that statute; or in giving notice of the status or outcome of a review;

h. Disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), where necessary to obtain information relevant to an agency decision concerning: The hiring or retention of an employee; the issuance of a security clearance; the classification of a job; the conducting of a security or suitability investigation of an individual; the letting of a contract; or the issuance of a license, grant, or other benefit;

i. Disclose information to the Office of Management and Budget (OMB) at any stage in the legislative coordination and clearance process in connection with private relief legislation, as set forth in OMB Circular No. A–19;

j. Provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office (made at the written request of that individual);

k. Furnish information to the National Archives and Records Administration (NARA) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906, or other functions authorized by laws, regulations, and policies governing NARA operations and OSC records management responsibilities;

l. Disclose information when consulting with, or referring a record to, another Federal entity for the purpose of making a decision on a request for information under the FOIA or the Privacy Act; or to the Office of Government Information Services established at NARA by the Open Government Act of 2007, which amended the FOIA, for the purpose of conducting mediation and otherwise resolving disputes under FOIA;

m. Disclose records to the Department of Justice (DOJ) when:

1. Any of the following entities or individuals is a party to litigation or has an interest in litigation:

A. The OSC;

B. Any employee of the OSC in his or her official capacity;

C. Any employee of the OSC in his or her individual capacity whom DOJ has been asked or agreed to represent; or

D. The United States, where the OSC determines that the OSC will be affected by the litigation; and

2. When the OSC determines that use of the records by the DOJ is relevant and necessary to the litigation;

n. Disclose records in a proceeding before a court or adjudicative body, before which the OSC is authorized to appear, when:

1. Any of the following entities or individuals is a party to, or has an interest in the proceedings:

A. The OSC;

B. Any employee of the OSC in his or her official capacity;

C. Any employee of the OSC in his or her individual capacity whom OSC has agreed to represent; or

D. The United States, where the OSC determines that the OSC will be affected by the proceedings; and

2. When the OSC determines that use of the records is relevant and necessary to the proceedings;

o. Disclose information to the MSPB to aid in the conduct of special studies by the Board under 5 U.S.C. 1204(a)(3);

p. Disclose information to an Office of Inspector General (OIG) or comparable internal inspection, audit, or oversight office of an agency for the purpose of facilitating the coordination and conduct of investigations and review of allegations within the purview of both the OSC and the agency OIG or comparable office; or in notifying an OIG (or comparable office) of the disposition of matters referred by the OIG (or comparable office) to the OSC;

q. Disclose information to the news media and the public when (1) the matter under investigation has become public knowledge, (2) the Special Counsel determines that disclosure is necessary to preserve confidence in the integrity of the OSC investigative process or is necessary to demonstrate the accountability of OSC officers, employees, or individuals covered by this system, or (3) the Special Counsel determines that there exists a legitimate public interest (*e.g.,* to demonstrate that the law is being enforced, or to deter the commission of prohibited personnel practices, prohibited political activity, and other prohibited activity within the OSC's jurisdiction), except to the extent that the Special Counsel determines in any of these situation that disclosure of specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy;

r. Disclose information to the U.S. Department of Labor (DOL) about OSC's referral of a complaint alleging a violation of veterans preference requirements to DOL for further action under the Veterans' Employment Opportunities Act of 1998; disclose information to DOL or any agency or person as needed to develop relevant information about matters referred by DOL to OSC under 38 U.S.C. 4324 (USERRA); disclose information to DOL or any agency or person as needed to advise on the status or disposition of matters referred by DOL to OSC for disciplinary action under 5 U.S.C. 1215, or possible litigation under 38 U.S.C. 4324; or disclose information to DOL or any agency or person as needed to develop relevant information about, or to advise on the status or disposition of, matters investigated under a USERRA demonstration project at OSC (Sec. 204, Pub. L. 108–454; Sec. 105 Pub. L. 111–275); or disclose information to the U.S. Department of Defense, Employer Support of the Guard and Reserve (ESGR), for the purpose of having ESGR mediate USERRA complaints received by or referred to OSC;

s. To disclose records, when OSC has agreed to represent a USERRA complainant under 38 U.S.C. 4324 (a)(2)(A), from the corresponding USERRA investigative file to the relevant USERRA litigation file, and from the relevant USERRA litigation file to the USERRA complainant;

t. Disclose information to agency contractors, experts, consultants, detailees, or non-OSC employees performing or working on a contract, service, or other activity related to the system of records, when necessary to accomplish an agency function related to the system;

u. Make lists and reports available to the public pursuant to 5 U.S.C. 1219;

v. Disclose information:

1. To appropriate agencies, entities, and persons when: (1) OSC suspects or has confirmed that there has been a breach of the system of records; (2) OSC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to individuals, OSC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OSC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

2. To another Federal agency, or Federal entity when OSC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

w. Disclose pertinent information to the appropriate federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where OSC becomes aware of a violation or potential violation of civil or criminal law or regulation; and to OPM and the OMB pursuant to 5 U.S.C. 1214;

x. Disclose information to the Integrity Committee established under section 11(d) of the Inspector General Act of 1978, when needed because of receipt, review or referral to the Integrity Committee under section 7(b) of Public Law 110–409; or as needed for a matter referred to OSC by the Integrity Committee; and

y. Disclose information to the DOJ and/or the Federal Bureau of Investigation for inclusion in the National Instant Criminal Background Check System (NICS), pursuant to the reporting requirements of the Brady Handgun Violence Prevention Act, as amended by the NICS Improvement Amendments Act of 2007.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are stored in a variety of media, primarily consisting of file folders, computer storage equipment, and the government cloud. Access is limited to those agency personnel who have an official need for access to perform their duties. OSC requires new employees to read and acknowledge agency directives, including on information technology user roles and responsibilities, records management, and privacy protection. OSC requires all employees to complete annual cybersecurity awareness training.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Some files in this system of records are retrievable through full-text search capability, including by the names of key individuals or agencies involved (including, complainants or requesters; persons on whose behalf OSC seeks corrective action; subjects identified in disciplinary proceedings, warning letters, or other determinations; legal, congressional, or other representatives or points of contact; or key witnesses), although files are generally retrieved by the name of: (a) The complainant alleging a prohibited personnel practice, or other prohibited activity; (b) the alleged subject of a complaint about prohibited political activity; (c) the person filing an allegation through the OSC whistleblower disclosure channel; (d) the name of the person filing a request for an advisory opinion on political activity, or the third-party subject of such advisory opinions; (e) the name of the person on whose behalf OSC seeks corrective action, or the

person against whom OSC seeks disciplinary action, in litigation before the MSPB; (f) the plaintiff in litigation or administrative claims against OSC; persons requesting discovery from OSC; and FOIA and Privacy Act requesters and appellants.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Case file records related to allegations of prohibited personnel practices and other prohibited activities, including allegations of improper political activity, violations of USERRA, and other matters under OSC's jurisdiction, including program litigation records and records of the ADR Unit and the Disclosure Unit, that are of extraordinary importance to the nation or OSC, are permanent records when approved by the Special Counsel. Case file records of the Disclosure Unit that result in either a referral to an agency head pursuant to 5 U.S.C. 1213, or an informal referral to an agency's Inspector General, are retained for 10 years after the date of closure. Other case file records related to such prohibited activities, including program litigation, and the Disclosure Unit are retained for 6 years after the date of closure. Case file records of Formal Advisory Opinions of the Hatch Act Unit are retained for 6 years after the date of closure. Litigation case file records relating to the legal defense of OSC and its interests in matters and claims filed against the agency in courts, administrative tribunals, or other forums, including formal and informal discovery requests, and other claims or similar proceedings that are of extraordinary importance to the nation or OSC are permanent records when approved by the Special Counsel. All other such defensive litigation and claim case file records are retained for 7 years after the date of closure. Additionally, final signed settlement agreements are retained for 20 years after the date of closure. Personally identifiable information in OSC's electronic case tracking system is retained until deleted from the database 25 years after the corresponding case file is destroyed. Case file records related to OSC's FOIA and Privacy Act Program are retained in accordance with NARA's General Records Schedule 14 for Information Services Records. Disposal of records is accomplished by shredding or by NARA-approved processes. Electronic information is disposed of by deletion. OSC is revising its record retention schedule in consultation with NARA. Pending approval of the revised records schedule, records are maintained for the current or proposed retention, whichever is longer.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

These records are located in lockable file cabinets or in secured areas. Other OSC safeguards include the required use of computer password protection identification features and other system protection methods. Access is limited to those agency personnel who have an official need for access to perform their duties. OSC requires new employees to read and acknowledge agency directives, including on information technology user roles and responsibilities, records management, and privacy protection. OSC requires all employees to complete annual cybersecurity awareness training.

RECORD ACCESS PROCEDURE:

Individuals who wish to request record access should contact the FOIA/Privacy Act Officer, U.S. Office of Special Counsel: (1) By mail at 1730 M Street NW., Suite 218, Washington, DC 20036–4505; (2) by telephone at 202–804–7000; or (3) by fax: at 202–653–5161. To assist in the process of locating and identifying records, individuals should furnish the following: Name and home address; business title and address; any other known identifying information such as an agency file number or identification number; a description of the circumstances under which the records were compiled; and any other information deemed necessary by OSC to properly process the request. Requesters should reasonably describe the records they seek. Rules about FOIA access are in 5 CFR part 1820, and rules about Privacy Act access are in 5 CFR part 1830.

CONTESTING RECORD PROCEDURES:

Individuals who wish to contest records about themselves should contact OSC's Privacy Act Officer, identify any information they believe should be corrected, and furnish a statement of the basis for the requested correction along with all available supporting documents and materials. See OSC Privacy Act regulations at 5 CFR part 1830.

Notification Procedures: Individuals who wish to inquire whether this system contains information about them should follow the Record Access procedures, noted above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

OSC will claim exemptions from the provisions of the Privacy Act at subsections (c)(3) and (d) as permitted by subsection (k) for records subject to the Act that fall within the category of investigatory material described in paragraphs (2) and (5), and testing or examination material described in paragraph (6) of that subsection. The exemptions for investigatory material are necessary to prevent frustration of inquiries into allegations of prohibited personnel practices, unlawful political activity, whistleblower disclosures, USERRA violations, and other matters under OSC's jurisdiction, and to protect identities of confidential sources of information, including in background investigations of OSC employees, contractors, and other individuals conducted by or for OSC. The exemption for testing or examination material is necessary to prevent the disclosure of information which would potentially give an individual an unfair competitive advantage or diminish the utility of established examination procedures. OSC also reserves the right to assert exemptions for records received from another agency that could be properly claimed by that agency in responding to a request. OSC may also refuse access to any information compiled in reasonable anticipation of a civil action or proceeding. OSC published a final rule regarding these exemptions at 72 FR 56617 (Oct. 4, 2017).

HISTORY:

OSC last published a **Federal Register** notice for this system on April 23, 2012, at 77 FR 24242.

Dated: September 21, 2017.

Bruce P. Gipe,

Chief Operating Officer.

[FR Doc. 2017–20596 Filed 9–26–17; 8:45 am]

BILLING CODE 7405–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

DATES: Submit comments on or before November 27, 2017.

ADDRESSES: Comments should be addressed to Denora Miller, FOIA/

Privacy Act Officer. Denora Miller can be contacted by telephone at 202–692–1236 or email at *pcfr@peacecorps.gov.* Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 0420–0545.

Type of Request: Extension without change of a currently approved collection.

Affected Public: Individuals.

Respondents Obligation to Reply: Voluntary.

Burden to the Public:

Estimated burden (hours) of the collection of information:

Average Expected Annual Number of Activities: 13.

Annual Number of Respondents: 85,917.

Annual Responses: 85,917.

Frequency of Response: Once per request.

Average Minutes per Response: 26.

Annual Burden Hours: 28,197.

General Description of Collection: The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. 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 Peace Corps' services will be unavailable.

Peace Corps 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 qualitative 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 qualitative information will not be used for quantitative 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 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.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC on September 21, 2017.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2017–20602 Filed 9–26–17; 8:45 am]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81675; File No. SR–NYSEArca–2017–110]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the GraniteShares Platinum Trust Under NYSE Arca Equities Rule 8.201

September 21, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 12, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I 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.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the GraniteShares Platinum Trust under NYSE Arca Equities Rule 8.201. The proposed 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the GraniteShares Platinum Trust (the ''Trust''), under NYSE Arca Equities Rule 8.201.[4] Under NYSE Arca Equities Rule 8.201, the Exchange may propose to list and/or trade pursuant to unlisted trading privileges (''UTP'') Commodity-Based Trust Shares.[5]

The Trust will not be registered as an investment company under the Investment Company Act of 1940, as amended,[6] and is not required to register under such act. [sic] The Trust is not a commodity pool for purposes of the Commodity Exchange Act, as amended.[7]

The Sponsor of the Trust is GraniteShares LLC, a Delaware limited liability company. The Bank of New York Mellon is the trustee of the Trust (the ''Trustee'')[8] and ICBC Standard Bank PLC is the custodian of the Trust (the ''Custodian'').[9]

The Commission has previously approved listing on the Exchange under NYSE Arca Equities Rule 8.201 of other precious metals and platinum-based commodity trusts, including the ETFS Platinum Trust,[10] the ETFS Palladium Trust,[11] and the Sprott Physical Platinum and Palladium Trust.[12]

The Exchange represents that the Shares satisfy the requirements of NYSE Arca Equities Rule 8.201 and thereby qualify for listing on the Exchange.[13]

Operation of the Trust[14]

The investment objective of the Trust will be for the Shares to reflect the performance of the price of platinum, less the expenses and liabilities of the Trust. The Trust will issue Shares which represent units of fractional undivided beneficial interest in and ownership of the Trust.

The Trust will not trade in platinum futures or options on any futures exchange or over the counter (''OTC'') transactions in spot, forwards, and options and other derivatives. The Trust will not hold or trade in commodity futures contracts, ''commodity interests'', or any other instruments regulated by the Commodities Exchange Act. The Trust will take delivery of physical platinum that complies with the LPPM platinum delivery rules.

The Shares are intended to constitute a simple and cost-effective means of making an investment similar to an investment in platinum. Although the Shares are not the exact equivalent of an investment in platinum, they provide investors with an alternative that allows a level of participation in the platinum market through the securities market.

Operation of the Platinum Market

The global trade in platinum consists of OTC transactions in spot, forwards, and options and other derivatives, together with exchange traded futures and options.

Most trading in physical platinum is conducted on the OTC market, predominantly in Zurich and London. The LPPM coordinates various OTC market activities, including clearing and vaulting, acts as the principal intermediary between physical platinum market participants and the relevant regulators, promotes good trading practices and develops standard market documentation. In addition, the LPPM promotes refining standards for the platinum market by maintaining the ''London/Zurich Good Delivery List,'' which are the lists [sic] of LPPM accredited melters and assayers of platinum.

The basis for settlement and delivery of a spot trade is payment (generally in US dollars) two business days after the trade date against delivery. Delivery of the platinum can either be by physical delivery or through the clearing systems to an unallocated account. The unit of trade in London and Zurich is the troy

[4] On September 8, 2017, the Trust submitted to the Commission its draft registration statement on Form S–1 (the ''Registration Statement'') under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act''). The Jumpstart Our Business Startups Act, enacted on April 5, 2012, added Section 6(e) to the Securities Act. Section 6(e) of the Securities Act provides that an ''emerging growth company'' may confidentially submit to the Commission a draft registration statement for confidential, non-public review by the Commission staff prior to public filing, provided that the initial confidential submission and all amendments thereto shall be publicly filed not later than 21 days before the date on which the issuer conducts a road show, as such term is defined in Securities Act Rule 433(h)(4). An emerging growth company is defined in Section 2(a)(19) of the Securities Act as an issuer with less than $1,000,000,000 total annual gross revenues during its most recently completed fiscal year. The Trust meets the definition of an emerging growth company and consequently has submitted its Form S–1 Registration Statement on a confidential basis with the Commission.

[5] Commodity-Based Trust Shares are securities issued by a trust that represents investors' discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the Trust.

[6] 15 U.S.C. 80a–1.

[7] 17 U.S.C. 1.

[8] The Trustee is responsible for the day-to-day administration of the Trust. The responsibilities of the Trustee include (1) processing orders for the creation and redemption of Baskets; (2) coordinating with the Custodian the receipt and delivery of platinum transferred to, or by, the Trust in connection with each issuance and redemption of Baskets; (3) calculating the net asset value of the Trust on each business day; and (4) selling the Trust's platinum as needed to cover the Trust's expenses. The Trust does not have a Board of Directors or persons acting in a similar capacity.

[9] The Custodian is responsible for safekeeping the platinum owned by the Trust. The Custodian is appointed by the Trustee and is responsible to the Trustee under the Trust's platinum custody agreements. The Custodian will facilitate the transfer of platinum in and out of the Trust through the unallocated platinum accounts it may maintain for each Authorized Participant or unallocated platinum accounts that may be maintained for an Authorized Participant by another platinum-clearing bank approved by the London Platinum and Palladium Market (''LPPM''), and through the unallocated platinum account it will maintain for the Trust. The Custodian is responsible for allocating specific bars of platinum to the Trust Allocated Account. As used herein, ''Trust Allocated Account'' means the loco London account established in the name of the Trustee and maintained for the benefit of the Trust by the Custodian on an allocated basis pursuant to a written custody agreement between the Trustee and the Custodian. The Custodian will provide the Trustee with regular reports detailing the platinum transfers in and out of the Trust Unallocated Account with the Custodian and identifying the platinum bars held in the Trust Allocated Account.

[10] Securities Exchange Act Release No. 61219 (December 22, 2009), 74 FR 68886 (December 29, 2009) (SR–NYSEArca–2009–95).

[11] Securities Exchange Act Release No. 61220 (December 22, 2009), 74 FR 68895 (December 29, 2009) (SR–NYSEArca–2009–94).

[12] Securities Exchange Act Release No. 68430 (December 13, 2012), 77 FR 75239 (December 13, 2012) (SR–NYSEArca–2012–111).

[13] With respect to the application of Rule 10A–3 (17 CFR 240.10A–3) under the Act, the Trust relies on the exemption contained in Rule 10A–3(c)(7).

[14] The description of the operation of the Trust, the Shares and the platinum market contained herein are based, in part, on the Registration Statement. *See* note 4, *supra.*

ounce, whose conversion between grams is: 1,000 grams is equivalent to 32.1507465 troy ounces, and one troy ounce is equivalent to 31.1034768 grams.

Creation and Redemption of Shares

The Trust will create and redeem Shares on a continuous basis in one or more blocks of 15,000 Shares (a block of 15,000 Shares is called a ''Basket''). As described below, the Trust will issue Shares in Baskets to certain authorized participants (''Authorized Participants'') on an ongoing basis. Baskets of Shares will only be issued or redeemed in exchange for an amount of platinum represented by the aggregate number of Shares redeemed. No Shares will be issued unless the Custodian has allocated to the Trust's account the corresponding amount of platinum. Initially, a Basket will require delivery of 1,500 fine ounces of platinum. The amount of platinum necessary for the creation of a Basket, or to be received upon redemption of a Basket, will decrease over the life of the Trust, due to the payment or accrual of fees and other expenses or liabilities payable by the Trust.

Baskets may be created or redeemed only by Authorized Participants. Orders must be placed by 3:59 p.m. Eastern Time (''E.T.''). The day on which a Trust receives a valid purchase or redemption order is the order date.

Each Authorized Participant must be a registered broker-dealer, a participant in Depository Trust Corporation (''DTC''), have entered into an agreement with the Trustee (the ''Authorized Participant Agreement'') and have established a platinum unallocated account with the Custodian or a physical platinum clearing bank. The Authorized Participant Agreement provides the procedures for the creation and redemption of Baskets and for the delivery of platinum in connection with such creations or redemptions.

According to the Registration Statement, Authorized Participants, acting on authority of the registered holder of Shares, may surrender Baskets of Shares in exchange for the corresponding Basket Amount announced by the Trustee. Upon surrender of such Shares and payment of the Trustee's applicable fee and of any expenses, taxes or charges (such as stamp taxes or stock transfer taxes or fees), the Trustee will deliver to the order of the redeeming Authorized Participant the amount of platinum corresponding to the redeemed Baskets. Shares can only be surrendered for redemption in Baskets of 15,000 Shares each.

Before surrendering Baskets of Shares for redemption, an Authorized Participant must deliver to the Trustee a written request indicating the number of Baskets it intends to redeem or on a business day when the LBMA Platinum Price PM or other applicable benchmark price is not announced. The date the Trustee receives that order determines the Basket Amount to be received in exchange. However, orders received by the Trustee after 3:59 p.m. E.T. on a business day or on a business day when the LBMA Platinum Price PM or other applicable benchmark price is not announced, will not be accepted.

The redemption distribution from the Trust will consist of a credit to the redeeming Authorized Participant's unallocated account representing the amount of the platinum held by the Trust evidenced by the Shares being redeemed as of the date of the redemption order.

Net Asset Value

The NAV of the Trust will be calculated by subtracting the Trust's expenses and liabilities on any day from the value of the platinum owned by the Trust on that day; the NAV per Share will be obtained by dividing the NAV of the Trust on a given day by the number of Shares outstanding on that day. On each day on which the Exchange is open for regular trading, the Trustee will determine the NAV as promptly as practicable after 4:00 p.m. E.T. The Trustee will value the Trust's platinum based on the most recently announced LBMA Platinum Price PM or LBMA Palladium Price AM. If neither price is available for that day, the Trustee will value the Trust's platinum based on the most recently announced LBMA Platinum Price PM or LBMA Platinum Price AM. If [sic] Sponsor determines that such price is inappropriate to use, the Sponsor will identify an alternate basis for evaluation to be employed by the Trustee. Further, the Sponsor may instruct the Trustee to use on an on-going basis a different publicly available price which the Sponsor determines to fairly represent the commercial value of the Trust's platinum.

The NAV per Share will be calculated by taking the current price of the Trust's total assets, subtracting any liabilities, and dividing by the total number of Shares outstanding. Authorized Participants will offer Shares at an offering price that will vary, depending on, among other factors, the price of platinum and the trading price of the Shares on the Exchange at the time of offer. Authorized Participants will not receive from the Trust, the Sponsor, the Trustee or any of their affiliates any fee or other compensation in connection with the offering of the Shares.

Secondary Market Trading

While the Trust seeks to reflect generally the performance of the price of platinum less the Trust's expenses and liabilities, Shares may trade at, above or below their NAV. The NAV of Shares will fluctuate with changes in the market value of the Trust's assets. The trading prices of Shares will fluctuate in accordance with changes in their NAV as well as market supply and demand. The amount of the discount or premium in the trading price relative to the NAV may be influenced by non-concurrent trading hours between the major platinum markets and the Exchange. While the Shares trade on the Exchange until 4:00 p.m. E.T., liquidity in the market for platinum may be reduced after the close of the major world platinum markets, including London, Zurich and COMEX. As a result, during this time, trading spreads, and the resulting premium or discount, on Shares may widen.

Availability of Information Regarding Platinum

Currently, the Consolidated Tape Plan does not provide for dissemination of the spot price of a commodity such as platinum over the Consolidated Tape. However, there will be disseminated over the Consolidated Tape the last sale price for the Shares, as is the case for all equity securities traded on the Exchange (including exchange-traded funds). In addition, there is a considerable amount of platinum price and market information available on public Web sites and through professional and subscription services.

Investors may obtain platinum pricing information on a 24-hour basis based on the spot price for an ounce of platinum from various financial information service providers, such as Reuters and Bloomberg. Reuters and Bloomberg provide at no charge on their Web sites delayed information regarding the spot price of platinum and last sale prices of platinum futures, as well as information about news and developments in the platinum market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on platinum prices directly from market participants. ICAP plc provides an electronic trading platform called EBS for the trading of spot platinum, as well as a feed of real-time streaming prices, delivered as record-based digital data from the EBS platform to its customer's market data platform via Bloomberg or Reuters.

Complete real-time data for platinum futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. The NYMEX also provides delayed futures and options information on current and past trading sessions and market news free of charge on its Web site. There are a variety of other public Web sites providing information on platinum, ranging from those specializing in precious metals to sites maintained by major newspapers, such as The Wall Street Journal.

Availability of Information

The intraday indicative value (''IIV'') per Share for the Shares will be disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. The IIV will be calculated based on the amount of platinum held by the Trust and a price of platinum derived from updated bids and offers indicative of the spot price of platinum.[15]

The Web site for the Trust (*www.graniteshares.com*) will contain the following information, on a per Share basis, for the Trust: (a) The mid-point of the bid-ask price [16] at the close of trading (''Bid/Ask Price''), and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. The Web site for the Trust will also provide the Trust's prospectus. Finally, the Trust's Web site will provide the prior day's closing price of the Shares as traded in the U.S. market. In addition, 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. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Criteria for Initial and Continued Listing

The Trust will be subject to the criteria in NYSE Arca Equities Rule 8.201(e) for initial and continued listing of the Shares.

A minimum of one Basket or 15,000 Shares will be required to be outstanding at the start of trading, which is equivalent to 1,500 fine ounces of platinum. The Exchange believes that the anticipated minimum number of Shares outstanding at the start of trading is sufficient to provide adequate market liquidity.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Trust subject to the Exchange's existing rules governing the trading of equity securities. Trading in the Shares on the Exchange will occur in accordance with NYSE Arca Equities Rule 7.34(a). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

Further, NYSE Arca Equities Rule 8.201 sets forth certain restrictions on ETP Holders acting as registered Market Makers in the Shares to facilitate surveillance. Under NYSE Arca Equities Rule 8.201(g), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its trading in the underlying platinum, related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Equities Rule 6.3 requires an ETP Holder acting as a registered Market Maker, and its affiliates, in the Shares to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares).

As a general matter, the Exchange has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. A subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares 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 conditions in the underlying platinum market have caused disruptions and/or lack of trading, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's ''circuit breaker'' rule.[17] The Exchange will halt trading in the Shares if the NAV of the Trust is not calculated or disseminated daily. The Exchange may halt trading during the day in which an interruption occurs to the dissemination of the IIV, as described above. If the interruption to the dissemination of the IIV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[18] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of

[15] The IIV on a per Share basis disseminated during the Core Trading Session should not be viewed as a real-time update of the NAV, which is calculated once a day.

[16] The bid-ask price of the Shares will be determined using the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day NAV.

[17] *See* NYSE Arca Equities Rule 7.12.

[18] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[19]

Also, pursuant to NYSE Arca Equities Rule 8.201(g), the Exchange is able to obtain information regarding trading in the Shares and the underlying platinum, platinum futures contracts, options on platinum futures, or any other platinum derivative, through ETP Holders acting as registered Market Makers, in connection with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

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 listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares of the Trust on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Equities Rule 5.5(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Baskets (including noting that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) how information regarding the IIV is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity of platinum trading during the Core and Late Trading Sessions after the close of the major world platinum markets; and (6) trading information. For example, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Trust. The Exchange notes that investors purchasing Shares directly from the Trust (by delivery of the Creation Basket Deposit) will receive a prospectus. ETP Holders purchasing Shares from the Trust for resale to investors will deliver a prospectus to such investors.

In addition, the Information Bulletin will reference that the Trust is subject to various fees and expenses as will be described in the Registration Statement. The Information Bulletin will also reference the fact that there is no regulated source of last sale information regarding physical platinum, that the Commission has no jurisdiction over the trading of platinum as a physical commodity, and that the CFTC has regulatory jurisdiction over the trading of platinum futures contracts and options on platinum futures contracts.

The Information Bulletin will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[20] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, 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 NYSE Arca Equities Rule 8.201. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange 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.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that there is a considerable amount of platinum price and platinum market information available on public Web sites and through professional and subscription services. Investors may obtain platinum pricing information on a 24-hour basis based on the spot price for an ounce of platinum from various financial information service providers. ICAP's EBS platform also provides an electronic trading platform to institutions such as bullion banks and dealers for the trading of spot platinum, as well as a feed of live streaming prices to market data subscribers.

The NAV of the Trust will be published by the Sponsor on each day that the NYSE Arca is open for regular trading and will be posted on the Trust's Web site. The IIV relating to the Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. The Trust's Web site will also provide the Trust's prospectus, as well as the two most recent reports to stockholders. In addition, 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. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

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 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

[19] For a list of the current members of ISG, *see www.isgportal.org.*

[20] 15 U.S.C. 78f(b)(5).

information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding platinum pricing.

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 Exchange believes the proposed rule change will enhance competition by accommodating Exchange trading of an additional exchange-traded product relating to physical platinum.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2017–110 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–NYSEArca–2017–110. 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 offices 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–NYSEArca–2017–110, and should be submitted on or before October 18, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–20627 Filed 9–26–17; 8:45 am]

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[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81676; File No. SR–NYSEAMER–2017–15]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing of Proposed Rule Change Amending Rule 980NY (Electronic Complex Order Trading) To Clarify the Priority of Electronic Complex Orders and To Modify Aspects of Its Complex Order Auction Process

September 21, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 8, 2017, NYSE American LLC (the ''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 980NY(Electronic Complex Order Trading) to clarify the priority of Electronic Complex Orders and to modify aspects of its Complex Order Auction Process.

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.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 Rule 980NY to clarify the priority of Electronic Complex Orders (''ECO'') [4] and to modify aspects of its Complex Order Auction (''COA'') Process.[5]

Rule 980NY sets forth how the Exchange conducts trading of ECOs in its Complex Matching Engine (''CME''). The Exchange proposes to streamline the rule text describing the execution of ECOs during Core Trading Hours [6] to provide specificity and transparency regarding such order processing, without modifying the substance of such processing. The Exchange also proposes to amend the rules describing how ECOs that are eligible for a COA Process are executed and allocated to clarify the description of current functionality and to provide additional detail regarding order processing. The Exchange also proposes amendments to Rule 980NY to clarify and add transparency to the description of the COA Process, as described below.

Execution of ECOs During Core Trading Hours

The Exchange proposes to streamline its description of the priority of ECOs during Core Trading Hours, which the Exchange believes would add specificity and transparency to Exchange rules. Every ECO, upon entry to the System, is routed to the CME for possible execution against other ECOs or against individual quotes and orders residing in the Consolidated Book (''leg markets'').[7] In general, the Exchange affords Customer orders priority over same-priced non-Customer orders received by the Exchange. The Exchange ranks and allocates Customer orders at the same price in time priority and, after all Customer orders are executed at a price, non-Customer orders at the same price are allocated on a pro rata basis.[8] Similarly, the Exchange affords Customer ECOs priority over non-Customer ECOs with the same total net debit or credit. The Exchange ranks Customer ECOs with the same total or net debit or credit based on the time of entry of such Customer ECOs, and then ranks non-Customer ECOs at the same total net debit or credit based on the time of entry of such non-Customer ECOs.[9]

Paragraph (c) to the Rule sets forth how ECOs are executed, including that ECOs submitted to the System may be executed without consideration of prices of the same complex order that might be available on other exchanges.[10] The Exchange proposes to specify that ECOs may be executed without regard to prices of ''either single-legged or the same complex order strategy'' that might be available on other exchanges, which adds specificity and transparency to Exchange rules.[11] The Exchange also proposes to amend Rule 980NY(c) by re-numbering the rule text. As described in more detail below, proposed Rule 980NY(c)(ii) would set forth how ECOs that are marketable on arrival would be executed and proposed Rule 980NY(c)(iii) would set forth how ECOs that are not executed on arrival would be ranked and executed on the Consolidated Book.

Rule 980NY(c)(ii) sets forth how ECOs are executed during Core Trading. Paragraph (c)(ii)(A) currently provides that the CME will accept an incoming marketable ECO and will automatically execute the ECO giving first priority to ECOs in the Consolidated Book or, if not marketable against another ECO, the incoming ECO will trade against individual orders or quotes residing in the Consolidated Book, provided it can be executed in full (or in a permissible ratio) by the leg markets.[12] Because Customer orders have priority, Rule 980NY(c)(ii)(A) further provides that ''[n]otwithstanding the foregoing, if individual Customer orders residing in the Consolidated Book can execute the incoming [ECO] in full (or in a permissible ratio) at the same total or net debit or credit as an [ECO] in the Consolidated Book, the individual Customer orders will have priority.'' [13] In other words, the leg markets have first priority to trade against the incoming ECO if (i) there are no better priced ECOs in the Consolidated Book, (ii) the leg markets can trade in full or permissible ratio against an ECO and (iii) each leg contains Customer interest. Further, the current rule provides that leg markets that trade against an ECO, per Rule 980NY(c)(ii), are allocated pursuant to Rule 964NY.[14]

The Exchange proposes to revise the rule text describing execution of ECOs during Core Trading Hours in a manner that the Exchange believes would promote transparency regarding the processing of ECOs. The proposed rule text is not intended to change how the Exchange currently processes ECOs, which is described in the current rule, but rather to specify the order processing in a more logical manner. Specifically, the Exchange proposes to delete current paragraph (c)(ii)(A) of the Rule and replace it with proposed new paragraph (c)(ii).

Proposed Rule 980NY(c)(ii) would provide that the CME would accept an incoming marketable ECO and automatically execute it against the best-priced contra-side interest resting in the Consolidated Book.[15]

[4] Per Rule 980NY, ''an 'Electronic Complex Order' means any Complex Order as defined in Rule 900.3NY(e) that is entered into the System.'' Rule 900.3NY defines Complex Order as ''any order involving the simultaneous purchase and/or sale of two or more different option series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy.''

[5] The Exchange notes that the proposed modifications to its COA are materially identical to changes recently approved on NYSE Arca Inc. (''NYSE Arca''), except that the Exchange's proposed changes account for the Exchange's Customer priority rules, whereas NYSE Arca's approved COA rules incorporate NYSE Arca's price-time priority rules. *See* Securities Exchange Act Release No. 80138 (March 1, 2017), 82 FR 12869 (March 7, 2017) (order granting accelerated approval of proposed rule change, as modified by Amendment Nos. 1 and 2, to amend NYSE Arca Rule 6.91) (the ''NYSE Arca Approval Order'').

[6] Core Trading Hours are the regular trading hours for business set forth in the rules of the primary markets underlying those option classes listed on the Exchange. *See* Rule 900.2NY(15).

[7] *See* Rule 980NY(a). The Exchange proposes to define ''leg markets'' in reference to individual quotes and orders in the Consolidated Book as used throughout the rule text and also proposes to capitalize the defined term ''System''. *See* proposed Rule 980NY(a); *see also* Rule 900.2NY(48) (defining the term System (or Exchange System) as ''the Exchange's electronic order delivery, execution and reporting system for designated option issues through which orders and quotes of Users are consolidated for execution and/or display. Market Makers must submit quotes to the System in their appointed classes electronically'').

[8] *See* Rule 964NY(b)(2)(A) (also providing that ''if there is more than one highest bid for a Customer account or more than one lowest offer for a Customer account, then such bids or offers, respectively, will be ranked based on time priority''); and Rule 964NY(b)(3) (setting forth pro rata allocation method).

[9] *See* Rule 980NY(b). The Exchange proposes a non-substantive amendment to add the term ''Electronic'' so that the rule text would read, ''Priority of Electronic Complex Orders in the Consolidated Book.''

[10] *See* Rule 980NY(c). The Rule also provides that ''[n]o leg of a [ECO] will be executed at a price outside the Exchange's best bid/offer for that leg.'' *See id.*

[11] *See* proposed Rule 980NY(c). Rule 980NY(c)(i) sets forth how ECOs are executed at the Open. The Exchange proposes a non-substantive amendment to add the term ''Electronic'' so that the rule text would read, ''Execution of Electronic Complex Orders at the Open.''

[12] *See* Rule 980NY(c)(ii)(A). The Exchange notes that when an ECO trades against individual quotes and orders in the leg markets this is commonly referred to as ''legging out.''

[13] *Id.*

[14] *Id. See* Rule 964NY(b)(2)(A) (Display, Priority and Order Allocation—Trading Systems) (also providing that ''if there is more than one highest bid for a Customer account or more than one lowest offer for a Customer account, then such bids or offers, respectively, will be ranked based on time priority'').

[15] *See* Rule 980NY(c)(ii)(A).

The proposed rule text would further specify that if, at a price, all the leg markets can trade against an incoming ECO in full (or in a permissible ratio), and each leg includes Customer interest, the leg markets would have first priority at that price to trade with the incoming ECO pursuant to Rule 964NY(b), to be followed by resting ECOs in price/time priority.[16] In this case, both Customer and non-Customer orders and quotes in the leg markets at that price would trade against the incoming ECO.[17] This proposed text, therefore, describes how an incoming marketable ECO would be allocated if resting ECOs and leg markets in the Consolidated Book are at the same price, *i.e.,* the priority of same-priced interest in the Consolidated Book.

As is currently the case, following any executions against the best-priced resting ECOs and/or against the leg markets, at a price, the ECO would then trade with ECOs resting in the Consolidated Book.[18] The Exchange believes that the proposed rule text provides clarity regarding processing of ECOs, and in particular, under what circumstances the leg markets would have first priority to execute against an incoming marketable ECO.

To distinguish the treatment during Core Trading of incoming marketable ECOs (that are immediately executed) from ECOs that are not marketable (and thus routed to the Consolidated Book), the Exchange proposes to renumber current Rule 980NY(c)(ii)(B) and (C), as proposed Rule 980NY(c)(iii)(A) and (B), under the new heading ''Electronic Complex Orders in the Consolidated Book.'' The Exchange also proposes language in Rule 980NY(c)(iii)(A) to make clear that an ECO, or portion thereof, that is not executed on arrival will be ranked in the Consolidated Book and that any incoming orders and quotes that can trade with a resting ECO would execute ''according to (c)(ii) above.'' [19] Finally, the Exchange proposes to clarify that orders that trade against ECOs in the Consolidated Book would be allocated pursuant to paragraph (b) of Rule 964NY (Priority and Allocation Procedures for Orders and Quotes with Size).[20] The Exchange believes that the proposed additional heading and re-numbering of the rule text provides clarity regarding the treatment of non-marketable—as opposed to marketable—ECOs, without altering the functionality described in rule.

Proposed Modifications to the Description of the COA Process

The Exchange proposes to modify its description of the COA Process and the execution of COA-eligible orders, which the Exchange believes would provide additional specificity and transparency to Exchange rules.[21] The Exchange is not proposing to modify the functionality of COA. Because of the number of modifications that the Exchange proposes to current paragraph (e), the Exchange proposes to delete paragraph (e) of the Rule in its entirety and replace it with new Rule 980NY(e), which the Exchange believes more clearly, accurately and logically describes the COA Process. Proposed Rules 980NY(e)(1)–(7) would describe the COA Process.

Execution of COA-Eligible Orders, Initiation of COAs and RFR Responses

Proposed Rule 980NY(e) would provide that, upon entry into the System, ECOs may be immediately executed, in full (or in a permissible ratio) as provided in proposed paragraph (c)(ii), or may be subject to a COA as described in the Rule. This rule text is based on current Rule 980NY(e), which provides that COA-eligible orders, upon entry into the System, ''may be subject to an automated request for responses (''RFR'') auction.'' [22] The current rule text is silent as to the factors involved in whether and when an incoming COA-eligible order may trigger a COA. As discussed below, proposed Rules 980NY(e)(2) and (e)(3) would address when an incoming COA-eligible order would trigger a COA.

Proposed Rule 980NY(e)(1) would define the term ''COA-eligible order'' to mean an ECO that is entered in a class designated by the Exchange and is:

(i) Designated by the ATP Holder as COA-eligible; and

(ii) received during Core Trading Hours.[23]

The proposed definition is based, in part, on the current Rule, which provides that whether an order is COA-eligible ''would be determined by the Exchange on a class-by-class basis'' [24] and that the ATP Holder must provide direction that an auction be initiated.[25] The Exchange believes that explicitly stating that an ECO would be COA-eligible only if received during Core Trading Hours would add clarity and transparency. The Exchange proposes to eliminate from the current definition (set forth in Rule 980NY(e)(1)) features of ECOs that are not determinative of COA eligibility on the Exchange, such as the ''size, number of series, and complex order origin types (*i.e.,* Customers, broker-dealers that are not Market-Makers or specialists on an options exchange, and/or Market-Makers or specialists on an options exchange).'' The Exchange is also not including language from current Rule 980NY(e)(1) that provides that ECOs ''processed through the COA Process may be executed without consideration to prices of the same complex orders that might be available on other exchanges,'' as paragraph (c) of the Rule includes this provision. Finally, the Exchange proposes to remove an ECO's ''marketability (defined as a number of ticks away from the current market)'' as a requirement for COA-eligibility and to instead include this requirement in proposed paragraph (e)(3) regarding whether a COA-eligible order would actually trigger (as opposed to be *eligible* to trigger) a COA, as discussed below.

Proposed Rule 980NY(e)(2) would add new rule text describing the ''Immediate Execution of COA-eligible orders.'' The proposed text would clearly state that, upon entry of a COA-eligible order into the System, it would trade immediately, in full (or in a permissible ratio), with any ECOs resting in the Consolidated Book that are priced better than the contra-side Complex BBO and, if not all legs include Customer interest, with any ECOs resting in the Consolidated Book priced equal to the contra-side Complex BBO.[26] The proposed paragraph would further specify that any portion of the COA-eligible order that does not trade immediately upon entry may start a

[16] *See id. See also* Rule 980NY(b).

[17] *See* proposed Rule 980NY(ii) (sic) (also providing that the allocation of the orders or quotes in the leg markets would be allocated against the ECO in accordance with Rule 964NY(b)).

[18] *See id.*

[19] *See* proposed Rule 980NY(c)(iii)(A). Consistent with the proposed change to define ''leg markets'' in Rule 980NY(a), the Exchange proposes to replace ''bids and offers in the leg markets'' with ''leg markets'' in the proposed Rule. *See id.*

[20] *See* proposed Rule 980NY(c)(iii)(B).

[21] To the extent that the proposed streamlined rule text mirrors existing language, the Exchange cites the relevant section of both the proposed and existing rule. *See also* NYSE Arca Approval Order, *supra* note 5 (the proposed modifications to the COA mirror recently approved changes on the NYSE Arca options exchange).

[22] The Exchange describes the Request for Response or ''RFR'' in connection with a COA in new paragraph (e)(3) to Rule 980NY.

[23] *See* proposed Rule 980NY(e)(1).

[24] *See* Rule 980NY(e)(1). At this time, the Exchange allows COA-eligible orders to be entered in every class.

[25] *See* Rule 980NY(e)(2) (requiring that an ATP Holder mark an ECO for auction in order for a COA to be conducted).

[26] *See* Rule 900.2NY(7)(b) (defining Complex BBO as ''the BBO for a given complex order strategy as derived from the best bid on OX and best offer on OX for each individual component series of a Complex Order'').

COA, subject to the conditions set forth in proposed paragraph (e)(3).

The Exchange believes that the proposed rule text promotes transparency regarding when a COA-eligible order would receive an immediate execution (*i.e.,* when it can receive price improvement from resting ECOs) versus being subject to a COA. The immediate price improvement opportunity for an incoming COA-eligible order from resting ECOs in the Consolidated Book may obviate the need to start a COA, which is why incoming orders first trade against price-improving interest in the Consolidated Book before initiating a COA.

Proposed Rule 980NY(e)(3) would specify the conditions required for the ''Initiation of a COA'' and, if those conditions are met, how a COA would be initiated. As proposed, and consistent with current functionality, for any portion of a COA-eligible order not executed immediately under proposed Rule 980NY(e)(2), the Exchange would initiate a COA based on the limit price of the COA-eligible order and the ''marketability'' of the order as discussed below.

- First, as set forth in proposed Rule 980NY(e)(3)(i), the limit price of the COA-eligible order to buy (sell) would have to be higher (lower) than the best-priced, same-side interest in both the leg markets and any ECOs resting in the Consolidated Book. In other words, the limit price of the COA-eligible order would have to improve the current same-side market.
- Second, as set forth in proposed Rule 980NY(e)(3)(ii), the COA-eligible order would have to be priced within a given number of ticks away from the current, contra-side market, as determined by the Exchange. This concept is based on current Rule 980NY(e)(1), which defines the ''marketability'' of a COA-eligible order as being ''a number of ticks away from the current market.'' Because a COA-eligible order may be a certain number of ticks away from the current market, a COA could be initiated even if the limit price of the COA-eligible order is not at or within the Exchange best bid/offer for each leg of the order. However, a COA-eligible order must trade at a price that is at or within the Exchange best bid/offer for each leg of the order, consistent with Rule 980NY(c) regarding the execution of ECOs in general.

The Exchange also proposes to make clear that a COA-eligible order would reside on the Consolidated Book until it meets the requirements of proposed paragraph (e)(3)(i)–(ii) and can initiate a COA.[27] Proposed Rule 980NY(e)(3) further provides that the Exchange would initiate a COA by sending a Request for Response (''RFR'') message to all ATP Holders that subscribe to RFR messages.[28] This requirement is based on the first sentence of current Rule 980NY(e)(2). Proposed Rule 980NY(e)(3) would further provide that RFR messages would identify the component series, the size and side of the market of the order and any contingencies, which is based on the second sentence of current Rule 980NY(e)(2) without any changes. In addition, proposed Rule 980NY(e)(3) would include new rule text to specify that only one COA may be conducted at a time in any given complex order strategy, which is not explicitly stated in the current rule.[29] Finally, proposed Rule 980NY(e)(3) would specify that, at the time the COA is initiated, the Exchange would record the Complex BBO (the ''initial Complex BBO'') for purposes of determining whether the COA should end early pursuant to proposed paragraph (e)(6) of this Rule (discussed below). This is new rule text that is consistent with current functionality that ensures the COA respects the leg markets as well as principles of price/time priority.[30]

Proposed Rule 980NY(e)(4) would define the term Response Time Interval (''RTI'') as the period of time during which responses to the RFR may be entered. As further proposed, the Exchange would determine the length of the RTI; provided, however, that the duration would not be less than 500 milliseconds and would not exceed one (1) second. This rule text is based on current Rule 980NY(e)(3) insofar as it defines the RTI and the duration of the RTI, with the non-substantive modification to replace reference to ''shall'' with reference to ''will.''

Proposed Rule 980NY(e)(4) would also include new rule text providing that, at the end of the RTI, the COA-eligible order would be allocated pursuant to proposed Rule 980NY(e)(7), which describes the allocation of COA-eligible orders (hereinafter ''COA Order Allocation'') (described below). This proposed new rule text is based in part on current Rule 980NY(e)(5), which provides that at the expiration of the RTI, COA-eligible orders may be executed, in whole or in part, pursuant to Rule 980NY(e)(6) (Execution of COA-eligible orders). The proposed rule text refers instead to Rule 980NY(e)(7), which incorporates the order allocation concepts currently set forth in Rule 980NY(e)(6). The proposed change is intended to add clarity and transparency to the COA Process.

Proposed Rule 980NY(e)(5) would provide that any ATP Holder may submit responses to the RFR message (''RFR Responses'') during the RTI.[31] This rule text is based on the first sentence of current Rule 980NY(e)(4) without any changes. Proposed Rule 980NY(e)(5)(A)–(C) would provide additional specificity regarding RFR Responses.

- Proposed Rule 980NY(e)(5)(A) would provide that RFR Responses are ECOs that have a time-in-force contingency for the duration of the COA, must specify the price, size, and side of the market, and may be submitted in $0.01 increments. This rule text is based in part on the first sentence of Rule 980NY(e)(4), which provides that RFR Responses may be submitted in $.01 increments. Proposed Rule 980NY(e)(5)(A) is based in part on the second to last sentence of current Rule 980NY(e)(7), which provides that RFR Responses expire at the end of the RTI, which is the same in substance as saying that an RFR Response has a time-in-force condition for the duration of the COA. The Exchange believes its proposed rule text is more accurate because it states that RFR Responses are valid for the duration of the COA, as opposed to the RTI, the latter being the period during which COA interest (including RFR Responses and incoming ECOs) is received and the former being the overall COA Process that allocates COA-eligible orders with the best-priced auction interest, including RFR Responses.
- Proposed Rule 980NY(e)(5)(B) would provide that RFR Responses must be on the opposite side of the COA-eligible order and any RFR Responses on the same side of the COA-eligible order would be rejected. This proposed rule text is based on the last sentence of current Rule 980NY(e)(4), which provides that RFR Responses must be on the opposite side of the COA-eligible order and any same-side RFR responses would be rejected by the Exchange, without any substantive changes.
- Proposed Rule 980NY(e)(5)(C) would provide that RFR Responses may be modified or cancelled during the RTI,

[27] *See* proposed Rule 980NY(e)(3).

[28] *See id.*

[29] The Exchange believes this can be inferred from the text describing the impact of COA-eligible orders that arrive during a COA in progress. *See, e.g.,* Rule 980NY(e)(8). Proposed Rule 980NY(e)(6), described below, provides specificity of when a COA may terminate early and when a subsequent COA may be initiated.

[30] *See* proposed Rule 980NY(c)(ii) (leg markets have priority at a price).

[31] ATPs Holders can submit RFR Responses on behalf of Customers.

would not be ranked or displayed in the Consolidated Book, and would expire at the end of the COA. The proposed text stating that RFR Responses may be modified or cancelled during the RTI is new rule text based in part on current Rule 980NY(e)(7), which provides that RFR Responses can be modified but may not be withdrawn at any time prior to the end of the RTI. The Exchange proposes to specify that an RFR Response may be modified or cancelled during the RTI, which is current functionality. The proposed text stating that RFR Responses expire at the end of the COA make clear when RFR Responses are ''firm'' and thus obviate the need for current Rule 980NY(e)(7).[32] The proposed text of Rule 980NY(e)(5)(C) stating that RFR Responses would not be ranked or displayed in the Consolidated Book is based on the last sentence of current Rule 980NY(e)(7) without any changes.

The Exchange believes that the proposed Rules 980NY(e)(5), which reorganizes information from existing rule text and adds language to describe the requisite characteristics and behavior of an RFR Response, adds clarity and transparency to Exchange rules, including that, like all orders, an RFR Response may be modified or cancelled prior to the end of the RTI. The Exchange believes that specifying that RFR Reponses are good for the duration of the COA and may trade with interest received during the COA before expiring would encourage participation in the COA and would maximize the number of contracts traded.

Impact of ECOs, COA-Eligible Orders and Updated Leg Markets on COA in Progress

Proposed Rule 980NY(e)(6) would describe the impact of ECOs, COA-eligible orders, and updates to the leg markets that arrived during an RTI of a COA. This proposed rule text would replace current Rule 980NY(e)(8). The Exchange believes that, because proposed Rule 980NY(e)(6) would establish what happens to a COA (*i.e.,* whether it will end early) before the COA-eligible order is allocated, it would be more logical to describe these processes before the rule describes how COA-eligible orders are allocated, which would be set forth in proposed Rule 980NY(c)(7). In addition, the Exchange proposes to add headings (*see* proposed Rule 980NY(e)(6)(A)–(C)) to make clear which type of incoming interest is being described.

Proposed Rule 980NY(e)(6)(A) would describe the impact on a COA of incoming ECOs or COA-eligible orders on the opposite-side of the market as the initiating COA-eligible order. The current rule addresses the impact of opposite-side, incoming ECOs on a COA,[33] but does not address the impact of opposite-side incoming COA-eligible orders. Accordingly, proposed paragraph (A) of Rule 980NY(e)(6) would be new rule text. The Exchange notes that the impact of an incoming COA-eligible order mirrors that of an incoming ECO in the scenarios covered in proposed Rules 980NY(e)(6)(A)(i)–(iii) (discussed below), which adds internal consistency and specificity to Exchange rules.[34]

- Proposed Rule 980NY(e)(6)(A)(i) would provide that incoming ECOs or COA-eligible orders that lock or cross the initial Complex BBO would cause the COA to end early. The concept of the initial Complex BBO as a benchmark against which incoming opposite-side interest would be measured is new rule text, but is consistent with current functionality. As noted above (*see supra* note 26), the initial Complex BBO is the BBO for a given complex order strategy as derived from the Best Bid (''BB'') and Best Offer (''BO'') for each individual component series of a Complex Order as recorded at the start of the RTI. Proposed Rule 980NY(e)(6)(A)(i) would further provide that if such incoming ECO or COA-eligible order is also executable against the limit price of the initiating COA-eligible order, it would be ranked with RFR Responses to trade with the initiating COA-eligible order. The Exchange believes that addressing this scenario would better enable market participants to understand how their ECOs, including COA-eligible orders, may be treated, and the proposed change therefore is designed to add clarity and transparency to Exchange rules.

The proposed rule text relating to how an incoming opposite-side ECO or COA-eligible order would be processed is based on current Rule 980NY(e)(8)(A), which provides that incoming ECOs received during the RTI ''that are on the opposite side of the market and marketable against the limit price of the initiating COA-eligible order will be ranked and executed in price time with RFR Responses.''[35] The proposed rule text would also include opposite-side COA-eligible orders.[36] The proposed rule text also does not include reference to ''account type,'' or ''price time,'' as the COA-eligible order would interact with the best-priced contra-side interest received during the RTI, per proposed paragraph (e)(7) of this Rule.[37]

- Proposed Rule 980NY(e)(6)(A)(ii) would provide that incoming ECOs or COA-eligible orders that are executable against the limit price of the initiating COA-eligible order, but do not lock or cross the initial Complex BBO, would not cause the COA to end early and would be ranked with RFR Responses to trade with the initiating COA-eligible order. This proposed paragraph specifies that the COA would continue uninterrupted by such incoming orders because such interest does not impact priority (because the incoming order isn't priced better than the leg markets at the start of the COA). The incoming order, however, would be eligible to participate in the COA. This proposed text would be new rule text, which reflects current functionality that is based on the principles set forth in current Rule 980NY(e)(8)(A).
- Proposed Rule 980NY(e)(6)(A)(iii) would provide that incoming ECOs or COA-eligible orders that are either not executable on arrival against the limit price of the initiating COA-eligible order or do not lock or cross the initial Complex BBO would not cause the COA to end early. Per this proposed paragraph, the COA would proceed uninterrupted as the incoming interest does not trigger priority concerns (*i.e.,* does not lock or cross the initial Complex BBO) nor can the interest participate in the COA (*i.e.,* because it is not executable against the initiating COA-eligible order). This would be new rule text, which reflects current functionality.
- Proposed Rule 980NY(e)(6)(A)(iv) would provide that any incoming ECO(s), or the balance thereof, that was not executed with the initiating COA-eligible order or was not executable on arrival would trade pursuant to proposed paragraph (c)(ii) or (iii) of this Rule (*i.e.,* Core Trading Allocation). This proposed rule text is based on the last sentence of current Rule

[32] Rule 980NY(e)(7) sets forth the Firm Quote Requirements for COA-eligible orders.

[33] *See* Rule 980NY(e)(8)(A) (providing that ''[i]ncoming Electronic Complex orders received during the Response Time Interval that are on the opposite side of the market and marketable against the limit price of the initiating COA-eligible order will be ranked and executed in price time with RFR Responses by account type (as described in (6) above). Any remaining balance of either the initiating COA-eligible order or the incoming Electronic Complex order will be placed in the Consolidated Book and ranked as described in (b) above'').

[34] The different treatment of the balance of the incoming order, depending on whether it is an ECO or a COA-eligible order is covered in proposed rules Rule 980NY(e)(6)(A)(iv) and (v), respectively.

[35] *See* Rule 980NY(e)(8)(A).

[36] *See* proposed Rule 980NY(e)(6)(A)(i).

[37] *See id. See* proposed Rule 980NY(e)(7). *See also* discussion of ''COA Order Allocation'' below.

980NY(e)(8)(A), regarding ECOs, but provides additional detail regarding the ability for any balance on the incoming ECO to trade with the best-priced, resting contra-side interest before (or instead of) being ranked in the Consolidated Book, which is consistent with the Exchange's processing of incoming ECOs.

• Proposed Rule 980NY(e)(6)(A)(v) would provide that any incoming COA-eligible order(s), or the balance thereof, that was not executed with the initiating COA-eligible order or was not executable on arrival would initiate subsequent COA(s) in price-time priority. Because the treatment of opposite-side COA-eligible orders is not described in the current rule, this would be new rule text. Unlike the treatment of incoming opposite-side ECOs—where any remaining balance of the ECOs would be subject to Core Trading Allocation or would be posted to the Consolidated Book after trading with the initiating COA-eligible order—any balance of the incoming contra-side COA-eligible order that does not trade with the initiating COA-eligible order would initiate a new COA.

The Exchange believes that proposed Rule 980NY(e)(6)(A)(i)–(v) would provide additional specificity regarding the impact of opposite-side ECOs or COA-eligible orders on the COA Process, which adds transparency to Exchange rules. Specifically, the Exchange believes that providing for a COA to terminate early when an incoming order locks or crosses the initial Complex BBO, as proposed, would allow an initiating COA-eligible order to trade (ahead of the incoming order) against any RFR Responses or ECOs received during the RTI up until that point, while preserving the priority of the incoming order to trade with the resting leg markets. If no RFRs had been received during the RTI, the initiating COA-eligible order would trade against the best-priced, contra side interest, including the order the caused the COA to terminate early. The Exchange believes that early conclusion of the COA would avoid disturbing priority in the Consolidated Book and would allow the Exchange to appropriately handle incoming orders. The proposed rule text is consistent with the processing of ECOs during Core Trading and ensures that the leg markets respect the COA as well as principles of price/time priority.[38] Moreover, the Exchange believes that the proposed impact of incoming COA-eligible orders aligns with the treatment of incoming ECOs, which adds internal consistency to Exchange rules, and affords additional opportunities for price improvement to the initiating COA-eligible order, which may trade with the opposite-side order(s).

The Exchange proposes to process any remaining balance of COA-eligible orders differently from any balance of the incoming ECO because an ECO would either trade against resting interest or be ranked with ECOs in the Consolidated Book, whereas any balance of a COA-eligible order would initiate a new COA. The Exchange believes that this proposed rule text, which is consistent with current functionality, maximizes the execution opportunities to the incoming order(s), as these orders may trade with interest received in the (initiating) COA; and, for the incoming COA-eligible order, the potential for additional price improvement in a subsequent COA.

Proposed Rule 980NY(e)(6)(B) would describe the impact of incoming ECOs or COA-eligible orders on the same side of the market as the initiating COA-eligible order on a COA. The current rule addresses the impact of same-side, incoming COA-eligible orders on a COA,[39] but does not address the impact of same-side ECOs. Accordingly, the inclusion of ECOs in the proposed rule would be new text. The impact of an incoming ECO mirrors that of an incoming COA-eligible order in the scenarios covered in proposed Rule (e)(6)(B)(i)–(iv) (discussed below), which adds internal consistency and specificity to Exchange rules.[40] Proposed Rule 980NY(e)(6)(B) would make clear that regardless of whether a COA ends early or at the end of the (uninterrupted) RTI, the initiating COA-eligible order would be executed pursuant to paragraph (e)(7) of this Rule ahead of any interest that arrived during the COA.[41]

• Proposed Rule 980NY(e)(6)(B)(i) would provide that incoming ECOs or COA-eligible orders that are priced better than the initiating COA-eligible order would cause the COA to end.[42] This proposed rule text is based in part on current Rule 980NY(e)(8)(D), which provides that better-priced incoming COA-eligible orders that arrive during the RTI will cause a COA to end.[43]

• Proposed Rule 980NY(e)(6)(B)(ii) would provide that an incoming ECO or COA-eligible order that is priced equal to or worse than the initiating COA-eligible order,[44] and also locks or crosses the contra-side initial Complex BBO, would cause the COA to end early. The proposed rule is based in part on current Rules 980NY(e)(8)(B) and (C), which describe how the Exchange processes COA-eligible orders that are received during a COA that are on the same side of the market of the initiating COA and priced equal to or worse than the initiating COA.[45] However, the current rule does not specify that a COA would terminate early when an incoming ECO locks or crosses the contra-side initial Complex BBO. Therefore, the inclusion of ECOs would be new rule text.

• Proposed Rule 980NY(e)(6)(B)(iii) would provide that incoming ECOs or COA-eligible orders that are priced equal to or worse than the initiating COA-eligible order,[46] but do not lock or cross the contra-side Complex BBO, would not cause the COA to end early. Proposed Rule 980NY(e)(6)(B)(i) is based on current Rules 980NY(e)(8)(B) and (C), which describe how the Exchange processes COA-eligible orders that are received during a COA that are on the same side of the market as the initiating COA-eligible order and priced equal to or worse than the initiating COA-eligible order. However, the current rule does not address whether the incoming orders lock or cross the contra-side initial Complex BBO. The Exchange believes the additional detail promotes internal consistency regarding how the COA process and how it intersects with the price/time priority of the initial Complex BBO.

The Exchange notes that current Rules 980NY(e)(8)(B) and (C) state that an incoming same-side COA-eligible order (priced equal to or worse than the initiating order) joins a COA in progress and is executed in price/time with the

[38] *See* proposed Rule 980NY(c)(ii) (leg markets have priority at a price).

[39] *See* Rule 980NY(e)(8)(B)–(C) (addressing the impact of same-side incoming COA-eligible orders on a COA).

[40] The Exchange notes that the different treatment of the balance of the incoming order, depending on whether it is an ECO or a COA-eligible order, is covered in proposed paragraphs (v) and (vi), respectively, of Rule 980NY(e)(6)(B).

[41] *See* proposed Rule 980NY(e)(6)(B).

[42] An incoming ECO or COA-eligible order priced ''better than'' the COA-eligible order means it is priced higher (lower) than the initiating COA-eligible order to buy (sell). *See* proposed Rule 980NY(e)(6)(B)(ii).

[43] *See* Rule 980NY(e)(8)(D) (providing, in part, that ''[i]ncoming COA-eligible orders received during the Response Time Interval for the original COA-eligible order that are on the same side of the market and that are priced better than the initiating order will cause the auction to end'').

[44] An incoming ECO or COA-eligible order priced ''worse than'' the COA-eligible order means it is priced lower (higher) than the initiating COA-eligible order to buy (sell). *See* proposed Rule 980NY(e)(6)(B)(ii).

[45] *See* Rule 980NY(e)(8)(B)–(C), *supra* note 39.

[46] An incoming ECO or COA-eligible order priced ''worse than'' the COA-eligible order means it is priced lower (higher) than the initiating COA-eligible order to buy (sell). *See* proposed Rule 980NY(e)(6)(B)(iii).

COA-eligible order, with any balance placed in the Consolidated Book pursuant to paragraph (b).[47] The proposed rule text would clarify how such incoming COA-eligible orders would be processed. Specifically, the Exchange proposes to clarify how such incoming COA-eligible orders (as well as ECOs) would be processed, including any remaining balance thereof, in proposed paragraphs (e)(6)(B)(iv)–(vi) of the Rule, discussed below.[48]

- Proposed Rule 980NY(e)(6)(B)(iv) would provide that any incoming ECO or COA-eligible order that caused a COA to end early, if executable, would trade against any RFR Responses or ECOs that did not trade with the initiating COA-eligible order. This proposed paragraph reflects current functionality and is based on current Rule 980NY(e)(8)(D) inasmuch as it addresses incoming same-side COA-eligible orders that cause the COA to end early.
- Proposed Rule 980NY(e)(6)(B)(v) would provide that incoming ECOs, or any remaining balance per proposed paragraph (iv) above, that do not trade against any remaining RFR Responses or ECOs received during the RTI would trade pursuant to Core Trading Allocation, pursuant to paragraph (c)(ii) or (iii) of this Rule. This proposed rule text is consistent with the treatment of the balance of incoming same-side ECOs set forth in current Rule 980NY(e)(8)(A)–(C), with the added detail that the ECO would first be subject to Core Trading Allocation pursuant to proposed Rule 980NY(c)(ii) before being ranked in the Consolidated Book.
- Proposed Rule 980NY(e)(6)(B)(vi) would provide that the remaining balance of any incoming COA-eligible order(s) that does not trade against any remaining RFR Responses or ECOs received during the RTI would initiate new COA(s) in price-time priority. This proposed rule text is based in part on current Rule 980NY(e)(8)(D), which provides that any unexecuted portion of the incoming COA-eligible would initiate a new COA.[49]

The Exchange believes that proposed Rules 980NY(e)(6)(B)(i)–(vi) would provide greater specificity regarding the impact of arriving same-side COA-eligible orders and ECOs on a COA, which adds internal consistency, clarity and transparency to Exchange rules. Specifically, the Exchange believes that providing for a COA to terminate early under the circumstances specified in proposed Rules 980NY(e)(6)(B)(i) and (ii) would allow a COA-eligible order to trade (ahead of the incoming order) against any RFR Responses or ECOs received during the RTI up until that point, while preserving the priority of the incoming order to trade with the resting leg markets. The Exchange believes that early conclusion in this circumstance would ensure that the COA interacts seamlessly with the Consolidated Book so as not to disturb the priority of orders on the Book.

The proposed rule text is consistent with the processing of ECOs during Core Trading and ensures that the COA respects the leg markets as well as principles of price/time priority.[50] In addition, the proposed rule would provide greater specificity that the incoming COA-eligible order or ECO would, if executable, trade against any remaining RFR Responses and/or ECOs received during the RTI, which allows the incoming orders opportunities for price improvement. The proposed rule would also make clear that any remaining balance of the incoming COA-eligible order would then initiate a new COA. The Exchange believes that these proposed changes maximize the execution opportunities to the incoming order(s), with potential price improvement, as these orders may trade with interest received in the (original) COA; and, for the incoming COA-eligible order, the potential for additional price improvement in a subsequent COA.

Proposed Rule 980NY(e)(6)(C): Would describe the impact of new individual quotes or orders (*i.e.,* updates to the leg markets) during the RTI on the same or opposite side of the initiating COA-eligible order. In each event described below, regardless of whether the COA ends early, the COA-eligible order would trade pursuant to proposed Rule 980NY(e)(7) (described below). In addition, consistent with Core Trading Allocation, the updated leg markets would trade pursuant to proposed paragraph (c)(ii) of this Rule.[51]

- Proposed Rule 980NY(e)(6)(C)(i) would provide that updates to the leg markets that would cause the same-side Complex BBO to lock or cross any RFR Response(s) and/or ECO(s) received during the RTI, or any ECOs resting in the Consolidated Book, would cause the COA to end early. The Exchange believes that providing for a COA to terminate early when the leg markets update in this manner would allow a COA-eligible order to trade against any RFR Responses or ECOs received during the RTI up until that point, while preserving the priority of the updated leg markets to trade with any eligible contra-side interest, including any ECOs resting in the Consolidated Book.
- Proposed Rule 980NY(e)(6)(C)(ii) would provide that updates to the leg markets that would cause the same-side Complex BBO to be priced better than the COA-eligible order,[52] but do not lock or cross any RFR Responses and/or ECOs received during the RTI or any ECOs resting in the Consolidated Book would not cause the COA to end early.
- Proposed Rule 980NY(e)(6)(C)(iii) would provide that updates to the leg markets that would cause the contra-side Complex BBO to lock or cross the same-side initial Complex BBO would cause the COA to end early.
- Proposed Rule 980NY(e)(6)(C)(iv) would provide that updates to the leg markets that would cause the contra-side Complex BB (BO) to improve (*i.e.,* become higher (lower)), but not lock or cross the same-side initial Complex BBO, would not cause the COA to end early.

The Exchange believes that proposed paragraphs (e)(6)(C)(i)–(iv) of Rule 980NY respect the COA process, while at the same time ensuring a fair and orderly market by maintaining the priority of quotes and orders on the Consolidated Book as they update. The proposed rule is based in part on Rule

[47] *See* Rule 980NY(e)(8)(B) and (C) (providing, in part, that ''[i]ncoming COA-eligible orders received during the [RTI] for the original COA-eligible order that are on the same side of the market, that are priced [equal to or worse] than the initiating order, will join the COA'').

[48] *See, e.g.,* proposed Rule 980NY(e)(6)(B)(iv),(vi) (providing that, rather than joining the COA, these incoming COA-eligible orders may trade with RFR Responses or ECOs that don't execute in the COA and, if any balance remains still, would initiate a new COA—but would not execute during the COA in progress as the current rule suggests).

[49] *See* Rule 980NY(e)(8)(D) (providing, in part, that ''[t]he COA-eligible order that caused the auction to end will if marketable, initiate another COA''). *See supra* note 47 (noting inaccuracy in current rule, which provides that incoming COA-eligible orders would execute during the COA in progress).

[50] *See* proposed Rule 980NY(c)(ii) (leg markets have priority at a price).

[51] *See* proposed Rule 980NY(e)(6)(C).

[52] Individual orders and quotes cause the same-side Complex BBO to be ''better'' than the COA-eligible order if they cause the Complex BBO to be higher (lower) than the COA-eligible order to buy (sell). *See* proposed Rule 980NY(e)(6)(C)(i).

980NY(e)(9)(A) [53] and (B),[54] which address the impact of updates to the leg markets on a COA. However, the current rule text does not specify on which side of the market the leg markets have updated. The Exchange proposes to include this detail in the new rule text for additional clarity and transparency. In addition, the current rule text uses the term ''derived Complex BBO,'' which is not a defined term. In the proposed rule, the Exchange proposes to use the term Complex BBO, which is a defined term.[55] The Exchange further believes this proposed rule text promotes transparency and clarity to Exchange rules.

COA Order Allocation

Current Rules 980NY(e)(6)(A)–(D) set forth how a COA-eligible order trades against same-priced contra-side interest (*i.e.,* at the same net price) after trading against any better-priced contra-side interest. In short, current Rule 980NY(e)(6) provides that COA-eligible orders will be executed against the best priced contra-side interest. The rule further provides that at the same net price, the order will be allocated as provided for in Rules 980NY(e)(6)(A)–(D). Current Rule 980NY(e)(6)(A) provides that individual orders and quotes in the leg markets resting in the Consolidated Book prior to the initiation of a COA have first priority to trade against a COA-eligible order, provided the COA-eligible order can be executed in full (or in a permissible ratio), on a price/time basis pursuant to Rule 964NY.[56] Current Rules 980NY(e)(6)(B) and (C) provide that Customer ECOs resting in the Consolidated Book before, or that are received during, the RTI, and Customer RFR Responses shall, collectively have second priority to trade against a COA-eligible order followed by resting non-Customer ECOs, those received during the RTI, and non-Customer RFR Responses, which would have third priority.[57] Pursuant to the current Rule, the allocation of a COA-eligible order against these Customer and non-Customer ECOs and RFR Responses shall be on a Size Pro Rata basis as defined in Rule 964NY(b)(3).[58] Finally, current Rule 980NY(e)(6)(D) provides that individual orders and quotes in the leg markets that cause the derived Complex BBO to be improved during the COA and match the best RFR Response and/or ECOs received during the RTI will be filled after ECOs and RFR Responses at the same net price pursuant to Rule 964NY.[59]

The Exchange proposes to clarify and update the rule text describing the priority and allocation of COA-eligible orders during the COA process to remove references to Customer ECO priority, which is not the Exchange's allocation model, and instead reflect the Exchange's price-time priority model in proposed Rule 980NY(e)(7), under the heading ''Allocation of COA-Eligible Orders,'' which would replace current paragraph (e)(6) in its entirety. Proposed Rule 980NY(e)(7) would provide that when a COA ends early, or at the end of the RTI, a COA-eligible order would be executed against contra-side interest received during the COA as provided for in proposed Rules 980NY(e)(7)(A) and (B), and any unexecuted portion of the COA-eligible order would be ranked in the Consolidated Book pursuant to proposed Rule 980NY(b).

- Proposed Rule 980NY(e)(7)(A) would provide that RFR Responses and ECOs priced better than [60] the initial Complex BBO would be eligible to trade first with the COA-eligible order, beginning with the highest (lowest), at each price point, on a Size Pro Rata basis pursuant to Rule 964NY(b)(3). This proposed rule text is based in part on current Rule 980NY(e)(6), which provides that COA-eligible orders would be executed against the best priced contra side interest (which in this case, would be ECOs and RFR Responses) and current Rule 980NY(e)(6)(C), which provides that ECOs and RFR Responses are allocated on a Size Pro Rata basis. The Exchange believes this proposed change streamlines how the allocation process works, and clarifies that if ECOs and RFR Responses are the best-priced interest, they would trade with the incoming COA-eligible order on a Size Pro Rata basis.
- Proposed Rule 980NY(e)(7)(B) provides that after COA allocations pursuant to paragraph (e)(7)(A) of this Rule, the COA-eligible order would trade with the best-priced contra-side interest pursuant to paragraph (c)(ii) or (iii) above. In other words, once the COA-eligible order has traded with any ECOs or RFR Responses priced better than the initial Complex BBO (*i.e.,* any price-improving interest to arrive during the RTI), the initiating COA-eligible order would follow regular allocation rules for an incoming marketable ECO. The Exchange believes this change makes clear that a COA-eligible order would only trade against the leg markets after any auction allocations have been made. This rule text is based in part on current Rule 980NY(e)(6)(A), which provides that if the COA-eligible order can be executed in full (or a permissible ratio) by the orders and quotes in the Consolidated Book, they will be allocated pursuant to Rule 964NY. Because this allocation is identical to how a regular marketable ECO would be allocated, the Exchange believes it would streamline the rule to provide a cross reference to proposed Rule 980NY(c)(ii) instead of Rule 964NY.

Commentary .02 to Rule 980NY

Finally, consistent with the foregoing proposed changes regarding priority of ECOs during Core Trading and during a COA, the Exchange proposes to modify Commentary .02 to the Rule, which also addresses the priority of ECOs. The current Commentary .02 provides, in relevant part, that ''when executing an [ECO] the price of at least one leg of the order must'' trade at a better price as specified in subparagraphs (i) and (ii). The Exchange proposes to make clear that requisite price improvement on at least one leg of the ECO applies ''where *all* legs that comprise the complex order contain Customer interest.'' [61] Similarly,

[53] *See* Rule 980NY(e)(9)(A) (providing that ''[i]ndividual orders and quotes that are entered into the leg markets that cause the derived Complex Best Bid/Offer to be better than the COA-eligible order and to cross the best priced RFR Response will cause the auction to terminate, and individual orders and quotes in the leg markets will be allocated pursuant to (c)(i) above and matched against Electronic Complex Orders and RFR Responses in price time priority pursuant to (6) above. The initiating COA-eligible order will be matched and executed against any remaining unexecuted Electronic Complex Orders and RFR Responses pursuant to (6) above''). The Exchange also notes that proposed Rule 980NY(e)(6)(C)(i) clarifies that the Complex BBO in question is the same-side Complex BBO, as the current rule text is silent in this regard, which adds clarity and transparency to Exchange rules.

[54] *See* Rule 980NY(e)(9)(B) (providing that ''[i]ndividual orders and quotes that are entered into the leg markets that cause the derived Complex Best Bid/Offer to cross the price of the COA-eligible order will cause the auction to terminate, and individual orders and quotes in the leg markets will be allocated pursuant to (c)(i) above and matched against Electronic Complex Orders and RFR Responses in price time priority pursuant to (6) above.''). The Exchange also notes that proposed paragraph (e)(6)(C)(ii) clarifies that the Complex BBO in question is the contra-side Complex BBO, as the current rule text is silent in this regard, which adds clarity and transparency to Exchange rules.

[55] *See supra* note 26. The Exchange notes that the word ''derived'' is no longer needed as it is encompassed in the definition of Complex BBO. *See id.*

[56] *See* Rule 980NY(e)(6)(A).

[57] *See* Rule 980NY(e)(6)(B) and (C).

[58] *See id.*

[59] *See* Rule 980NY(e)(6)(D).

[60] To qualify as ''better than,'' RFR Responses and ECOs to buy (sell) would need to be priced higher (lower) than the initial Complex BBO. *See* proposed Rule 980NY(e)(7)(A).

[61] *See* proposed Commentary .02 to Rule 980NY (providing, in relevant part, that ''when executing an [ECO] where all legs that comprise the complex order contain Customer interest, the price of at least one leg of the order must . . .''). The Exchange also proposes to correct a typo by replacing the semi-

the Exchange also proposes to modify sub-paragraph (ii) of Commentary .02 by replacing ''the'' with ''all'' to clarify that, if the class has been designated as eligible for COA, an incoming COA-eligible order must ''trade at a price that is better than the corresponding price of all customer bids or offers in the Consolidated Book for the same series, by at least one cent ($.01).'' [62] The Exchange believes these changes regarding the priority of ECOs add clarity and internal consistency to Exchange rules.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)(5) of the Securities Exchange Act of 1934 (the ''Act''),[63] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Overall, the Exchange is proposing various changes that would promote just and equitable principles of trade, because ECOs, including COA-eligible orders, would be handled in a fair and orderly manner, as described above. The various modifications and clarifications, many of which are consistent with current functionality are intended to improve the rule overall by adding more specificity and transparency. The Exchange believes that the proposed rule changes would promote just and equitable principles of trade as well as protect investors and the public interest by making more clear how ECOs and COA-eligible orders are handled on the Exchange, both during Core Trading Hours and when there is a COA in progress. In particular, the proposed changes are intended to help ensure a fair and orderly market by maintaining price/priority of incoming ECOs (including COA-eligible orders) and updated leg markets. Similarly, the proposed changes are designed to promote just and equitable principles by seeking to execute as much interest as possible at the best possible price(s).

Execution of ECOs During Core Trading Hours

The Exchange believes that the proposed rule changes regarding Core Trading Order Allocation, which do not alter the substance of the rule but instead condense and streamline the rule text, would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed changes are designed to protect investors and the public interest by making the Exchange's rules more clear, concise, transparent and internally consistent, which enhances the overall comprehensibility to investors without altering the operation of the rule. Specifically, the Exchange believes that, although it does not alter the substance of the rule, the proposed rule text regarding Core Trading Order Allocation provides additional specificity regarding processing of ECOs against same-priced contra-side interest and, in particular, under what circumstances the leg markets would have first priority to execute against an incoming marketable ECO. The Exchange believes this additional transparency, which makes the rule clearer and more complete for market participants, would encourage additional ECOs to be directed to the Exchange.

Proposed Modifications to COA Process

Overall, the Exchange believes that the proposed changes to the COA Process maximize execution opportunities for the initiating COA-eligible Order, RFR Responses and ECOs entered during the COA, and the leg markets at the best possible price consistent with the principles of price/time priority, which would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed changes are designed to protect investors and the public interest.

Execution of COA-Eligible Orders, Initiation of COAs and RFR Responses

In particular, the proposed rule text promotes transparency regarding the definition of what constitutes a COA-eligible order and the circumstances under which an arriving COA-eligible order would receive an immediate execution (*i.e.,* when it can receive price improvement from resting ECOs) versus being subject to a COA. The proposed rule text is not intended to change how the Exchange currently processes ECOs, but rather to provide clarity regarding the processing of COA-eligible orders and whether such orders are subject to a COA. Specifically, the proposed changes would help ensure a fair and orderly market because this information adds clarity and transparency to the COA process and would allow market participants to be more informed about the COA process. Moreover, the proposed change maximizes the opportunities for price improvement for the entire COA-eligible order as it would first trade against any price-improving interest in the Consolidated Book, and, if any residual interest remains, the order would be subject to a COA. Further, the Exchange believes that the proposed rule text regarding the requisite characteristics and behavior of an RFR Response adds clarity and transparency to Exchange rules, including that, like all orders, an RFR Response may be modified or cancelled prior to the end of the RTI, which promotes just and equitable principles of trade. In addition, the Exchange believes that specifying that RFR Reponses are valid for the duration of the COA would encourage participation in the COA and would maximize the number of contracts traded, which benefits all market participants and protects investors and the investing public.

Impact of ECOs, COA-Eligible Orders and Updated Leg Markets on COA in Progress

Regarding interest that arrives during a COA in progress, the Exchange believes that the proposed rule text provides clarity regarding the impact of opposite- and same-side ECOs or COA-eligible orders on the COA Process, which promotes transparency and adds clarity to Exchange rules. Moreover, the Exchange notes that because the COA is intended to operate seamlessly with the Consolidated Book, the proposed changes would promote just and equitable principles of trade by providing price-improvement opportunities for COA-eligible orders while at the same time providing an opportunity for such orders to interact with orders or quotes received during the RTI, including incoming ECOs. In addition, the Exchange believes that this practice of honoring the updated leg markets would help ensure a fair and orderly market by maintaining the priority of quotes and orders on the Consolidated Book as they update. The Exchange believes that the proposed changes to the COA would increase the number of options orders that are provided with the opportunity to receive price improvement.

The Exchange also believes that the proposed modification regarding when the balance of an initiating (or incoming) COA-eligible order would

colon that appears at the end of this clause with a colon.

[62] *See* proposed Commentary .02(ii) to Rule 980NY; *see also* Commentary .02(i) to Rule 980NY (which similarly provides that ECOs must ''trade at a price that is better than the corresponding price of *all* customer bids or offers in the Consolidated Book for the same series, by at least one standard trading increment as defined in Rule 960NY'' (emphasis added).

[63] 15 U.S.C. 78f(b).

initiate a new COA (as opposed to being posted to the Consolidated Book) is likewise consistent with the Act because it would remove impediments to and perfect the mechanism of a free and open market and a national market system clarifying the rule text to the benefit of market participants, particularly those interested in submitting COA-eligible orders. In addition, the proposed changes also promote additional transparency and internal consistency in Exchange rules. The Exchange believes that, as proposed, COA Order Allocation maximizes price discovery and liquidity while employing price priority, which benefits all market participants.

COA Order Allocation

The Exchange believes that the proposed rule changes, which clarify the priority and order allocation and processing of COA-eligible orders would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed changes are designed to protect investors and the public interest by making the Exchange's rules more clear, concise, transparent and internally consistent, which enhances the overall comprehensibility to investors without altering the operation of the rule. For example, the Exchange believes that the revised rule text describing the execution of COA-Eligible orders provides clarity regarding the allocation of COA-eligible orders against any RFR Responses or incoming ECOs and makes clear that a COA-eligible order would only execute against the leg markets after any auction allocations have been made. The Exchange also believes that the proposed changes would conform to the Exchange's price/time priority model and reduce the potential for investor confusion.

Non-Substantive Changes

The Exchange believes that the proposed non-substantive, technical changes, including updated cross references that conform rule text to proposed changes, promotes just and equitable principles of trade, fosters cooperation and coordination among persons engaged in facilitating securities transactions, and removes impediments to and perfects the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange's rulebook and better understand the defined terms used by 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. To the contrary, the Exchange believes that the proposed changes would encourage increased submission of ECOs, as well as increased participation in COAs, which will add liquidity to the Exchange to the benefit all market participants and is therefore pro-competitive. The proposal does not impose an intra-market burden on competition, because these changes make the rule clearer and more complete for all participants. Nor does the proposal impose a burden on competition among the options exchanges, because of the vigorous competition for order flow among the options exchanges. To the extent that market participants disagree with the particular approach taken by the Exchange herein, market participants can easily and readily direct complex order flow to competing venues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or 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–NYSEAMER–2017–15 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSEAMER–2017–15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet 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–NYSEAMER–2017–15 and should be submitted on or before October 18, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[64]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–20628 Filed 9–26–17; 8:45 am]

BILLING CODE 8011–01–P

[64] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81668; File No. SR–NASDAQ–2017–074]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment No. 1, To Adopt the Midpoint Extended Life Order

September 21, 2017.

On July 21, 2017, 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 adopt the Midpoint Extended Life Order. The proposed rule change was published for comment in the **Federal Register** on August 9, 2017.[3] On August 9, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission has received three comment letters on the proposal.[5]

Section 19(b)(2) of the Act [6] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is September 23, 2017.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the Exchange's proposal, the comments received, and any response to the comments by the Exchange.

Accordingly, pursuant to Section 19(b)(2) of the Act [7] and for the reasons stated above, the Commission designates November 7, 2017, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NASDAQ–2017–074), as modified by Amendment No. 1.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–20623 Filed 9–26–17; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 81311 (August 3, 2017), 82 FR 37248.

[4] In Amendment No. 1, the Exchange updated Item 2, ''Procedures of the Self-Regulatory Organization,'' in Form 19b–4 of the proposal to reflect the approval of the proposal by the Exchange's Board of Directors on July 21, 2017. When the Exchange filed Amendment No. 1 with the Commission, it also submitted Amendment No. 1 to the public comment file for SR–NASDAQ–2017–074 (available at: *https://www.sec.gov/comments/sr-nasdaq-2017-074/nasdaq2017074.htm*). Because Amendment No. 1 is a technical amendment that does not alter the substance of the proposed rule change, it is not subject to notice and comment.

[5] *See* Letters to Brent J. Fields, Secretary, Commission, from Stephen John Berger, Managing Director, Government & Regulatory Policy, Citadel Securities, dated August 30, 2017; Ray Ross, Chief Technology Officer, The Clearpool Group, dated September 12, 2017; and Joanna Mallers, Secretary, FIA Principal Traders Group, dated September 19, 2017.

[6] 15 U.S.C. 78s(b)(2).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81670; File No. SR–NYSEAMER–2017–18]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update and Amend its Options Rules, as Described Herein, To Reduce Unnecessary Complexity and To Promote Standardization and Clarity

September 21, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 11, 2017, NYSE American LLC (the ''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to update and amend its options rules, as described herein, to reduce unnecessary complexity and to promote standardization and clarity.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update and amend its options rules as follows: (1) Delete Rules 965 and 970 and replace them with new Rules 915NY, 915.1NY, 915.2NY and 915.3NY, in order to update its rules governing the verification of compared trades and the reconciliation of uncompared trades, and simultaneously to conform the Exchange's rules to the rules of NYSE Arca, Inc. (''NYSE Arca''), its affiliated exchange, and to update the cross-references to Rules 965 and 970 in Rules 900F and 900H accordingly; (2) amend Rule 900.2NY(29) to clarify the definition of Floor Market Maker; (3) amend Rule 902NY to replace an outdated reference to the Options Surveillance Department; (4) amend Rule 920NY(a) to clarify the definition of Market Maker and to conform the Exchange's rules to the rules of NYSE Arca; (5) amend Rule 930NY to replace the definition of ''Professional Customer'' with ''Qualified Customer'' in connection with the limited public business that qualified Floor Brokers and their Floor Clerks may conduct; (6) amend Rule 934NY to update the

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

references to the current Order Protection Rule; (7) amend Rule 955NY to replace an outdated reference to a required timestamp synchronized to the ''NIST Clock'' with a reference to the current operative Consolidated Audit Trail (''CAT'') clock synchronization rule; and (8) amend Rule 963NY in order to conform the Exchange's rule governing the priority of complex orders in open outcry to its rule governing electronic complex orders. The Exchange proposes to make these rule changes in order to update its rules, reduce complexity and provide clarification concerning its rules, delete outdated cross-references, and standardize and conform its rules to the rules of its affiliated exchange governing the same subject matter.

Proposed Rule Changes Governing the Verification and Reconciliation of Trades

In order to update its rules governing the reconciliation of uncompared trades and to conform its rules to the rules of NYSE Arca, its affiliated exchange, the Exchange proposes to delete Rules 965 and 970 and its commentary,[4] and to replace them with new Rules 915NY and its commentary, 915.1NY, 915.2NY, and 915.3NY and its commentary. This proposal is based upon existing NYSE Arca Rules 6.17–O and its commentary, 6.18–O, 6.19–O, and 6.21–O and its commentary, which rules govern the same subject matter, and that the Exchange proposes to renumber and adopt with conforming modifications.[5]

Proposed Rules 915NY *et seq.* would update the outdated language of Rules 965 and 970 by clarifying the requirements and processes of verifying and comparing trades, including the requirement that clearing members verify and reconcile both compared and uncompared trades promptly, and routinely compare trades during the course of a trading session; the issuance by the Exchange of an unreconciled trade report after the cut-off hour for the receipt of reconciliation reports; the provision by the Exchange of a report of compared trades to the Options Clearing Corporation (''OCC''); the provision of notice of trades that remained uncompared overnight, and for the fixation of the amount of loss; and would conform the rules of the Exchange to the rules of NYSE Arca, thus providing further rule uniformity, and the attendant clarification of processes in options marketplaces.[6] In addition, the Exchange believes Rule 970, which includes outdated language,[7] unnecessarily hinders and delays further technical improvements and that the requirements of new proposed Rules 915NY *et seq.* would both modernize its rulebook to more closely describe the existing options reconciliation process, in addition to conforming its rulebook to the extant rules of its affiliated exchange.

Specifically, new proposed Rule 915NY and its associated commentary (which is based upon NYSE Arca Rule 6.17–O and its commentary) would add greater specificity in connection with the obligations of ATP Holders to both verify compared trades *and* to reconcile and report uncompared trades.[8] Unlike Rule 970's focus upon trades excluded from clearance, new proposed Rule 915NY and Commentary .01 describes existing obligations to verify trade information in order to reconcile uncompared trades—to verify and reconcile compared *and* uncompared trades promptly—and to timely report the resulting reconciliations, corrections and adjustments to the Exchange.[9]

New proposed Rule 915.1NY (which is based upon NYSE Arca Rule 6.18–O) would replace Rule 965. Rule 965 is textually identical to NYSE Arca 6.18–O.[10] Consequently, there is no formative change associated with the replacement of Rule 965 with proposed Rule 915.1NY but for the replacement of the cross-reference to Rule 970 with a cross-reference to new proposed Rule 915.3, the successor rule governing the resolution of uncompared trades.[11]

New proposed Rule 915.2NY (which is based upon Arca Rule 6.19–O),

[4] Rule 970 was last amended in 2004 to reflect then-current data processing and communications technology for comparing options transactions that were excluded from clearing and for the timely resolution of such uncompared trades. *See* Securities Exchange Act Release No. 49438 (March 17, 2004), 69 FR 13919 (March 24, 2004) (SR–AMEX–2003–78). Rule 970 emanates from earlier, and contains such outdated references and anachronistic concepts as a Rejected Option Transaction Notice (''ROTN'') that must be ''OK'd or DK'd''; a ''ROTN Room'' where members or member organizations or their representatives must be present in order to resolve ''prior day's business''; the ''call time'' deadline for parties to check their contract sheets to reconcile uncompared trades and to verify any trades where they are identified as the contra-side; and a manual requirement to include the ''badge number'' of both the executing and the contra-broker, which required data elements are now captured electronically in the electronic order capture rule before an order is sent electronically or represented in open outcry. *See* Rule 955NY Order Format and System Entry Requirements.

[5] To conform the proposed new rules to the Exchange's existing rulebook and definitions, the Exchange proposes to substitute ''ATP Holders'' for ''OTP Holders and OTP Firms'', to substitute ''NYSE Amex Trade Processing Department'' for ''NYSE Arca Trade Processing Department'', and to cross-reference Exchange Rule 9200 in lieu of the cross-reference to NYSE Arca's disciplinary rule.

[6] *See generally* NYSE Arca Rules 6.17–O, 6.18–O, 6.19–O, and 6.21–O, now proposed as new Rules 915NY, 915.1NY, 915.2NY, and 915.3NY. NYSE Arca Rule 6.20–O, that addresses time synchronization, is inapposite to these proposed rule changes governing the reconciliation of uncompared trades, and is therefore not included sequentially in new proposed Rules 915NY *et seq.; but see, infra,* the rule change proposed by the Exchange amending Rule 955NY, that would replace an outdated reference to a required timestamp synchronized to the ''NIST Clock'' with a reference to the current CAT clock synchronization rule. Separately, NYSE Arca, the affiliated Exchange, also intends to file a proposed rule change amending NYSE Arca Rule 6.20–O to replace the same outdated timestamp reference in its rulebook.

[7] *See* Ftnt. 4, *supra.*

[8] New proposed Rule 915NY would provide that ATP Holders that are clearing members of the OCC or their delegates shall be obligated to verify the information shown on the contract lists or on such electronic display terminals to reconcile all uncompared trades and advisory trades shown on the uncompared trade list and to report all reconciliations, corrections and adjustments to the Exchange in accordance with such procedures as may be established by the Exchange from time to time. Such reconciliation report shall be filed with the Exchange prior to such cut-off time as the Exchange may prescribe and shall be binding on the clearing member on whose behalf it is filed. New proposed Commentary to Rule 915NY would provide that Rule 915NY requires clearing members to verify and reconcile compared and uncompared trades promptly in accordance with procedures established by the Exchange from time to time; that trades must be routinely compared during the course of the trading session; that all executing ATP Holders must be available for the settlement of uncompared trades throughout the trading day and until the final trade transmission is sent to the OCC, either in person or through a designated representative empowered to negotiate settlement of any dispute in such ATP Holder's name and account; that for purposes of complying with this provision, the authorized representative must be physically present on the Trading Floor or be accessible via telephone or email, until the final trade transmission is sent to the OCC; that it will be considered a violation of Rule 915NY if a responsible ATP Holder is not available to reconcile an uncompared trade when contacted by NYSE Amex Trade Processing Department; and that, while there may be occasional instances when a trade must remain uncompared overnight, and be resolved in conformance with Rule 915.3NY, any ATP Holders responsible for an undue number of such occurrences will be subject to disciplinary action pursuant to Rule 9200.

[9] Simultaneously, new proposed Rule 915NY would eliminate the outdated references and anachronistic concepts rampant throughout Commentary .01 to Rule 970, thus further clarifying the rulebook. *See* Ftnt. 4, *supra.*

[10] New proposed Rule 915.1NY would provide that on each business day after the cut-off hour for the receipt of reconciliation reports, the Exchange shall issue to each ATP Holder which is a clearing member of the OCC or its delegate, an unreconciled trade report which will contain a list of any new or remaining uncompared trades and advisory trades of such clearing member. If any such trades are subsequently reconciled between the parties, they may be submitted for comparison on the next business day. Trades which are not so reconciled by the parties shall be closed in accordance with the provisions of Rule 915.3NY.

[11] The Exchange also proposes placing the requirements of Rule 965, which address the issuance of an unreconciled trade report, within the newly grouped sequence of rules that address the processes of comparison and reconciliation.

similarly to new proposed Rule 915NY and its commentary, would describe existing processes of the Exchange: To furnish to the OCC a report of each clearing member's compared trades based on the comparison service performed by the Exchange on that business day; thus providing further rule uniformity and clarification of this part of the process in the options marketplaces.[12]

New proposed Rule 915.3NY and its commentary (which is based upon Arca Rule 6.21–O and its commentary) [13] describes calculations of the amounts of loss on uncompared trades,[14] provisions that Rule 970 did not specify, and that the Exchange believes would provide helpful clarification and conformity of its rulebook and processes.[15] Additionally, Commentary .02 to new proposed Rule 915.3NY also describes the Exchange's authority to remove from record any transactions that have, in error, been matched but which are actually uncompared transactions.[16]

The Exchange believes that the deliberate assemblage of the provisions concerning the resolution of uncompared trades in a separate new rule, new proposed Rule 9.15.3NY, along with the assembly of the associated rules governing the verification of compared trades and the reconciliation of uncompared trades, the issuance of an unreconciled trade report, and the reporting of compared trades to OCC, in new proposed Rules 915NY, 915.1NY and 915.2NY, respectively, would clarify, update and make uniform the rules governing the post-trade processing of options transactions, and would accelerate the reconciliation process for uncompared options transactions, thereby reducing any potential risks or inefficiencies inherent in the continued use of outdated Rules 965 and 970.

Finally, in a further effort at standardization and clarity, the Exchange proposes to add the new rules to the ''NY'' series of its rulebook, which contains the rules principally applicable to the trading of options contracts. In order to provide further clarification concerning its rules, the Exchange also proposes to replace the cross-references to Rules 965 and 970 in Rules 900F and Rule 900H with updated cross-references to proposed Rules 915NY, 915.1NY, 915.2NY, and 915.3NY.

Other Proposed Rule Changes

In addition, the Exchange proposes to amend Rule 900.2NY(29) to streamline the definition of Floor Market Maker. Specifically, the Exchange proposes to amend Rule 900.2NY(29) so that the proposed definition would read ''The term 'Floor Market Maker' shall mean a registered Market Maker who makes transactions as a dealer-specialist while on the Floor of the Exchange.'' In connection with this change, the Exchange proposes to eliminate ''and provides quotations: (A) Manually, by public outcry, and (B) electronically through an auto-quoting device'' as an unnecessarily repetitive description of a Floor Market Maker's activity, in an effort to promote further clarification in its rulebook.

In order to further update and clarify the Exchange's rules governing conduct on the options trading floor, the Exchange proposes to amend Rule 902NY(f) to replace an outdated reference to the ''Options Surveillance Department'' with ''NYSE Regulation'', the current operative entity to which complaints from ATP Holders may be directed. NYSE Regulation currently oversees the self-regulatory responsibilities and functions of the Exchange.[17]

In order to add further clarification to its rulebook, and to conform its definition of Marker Maker to the rules of NYSE Arca, its affiliated exchange, the Exchange also proposes to add ''making transactions as a dealer-specialist on the Floor of the Exchange'' to the beginning of the first sentence of Rule 920NY, and to delete ''verbally on the Trading Floor'' and ''from on the Trading Floor or remotely from off the Trading Floor'' from the end of that sentence.[18] The proposed sentence would read ''A Market Maker is an ATP Holder that is registered with the Exchange for the purpose of making transactions as a dealer-specialist on the Floor of the Exchange or for the purpose of submitting quotes electronically and making transactions as a dealer-specialist through the System.'' In addition to being consistent with the definition of a Marker Maker in NYSE Arca Rule 6.32(a)–O, the Exchange believes that this modification will promote greater clarity without affecting the definition of market maker as a dealer-specialist that makes transactions in open outcry on the floor of the Exchange and electronically through the System.

In order to clarify its rules, the Exchange also proposes to amend Rule 930NY(b)(1) and Rule 930NY(b)(2) to replace the definition of ''Professional Customer'' with the single-use term ''Qualified Customer'' in connection with the limited public business that qualified Floor Brokers and their Floor Clerks may conduct. Rule 930NY(b) defines both the permissible conduct of a limited public business and also defines ''Professional Customer'', for purposes of Rule 930NY(b), as ''not includ[ing] those participants defined in Rule 900.2NY(18A)''.[19] In order to avoid

[12] New proposed Rule 915.2NY would provide that on each business day at or prior to such time as may be prescribed by the OCC, the Exchange shall furnish the OCC a report of each clearing member's compared trades based on the comparison service performed by the Exchange on that day. Only trades which have been compared in accordance with the provisions of this Rule shall be furnished by the Exchange to the OCC, and the Exchange shall assume no responsibility with respect to any uncompared trade nor for any delays or errors in the reporting of trades for comparison.

[13] As noted in Ftnt. 6, *supra,* NYSE Arca Rule 6.20–O is inapposite to these proposed rule changes governing the reconciliation of uncompared trades and is therefore not included sequentially in new proposed Rules 915NY *et seq.*

[14] New proposed Rule 915.3NY would provide that the amount of loss as a result of an uncompared trade would be the opening price for such contract on the business day following the trade date; where the uncompared trade side is one for the purchase of option contracts and no trade occurred on the opening, the price used in fixing the amount of the loss would be the offer at the time of the opening; and, where the uncompared trade side is one for the sale of option contracts and no trade occurred on the opening, the price used in fixing the amount of the loss would be the bid price.

[15] New proposed Rule 915.3NY would also provide that notice of uncompared trades must be provided no later than the scheduled commencement of trading unless directed otherwise by a Trading Official; that in the event an uncompared transaction involves an option contract of a series in which trading has been terminated or suspended before a new Exchange option transaction can be effected to establish the amount of any loss, the ATP Holder not at fault may claim damages against the other party involved in the transaction based on the terms of such transaction; and that all such claims shall be made promptly but in no event shall such claim be made after the close of trading on the first business day following the date of the uncompared transaction in question.

[16] New proposed Commentary to Rule 915.3NY would also provide that in order to ensure that trades can be resolved by the scheduled commencement of trading in such series or class of options on the first business day following the trade date, ATP Holder are required to have an authorized representative of such ATP Holder available to resolve uncompared trades no later than 45 minutes from the scheduled commencement of trading on said business day following the trade date.

[17] *See* Regulatory Information Memo No. 15–6 available at: *https://www.nyse.com/publicdocs/nyse/markets/nyse/rule-interpretations/2015/NYSE-15-6.pdf*

[18] The Exchange also proposes deleting ''in accordance with the Rules of the Exchange'' from the end of that first sentence as unnecessary because adherence to the Exchange's rules is intrinsic to all rules in its rulebook.

[19] The definition of ''Professional Customer'' in Rule 900.2NY(18A), which is broader than the definition in Rule 930NY (b)(2), defines a ''Professional Customer'' as an individual or organization that is not a Broker/Dealer in securities and places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). Rule 900.2NY(18A) also

Continued

unnecessary complexity or confusion concerning the duplicate definitions of ''Professional Customer'', the Exchange proposes to amend Rule 930NY(b) to replace the definition of ''Professional Customer'' with the single-use term ''Qualified Customer'' in connection with the limited public business, and to limit the use of ''Qualified Customer'' to Rule 930NY(b).

Furthermore, in order to provide further clarification concerning its rules, the Exchange proposes to amend Rule 934NY, its crossing rule, by replacing outdated references to the requirement that execution prices ''be equal to or better than the NBBO'' with updated cross-references to the Rule 991NY, the current plenary Order Protection Rule. In addition, in connection with both customer-to-customer cross and non-facilitation (regular way) crosses, the Exchange proposes to delete from Rules 934NY(a)(3)(B) and 934NY(b)(3) two sentences that provide that ''[t]he orders will be cancelled or posted in the Book if an execution would take place at a price that is inferior to the NBBO''. Rule 991NY would also govern in such situations, and the orders will not be cancelled or posted but would trade through in accord with the exemptions in Rule 991NY.

In order to update and clarify the Exchange's rules governing its order format and system entry requirements, the Exchange proposes to amend Rule 955NY to replace an outdated reference to a required timestamp synchronized to the ''NIST Clock'' with a reference to Rule 6820, the current CAT clock synchronization rule. Specifically, in connection with Rule 955NY(d)(2)(A), which governs contingency reporting procedures when an exception to the EOC (Electronic Order Capture System) applies, the Exchange proposes to delete an outdated reference to ''(a timestamp synchronized with the National Institute of Standards and Technology Atomic Clock in Boulder Colorado 'NIST Clock' will be available at all ATP Holder booths[sic]'' and instead add the requirement that all order events must conform to the requirements of Rule 6820. For further clarity, the Exchange also proposes to delete ''immediately'' from the text of the rule because Rule 6820 sets the operative standard.

Finally, the Exchange proposes to conform its rule governing the priority of complex orders in open outcry to its rule governing Electronic Complex Orders. Specifically, the Exchange proposes to conform Rule 963NY(d) to Rule 980NY(b) by amending Rule 963NY(d) to provide that a Complex Order and Stock/Complex Orders may be executed at a ''total or'' net debit or credit price.

2. Statutory Basis

The proposed rule changes are consistent with Section 6(b) [20] of the Act, in general, and furthers the objectives of Section 6(b)(5),[21] in particular, in that they are 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.

Specifically, the Exchange believes that conforming its definitional rules to the rules of an affiliated exchange, updating its rules by deleting and updating outdated cross-references, eliminating extraneous or redundant, and therefore potentially confusing or ambiguous, language, clarifying a duplicative definition, updating a cross-reference to a current operative rule or operative entity, and updating its post-trading verification and reconciliation rules, and conforming its rules to the rules of an affiliated exchange governing the same subject matter, would remove impediments to and perfect a national market system by simplifying the functionality and complexity of its rules and regulatory requirements. The Exchange also believes that these proposed amendments would be consistent with the public interest and the protection of investors because investors would not be harmed and, in fact, would benefit from this simplification, updating and clarification. Further, the Exchange believes that investors would benefit from the added transparency and clarity of the Exchange's rules.

In addition, the Exchange believes, that by updating and conforming its rules governing the verification of compared trades and the reconciliation of uncompared trades to the rules of NYSE Arca, its affiliated exchange, by streamlining the definition of Floor Market Maker by eliminating extraneous language, by updating and clarifying the Exchange's rules governing conduct on the options trading floor by replacing an outdated reference to the ''Options Surveillance Department'' with ''NYSE Regulation'', by updating and conforming its definition of Market Maker to the definition of NYSE Arca and deleting redundant and therefore potentially confusing language, by replacing the definition of ''Professional Customer'' with the single-use term ''Qualified Customer'' in connection with the limited public business that qualified Floor Brokers and their Floor Clerks may conduct, by amending its crossing rule by replacing outdated and potentially ambiguous references to the NBBO with cross-references to the current plenary Order Protection Rule, by updating and clarifying its rules governing its order format and system entry requirements by replacing an outdated reference with a reference to the current operative CAT time synchronization rule, and by conforming its rule governing the priority of complex orders in open outcry to its rule governing Electronic Complex Orders, would also promote just and equitable principles of trade, would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, would help to protect investors and the public interest by providing transparency as to which rules are operable, and by reducing potential confusion that may result from having outdated or redundant rules or cross-references in the Exchange's rulebook. The Exchange further believes that the proposed rule changes would remove impediments to and perfect the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate and understand the Exchange's rulebook.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are not designed to address any competitive issue but would instead update, remove, and clarify outdated cross-references and definitions, and redundant language, and also conform the Exchange's rules and definitions to the rules of another exchange, thereby reducing confusion and making the Exchange's rules easier to understand and navigate.

defines the treatment of a Professional Customer under various Exchange rules *except* Rule 930NY(b), and defines how to calculate the number of Professional Customers orders in connection with different order types.

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [22] and Rule 19b–4(f)(6) thereunder.[23] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [24] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[25] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [26] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2017–18 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–NYSEAMER–2017–18. 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 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–NYSEAMER–2017–18, and should be submitted on or before October 18, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–20624 Filed 9–26–17; 8:45 am]

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[22] 15 U.S.C. 78s(b)(3)(A)(iii).
[23] 17 CFR 240.19b–4(f)(6).
[24] 17 CFR 240.19b–4(f)(6).
[25] 17 CFR 240.19b–4(f)(6)(iii).
[26] 15 U.S.C. 78s(b)(2)(B).
[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81672; File No. SR–NYSEAMER–2017–17]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 7.31E Relating to the Minimum Trade Size Modifier for Additional Order Types and Expanding the Minimum Trade Size Modifier for Existing Order Types

September 21, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 11, 2017, NYSE American LLC (''Exchange'' or ''NYSE American'') 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 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 Rule 7.31E relating to the Minimum Trade

Size modifier.

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.

[1] 15 U.S.C. 78s(b)(1).
[2] 15 U.S.C. 78a.
[3] 17 CFR 240.19b–4.

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 Rule 7.31E relating to the Minimum Trade Size (''MTS'') modifier. Specifically, the Exchange proposes to make the MTS modifier available for Non-Displayed Primary Pegged Orders [4] and Discretionary Pegged Orders. In addition, the Exchange proposes to provide additional optionality for ETP Holders using the MTS modifier with Midpoint Liquidity (''MPL'') Orders, Non-Displayed Primary Pegged Orders, and Discretionary Pegged Orders. As proposed, ETP Holders could choose how such orders would trade on arrival to trade either with (i) orders that in the aggregate meet the MTS (current functionality), or (ii) individual orders that each meet the MTS (proposed functionality).

The MTS modifier is currently available for Limit IOC Orders,[5] MPL Orders,[6] and Tracking Orders.[7] As such, the MTS modifier is currently available only for orders that are not displayed and do not route. On arrival, both Limit IOC Orders and MPL Orders with an MTS modifier will trade against contra-side orders in the Exchange Book that in the aggregate, meet the MTS.[8] Once resting, MPL Orders and Tracking Orders with an MTS modifier function similarly: If a contra-side order does not meet the MTS, the incoming order will not trade with and may trade through the resting order with the MTS modifier. In addition, both MPL Orders and Tracking Orders with an MTS modifier will be cancelled if such orders are traded in part or reduced in size and the remaining quantity is less than the MTS.

The Exchange proposes to amend its rules to make MTS modifier functionality available for additional non-displayed orders that do not route, *i.e.,* Non-Displayed Primary Pegged Orders and Discretionary Pegged Orders. The Exchange also proposes to add an option that an order with an MTS modifier would trade on entry only with individual orders that each meet the MTS. These proposed changes are based on the rules of Nasdaq Stock Market LLC (''Nasdaq'') and Investors Exchange LLC (''IEX''), which both offer minimum trade size functionality for orders that are not displayed and that do not route, including pegging orders and for IEX, its Discretionary Peg Order.[9] Both exchanges also offer the option for orders with a minimum trade size to trade on entry only with individual orders that each meet the MTS of the incoming order.[10]

To effect this proposed rule change, the Exchange proposes to move all references to MTS modifiers in Rule 7.31E to proposed Rule 7.31E(i)(3), as a new additional order instruction and modifier to be referred to as the ''Minimum Trade Size ('MTS') Modifier.'' As proposed, Rule 7.31E(i)(3) would provide that a Limit IOC Order, MPL Order, Tracking Order, Non-Displayed Primary Pegged Order, or Discretionary Pegged Order may be designated with an MTS Modifier. Because this proposed rule text would specify which orders would be eligible for the MTS Modifier, the Exchange proposes to delete existing rule text specifying which orders are and are not eligible for an MTS.[11]

Proposed Rule 7.31E(i)(3)(A) would provide that an MTS must be a minimum of a round lot and that an order with an MTS Modifier would be rejected if the MTS is less than a round lot or if the MTS is larger than the size of the order. This proposed rule text is based on the next-to-last sentence of Rule 7.31E(b)(2)(A) and the first sentence of 7.31E(d)(3)(D), and in part on the first sentence of Rule 7.31E(d)(4)(C), with non-substantive differences to use common terminology when applying this requirement to all of the order types eligible for an MTS Modifier.[12]

Proposed Rule 7.31E(i)(3)(B) would provide that an ETP Holder must specify one of the following instructions with respect to how an order with an MTS Modifier would trade at the time of entry. This proposed text is new and reflects the Exchange's proposal to add an alternative to how an order with an MTS Modifier would trade on entry. Proposed Rule 7.31E(i)(3)(B)(i) would describe the existing functionality as one of the instructions that would be available to ETP Holders. The proposed rule would provide that an order to buy (sell) with an MTS Modifier would trade with sell (buy) orders in the Exchange Book that in the aggregate meet such order's MTS. This proposed rule text is based on the third sentence of Rule 7.31E(b)(2)(A) and the second sentence of Rule 7.31E(d)(3)(D) with non-substantive differences to use common terminology when applying this requirement to all of the order types eligible for an MTS Modifier.

Proposed Rule 7.31E(i)(3)(B)(ii) would describe the new instruction that on entry, an order to buy (sell) with an MTS Modifier could trade with individual sell (buy) order(s) in the Exchange Book that each meets such order's MTS. Because the Exchange is not proposing to change how an MTS Modifier would function for Limit IOC Orders, the Exchange further proposes

[4] The Exchange proposes a non-substantive amendment to rename ''Primary Pegged Orders'' as ''Non-Displayed Primary Pegged Orders'' in Rule 7.31E(h)(2). The Exchange believes that this proposed amendment provides transparency regarding whether Primary Pegged Orders on the Exchange are displayed.

[5] *See* Rule 7.31E(b)(2)(A) (''A Limit IOC Order to buy (sell) may be designated with a minimum trade size (''MTS''), which will trade against sell (buy) orders in the Exchange Book that in the aggregate, meets its MTS. On entry, a Limit IOC Order with an MTS must have a minimum of one round lot and will be rejected on arrival if the MTS is larger than the size of the Limit IOC Order. A Limit IOC Order with an MTS that cannot be immediately traded at its minimum size will be cancelled in its entirety.'')

[6] *See* Rule 7.31E(d)(3)(D) (''An MPL Order may be designated with an MTS of a minimum of one round lot and will be rejected on arrival if the MTS is larger than the size of the MPL Order. On arrival, an MPL Order to buy (sell) with an MTS will trade with sell (buy) orders in the Exchange Book that in the aggregate, meets its MTS. If the sell (buy) orders do not meet the MTS, the MPL Order to buy (sell) will not trade on arrival and will be ranked in the Exchange Book. Once resting, an MPL Order to buy (sell) with an MTS will trade with an order to sell (buy) that meets the MTS and is priced at or below (above) the midpoint of the PBBO. If an order does not meet an MPL Order's MTS, the order will not trade with and may trade through such MPL Order. If an MPL Order with an MTS is traded in part or reduced in size and the remaining quantity of the order is less than the MTS, the MPL Order will be cancelled.'')

[7] *See* Rule 7.31E(d)(4)(C) (''A Tracking Order may be designated with an MTS of one round lot or more. If an incoming order cannot meet the MTS, a Tracking Order with a later working time will trade ahead of the Tracking Order designated with an MTS with an earlier working time. If a Tracking Order with an MTS is traded in part or reduced in size and the remaining quantity is less than the MTS, the Tracking Order will be cancelled.'')

[8] Tracking Orders, including Tracking Orders with an MTS modifier, are passive orders that do not trade on arrival.

[9] *See* Nasdaq Rule 4703(e) (Nasdaq's ''Minimum Quantity Order'' may not be displayed and will be rejected if it includes an instruction to route) and IEX Rule 11.190(b)(11)(A) (IEX's ''Minimum Quantity Order'' or ''MQTY'' is a non-displayed, non-routable order that may be a pegged order, which includes IEX's ''Primary Peg Order'' and ''Discretionary Peg Order'').

[10] *See* Nasdaq Rule 4703(e) (Nasdaq's ''Minimum Quantity'' order attribute allows for a Nasdaq participant to specify one of two alternatives to how a Minimum Quantity Order would be processed at the time of entry, one of which is that ''the minimum quantity condition must be satisfied by execution against one or more orders, each of which must have a size that satisfies the minimum quantity condition'') and IEX Rule 11.190(b)(11)(G)(iii)(B) (On arrival, IEX's ''Minimum Execution Size with All-or-None Remaining'' qualifier for IEX's MQTY executes against each willing resting order in priority, provided that each individual execution size meets its effective minimum quantity.)

[11] The Exchange proposes to delete references to MTS in Rules 7.31E(b)(2)(A), 7.31E(b)(2)(B), 7.31E(d)(3)(D), 7.31E(d)(4)(C), 7.31E(e)(3)(B), and 7.46E(f)(1)(A).

[12] Nasdaq also requires that its Minimum Quantity Order also have a size of at least a round lot. *See* Nasdaq Rule 4703(e).

to provide that this instruction would not be available for Limit IOC Orders. As discussed above, the addition of this instruction for how orders with an MTS Modifier would trade on entry is based on the rules of Nasdaq and IEX.[13]

Proposed Rule 7.31E(i)(3)(C) would provide that an order with an MTS Modifier that is designated Day and cannot be satisfied on arrival would not trade and would be ranked in the Exchange Book. This proposed rule text is based on the third sentence of Rule 7.31E(d)(3)(D) with non-substantive differences to reference orders designated Day so that this proposed rule text would also be applicable to Non-Displayed Primary Pegged Orders and Discretionary Pegged Orders, which are also designated Day.

Proposed Rule 7.31E(i)(3)(D) would provide that an order with an MTS Modifier that is designated IOC and cannot be immediately satisfied would be cancelled in its entirety. This proposed rule text is based on the last sentence of Rule 7.31E(b)(2)(A), with non-substantive differences to specify that this functionality would be applicable to any orders designated IOC that have an MTS Modifier, *i.e.,* Limit IOC Orders and MPL–IOC Orders.

Proposed Rule 7.31E(i)(3)(E) would provide that a resting order to buy (sell) with an MTS Modifier would trade with individual sell (buy) order(s) that each meets the MTS. This proposed rule text is based on the fourth sentence of Rule 7.31E(d)(3)(D) with a non-substantive difference to use the same terminology as proposed Rule 7.31E(i)(3)(B)(ii) because a resting order with an MTS Modifier only trades if contra-side individual orders each meets such order's MTS. The Exchange proposes non-substantive differences to use common terminology when applying this requirement to all of the order types eligible for an MTS Modifier.

Proposed Rules 7.31E(i)(3)(E)(i)–(iii) would set forth additional requirements for how a resting order with an MTS Modifier would trade. Proposed Rule 7.31E(i)(3)(E)(i) would provide that if a sell (buy) order does not meet the MTS of the resting order to buy (sell) with an MTS Modifier, that sell (buy) order would not trade with and may trade through such order with an MTS Modifier. This proposed rule text is based on the fifth sentence of Rule 7.31E(d)(3)(D) and the second sentence of Rule 7.31E(d)(4)(C) with non-substantive differences to use common terminology when applying this requirement to all of the order types eligible for an MTS Modifier.

Proposed Rule 7.31E(i)(3)(E)(ii) would provide that if a resting sell (buy) order did not meet the MTS of a same-priced resting order to buy (sell) with an MTS Modifier, a subsequently arriving sell (buy) order that meets the MTS would trade ahead of the resting sell (buy) order. This proposed rule text is based on the second sentence of Rule 7.31E(d)(4)(C) with non-substantive differences to use common terminology when applying this requirement to all of the order types eligible for an MTS Modifier.

Proposed Rule 7.31E(i)(3)(E)(iii) would provide that a resting order to buy (sell) with an MTS Modifier would not be eligible to trade if sell (buy) order(s) ranked Priority 2—Display Orders are displayed on the Exchange Book at a price lower (higher) than the working price of such MTS Order. This proposed rule is new and is designed to ensure that a non-displayed order with an MTS Modifier that is resting on the Exchange Book would not trade at a price that crosses the price of a displayed contra-side order.

For example, if the PBBO[14] is $10.10 × $10.14 and there is a resting MPL Order to buy with an MTS Modifier for 100 shares that has a working price of $10.12 (''Order A''), a later-arriving Limit Order to sell ranked Priority 2—Display Orders for 50 shares priced at $10.11 (''Order B'') would not be eligible to trade with Order A because it does not meet Order A's MTS. However, because it is odd-lot sized, Order B would not change the PBBO and therefore the working price of Order A would not change, but Order B would be displayed on the Exchange's proprietary data feeds at $10.11. In such case, to eliminate the potential for the Exchange to have an execution of Order A at a higher price than Order B, Order A would not be eligible to trade until such time that Order B no longer internally crosses Order A's working price. Order A and Order B would no longer be internally crossed if, for example, Order B is cancelled or executed or if the PBBO moves such that the working price of Order A no longer internally crosses the display price of Order B.

As a related matter, the Exchange also proposes to amend Rule 7.46E (Tick Size Pilot Plan) to establish how the Exchange would process orders with an MTS Modifier for Pilot Securities in Test Group Three. Proposed Rule 7.46E(f)(5)(I) would provide that for such securities, a resting order to buy (sell) with an MTS Modifier would not be eligible to trade if sell (buy) order(s) ranked Priority 2—Display Orders are displayed on the Exchange Book at a price *equal to* or lower (higher) than the working price of such MTS Order. The Exchange proposes this difference for Pilot Securities in Test Group Three of the Tick Size Pilot Plan to ensure that a non-displayed order does not trade ahead of a same-price contra-side displayed order.

For example, if the PBBO is $10.10 × $10.20 and there is a resting MPL Order to buy with an MTS Modifier for 100 shares that has a working price of $10.15 (''Order A''), a later-arriving Limit Order to sell ranked Priority 2—Display Orders for 50 shares priced at $10.15 (''Order B'') would not be eligible to trade with Order A because it does not meet Order A's MTS, would not change the PBBO, and, pursuant to proposed Rule 7.31E(i)(3)(E)(ii), would rest on the Exchange Book internally locking the price of Order A. To avoid a violation of the Tick Size Pilot Plan for Pilot Securities in Test Group Three, Order A would not be eligible to trade if Order B is displayed at Order A's working price until such time that the displayed order no longer internally locks Order A's working price. Order A and Order B would no longer be internally locked if, for example, Order B is cancelled or executed or if the PBBO moves such that the working price of Order A no longer internally locks the display price of Order B.

Proposed Rule 7.31E(i)(3)(F) would provide that a resting order with an MTS Modifier would be cancelled if it is traded in part or reduced in size and the remaining quantity is less than such order's MTS. This proposed rule text is based on the last sentence of Rule 7.31E(d)(3)(D) and the last sentence of Rule 7.31E(d)(4)(C) with non-substantive differences to use common terminology when applying this requirement to all of the order types eligible for an MTS Modifier.

Because of the technology changes associated with this proposed rule change, the Exchange will announce the implementation date of this proposed rule change by Trader Update. The Exchange anticipates that the implementation date will be in the fourth quarter of 2017.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[15] in general, and furthers the

[13] *See supra* note 10.

[14] PBBO is defined in Rule 1.1E(dd) as the Best Protected Bid and the Best Protected Offer.

[15] 15 U.S.C. 78f(b).

objectives of Section 6(b)(5),[16] in particular, because 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 proposal to expand the availability of the Exchange's existing MTS Modifier to additional non-displayed, non-routable orders, *e.g.,* Non-Displayed Primary Pegged Orders and Discretionary Pegged Orders, would 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, because the proposed rule change is based on similar minimum trade size functionality on Nasdaq and IEX, which exchanges similarly make minimum trade size functionality available to non-displayed, non-routable orders, including pegging orders, and for IEX, its Discretionary Peg Order.[17]

The Exchange believes that the proposal would 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 because it would provide ETP Holders with the option for orders with a minimum trade size to trade on entry only with individual orders that each meets the MTS of the incoming order, thereby providing ETP Holders with more control in how such orders could execute. As such, the proposed rule change is based on similar options available for users of minimum trade size functionality on Nasdaq and IEX.[18] The Exchange further believes that this proposed option would remove impediments to, and perfect the mechanism of, a free and open market and a national market system because it would allow ETP Holders to provide an instruction that an order with an MTS Modifier would not trade with orders that are smaller in size that the MTS for such order, thereby providing ETP Holders with more control over when an order with an MTS Modifier may be executed.

The Exchange believes that the proposal regarding when a resting order with an MTS would be eligible to trade would 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, because the proposed rule change would ensure that a non-displayed order does not trade at a price that crosses the price of interest that is displayed on the Exchange, or for Tick Size Pilot Securities in Group Three, so that a non-displayed order would not trade at the same price as contra-side displayed interest in violation of the Tick Size Pilot Plan. This proposed rule change would therefore promote just and equitable principles of trade by ensuring that displayed interest does not get traded through by a non-displayed order.

Finally, the Exchange believes that the proposed amendment to rename the ''Primary Pegged Order'' as the ''Non-Displayed Primary Pegged Order'' would 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 because it would promote transparency in Exchange rules regarding whether Primary Pegged Orders on the Exchange are displayed.

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 Exchange believes that the proposed rule change is designed to address competition by making available on the Exchange functionality that is already available on Nasdaq and IEX. The Exchange therefore believes that the proposed rule change would promote competition by providing market participants with an additional venue to which to route non-displayed, non-routable orders with an MTS Modifier.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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[19] and Rule 19b–4(f)(6) thereunder.[20]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[21] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[22] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that implementing the MTS modifier functionality as soon as possible would provide ETP Holders with greater control over when an order with an MTS modifier may be executed. The Exchange also stated that waiver of the 30-day operative delay would allow it to implement the proposed rule change when the technology supporting the change becomes available, which the Exchange anticipates to be less than 30 days after the date of this filing. The Commission notes that the proposed functionality is already available on other national securities exchanges. 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 operative delay and designates the proposal operative upon filing.[23]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule

[16] 15 U.S.C. 78f(b)(5).

[17] *See supra* note 9.

[18] *See supra* note 10.

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 240.19b–4(f)(6)(iii).

[23] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2017–17 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSEAMER–2017–17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet 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–NYSEAMER–2017–17 and should be submitted on or before October 18, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81671; File No. SR–BatsBZX–2017–54]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To List and Trade Shares of the iShares Inflation Hedged Corporate Bond ETF, a Series of the iShares U.S. ETF Trust, Under Rule 14.11(i), Managed Fund Shares

September 21, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 7, 2017, Bats BZX Exchange, Inc. (''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 iShares Inflation Hedged Corporate Bond ETF (the ''Fund''), a series of the iShares U.S. 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.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares under Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange.[3] The Fund will be an actively managed exchange-traded fund that seeks to mitigate the inflation risk of a portfolio composed of U.S. dollar-denominated investment-grade corporate bonds either through holding such bonds or through holding exchange-traded funds that hold such bonds, as further described below. The Exchange submits this proposal in order to allow the Fund to hold Inflation Hedging Instruments, as defined below, in a manner that may not comply with Rule 14.11(i)(4)(C)(iv)(a),[4] Rule 14.11(i)(4)(C)(iv)(b),[5] and/or Rule

[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission originally approved BZX Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018) and subsequently approved generic listing standards for Managed Fund Shares under Rule 14.11(i) in Securities Exchange Act Release No. 78396 (July 22, 2016), 81 FR 49698 (July 28, 2016) (SR–BATS–2015–100).

[4] Rule 14.11(i)(4)(C)(iv)(a) provides that ''there shall be no limitation to the percentage of the portfolio invested in such holdings; provided, however, that in the aggregate, at least 90% of the weight of such holdings invested in futures, exchange-traded options, and listed swaps shall, on both an initial and continuing basis, consist of futures, options, and swaps for which the Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other members or affiliates of the ISG or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement, calculated using the aggregate gross notional value of such holdings.'' The Exchange is proposing that the Fund be exempt from this requirement only as it relates to the Fund's holdings in certain credit default swaps and Inflation Swaps, as further described below.

[5] Rule 14.11(i)(4)(C)(iv)(b) provides that ''the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures).'' The Exchange is proposing that the Fund be exempt only from the requirement of Rule 14.11(i)(4)(C)(iv)(b) that prevents the aggregate gross notional value of listed derivatives based on any single underlying reference asset from exceeding 30% of the weight of the portfolio (including gross notional exposures). The Exchange is proposing that the Fund be exempt from this requirement only

Continued

14.11(i)(4)(C)(v),[6] as further described below. Otherwise, the Fund will comply with all other listing requirements on an initial and continued listing basis under Rule 14.11(i).

The Shares will be offered by the Trust, which was established as a Delaware statutory trust on June 21, 2011. 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.[7]

The Fund intends to qualify each year as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended.

iShares Inflation Hedged Corporate Bond ETF

According to the Registration Statement, the Fund will be an actively managed exchange-traded fund that will seek to mitigate the inflation risk of a portfolio composed of U.S. dollar-denominated investment-grade corporate bonds. The Fund seeks to achieve its investment objective by investing, under Normal Market Conditions,[8] at least 80% of its net assets in the iShares iBoxx $ Investment Grade Corporate Bond ETF (the ''Underlying Fund''), U.S. dollar-denominated investment-grade corporate bonds, in one or more other underlying ETFs [9] that principally invest in investment-grade corporate bonds, and in Inflation Hedging Instruments, as defined below. The Fund will gain exposure to U.S. dollar-denominated investment-grade corporate bonds primarily through investing in the Underlying Fund. As an alternative, the Fund may gain such exposure by investing in U.S. dollar-denominated investment-grade corporate bonds or through other exchange-traded funds that are listed on a national securities exchange that principally invest in investment-grade corporate bonds. The Fund will attempt to mitigate the inflation risk of the Fund's exposure to U.S. dollar-denominated investment-grade corporate bonds primarily through the use of either OTC or listed inflation swaps (*i.e.,* contracts in which the Fund will make fixed-rate payments based on notional amount while receiving floating-rate payments determined from an inflation index) (''Inflation Swaps''),[10] which are managed on an active basis. As an alternative, the Fund may also attempt to mitigate the inflation risk of the underlying securities or the Underlying Fund through investing in other products designed to transfer inflation risk from one party to another, including but not limited to Treasury Inflation-Protected Securities (''TIPS''), total return swaps,[11] credit default swaps,[12] and U.S. Treasury futures [13] (collectively with Inflation Swaps, ''Inflation Hedging Instruments''). The Exchange is proposing to allow the Fund to hold up to 50% of the weight of its portfolio (including gross notional exposure) in Inflation Hedging Instruments, collectively, in a manner that may not comply with Rules 14.11(i)(4)(C)(iv)(a),[14] 14.11(i)(4)(C)(iv)(b),[15] and/or 14.11(i)(4)(C)(v),[16] as discussed above.

The Fund's investments, including derivatives, will be consistent with the Fund's investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage). That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A). The Fund will only use those derivatives included in the defined term Inflation Hedging Instruments. The Fund's use of derivative instruments will be collateralized. As noted above, the Fund will only use derivative instruments in order to attempt to mitigate the inflation risk of the U.S. dollar-denominated investment-grade corporate bonds.

The Exchange notes that the Fund may also hold certain fixed income securities and cash and cash equivalents in compliance with Rules 14.11(i)(4)(C)(ii) and (iii) in order to collateralize its derivatives positions.

Surveillance

The Exchange represents that, except for the exceptions to BZX Rule 14.11(i)(4)(C) described above, the Fund's proposed investments will satisfy, on an initial and continued listing basis, all of the generic listing standards under BZX Rule 14.11(i)(4)(C) and all other applicable requirements for Managed Fund Shares under Rule 14.11(i). The Trust is required to comply with Rule 10A–3 under the Act for the initial and continued listing of the Shares of the Fund. In addition, the Exchange represents that the Shares of the Fund will comply with all other requirements applicable to Managed Fund Shares including, but not limited to, requirements relating to the dissemination of key information such as the Disclosed Portfolio, Net Asset Value, and the Intraday Indicative Value, rules governing the trading of equity securities, trading hours, trading halts, surveillance, and the information circular, as set forth in Exchange rules applicable to Managed Fund Shares and the orders approving such rules. At least 100,000 Shares will be outstanding upon the commencement of trading.

Moreover, all of the equity securities and futures contracts held by the Fund

as it relates to the Fund's holdings in listed derivatives, which include U.S. Treasury futures, credit default swaps, and certain Inflation Swaps, as further described below. The Fund will meet the requirement that the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures).

[6] Rule 14.11(i)(4)(C)(v) provides that ''the portfolio may, on both an initial and continuing basis, hold OTC derivatives, including forwards, options, and swaps on commodities, currencies and financial instruments (*e.g.,* stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing, however the aggregate gross notional value of OTC Derivatives shall not exceed 20% of the weight of the portfolio (including gross notional exposures).'' The Exchange is proposing that the Fund be exempt from this requirement only as it relates to the Fund's holdings in OTC derivatives, which include total return swaps and certain inflation swaps, as further described below.

[7] *See* Registration Statement on Form N–1A for the Trust, dated April 6, 2017 (File Nos. 333–179904 and 811–22649). 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 Company under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') (the ''Exemptive Order''). *See* Investment Company Act Release No. 29571 (January 24, 2011) (File No. 812–13601).

[8] As defined in Rule 14.11(i)(3)(E), the term ''Normal Market Conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information or system failures; or force majeure type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

[9] For purposes of this proposal, the term ETF includes Portfolio Depositary Receipts, Index Fund Shares, and Managed Fund Shares as defined in Rule 14.11(b), (c), and (i), respectively, and their equivalents on other national securities exchanges.

[10] *See supra* notes 4, 5, and 6. All Inflation Swaps held by the Fund will be listed and/or centrally cleared in order to reduce counterparty risk.

[11] *See supra* note 6. The Fund will attempt to limit counterparty risk in non-cleared swap contracts by entering into such contracts only with counterparties the Adviser believes are creditworthy and by limiting the Fund's exposure to each counterparty. The Adviser will monitor the creditworthiness of each counterparty and the Fund's exposure to each counterparty on an ongoing basis.

[12] *See supra* notes 4 and 5. Credit default swaps held by the Fund will be traded on a U.S. Swap Execution Facility registered with the Commodity Futures Trading Commission.

[13] *See supra* note 5.

[14] *See supra* note 4.

[15] *See supra* note 5.

[16] *See supra* note 6.

will trade on markets that are a member of Intermarket Surveillance Group (''ISG'') or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[17] Additionally, the Exchange or FINRA, on behalf of the Exchange, are able to access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine (''TRACE''). All statements and representations made in this filing regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values, and the applicability of Exchange rules specified in this filing shall constitute continued listing requirements for the Fund. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If the Fund or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12.

Availability of Information

As noted above, the Fund will comply with the requirements for Managed Fund Shares related to Disclosed Portfolio, Net Asset Value, and the Intraday Indicative Value. Additionally, the intra-day, closing and settlement prices of exchange-traded portfolio assets, including ETPs and futures, will be readily available from the securities exchanges and futures exchanges trading such securities and futures, as the case may be, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Intraday price quotations on swaps, TIPS, and fixed income instruments are available from major broker-dealer firms and from third-parties, which may provide prices free with a time delay or in real-time for a paid fee.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[18] in general and Section 6(b)(5) of the Act[19] 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, 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 in that the Shares will meet each of the initial and continued listing criteria in BZX Rule 14.11(i) except that the Fund may not comply with Rules 14.11(i)(4)(C)(iv)(a),[20] 14.11(i)(4)(C)(iv)(b),[21] and/or 14.11(i)(4)(C)(v).[22] Further, the Exchange believes that the liquidity in the Treasury futures, credit default swaps, and listed Inflation Swaps markets mitigates the concerns that Rule 14.11(i)(4)(C)(iv)(b) is intended to address and that such liquidity would prevent the Shares from being susceptible to manipulation. The Exchange also notes that the Fund will attempt to limit counterparty risk in non-cleared OTC swap contracts, namely total return swaps and certain Inflation Swaps, by entering into such contracts only with counterparties the Adviser believes are creditworthy and by limiting the Fund's exposure to each counterparty. The Adviser will monitor the creditworthiness of each counterparty and the Fund's exposure to each counterparty on an ongoing basis.

As it relates to Rule 14.11(i)(4)(C)(iv)(a), 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. All of the futures contracts, equity securities, and certain of the listed credit default swaps held by the Fund will trade on markets that are a member of ISG or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange or FINRA, on behalf of the Exchange, may obtain information regarding trading in the Shares and the underlying futures contracts, equity securities, and certain of the listed credit default swaps held by the Fund 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 agreement.[23] Additionally, the Exchange or FINRA, on behalf of the Exchange, may access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').

The Exchange notes that the Fund will meet and be subject to all other requirements of the Generic Listing Rules and other applicable continued listing requirements for Managed Fund Shares under Rule 14.11(i), including those requirements regarding the Disclosed Portfolio and the requirement that the Disclosed Portfolio will be made available to all market participants at the same time,[24] Intraday Indicative Value,[25] suspension of trading or removal,[26] trading halts,[27] disclosure,[28] and firewalls.[29] Further, at least 100,000 Shares will be outstanding upon the commencement of trading.

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 an additional actively-managed exchange-traded product that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

[17] 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.

[18] 15 U.S.C. 78f.

[19] 15 U.S.C. 78f(b)(5).

[20] *See supra* note 4.

[21] *See supra* note 5.

[22] *See supra* note 6.

[23] *See* note 17, supra.

[24] *See* Rule 14.11(i)(4)(B)(ii).

[25] *See* Rule 14.11(i)(4)(B)(i).

[26] *See* Rule 14.11(i)(4)(B)(iii).

[27] *See* Rule 14.11(i)(4)(B)(iv).

[28] *See* Rule 14.11(i)(6).

[29] *See* Rule 14.11(i)(7).

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 (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 Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the 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–2017–54 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–2017–54. 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 No. SR–BatsBZX–2017–54 and should be submitted on or before October 18, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–20625 Filed 9–26–17; 8:45 am]

BILLING CODE 8011–01–P

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81667; File Nos. SR–DTC–2017–016; SR–NSCC–2017–016; SR–FICC–2017–020]

Self-Regulatory Organizations; The Depository Trust Company; National Securities Clearing Corporation; Fixed Income Clearing Corporation; Notice of Filings of Proposed Rule Changes To Adopt the Clearing Agency Securities Valuation Framework

September 21, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 8, 2017, The Depository Trust Company (''DTC''), National Securities Clearing Corporation (''NSCC''), and Fixed Income Clearing Corporation (''FICC,'' each a ''Clearing Agency,'' and together with DTC and NSCC, the ''Clearing Agencies''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes as described in Items I, II and III below, which Items have been prepared primarily by the Clearing Agencies. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Clearing Agencies' Statement of the Terms of Substance of the Proposed Rule Changes

The proposed rule changes would adopt the Clearing Agency Securities Valuation Framework (''Framework'') [3] of the Clearing Agencies, as described below, including both of FICC's divisions: the Government Securities Division (''GSD'') and the Mortgage-Backed Securities Division (''MBSD''). The Framework would be maintained by the Clearing Agencies to support their compliance with Rule 17Ad–22(e)(4)(i) [4] under the Act and, with respect to NSCC and FICC as central counterparties (the ''CCPs''), Rule 17Ad–22(e)(6)(iv) [5] under the Act, as described below.

Although the Clearing Agencies would consider the Framework to be a rule, the proposed rule changes do not require any changes to the Rules, By-laws and Organization Certificate of DTC (''DTC Rules''), the Rulebook of GSD (''GSD Rules''), the Clearing Rules of MBSD (''MBSD Rules''), or the Rules & Procedures of NSCC (''NSCC Rules''), as the Framework would be a standalone document.[6]

II. Clearing Agencies' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, the Clearing Agencies included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The Clearing Agencies have prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[3] Pursuant to a telephone call with the Clearing Agencies' internal counsel on September 19, 2017, staff in the Commission's Office of Clearance and Settlement corrected the title of the Framework from ''Clearing Agency Securities Framework'' to ''Clearing Agency Securities Valuation Framework,'' as it now reads.

[4] 17 CFR 240.17Ad–22(e)(4)(i).

[5] 17 CFR 240.17Ad–22(e)(6)(iv). Each of the Clearing Agencies is a ''covered clearing agency'' as defined in Rule 17Ad–22(a)(5), and must comply with subsection (e) of Rule 17Ad–22. As Rule 17Ad–22(e)(6)(iv) only applies to covered clearing agencies that are central counterparties, references thereto and compliance therewith apply to the CCPs only and do not apply to DTC.

[6] Capitalized terms not defined herein are defined in the DTC Rules, GSD Rules, MBSD Rules, or NSCC Rules, as applicable, available at *http://dtcc.com/legal/rules-and-procedures.*

(A) Clearing Agencies' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

1. Purpose

The Clearing Agencies are proposing to adopt the Framework, which would set forth the securities valuation practices adopted by the Clearing Agencies for (i) securities eligible for clearance and settlement processing by the applicable Clearing Agency and (ii) with respect to the CCPs, eligible securities in their respective Clearing Funds (each, a ''CUSIP''). The processes and systems described in the Framework, and any policies, procedures, or other documents created to support those processes, support the Clearing Agencies' compliance with the requirements of Rule 17Ad–22(e)(4)(i) [7] and, with respect to the CCPs, Rule 17Ad–22(e)(6)(iv).[8] The Framework would be owned and managed by the head of the DTCC Securities Valuation team, on behalf of the Clearing Agencies.[9]

The Framework would provide that (i) any changes to the Framework must be approved by the Boards or such committee as may be delegated authority by the Boards from time to time pursuant to their charters, (ii) the head of the Securities Valuation team, or a delegate thereof, reviews the Framework at least annually, and (iii) any and all changes to the Framework are subject to regulatory review and approval.

To the extent the Clearing Agencies create any policies, procedures or other documents to support the execution of the Framework, the Framework would provide that such supplemental documentation is subordinate to the Framework, is reasonably and fairly implied by the Framework, and complies in all respects with the provisions of the Framework.

As described in more detail below, the Framework would describe the manner in which the Clearing Agencies identify, measure, monitor, and manage the risks related to the pricing of the CUSIPs. The Framework would set forth the methodology of the Clearing Agencies for using timely price data and for pricing CUSIPs when pricing data are not readily available or reliable. The Framework would also describe the methodology for monitoring pricing data with respect to the CUSIPs.

Selection of Pricing Vendors

Each Clearing Agency would value its applicable CUSIP prices (both end-of-day and intraday) primarily via receipt of files from third-party pricing vendors (''Pricing Vendors'').[10] For most CUSIPs, Pricing Vendors would supply the Clearing Agencies with intraday pricing files for each business day on at least an hourly basis.[11] Pricing Vendors would be selected by each Clearing Agency based on a review of their service, including, at a minimum, a review of Pricing Vendors' securities coverage and a price quality check. Each Clearing Agency would perform due diligence on each Pricing Vendor prior to engagement thereof, and at least annually thereafter, to assess the reliability of such Pricing Vendor. Reliability of a Pricing Vendor would be determined by each Clearing Agency based on a range of factors, including, without limitation, whether such Pricing Vendor is able to provide accurate and timely pricing data with respect to each CUSIP.

The Framework would provide that each CUSIP is assigned a primary source Pricing Vendor (''Primary Pricing Vendor'') and a secondary source Pricing Vendor (''Secondary Pricing Vendor''). In the event that the Primary Pricing Vendor becomes unavailable, unreliable, or otherwise unusable with respect to a CUSIP, the Secondary Pricing Vendor would be designated as the replacement for the Primary Pricing Vendor with respect to such CUSIP.

Monitoring and Pricing

Each Clearing Agency would monitor and review each applicable Pricing Vendor's pricing at least once each business day to determine (i) whether any CUSIP's price has remained unchanged for an extended period, (ii) whether a CUSIP has been dropped from the Pricing Vendor's file, and (iii) whether any other circumstances exist that may call into question the reliability of any CUSIP's price.

Each CUSIP's end-of-day price would be date stamped and identified with its Pricing Vendor source. In the event that both Primary Pricing Vendor and Secondary Pricing Vendor become unavailable, unreliable, or otherwise unusable with respect to a CUSIP for an end-of-day price, the applicable Clearing Agency would assign such CUSIP its last available price.

Each CUSIP's intraday price would be time and date stamped and identified with its Pricing Vendor source. In the event that both Primary Pricing Vendor and Secondary Pricing Vendor become unavailable, unreliable, or otherwise unusable with respect to a CUSIP for a specific intraday interval, the applicable Clearing Agency would assign such CUSIP its last available price.

If pricing data for a CUSIP is not available from Pricing Vendors or if the last available price is deemed to be unreliable or unusable with respect to a CUSIP, the applicable Clearing Agency would establish a price for the CUSIP based on valuation models, where applicable, and in accordance with the policies and procedures that support the Framework.

2. Statutory Basis

The Clearing Agencies believe that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, the Clearing Agencies believe that the Framework is consistent with Section 17A(b)(3)(F) of the Act [12] as well as Rule 17Ad–22(e)(4) (i)[13] and, with respect to the CCPs, Rule 17Ad–22(e)(6)(iv) [14] promulgated under the Act, for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[15] As described above, the Framework would set forth the manner in which the Clearing Agencies identify, measure, monitor, and manage the risks related to the pricing of securities processed or otherwise held by the Clearing Agencies. The processes, systems, and controls used by the Clearing Agencies to identify, measure, monitor, and manage such risks, as described in the Framework, and the policies and procedures that support these activities, would help assure that each Clearing Agency is using reliable sources of timely price data as well as procedures and sound valuation models when pricing data are not readily available or reliable. Using reliable

[7] 17 CFR 240.17Ad–22(e)(4)(i).

[8] 17 CFR 240.17Ad–22(e)(6)(iv).

[9] The parent company of the Clearing Agencies is The Depository Trust & Clearing Corporation (''DTCC''). DTCC operates on a shared services model with respect to the Clearing Agencies. Most corporate functions are established and managed on an enterprise-wide basis pursuant to intercompany agreements under which it is generally DTCC that provides a relevant service to a Clearing Agency.

[10] When pricing data is not available from Pricing Vendors, the price would be procured from other internal or external sources.

[11] Certain CUSIPs may not be priced daily, and others may only be priced once each business day.

[12] 15 U.S.C. 78q–1(b)(3)(F).

[13] 17 CFR 240.17Ad–22(e)(4)(i).

[14] 17 CFR 240.17Ad–22(e)(6)(iv).

[15] 15 U.S.C. 78q–1(b)(3)(F).

sources of timely price data as well as procedures and sound valuation models when pricing data are not readily available or reliable (i) with respect to the CCPs, would improve their margin system accuracy and (ii) with respect to DTC, is essential for the daily settlement of securities transactions in a fully collateralized system. Since margin and collateral play key roles in the applicable Clearing Agency's risk management process, having accurate margin system and collateral valuation would assist the Clearing Agencies to continue the prompt and accurate clearance and settlement of securities transactions and continue to assure the safeguarding of securities and funds which are in their custody or control or for which they are responsible. Therefore, the Clearing Agencies believe the Framework is consistent with the requirements of Section 17A(b)(3)(F) of the Act.[16]

Rule 17Ad–22(e)(4)(i) under the Act requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes by maintaining sufficient financial resources to cover its credit exposure to each participant with a high degree of confidence.[17] The Framework would describe how the Clearing Agencies identify, measure, monitor, and manage the risks related to the pricing of securities processed or otherwise held by the Clearing Agencies. The processes, systems, and controls used by the Clearing Agencies to identify, measure, monitor, and manage such risks, as described in the Framework, and the policies and procedures that support these activities, would help assure that each Clearing Agency is using (i) reliable sources of timely price data when pricing securities processed or otherwise held by the applicable Clearing Agency and (ii) procedures and sound valuation models when pricing data are not readily available or reliable. When pricing securities, using reliable sources of timely price data as well as procedures and sound valuation models when pricing data are not readily available or reliable is essential to each Clearing Agency's ability to effectively identify, measure, monitor and manage its credit exposure to participants and those arising from its payment, clearing, and settlement processes by maintaining sufficient financial resources to cover its credit exposure to each participant with a high degree of confidence. Therefore, the Clearing Agencies believe the Framework is consistent with the requirements of Rule 17Ad–22(e)(4)(i).[18]

Rule 17Ad–22(e)(6)(iv) under the Act requires that each covered clearing agency that is a central counterparty establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, uses reliable sources of timely price data and uses procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable.[19] The Framework would describe how the CCPs identify, measure, monitor, and manage the risks related to the pricing of securities processed or otherwise held by the CCPs. The processes, systems, and controls used by the CCPs to identify, measure, monitor, and manage such risks, as described in the Framework, and the policies and procedures that support these activities, would help assure that each CCP is using reliable sources of timely price data as well as procedures and sound valuation models when pricing data are not readily available or reliable. Specifically, the Framework would set forth the methodology for pricing securities processed or otherwise held by each CCP, including monitoring pricing data with respect to the securities eligible for clearance and settlement processing by the CCP and for eligible securities held in its Clearing Fund. In addition, the Framework would describe how each CCP would price securities when pricing data are not readily available or reliable. By setting forth how the CCPs would use timely price data when pricing securities and how each CCP would price securities when pricing data are not readily available or reliable, the CCPs believe the Framework is consistent with the requirements of Rule 17Ad–22(e)(6)(iv).[20]

(B) Clearing Agencies' Statement on Burden on Competition

None of the Clearing Agencies believe that the Framework would have any impact, or impose any burden, on competition because the proposed rule changes reflect some of the existing securities valuation practices that the Clearing Agencies employ, which have been designed to assist the Clearing Agencies in using reliable sources of timely price data as well as procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable. The proposed rule changes would not effectuate any changes to the Clearing Agencies' processes described therein as they currently apply to their respective members or participants.

(C) Clearing Agencies' Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

The Clearing Agencies have not solicited or received any written comments relating to this proposal. The Clearing Agencies will notify the Commission of any written comments received by the Clearing Agencies.

III. Date of Effectiveness of the Proposed Rule Changes, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the clearing agency consents, the Commission will:

(A) By order approve or disapprove such proposed rule changes, or

(B) institute proceedings to determine whether the proposed rule changes 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 changes are 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–DTC–2017–016, SR–NSCC–2017–016, or SR–FICC–2017–020 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–DTC–2017–016, SR–NSCC–2017–016, or SR–FICC–2017–020. One of these file numbers should be included on the subject line if email is used. To help the Commission process

[16] *Id.*

[17] 17 CFR 240.17Ad–22(e)(4)(i).

[18] *Id.*

[19] 17 CFR 240.17Ad–22(e)(6)(iv).

[20] *Id.*

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 changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 Clearing Agencies and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–DTC–2017–016, SR–NSCC–2017–016, or SR–FICC–2017–020, and should be submitted on or before October 18, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–20622 Filed 9–26–17; 8:45 am]

BILLING CODE 8011–01–P

[21] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15308 and #15309; ILLINOIS Disaster Number IL–00050]

Administrative Declaration of a Disaster for the State of ILLINOIS

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of ILLINOIS dated 09/15/2017.

Incident: Severe Storms and Flooding.

Incident Period: 07/19/2017 through 07/31/2017.

DATES: Issued on 09/15/2017.

Physical Loan Application Deadline Date: 11/14/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 06/15/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Stephenson.

Contiguous Counties:

Illinois: Carroll, Jo Daviess, Ogle, Winnebago.

Wisconsin: Green, Lafayette.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.500
Homeowners without Credit Available Elsewhere	1.750
Businesses with Credit Available Elsewhere	6.610
Businesses without Credit Available Elsewhere	3.305
Non-Profit Organizations with Credit Available Elsewhere	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.305
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15308 6 and for economic injury is 15309 0.

The States which received an EIDL Declaration # are Illinois, Wisconsin.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: September 15, 2017.

Linda E. McMahon,

Administrator.

[FR Doc. 2017–20703 Filed 9–26–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15310 and #15311; WISCONSIN Disaster Number WI–00061]

Administrative Declaration of a Disaster for the State of Wisconsin

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Wisconsin dated 09/18/2017.

Incident: Heavy Rains and Flash Flooding.

Incident Period: 07/19/2017 through 07/23/2017.

DATES: Issued on 09/18/2017.

Physical Loan Application Deadline Date: 11/17/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 06/18/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: La Crosse, Trempealeau

Contiguous Counties:

Wisconsin: Buffalo, Eau Claire, Jackson, Monroe, Vernon

Minnesota: Houston, Winona

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.500
Homeowners without Credit Available Elsewhere	1.750
Businesses with Credit Available Elsewhere	6.610
Businesses without Credit Available Elsewhere	3.305
Non-Profit Organizations with Credit Available Elsewhere	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
For Economic Injury:	

	Percent
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.305
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 153106 and for economic injury is 153110.

The States which received an EIDL Declaration # are Wisconsin, Minnesota.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: September 18, 2017.

Linda E. McMahon,

Administrator.

[FR Doc. 2017–20704 Filed 9–26–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 10146]

30-Day Notice of Proposed Information Collection: U.S. National Commission for UNESCO Laura W. Bush Traveling Fellowship

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to October 27, 2017.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Paul Mungai, Bureau of International Organization Affairs, Office of Specialized and Technical Agencies (IO/STA), U.S. Department of State, 2401 E Street NW., #L409, Washington, DC 20037. Mr. Mungai may be reached on 202–663–2407 or at *DCUNESCO@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* U.S. National Commission for UNESCO Laura W. Bush Traveling Fellowship.
- *OMB Control Number:* 1405–0180.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of International Organization Affairs, Office of Specialized and Technical Agencies, Executive Secretariat, U.S. National Commission for UNESCO (IO/STA).
- *Form Number:* DS–7646.
- *Respondents:* U.S. college and university students applying for a Fellowship.
- *Estimated Number of Respondents:* 100.
- *Total Estimated Number of Responses:* 100.
- *Average Time per Response:* 10 hours.
- *Total Estimated Burden Time:* 1,000 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

Fellowship applicants (U.S. citizen students at U.S. colleges and universities) will submit descriptions of self-designed proposals for brief travel abroad to conduct work that is consistent with UNESCO's substantive mandate to contribute to peace and security by promoting collaboration among nations through education, science, and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms that are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations. The Fellowship is funded through private donations. The information will be reviewed for the purpose of identifying the most meritorious proposals, as measured against the published evaluation criteria.

Methodology

The U.S. Department of State, Bureau of International Organization Affairs, Office of Specialized and Technical Agencies, Executive Secretariat, U.S. National Commission for UNESCO (IO/STA) will collect this information via electronic submission.

Paul Mungai,

Acting Executive Director, U.S. National Commission for UNESCO, Bureau of International Organization Affairs, Department of State.

[FR Doc. 2017–20667 Filed 9–26–17; 8:45 am]

BILLING CODE 4710–19–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2017–69]

Petition for Exemption; Summary of Petition Received; Auburn Aviation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 16, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0860 using any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.

• *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Clarence Garden, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7489.

This notice is published pursuant to 14 CFR 11.85.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2017–0860

Petitioner: Auburn University

Section(s) of 14 CFR Affected: 141, Appendix G 4. (4)

Description of Relief Sought: Auburn University seeks an exemption from 14 CFR part 141, Appendix G to Part 141, Flight Instructor Instrument (Airplane) Certification Course, to allow an increase in the Flight Simulation Training Device allowance to fifty (50) percent of the 15.0 hours required from five (5) percent currently allowed.

[FR Doc. 2017–20603 Filed 9–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; TARP Capital Purchase Program—Executive Compensation

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before October 27, 2017 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Leonard by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Treasury Departmental Offices (DO)

Title: TARP Capital Purchase Program—Executive Compensation.

OMB Control Number: 1505–0219.

Type of Review: Extension without change of a currently approved collection.

Abstract: Authorized under the Emergency Economic Stabilization Act of 2008 (EESA), Public Law 110–343, as amended by the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111–5, the Department of the Treasury (Treasury) established the Troubled Asset Relief Program (TARP) to purchase, and to make and fund commitments to purchase, troubled assets from any financial institution on such terms and conditions determined by the Secretary. Section 111 of EESA, as amended by ARRA, provides that certain entities receiving financial assistance from Treasury under TARP (TARP recipients) will be subject to specified executive compensation and corporate governance standards established by the Secretary. These standards were set forth in the interim final rule published on June 15, 2009 (74 FR 28394), as corrected on December 7, 2009 (74 FR 63990) (the Interim Final Rule). The standards implemented in the Interim Final Rule require that TARP recipients submit certain information pertaining to their executive compensation and corporate governance practices.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 2,348.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: September 22, 2017.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2017–20677 Filed 9–26–17; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple TTB Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before October 27, 2017 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Leonard by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Alcohol and Tobacco Tax & Trade Bureau (TTB)

Title: Drawback on Beer Exported.

OMB Control Number: 1513–0017.

Type of Review: Extension without change of a currently approved collection.

Abstract: Under the Internal Revenue Code (IRC) at 26 U.S.C. 5055, brewers may receive drawback (refund) of the Federal excise tax paid on beer produced in the United States when such beer is exported or delivered for use as supplies on vessels and aircraft, if proof of such action is provided as the Secretary of the Treasury (the Secretary) may by regulation require. Under this authority, after taxpaid domestic beer is exported to a foreign country, delivered to the U.S. Armed Forces for export, delivered for use as supplies on vessels or aircraft, or transferred to a foreign trade zone for subsequent exportation, the TTB regulations allow the brewer or exporter to file a claim for drawback of the excise taxes paid on such beer using TTB F 5130.6. The required information is necessary to protect the revenue; it provides TTB with documentation through which TTB can determine that beer for which drawback is claimed is eligible for such drawback.

Form: TTB Form 5130.6.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 2,400.

Title: Inventory—Manufacturer of Tobacco Products or Processed Tobacco.

OMB Control Number: 1513–0032.

Type of Review: Extension without change of a currently approved collection.

Abstract: The IRC at 26 U.S.C. 5721 requires manufacturers of tobacco products and processed tobacco to complete an inventory at the commencement of business, the conclusion of business, and at any other time the Secretary by regulation prescribes. Under the IRC at 26 U.S.C. 5741, these manufacturers are also required to keep records and make them available for inspection in the manner the Secretary by regulation prescribes. Under these authorities, the TTB regulations require manufacturers of tobacco products and processed tobacco to provide inventories on TTB F 5210.9 at the commencement of business, the conclusion of business, when changes in business ownership or location occur, and at any other time as directed by the appropriate TTB officer. This information is necessary to protect the revenue. TTB F 5210.9 provides a uniform format for recording certain inventories, which TTB uses to ensure that a manufacturer's Federal excise tax is correctly determined.

Form: TTB Form 5210.9.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 200.

Title: Tax Deferral Bond—Distilled Spirits (Puerto Rico).

OMB Control Number: 1513–0050.

Type of Review: Extension without change of a currently approved collection.

Abstract: Under the IRC at 26 U.S.C. 7652, beverage distilled spirits and nonbeverage products containing spirits subject to tax manufactured in Puerto Rico and brought into the United States are subject to a tax equal to that imposed on domestically produced spirits under 26 U.S.C. 5001, and the Secretary is authorized to prescribe regulations regarding the mode and time for payment and collection of such taxes. Under this authority, the TTB regulations allow respondents who ship such products from Puerto Rico to the United States to either choose to pay the required tax prior to shipment or to file a bond to defer payment of the tax until the submission of the respondent's next excise tax return and payment. The TTB regulations require respondents who elect to defer payment of tax to file a tax deferral bond on TTB F 5110.50, which is a contract between the person withdrawing the products in Puerto Rico for shipment to the United States and the surety. The required information is necessary to protect the revenue; it ensures payment of the applicable tax.

Form: TTB Form 5110.50.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 10.

Title: Usual and Customary Business Records Relating to Wine.

OMB Control Number: 1513–0115.

Type of Review: Extension without change of a currently approved collection.

Abstract: Under the authority of the IRC at 26 U.S.C. 5362, 5367, 5369, 5370, and 5555, the TTB regulations require wineries, taxpaid wine bottling houses, and vinegar plants to keep usual and customary business records relating to wine, including purchase invoices, sales invoices, and internal records, in order to document their use of authorized materials and processes and their production and processing, packaging, storing, and shipping operations. The requirements to keep such records are necessary to protect the revenue. TTB routinely inspects these records to ensure the proper payment of Federal wine excise taxes by these businesses and to ensure that wine is produced, packaged, stored, shipped, and transferred in accordance with the applicable Federal laws and regulations.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 1.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: September 22, 2017.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2017–20678 Filed 9–26–17; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0394]

Agency Information Collection Activity: Certification of School Attendance—REPS

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 27, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Yvette Allmond, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to

yvette.allmond@va.gov. Please refer to ''OMB Control No. 2900–0394'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 97–377 Section 156; 42 U.S.C. 402; Executive Order 12436.

Title: Certification of School Attendance—REPS (VA Form 21P–8926).

OMB Control Number: 2900–0394.

Type of Review: Reinstatement with change of a currently approved collection.

Abstract: Restored Entitlement Program for Survivors (REPS) benefits are payable to certain surviving spouses and children of veterans who died in service prior to August 13, 1981 or who died as a result of a service-connected disability incurred or aggravated prior to August 13, 1981. Child beneficiaries over age 18 and under age 23 must be enrolled full-time in an approved post-secondary school.

VBA uses VA Form 21–8926 to verify that a beneficiary who is receiving REPS benefits based on schoolchild status is enrolled full-time in an approved school and is otherwise eligible for continued benefits. VBA has used the information collected to make such benefit eligibility determinations and ensure REPS payments are issued properly.

This form number has been updated to ''21P–8926'' from ''21–8926'' to reflect change of ownership of the form to VBA's Pension and Fiduciary Service.

Affected Public: Individuals and households.

Estimated Annual Burden: 300 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: Annual.

Estimated Number of Respondents: 1,200.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–20639 Filed 9–26–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0205]

Agency Information Collection Activity: Applications & Appraisals for Employment for Title 38 Positions and Trainees

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 27, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Brian McCarthy, Veterans Health Administration, Office of Regulatory and Administrative Affairs (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *Brian.McCarthy4@va.gov.* Please refer to ''OMB Control No. 2900–0205'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Brian McCarthy at (202) 461–6345.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 7401 (1),(3), 38 U.S.C. 7302—Part V, Chapter 73, 38 U.S.C. 7403

Title: Application for Physicians, Dentists, Podiatrists, Optometrists and Chiropractors—VA Form 2850:

Application for Nurses and Nurse Anesthetists—VA Form 2850A

Application for Associated Health Occupations—VA Form 2850C

Application for Health Professions Trainees—VA Form 2850D

Employment Reference for Title 38 Employee—VA FL 10–341(a)

Trainee Qualification and Credentials Verification Letter (TQCVL)—VA FL 10–341(b)

OMB Control Number: 2900–0205.

Type of Review: Revision of a currently approved collection.

Abstract: Under authority of Title 38 U.S.C. Part V Chapter 74, trainees receive stipend or without compensation term appointments. Title 38 United States Code (U.S.C.), Part V, chapter 73, subchapter 1, subsection 7302 (Functions of Veterans Health Administration: health-care personnel education and training programs) mandates that Veterans Health Administration (VHA) assist in the training of health professionals for its own needs and for those of the nation.

Affected Public: Federal Government

Estimated Annual Burden:

10–2850—7,450 hours.

10–2850A—29,799 hours.

10–2850C—9,933 hours.

10–2850D—69,896 hours.

FL 10–341a—25,410 hours.

FL 10–341b—6,361 hours.

Estimated Average Burden Per Respondent:

10–2850—30 minutes.

10–2850A—30 minutes.

10–2850C—30 minutes.
10–2850D—33 minutes.
FL 10–341a—30 minutes.
FL 10–341b—3 minutes.
Frequency of Response: Annually.
Estimated Number of Respondents:
10–2850—14,900
10–2850A—59,598
10–2850C—19,866
10–2850D—127,211
FL 10–341a—50,820
FL 10–341b—127,211

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–20640 Filed 9–26–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0094]

Agency Information Collection Activity: Supplement to VA Forms 21–526, 21P–534, and 21P–535 (For Philippine Claims)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 27, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0094'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Supplement to VA Forms 21–526, 21P–534, and 21P–535 (For Philippine Claims) (VA Form 21–4169)

OMB Control Number: 2900–0094.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–4169 is used to gather the necessary information to determine whether a claimant's service qualifies as service in the Commonwealth Army of the Philippines or recognized guerrilla organization. The form is used for the sole purpose of collecting the information, proof of service, place of residence, and membership in pro-Japanese, pro-German, or anti-American Filipino organization.

Affected Public: Individuals and households.

Estimated Annual Burden: 250 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 1,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–20641 Filed 9–26–17; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 82 Wednesday,

No. 186 September 27, 2017

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Marine Geophysical Survey in the Southwest Pacific Ocean, 2017/2018; Notice

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF456

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Marine Geophysical Survey in the Southwest Pacific Ocean, 2017/2018

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 Lamont-Doherty Earth Observatory (L–DEO) for authorization to take marine mammals incidental to a WHEN OU marine geophysical survey in the southwest Pacific Ocean. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the notice of our final decision.

DATES: Comments and information must be received no later than October 26, 2017.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Carduner@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *www.nmfs.noaa.gov/pr/permits/incidental/research.htm* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Jordan Carduner, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/research.htm.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment. Accordingly, NMFS is preparing an Environmental Assessment (EA) to consider the environmental impacts associated with the issuance of the proposed IHA. NMFS' EA is available at *www.nmfs.noaa.gov/pr/permits/incidental/research.htm.* We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On May 17, 2017, NMFS received a request from the L–DEO for an IHA to take marine mammals incidental to conducting a marine geophysical survey in the southwest Pacific Ocean. On September 13, 2017, we deemed L–DEO's application for authorization to be adequate and complete. L–DEO's request is for take of a small number of 38 species of marine mammals by Level B harassment and Level A harassment. Neither L–DEO nor NMFS expects mortality to result from this activity, and, therefore, an IHA is appropriate. The planned activity is not expected to exceed one year, hence, we do not expect subsequent MMPA incidental harassment authorizations would be issued for this particular activity.

Description of Proposed Activity

Overview

Researchers from California State Polytechnic University, California Institute of Technology, Pennsylvania State University, University Southern California, University of Southern Mississippi (USM), University of Hawaii at Manoa, University of Texas, and University of Wisconsin Madison, with funding from the U.S. National Science Foundation, propose to conduct three high-energy seismic surveys from the research vessel (R/V) *Marcus G. Langseth* (*Langseth*) in the waters of New Zealand in the southwest Pacific Ocean in 2017/2018. The NSF-owned *Langseth* is operated by L–DEO. One proposed survey would occur east of North Island and would use an 18-airgun towed array with a total discharge volume of ~3300 cubic inches (in^3). Two other proposed seismic surveys (one off the east coast of North Island and one south of South Island)

would use a 36-airgun towed array with a discharge volume of ~6600 in³. The surveys would take place in water depths from ~50 to >5,000 m.

Dates and Duration

The North Island two-dimensional (2–D) survey would consist of approximately 35 days of seismic operations plus approximately 2 days of transit and towed equipment deployment/retrieval. The *Langseth* would depart Auckland on approximately October 26, 2017 and arrive in Wellington on December 1, 2017. The North Island three-dimensional (3–D) survey is proposed for approximately January 5, 2018–February 8, 2018 and would consist of approximately 33 days of seismic operations plus approximately 2 days of transit and towed equipment deployment/retrieval. The *Langseth* would leave and return to port in Napier. The South Island 2–D survey is proposed for approximately February 15, 2018–March 15, 2018 and would consist of approximately 22 days of seismic operations, approximately 3 days of transit, and approximately 7 days of ocean bottom seismometer (OBS) deployment/retrieval.

Specific Geographic Region

The proposed surveys would occur within the Exclusive Economic Zone (EEZ) and territorial sea of New Zealand. The proposed North Island 2–D survey would occur within ~37–43° S. between 180° E. and the east coast of North Island along the Hikurangi margin. The proposed North Island 3–D survey would occur over a 15 x 60 kilometer (km) area offshore at the Hikurangi trench and forearc off North Island within ~38–39.5° S., ~178–179.5° E. The proposed South Island 2–D survey would occur along the Puysegur margin off South Island within ~163–168° E. between 50° S. and the south coast of South Island. Please see Figure 1 and Figure 2 in L–DEO's IHA application for maps depicting the specified geographic region of the proposed surveys.

Detailed Description of Specific Activity

The proposed study consists of three seismic surveys off the coast of New Zealand in the southwest Pacific Ocean. The proposed surveys include: (1) A 2–D survey along the Hikurangi margin off the east coast of North Island; (2) a deep penetrating 3–D seismic reflection acquisition over a 15 x 60 km area offshore at the Hikurangi trench and forearc off the east coast of North Island; and (3) a 2–D survey along the Puysegur margin off the south coast of South Island. Water depths in the proposed survey areas range from ~50 to >5000 m. The proposed surveys would be conducted within both the territorial sea of New Zealand (from 0–12 nautical miles (nm) from shore) and the EEZ of New Zealand (from 12 to 200 nm from shore). All planned geophysical data acquisition activities would be conducted by L–DEO with onboard assistance by the scientists who have proposed the studies. The vessel would be self-contained, and the crew would live aboard the vessel.

Survey protocols generally involve a predetermined set of survey, or track lines. The seismic acquisition vessel (source vessel) travels down a linear track for some distance until a line of data is acquired, then turns and acquires data on a different track. Representative survey tracklines are shown in Figures 1 and 2 in L–DEO's IHA; however, some deviation in actual track lines could be necessary for reasons such as science drivers, poor data quality, inclement weather, or mechanical issues with the research vessel and/or equipment. The proposed surveys would entail a total of approximately 13,299 km of track lines.

During the two 2–D surveys, the *Langseth* would tow a full array, consisting of four strings with 36 airguns (plus 4 spares) and a total volume of approximately 6,600 in³. During the North Island 3–D survey, the *Langseth* would tow two separate 18-airgun arrays that would fire alternately; each array would have a total discharge volume of approximately 3,300 in³. Specifications of the airgun arrays, trackline distances, and water depths of each of the three proposed surveys are shown in Table 1. Descriptions of the three proposed surveys are provided below. More detailed descriptions of the three proposed surveys are provided in the IHA application (LGL, 2017).

TABLE 1—SPECIFICATIONS OF AIRGUN ARRAYS, TRACKLINE DISTANCES, AND WATER DEPTHS ASSOCIATED WITH THREE PROPOSED R/V LANGSETH SURVEYS OFF NEW ZEALAND

	North Island 2–D survey	North Island 3–D survey	South Island 2–D survey
Airgun array configuration and total volume.	36 airguns, four strings, total volume of ~6,600 in³.	two separate 18-airgun arrays that would fire alternately; each array would have a total discharge volume of ~3,300 in³.	36 airguns, four strings, total volume of ~6,600 in³.
Tow depth of arrays	9 m	9 m	9 m.
Shot point intervals	37.5 m	37.5 m	50 m.
Source velocity (tow speed)	4.3 knots	4.5 knots	4.5 knots.
Water depths	8%, 23%, and 69% of line km would take place in shallow (<100 m), intermediate (100–1000 m), and deep water (>1000 m), respectively.	0%, 42%, and 58% of line km would take place in shallow, intermediate, and deep water, respectively.	1%, 17%, and 82% of line km would take place in shallow, intermediate, and deep water, respectively.
Approximate trackline distance	5,398 km	3,025 km	4,876 km.
Percentage of survey tracklines proposed in New Zealand Territorial Waters.	Approximately 9 percent	Approximately 1 percent	Approximately 6 percent.

North Island 2–D Survey

During the proposed North Island 2–D survey, approximately 5,398 km of track lines would be surveyed, spanning an area off eastern North Island from the south coast to the Bay of Plenty. Approximately 9 percent of the proposed North Island 2–D survey would occur within New Zealand's territorial sea. The main goal of the proposed North Island 2–D survey is to collect seismic data to create images of the plate boundary fault zone and to show other faults and folding of the upper New Zealand plate and the underlying Pacific plate. The data would improve scientific understanding of why the different parts of the same

plate boundary are behaving so differently to produce slow slip events and large stick-slip earthquakes. A better understanding of what causes the differences may help New Zealand government agencies in their efforts to mitigate danger posed by earthquakes in this area.

To achieve the project goals of the North Island 2–D survey, the principal investigators (PIs) and co-PIs propose to use multi-channel seismic (MCS) reflection surveys and seismic refraction data recorded by OBSs to characterize the incoming Hikurangi Plateau and the seaward portion of the accretionary prism, and document subducted sediment variations. The project also includes an onshore/offshore seismic component. A total of 90 short-period seismometers would be deployed on the Raukumara Peninsula. The land seismometers would record seismic energy from the R/V *Langseth* during the North Island 2–D and 3–D surveys and would remain in place for three to four months to also record earthquakes. This instrumentation allows for very deep seismic sampling of the Hikurangi Subduction system to determine the structure of the upper plate and properties of the deeper plate boundary zone.

North Island 3–D Survey

During the proposed North Island 3–D survey, approximately 3,025 km of track lines would be surveyed within a 15 x 60 km survey area that would begin at the Hikurangi trench and extend to within ~20 km of the shoreline. Approximately 1 percent of the proposed North Island 3–D survey would occur within New Zealand's territorial sea. The main goal of the proposed North Island 3–D survey is to determine what conditions are associated with slow slip behavior, how they differ from conditions associated with subduction zones that generate great earthquakes, and what controls the development of slow-slip faults instead of earthquake prone faults. The PI and co-PIs propose to use MCS surveys to acquire 3–D seismic reflection data offshore New Zealand's Hikurangi trench and forearc. Although not funded through NSF, international collaborators would work with the PIs to achieve the research goals, providing assistance, such as through logistical support and data acquisition and exchange. This international collaborative experiment would record *Langseth* shots during seismic acquisition and develop the first ever high-resolution 3–D velocity models across a subduction zone using 3–D full-waveform inversion, overlapping and extending beyond the 3–D volume.

South Island 2–D Survey

During the South Island 2–D survey, marine seismic refraction data would be collected along two east-west lines across the plate boundary. One 200-km line would cross the Puysegur Trench at 49° S., and would be occupied by 20 short-period OBSs. A second line at 47.3° S. would be 260 km long with 23 OBSs. MCS profiles would occur along these same two lines (thus each of the two lines would be surveyed twice) as well as in between and within ~100 km north and south of the two OBS lines. Approximately 4,876 km of track lines would be surveyed during the proposed South Island 2–D survey. Approximately 6 percent of those track lines would be within New Zealand's territorial sea.

The main goal of the South Island 2–D survey is to test models for the formation of new subduction zones and to measure several fundamental aspects of this poorly understood process. The study would strive to (1) measure the angle of the new fault which forms the new plate boundary and test ideas of how the faults form; (2) measure the thickness of the oceanic crust at the Puysegur ridge and test models of how the force from the nascent slab is transmitted into the plate; and (3) measure the nature of the faults, especially the thrust faults, on the over-riding plate and test models for how the forces on the over-riding plate change with time. In addition, the airguns would be used as a source of seismic waves that would be recorded onshore of the South Island, to test models for the tectonic evolution and nature of the shallow mantle directly below the plates. To achieve the project goals of the South Island 2–D survey, the PI and co-PIs propose to use MCS surveys to acquire a combination of 2–D MCS and refraction profiles with OBSs along the Puysegur Ridge and Trench south of South Island. Although not funded through NSF, international collaborators would work with the PIs to achieve the research goals, providing assistance, such as through logistical support and data acquisition and exchange. In addition, the collaborators would use land seismometers to record offshore airgun shots to determine the structure of the upper plate.

In addition to the operations of the airgun array, the ocean floor would be mapped with a multibeam echosounder (MBES) and a sub-bottom profiler (SBP). An Acoustic Doppler Current Profiler (ADCP) would be used to measure water current velocities. These would operate continuously during the proposed surveys, but not during transit to and from the survey areas.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see ''Proposed Mitigation'' and ''Proposed Monitoring and Reporting'').

Description of Marine Mammals in the Area of Specified Activities

Section 4 of the IHA application summarizes available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. More general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' Web site (*www.nmfs.noaa.gov/pr/species/mammals/*). Table 2 lists all species with expected potential for occurrence in the Southwest Pacific Ocean off New Zealand and summarizes information related to the population, including regulatory status under the MMPA and ESA. The populations of marine mammals considered in this document do not occur within the U.S. EEZ and are therefore not assigned to stocks and are not assessed in NMFS' Stock Assessment Reports (*www.nmfs.noaa.gov/pr/sars/*). As such, information on potential biological removal (PBR; defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population) and on annual levels of serious injury and mortality from anthropogenic sources are not available for these marine mammal populations.

In addition to the marine mammal species known to occur in proposed survey areas, there are 16 species of marine mammals with ranges that are known to potentially occur in the waters of the proposed survey areas, but they are categorized as ''vagrant'' under the New Zealand Threat Classification System (Baker *et al.,* 2016). These species are: The ginkgo-toothed whale (*Mesoplodon ginkgodens*); pygmy beaked whale (*M. peruvianus*); dwarf sperm whale (*Kogia sima*); pygmy killer whale (*Feresa attenuata*); melon-headed whale (*Peponocephala electra*); Risso's dolphin (*Grampus griseus*); Fraser's dolphin (*Lagenodelphis hosei*), pantropical spotted dolphin (*Stenella attenuata*); striped dolphin (*S. coeruleoalba*); rough-toothed dolphin (*Steno bredanensis*); Antarctic fur seal (*Arctocephalus gazelle*); Subantarctic fur seal (*A. tropicalis*); leopard seal (*Hydrurga leptonyx*); Weddell seal

(*Leptonychotes weddellii*); crabeater seal (*Lobodon carcinophagus*); and Ross seal (*Ommatophoca rossi*). Except for Risso's dolphin and leopard seal, for which there have been several sightings and strandings reported in New Zealand (Clement 2010; Torres 2012; Berkenbusch *et al.* 2013; NZDOC 2017), the other ''vagrant'' species listed above are not expected to occur in the proposed survey areas and are therefore not considered further in this document.

Marine mammal abundance estimates presented in this document represent the total number of individuals estimated within a particular study or survey area. All values presented in Table 2 are the most recent available at the time of publication.

TABLE 2—MARINE MAMMALS THAT COULD OCCUR IN THE PROPOSED SURVEY AREAS

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Population abundance [2]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)				
Family Balaenidae				
Southern right whale	Eubalaena australis	N/A	E/D;N	[3] 12,000
Family Balaenopteridae (rorquals)				
Humpback whale	Megaptera novaeangliae	N/A	-/-; N	[3] 42,000
Bryde's whale	Balaenoptera edeni	N/A	-/-; N	[4] 48,109
Common minke whale	Balaenoptera acutorostrata	N/A	-/-; N	[5 6] 750,000
Antarctic minke whale	Balaenoptera bonaerensis	N/A	-/-; N	[5 6] 750,000
Sei whale	Balaenoptera borealis	N/A	E/D;-	[5] 10,000
Fin whale	Balaenoptera physalus	N/A	E/D;-	[5] 15,000
Blue whale	Balaenoptera musculus	N/A	E/D;-	[3 5] 3,800
Family Cetotheriidae				
Pygmy right whale	Caperea marginata	N/A	-/-; N	N/A
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)				
Family Physeteridae				
Sperm whale	Physeter macrocephalus	N/A	E/D;-	[5] 30,000
Family Kogiidae				
Pygmy sperm whale	Kogia breviceps	N/A	-/-; N	N/A
Family Ziphiidae (beaked whales)				
Cuvier's beaked whale	Ziphius cavirostris	N/A	-/-; N	[5 7] 600,000
Arnoux's beaked whale	Berardius arnuxii	N/A	-/-; N	[5 7] 600,000
Shepherd's beaked whale	Tasmacetus shepherdi	N/A	-/-; N	[5 7] 600,000
Hector's beaked whale	Mesoplodon hectori	N/A	-/-; N	[5 7] 600,000
True's beaked whale	Mesoplodon mirus	N/A	-/-; N	N/A
Southern bottlenose whale	Hyperoodon planifrons	N/A	-/-; N	[5 7] 600,000
Gray's beaked whale	Mesoplodon grayi	N/A	-/-; N	[5 7] 600,000
Andrew's beaked whale	Mesoplodon bowdoini	N/A	-/-; N	[5 7] 600,000
Strap-toothed beaked whale	Mesoplodon layardii	N/A	-/-; N	[5 7] 600,000
Blainville's beaked whale	Mesoplodon densirostris	N/A	-/-; N	[5 7] 600,000
Spade-toothed beaked whale	Mesoplodon traversii	N/A	-/-; N	[5 7] 600,000
Family Delphinidae				
Bottlenose dolphin	Tursiops truncatus	N/A	-/-; N	N/A
Short-beaked common dolphin	Delphinus delphis	N/A	-/-; N	N/A
Dusky dolphin	Lagenorhynchus obscurus	N/A	-/-; N	[8] 12,000–20,000
Hourglass dolphin	Lagenorhynchus cruciger	N/A	-/-; N	[5] 150,000
Southern right whale dolphin	Lissodelphis peronii	N/A	-/-; N	N/A
Risso's dolphin	Grampus griseus	N/A	-/-; N	N/A
South Island Hector's dolphin	Cephalorhynchus hectori hectori	N/A	T/D;-	[9] 14,849
Maui dolphin	Cephalorhynchus hectori maui	N/A	E/D;-	[10] 55–63
False killer whale	Pseudorca crassidens	N/A	-/-; N	N/A
Killer whale	Orcinus orca	N/A	-/-; N	[5] 80,000
Long-finned pilot whale	Globicephala melas	N/A	-/-; N	[5] 200,000
Short-finned pilot whale	Globicephala macrorhynchus	N/A	-/-; N	N/A

TABLE 2—MARINE MAMMALS THAT COULD OCCUR IN THE PROPOSED SURVEY AREAS—Continued

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Population abundance [2]
Family Phocoenidae (porpoises)				
Spectacled porpoise	Phocoena dioptrica	N/A	-/-; N	N/A
Order Carnivora—Superfamily Pinnipedia				
Family Otariidae (eared seals and sea lions)				
New Zealand fur seal	Arctocephalus forsteri	N/A	-/-; N	[8] 200,000
New Zealand sea lion	Phocarctos hookeri	N/A	-/-; N	[11] 9,880
Family Phocidae (earless seals)				
Leopard seal	Hydrurga leptonyx	N/A	-/-; N	[8] 222,000
Southern elephant seal	Mirounga leonina	N/A	-/-; N	[8] 607,000

N/A = Not available or not assessed.
[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.
[2] Abundance for the Southern Hemisphere or Antarctic unless otherwise noted.
[3] IWC (2016).
[4] IWC (1981).
[5] Boyd (2002).
[6] Dwarf and Antarctic minke whales combined.
[7] All Antarctic beaked whales combined.
[8] Estimate for New Zealand; NZDOC 2017.
[9] Estimate for New Zealand; MacKenzie and Clement 2016.
[10] Estimate for New Zealand; Hamner *et al.* (2014) and Baker *et al.* (2016).
[11] Geschke and Chilvers (2009).

All species that could potentially occur in the proposed survey area are included in table 2. However, of the species described in Table 2, the temporal and/or spatial occurrence of one subspecies, the Maui dolphin, is such that take is not expected to occur as a result of the proposed project. The Maui dolphin is one of two subspecies of Hector's dolphin (the other being the South Island Hector's dolphin), both of which are endemic to New Zealand. The Maui dolphin has been demonstrated to be genetically distinct from the South Island subspecies of Hector's dolphin based on studies of mitochondrial and nuclear DNA (Pichler *et al.* 1998). It is currently considered one of the rarest dolphins in the world with a population size estimated at just 55–63 individuals (Hamner *et al.* 2014; Baker *et al.* 2016). Historically, Hector's dolphins are thought to have ranged along almost the entire coastlines of both the North and South Islands of New Zealand, though their present range is substantially smaller (Pichler 2002). The range of the Maui dolphin in particular has undergone a marked reduction (Dawson *et al.* 2001; Slooten *et al.* 2005), with the subspecies now restricted to the northwest coast of the North Island, between Maunganui Bluff in the north and Whanganui in the south (Currey *et al.,* 2012). Occasional sightings and strandings have also been reported from areas further south along the west coast as well as possible sightings in other areas such as Hawke's Bay on the east coast of North Island (Baker 1978, Russell 1999, Ferreira and Roberts 2003, Slooten *et al.* 2005, DuFresne 2010, Berkenbusch *et al.* 2013; Torres *et al.* 2013; Patiño-Pérez 2015; NZDOC 2017) though it is unclear whether those individuals may have originated from the South Island Hector's dolphin populations. A 2016 NMFS Draft Status Review Report concluded the Maui dolphin is facing a high risk of extinction as a result of small population size, reduced genetic diversity, low theoretical population growth rates, evidence of continued population decline, and the ongoing threats of fisheries bycatch, disease, mining and seismic disturbances (Manning and Grantz, 2016). Due to its extremely low population size and the fact that the subspecies is not expected to occur in the proposed survey areas off the North Island, take of Maui dolphins is not expected to occur as a result of the proposed activities. Therefore the Maui dolphin is not discussed further beyond the explanation provided here.

We have reviewed L–DEO's species descriptions, including life history information, distribution, regional distribution, diving behavior, and acoustics and hearing, for accuracy and completeness. We refer the reader to Section 4 of L–DEO's IHA application, rather than reprinting the information here. Below, for the 38 species that are likely to be taken by the activities described, we offer a brief introduction to the species and relevant stock as well as available information regarding population trends and threats, and describe any information regarding local occurrence.

Southern Right Whale

The southern right whale occurs throughout the Southern Hemisphere between ~20° S. and 60° S. (Kenney 2009). Southern right whales calve in nearshore coastal waters during the winter and typically migrate to offshore feeding grounds during summer (Patenaude 2003). Wintering populations off the subantarctic Auckland Islands of New Zealand spend the majority of their time resting or engaging in social interactions regardless of their group type (*e.g.* single whale, group, and mother-calf pair). Over 35% of mother-calf pairs in the area were seen traveling (Patenaude and Baker 2001).

Southern right whale sounds and their role in communication have been fully described by Clark (1983) and are categorized into three general classes (blow, slaps, and calls). Calls are generally low frequency (peak frequencies <500 Hertz (Hz)) and one common call—'Up'—has been described to function as a way for individuals to find and make contact with each other.

The available information suggests that southern right whales could be migrating near or within the proposed survey areas during October–March, with the possibility of some individuals calving in nearshore waters off eastern North Island during November. Habitat use (Torres *et al.* 2013c) and suitability modeling (Patiño-Pérez 2015) for New Zealand showed that a large proportion of the proposed North and South Island survey areas (mainly in deeper water) has low habitat suitability for the southern right whale; sheltered coastal areas had the highest habitat suitability, especially in Foveaux Strait between South and Stewart Islands.

Humpback Whale

Humpback whales are found worldwide in all ocean basins. In winter, most humpback whales occur in the subtropical and tropical waters of the Northern and Southern Hemispheres (Muto *et al.,* 2015). These wintering grounds are used for mating, giving birth, and nursing new calves. In the South Pacific Ocean, there are several distinct winter breeding grounds, including eastern Australia and Oceania (Anderson *et al.* 2010; Garrigue *et al.* 2011; Bettridge *et al.* 2013). Whales from Oceania migrate past New Zealand to Antarctic summer feeding areas (Constantine *et al.* 2007; Garrigue *et al.* 2000, 2010); migration from eastern Australia past New Zealand has also been reported (Franklin *et al.* 2014). The northern migration along the New Zealand coast occurs from May to August, with a peak in late June to mid-July; the southern migration occurs from September to December, with a peak in late October to late November (Dawbin 1956). It is likely that some humpback whales would be encountered in the survey area during November and December, as they migrate from winter breeding areas in the tropics to summer feeding grounds in the Antarctic. Fewer humpbacks are expected to occur in the proposed survey areas during January through March, as most individuals occur further south during the summer.

Humpback whales were listed as endangered under the Endangered Species Conservation Act (ESCA) in June 1970. In 1973, the ESA replaced the ESCA, and humpbacks continued to be listed as endangered. NMFS recently evaluated the status of the species, and on September 8, 2016, NMFS divided the species into 14 distinct population segments (DPS), removed the current species-level listing, and in its place listed four DPSs as endangered and one DPS as threatened (81 FR 62259; September 8, 2016). The remaining nine DPSs were not listed. The only DPSs with the potential to occur in the proposed survey areas would be the Oceania DPS and the Eastern Australia DPS; neither of these DPSs is listed under the ESA (81 FR 62259; September 8, 2016).

Bryde's Whale

The Bryde's whale occurs in all tropical and warm temperate waters in the Pacific, Atlantic, and Indian oceans, between 40° N. and 40° S. (Kato and Perrin 2009). It is one of the least known large baleen whales, and it remains uncertain how many species are represented in this complex (Kato and Perrin 2009). Bryde's whales remain in warm (>16 °C) water year-round, and seasonal movements towards the Equator in winter and offshore in summer have been recorded (Kato and Perrin 2009). The Bryde's whale is likely to occur in the Bay of Plenty in the proposed North Island survey area; it is unlikely to occur anywhere else in the North Island or South Island survey areas.

Minke Whale

The minke whale has a cosmopolitan distribution ranging from the tropics and sub-tropics to the ice edge in both hemispheres (Jefferson *et al.* 2015). Its distribution in the Southern Hemisphere is not well known (Jefferson *et al.* 2015). Populations of minke whales around New Zealand are migratory (Baker 1983). Clement (2010) noted that minke whales likely use East Cape to navigate along the east coast of New Zealand during the northern and southern migrations. Small groups of minke whales have been sighted off New Zealand (Baker 1999; Clement 2010; Berkenbusch *et al.* 2013; Torres *et al.* 2013b; Patiño-Pérez 2015).

Antarctic Minke Whale

The Antarctic minke whale has a circumpolar distribution in coastal and offshore areas of the Southern Hemisphere from ~7° S. to the ice edge (Jefferson *et al.* 2015). Antarctic minke whales are found between 60° S. and the ice edge during the austral summer (December to February); in the austral winter (June to August), they are mainly found at breeding grounds at mid latitudes, including 10° S.–30° S. and 170° E.–100° W. in the Pacific, off eastern Australia (Perrin and Brownell 2009). Antarctic minke whales would be less likely to be encountered during the time of the proposed surveys, because they would be expected to be in their summer feeding areas further south.

Sei Whale

The sei whale occurs in all ocean basins (Horwood 2009) but appears to prefer mid-latitude temperate waters (Jefferson *et al.* 2008). It undertakes seasonal migrations to feed in subpolar latitudes during summer and returns to lower latitudes during winter to calve (Horwood 2009). The sei whale is pelagic and generally not found in coastal waters (Harwood and Wilson 2001). It occurs in deeper waters characteristic of the continental shelf edge region (Hain *et al.* 1985) and in other regions of steep bathymetric relief such as seamounts and canyons (Kenney and Winn 1987; Gregr and Trites 2001). In the South Pacific, sei whales typically concentrate between the sub-tropical and Antarctic convergences during the summer (Horwood 2009). The sei whale is likely to be uncommon in the proposed survey areas during October–March.

Fin Whale

Fin whales are found throughout all oceans from tropical to polar latitudes, however, their overall range and distribution is not well known (Jefferson *et al.* 2015). The fin whale most commonly occurs offshore but can also be found in coastal areas (Aguilar 2009). Most populations migrate seasonally between temperate waters where mating and calving occur in winter, and polar waters where feeding occurs in summer (Aguilar 2009). However, recent evidence suggests that some animals may remain at high latitudes in winter or low latitudes in summer (Edwards *et al.* 2015). Northern and southern fin whale populations are distinct and are sometimes recognized as different subspecies (Aguilar 2009). In the Southern Hemisphere, fin whales are usually distributed south of 50 °S. in the austral summer, and they migrate northward to breed in the winter (Gambell 1985).

Blue Whale

The blue whale has a cosmopolitan distribution and tends to be pelagic, only coming nearshore to feed and possibly to breed (Jefferson *et al.* 2008). Blue whale migration is less well defined than for some other rorquals, and their movements tend to be more closely linked to areas of high primary productivity, and hence prey, to meet

their high energetic demands (Branch *et al.* 2007). Generally, blue whales are seasonal migrants between high latitudes in the summer, where they feed, and low latitudes in the winter, where they mate and give birth (Lockyer and Brown 1981). Some individuals may stay in low or high latitudes throughout the year (Reilly and Thayer 1990; Watkins *et al.* 2000).

Three subspecies of blue whale are recognized: *B. m. musculus* in the Northern Hemisphere; *B. m. intermedia* (the true blue whale) in the Antarctic, and *B. m. brevicauda* (the pygmy blue whale) in the sub-Antarctic zone of the southern Indian Ocean and the southwestern Pacific Ocean (Sears and Perrin 2009). The pygmy and Antarctic blue whale occur in New Zealand (Branch *et al.* 2007). The blue whale is considered rare in the Southern Ocean (Sears and Perrin 2009). Most pygmy blue whales do not migrate south during summer; however, Antarctic blue whales are typically found south of 55° S. during summer, although some are known not to migrate (Branch *et al.* 2007).

Blue whale calls have been detected in New Zealand waters year-round (Miller *et al.* 2014). Vocalizations have been recorded within 2 km from Great Barrier Island, northern New Zealand, from June to December 1997 (McDonald 2006), as well as off the tip of Northland (Miller *et al.* 2014). Blue whale vocalizations were also detected along the west and east coasts of South Island during January–March 2013; these included songs detected in four locations off the southwest tip of the South Island in early February and at multiple locations south of Stewart Island in mid-March (Miller *et al.* 2014). Southern Ocean blue whale songs were detected further offshore during May–July (McDonald 2006).

Pygmy Right Whale

The pygmy right whale is the smallest, most cryptic and least known of the living baleen whales. Pygmy right whales are found individually or in pairs, although groups of up to 80 whales have been observed. Although little is known about them, it is thought that pygmy right whales do not exhibit common behaviors of other whales such as breaching or displaying their flukes. In one case, a pygmy right whale was observed swimming by undulating the body from head to tail rather than swimming using movement of the tail area and flukes like other cetaceans. Pygmy right whales are strong, fast swimmers (Fordyce 2013).

The pygmy right whale's distribution is circumpolar in the Southern Hemisphere between 30° S. and 55° S. in oceanic and coastal environments (Kemper 2009; Jefferson *et al.* 2015). Pygmy right whales appear to be non-migratory, although there may be some movement inshore during spring and summer (Kemper 2002). Strandings appear to be associated with favorable feeding areas in New Zealand, including upwelling regions, along the Subtropical Convergence, and the Southland Current (Kemper 2002; Kemper *et al.* 2013). Despite the scarcity of sightings, Kemper (2009) noted that the number of strandings indicate that the pygmy right whale may be relatively common in Australia and New Zealand.

Sperm Whale

Sperm whales are found throughout the world's oceans in deep waters from the tropics to the edge of the ice at both poles (Leatherwood and Reeves 1983; Rice 1989; Whitehead 2002). Sperm whales throughout the world exhibit a geographic social structure where females and juveniles of both sexes occur in mixed groups and inhabit tropical and subtropical waters. Males, as they mature, initially form bachelor groups but eventually become more socially isolated and more wide-ranging, inhabiting temperate and polar waters as well (Whitehead 2003). Females typically inhabit waters >1000 m deep and latitudes <40° (Rice 1989). Torres *et al.* (2013a) found that sperm whale distribution is associated with proximity to geomorphologic features, as well as surface temperature.

Sperm whales are widely distributed throughout New Zealand waters, occurring in offshore and nearshore regions, with decreasing abundance away from New Zealand toward the central South Pacific Ocean (Gaskin 1973). Sperm whale sightings have been reported throughout the year in and near the proposed North Island survey area, including the Bay of Plenty and off East Cape (Clement 2010; Berkenbusch *et al.* 2013; Torres *et al.* 2013b; Blue Planet Marine 2016; NZDOC 2017b), as well as in and near the South Island survey area (Berkenbusch *et al.* 2013; NZDOC 2017b). Although sightings have been made during the summer in the proposed North Island survey area, no summer sightings were reported for the South Island survey area. However, sightings were made just to the south of the proposed survey area during summer (Kasamatsu and Joynce 1995). There have been at least 211 strandings reported for New Zealand (Berkenbusch *et al.* 2013), including along the coast of East Cape, in Hawke's Bay, Cook Strait, and along the south coast of South Island (Brabyn 1991; NZDOC 2017b).

Pygmy Sperm Whale

Pygmy sperm whales are found in tropical and warm-temperate waters throughout the world (Ross and Leatherwood 1994) and prefer deeper waters with observations of this species in greater than 4,000 m depth (Baird *et al.,* 2013). Sightings are rare of this species. They are difficult to sight at sea, because of their dive behavior and perhaps because of their avoidance reactions to ships and behavior changes in relation to survey aircraft (Würsig *et al.* 1998). Both pygmy and dwarf sperm whales are sighted primarily along the continental shelf edge and slope and over deeper waters off the shelf (Hansen *et al.* 1994; Davis *et al.* 1998; Jefferson *et al.* 2008).

There have been very few sightings of pygmy sperm whales in New Zealand. The lack of sightings is likely because of their subtle surface behavior and long dive times (Clement 2010). However, the pygmy sperm whale is one of the most regularly stranded cetacean species in New Zealand, suggesting that this species is relatively common in those waters (Clement 2010). Pygmy sperm whales are likely to occur near the North Island survey area but are less likely to occur in the South Island survey area.

Cuvier's Beaked Whale

Cuvier's beaked whale is the most widespread of the beaked whales occurring in almost all temperate, subtropical, and tropical waters and even some sub-polar and polar waters (MacLeod *et al.* 2006). It is found in deep water over and near the continental slope (Jefferson *et al.* 2008). New Zealand has been reported as a hotspot for beaked whales (MacLeod and Mitchell 2006), with both sightings and strandings of Cuvier's beaked whales in the proposed survey area (MacLeod *et al.* 2006; Thompson *et al.* 2013a).

Cuvier's beaked whales strand relatively frequently in New Zealand; at least 82 strandings have been reported (Berkenbusch *et al.* 2013). For the North Island, strandings have been reported for the Bay of Plenty, East Cape, Mahia Peninsula, Hawke's Bay, as well as Cook Strait; strandings have occurred along all coasts of South Island (Brabyn 1991; Clement 2010; Thompson *et al.* 2013a). Strandings have been reported throughout the year, with a peak during fall (Thompson *et al.* 2013a).

Arnoux's Beaked Whale

Arnoux's beaked whale is distributed in deep, temperate and subpolar waters of the Southern Hemisphere, with most

records for southeast South America, the Antarctic Peninsula, South Africa, New Zealand, and southern Australia (Jefferson *et al.* 2015). It typically occurs south of 40° S., but it could reach latitudes of 34° S. or even farther north (Jefferson *et al.* 2015). Arnoux's beaked whale strands frequently in New Zealand (Ross 2006), with strandings reported for the northwest coast of North Island, Bay of Plenty, Hawke's Bay, and Cook Strait (Clement 2010; Thompson *et al.* 2013a). MacLeod *et al.* (2006) reported numerous strandings of Berardius spp. for New Zealand. One sighting has been made in the Bay of Plenty (Clement 2010).

Shepherd's Beaked Whale

Based on known records, it is likely that Shepherd's beaked whale has a circumpolar distribution in the cold temperate waters of the Southern Hemisphere (Mead 1989a). This species is primarily known from strandings, most of which have been recorded in New Zealand (Mead 2009). Thus, MacLeod and Mitchell (2006) suggested that New Zealand may be a globally important area for Shepherd's beaked whale. However, only a few sightings of live animals have been reported for New Zealand (MacLeod and Mitchell 2006). One possible sighting was made near Christchurch (Watkins 1976). In 2016, there were two sightings of Shepherd's beaked whale on a winter survey offshore from the Otago Peninsula on the South Island (NZDOC 2017b). At least 20 specimens have stranded on the coast of New Zealand (Baker 1999), including in southern Taranaki Bight and Banks Peninsula (Brabyn 1991). Stranding records also exist for Mahia Peninsula and northeastern North Island (Thompson *et al.* 2013a).

Hector's Beaked Whale

Hector's beaked whale is thought to have a circumpolar distribution in deep oceanic temperate waters of the Southern Hemisphere (Pitman 2002). Based on the number of stranding records for the species, it appears to be relatively rare. One individual was observed swimming close to shore off southwestern Australia for periods of weeks before disappearing (Gales *et al.* 2002). This was the first live sighting in which species identity was confirmed.

MacLeod and Mitchell (2006) suggested that New Zealand may be a globally important area for this species. There are sighting and stranding records of Hector's beaked whales for New Zealand (MacLeod *et al.* 2006; Clement 2010). One sighting has been reported for the Bay of Plenty on the North Island (Clement 2010). At least 12 strandings have been reported for New Zealand (Berkenbusch *et al.* 2013), including records for the Bay of Plenty, East Cape, Mahia Peninsula, Hawke's Bay, Cook Strait, and the east coast of South Island (Brabyn 1991; Clement 2010; Thompson *et al.* 2013a; NZDOC 2017b).

True's Beaked Whale

True's beaked whale has a disjunct, antitropical distribution in the Northern and Southern hemispheres (Jefferson *et al.* 2015). In the Southern Hemisphere, it is known to occur in the Atlantic and Indian oceans, including Brazil, South Africa, Madagascar, and southern Australia (Jefferson *et al.* 2015). There is a single record of True's beaked whale in New Zealand, which stranded on the west coast of South Island in November 2011 (Constantine *et al.* 2014).

Southern Bottlenose Whale

The southern bottlenose whale can be found throughout the Southern Hemisphere from 30° S. to the ice edge, with most sightings occurring from ~57° S. to 70° S. (Jefferson *et al.* 2015). It is apparently migratory, occurring in Antarctic waters during summer (Jefferson *et al.* 2015). New Zealand has been reported as a hotspot for beaked whales (MacLeod and Mitchell 2006), with both sightings and strandings of southern bottlenose whales in the area (MacLeod *et al.* 2006). At least six sightings have been reported for waters around New Zealand, including one in Hauraki Gulf, one on the southwest coast of South Island, one off the east coast of North Island within the proposed survey area, one off the Otago Peninsula, and two sightings south of New Zealand within the EEZ (Berkenbusch *et al.* 2013; NZDOC 2017b). In addition, 24 strandings were reported for New Zealand between 1970 and 2013 (Berkenbusch *et al.* 2013). Strandings have been reported for Bay of Plenty, East Cape, Hawke's Bay, southern North Island, northeastern South Island, and Cook Strait (Brabyn 1991; Clement 2010; Thompson *et al.* 2013a).

Gray's Beaked Whale

Gray's beaked whale is thought to have a circumpolar distribution in temperate waters of the Southern Hemisphere (Pitman 2002). Gray's beaked whale primarily occurs in deep waters beyond the edge of the continental shelf (Jefferson *et al.* 2015). Some sightings have been made in very shallow water, usually of sick animals coming in to strand (Gales *et al.* 2002; Dalebout *et al.* 2004). One Gray's beaked whale was observed within 200 m of the shore off southwestern Australia off and on for periods of weeks before disappearing (Gales *et al.* 2002). There are many sighting records from Antarctic and sub-Antarctic waters, and in summer months they appear near the Antarctic Peninsula and along the shores of the continent (sometimes in the sea ice).

New Zealand has been reported as a hotspot for beaked whales (MacLeod and Mitchell 2006), with both sightings and strandings of Gray's beaked whales in the proposed survey area (MacLeod *et al.* 2006; Thompson *et al.* 2013a). In particular, the area between the South Island of New Zealand and the Chatham Islands has been suggested to be a hotspot for sightings of this species (Dalebout *et al.* 2004).

Andrew's Beaked Whale

Andrew's beaked whale has a circumpolar distribution in temperate waters of the Southern Hemisphere (Baker 2001). This species is known only from stranding records between 32° S. and 55° S., with more than half of the strandings occurring in New Zealand (Jefferson *et al.* 2015). Thus, New Zealand may be a globally important area for Andrew's beaked whale (MacLeod and Mitchell 2006). In particular, Clement (2010) suggested that the East Cape/Hawke's Bay waters may be an important habitat for Andrew's beaked whale.

There have been at least 19 strandings in New Zealand (Berkenbusch *et al.* 2013), at least 10 of which have been reported in the spring and summer (Baker 1999). Strandings have occurred from the North Island to the sub-Antarctic Islands (Baker 1999), including East Cape, Hawke's Bay, Cook Strait, and southeast of Stewart Island (Brabyn 1991; Clement 2010; Thompson *et al.* 2013a).

Strap-Toothed Beaked Whale

The strap-toothed beaked whale is thought to have a circumpolar distribution in temperate and sub-Antarctic waters of the Southern Hemisphere, mostly between 35° and 60° S. (Jefferson *et al.* 2015). Based on the number of stranding records, it appears to be fairly common. Strap-toothed whales are thought to migrate northward from Antarctic and sub-Antarctic latitudes during April–September (Sekiguchi *et al.* 1996).

New Zealand has been reported as a hotspot for beaked whales (MacLeod and Mitchell 2006), with both sightings and strandings of strap-toothed beaked whales adjacent to the proposed survey area (MacLeod *et al.* 2006; Clement 2010; Thompson *et al.* 2013a). Strap-toothed whales commonly strand in

New Zealand, with at least 78 strandings reported (Berkenbusch *et al.* 2013). Most strandings occur between January and April, suggesting some seasonal austral summer inshore migration (Baker 1999; Thompson *et al.* 2013a). Strap-toothed whale strandings have been reported for the east coast of North Island and South Island, including the Bay of Plenty, East Cape, Hawke's Bay, Cook Strait, the Otago Peninsula and along Foveaux Strait (Brabyn 1991; Clement 2010; Thompson *et al.* 2013a).

Blainville's Beaked Whale

Blainville's beaked whale is found in tropical and warm temperate waters of all oceans; it has the widest distribution throughout the world of all mesoplodont species and appears to be common (Pitman 2009b). In the western Pacific, strandings have been reported from Japan to Australia and New Zealand (MacLeod *et al.* 2006). There have been at least four strandings of Blainville's beaked whale in New Zealand, including three strandings for the northwest coast of North Island and another for Hawke's Bay, but none for the South Island (Thompson *et al.* 2013a).

Spade-Toothed Beaked Whale

The spade-toothed beaked whale is the name proposed for the species formerly known as Bahamonde's beaked whale (M. bahamondi). Recent genetic evidence has shown that they belong to the species first identified by Gray in 1874 (van Helden *et al.* 2002). The species is considered relatively rare and is known from only four records, three of which are from New Zealand (Thompson *et al.* 2012). One mandible was found at the Chatham Islands in 1872; two skulls were found at White Island, Bay of Plenty, in the 1950s; a skull was collected at Robinson Crusoe Island, Chile, in 1986; and most recently, two live whales, a female and a male, stranded at Opape, in the Bay of Plenty, and subsequently died (Thompson *et al.* 2012). MacLeod and Mitchell (2006) suggested that New Zealand may be a globally important area for the spade-toothed beaked whale.

Bottlenose Dolphin

Bottlenose dolphins are widely distributed throughout the world in tropical and warm-temperate waters (Perrin *et al.* 2009). Generally, there are two distinct bottlenose dolphin ecotypes: One mainly found in coastal waters and one mainly found in oceanic waters (Duffield *et al.* 1983; Hoelzel *et al.* 1998; Walker *et al.* 1999). As well as inhabiting different areas, these ecotypes differ in their diving abilities (Klatsky 2004) and prey types (Mead and Potter 1995).

Short-Beaked Common Dolphin

The short-beaked common dolphin is found in tropical to cool temperate oceans around the world, and ranges as far south as ~40° S. (Perrin 2009). It is generally considered an oceanic species (Jefferson *et al.* 2015), but Neumann (2001) noted that this species can be found in coastal and offshore habitats. Short-beaked common dolphins are found in shelf waters of New Zealand, generally north of Stewart Island; they are more commonly seen in waters along the northeastern coast of North Island (Stockin and Orams 2009; NABIS 2017) and may occur closer to shore during the summer (Neumann 2001; Stockin *et al.* 2008). They can be found all around New Zealand (Baker 1999) with abundance hotspots on the coasts of Northland, Hauraki Gulf, Mahia Peninsula, Cape Palliser, Cook Strait, Marlborough Sounds, and the northwest coast of South Island (NABIS 2017).

The short-beaked common dolphin is likely the most common cetacean species in New Zealand waters, occurring there year-round (Clement 2010; Hutching 2015). Numerous sightings have been made in shelf waters of the east coast of North and South Islands, as well as farther offshore, throughout the year, including within the proposed survey areas (Clement 2010; Berkenbusch *et al.* 2013; Torres *et al.* 2013b; Patiño-Pérez 2015; Blue Planet Marine 2016; NZDOC 2017b).

Dusky Dolphin

The dusky dolphin is found throughout the Southern Hemisphere, occurring in disjunct subpopulations in the waters off southern Australia, New Zealand (including some sub-Antarctic Islands), central and southern South America, and southwestern Africa (Jefferson *et al.* 2015). The species occurs in coastal and continental slope waters and is uncommon in waters >2000 m deep (Würsig *et al* 2007). The dusky dolphin is common in New Zealand (Hutching 2015) and occurs there year-round. Dusky dolphins migrate northward to warmer waters in winter and south during the summer (Gaskin 1968).

Sightings of dusky dolphins exist for shelf as well as deep, offshore waters (Berkenbusch *et al.* 2013). Würsig *et al.* (2007) noted that dusky dolphins typically move into deeper waters during the winter. Sightings have been made in and near the proposed North and South Island survey areas during summer (see Clement 2010; Berkenbusch *et al.* 2013; Patiño-Pérez 2015; Blue Planet Marine 2016; NZDOC 2017b). Some sightings in the austral spring and summer have been made along Northland, Bay of Plenty, off East Cape, southeast coast of North Island, Cape Palliser, and Cook Strait (Berkenbusch *et al.* 2013; NZDOC 2017b). However, sightings off the entire coastline of South Island appear to be more common and are made throughout the year.

Hourglass Dolphin

The hourglass dolphin occurs in all parts of the Southern Ocean south of ~45° S., with most sightings between 45° S. and 60° S. (Goodall 2009). Although it is pelagic, it is also sighted near banks and Islands (Goodall 2009). Baker (1999) noted that the hourglass dolphin is considered a rare coastal visitor to New Zealand. Berkenbusch *et al.* (2013) reported five sightings of hourglass dolphins in New Zealand waters, including one off Banks Peninsula, one off the southeast coast of South Island, two within the proposed South Island survey, and one southwest of the Auckland Islands. All sightings were made during November–February. In addition, there have been at least five strandings in New Zealand (Berkenbusch *et al.* 2013), including records for the South Island (Baker 1999). Due to these observations, the hourglass dolphin would likely be rare in the proposed North survey area and uncommon in the South Island survey area.

Southern Right Whale Dolphin

The southern right whale dolphin is distributed between the Subtropical and Antarctic Convergences in the Southern Hemisphere, generally between ~30° S. and 65° S. (Jefferson *et al.* 2015). It is sighted most often in cool, offshore waters, although it is sometimes seen near shore where coastal waters are deep (Jefferson *et al.* 2015). The species has rarely been seen at sea in New Zealand (Baker 1999). Berkenbusch *et al.* (2013) reported five sightings for the EEZ of New Zealand, including one each off the southeast coast and southwest coast of South Island, and three to the southeast of Stewart Island; sightings were made during February and September. During August 1999, a group 500+ southern right whale dolphins including a calf were sighted southeast of Kaikoura in water >1500 m deep (Visser *et al.* 2004). There were five additional sightings in the OBIS database, including one sighting in the South Taranaki Bight, two sightings

southeast of Kaikoura during 1985–1986, and two sightings off the southwest coast of South Island (OBIS 2017). Several more sightings have also been reported off the southeast coast of South Island (NZDOC 2017b).

At least 16 strandings have been reported for New Zealand (Berkenbusch *et al.* 2013). Most strandings have occurred along the north coast of South Island (Brabyn 1991), but strandings were also reported for Hawke's Bay, southeast North Island, Banks Peninsula, and Foveaux Strait (Clement 2010; NZDOC 2017b).

Risso's Dolphin

Risso's dolphins are found in tropical to warm-temperate waters (Carretta *et al.,* 2016). The species occurs from coastal to deep water but is most often found in depths greater than 3,000 m with the highest sighting rate in depths greater than 4,500 m (Baird 2016) and is known to frequent seamounts and escarpments (Kruse *et al.* 1999). It occurs between 60° N. and 60° S. where surface water temperatures are at least 10 °C (Kruse *et al.* 1999).

According to Jefferson *et al.* (2014, 2015), the range of the Risso's dolphin includes the waters of New Zealand, although the number of records for that region is small. Nonetheless, a few records exist for the North Island, including the east coast (Clement 2010; Berkenbusch *et al.* 2013; Jefferson *et al.* 2014). Although some sightings have been reported in New Zealand, such as in South Taranaki Bight on the west coast of North Island (Torres 2012), only strandings are known for the east coast of North Island (Clement 2010). One stranding has been reported for the northwest coast of South Island (NZDOC 2017b).

South Island Hector's Dolphin

Hector's dolphins are endemic to New Zealand and have one of the most restricted distributions of any cetacean (Dawson and Slooten 1988); they occur in New Zealand waters year-round (Berkenbusch *et al.* 2013) and are found mainly in coastal waters, preferring depths of <90 m (Bräger *et al.* 2003; Rayment *et al.* 2006; Slooten *et al.* 2006) within 10 km from shore (Hutching 2015). As described above, the South Island Hector's dolphin (*C. hectori hectori*) is one of two subspecies of Hector's dolphins that have been formally recognized on the basis of multiple morphological distinctions and genetic evidence of reproductive isolation (Baker *et al.,* 2002; Pichler 2002, Hamner *et al.,* 2012).

Historically, Hector's dolphins are thought to have ranged along almost the entire coastlines of both the North and South Islands of New Zealand, though their present range is substantially smaller (Pichler 2002). The South Island Hector's dolphin is found only off the coast of the South Island of New Zealand (L. Manning and K. Grantz, 2016). There are at least three genetically separate populations of Hector's dolphin off South Island: Off the east coast (particularly around Banks Peninsula), off the west coast, and off the Southland coast of southern South Island (Baker *et al.* 2002). The majority of Hector's dolphins off the South Island are found along the West Coast (between Farewell Spit and Milford Sound) with the remainder (about 1200 to 2900) found along the East Coast (from Farewell Spit to Nugget Point) and South Coast (from Nugget Point to Long Point) (Dawson *et al.* 2004).

False Killer Whale

The false killer whale is found in all tropical and warm temperate oceans of the world, with only occasional sightings in cold temperate waters (Baird 2009b). It is known to occur in deep, offshore waters (Odell and McClune 1999), but can also occur over the continental shelf and in nearshore shallow waters (Jefferson *et al.* 2015; Zaeschmar *et al.* 2014). In the western Pacific, the false killer whale is distributed from Japan south to Australia and New Zealand.

Berkenbusch *et al.* (2013) reported at least 27 sightings of false killer whales in New Zealand during summer and fall, primarily along the coast of North Island, but also off South Island and in South Taranaki Bight. In addition, there have been at least 28 strandings in New Zealand (Zaeschmar 2014), including along East Cape, Hawke's Bay, Cape Palliser, Cook Strait, Otago Peninsula, and Catlin's coast (Brabyn 1991; Clement 2010; NZDOC 2017b). The strandings include a mass stranding on North Island (~37 ° S.) of 231 whales in March 1978 (Baker 1999).

Killer Whale

Killer whales have been observed in all oceans and seas of the world (Leatherwood and Dahlheim 1978). Although reported from tropical and offshore waters (Heyning and Dahlheim 1988), killer whales prefer the colder waters of both hemispheres, with greatest abundances found within 800 km of major continents (Mitchell 1975). High densities of the species occur in high latitudes, especially in areas where prey is abundant.

The killer whale has been reported to be common in New Zealand waters (Baker 1999), with a population of ~200 individuals (Suisted and Neale 2004). Killer whales have been sighted in all months around North and South Islands (Berkenbusch *et al.* 2013; Torres 2012; NABIS 2017). Calves and juveniles occur there throughout the year (Visser 2000). Only the Type A killer whale is considered resident in New Zealand, while Types B, C, and D are vagrant and most common in the Southern Ocean (Visser 2000, 2007; Baker *et al.* 2010, 2016a). As sighting of killer whales have been made near and within the survey areas during austral spring and summer, killer whales could occur in small numbers near the project areas.

Long-Finned Pilot Whale

Long-finned pilot whales roam throughout the cold temperate waters of the Southern Hemisphere. They live in stable family groups, and offspring of both sexes stay in their mother's pod throughout their lives. Each pod numbers 20–100 whales, though they can congregate in much larger numbers. Pilot whales are prolific stranders, and this behavior is not well understood. There are recordings of individual strandings all over New Zealand, and there are a few mass stranding ''hotspots'' at Golden Bay, Stewart Island, and the Chatham Islands. Due to this, it is possible for the proposed survey to encounter species.

Short-Finned Pilot Whale

Short finned pilot whales tend to inhabit more sub-tropical and tropical zones. Although long-finned and short-finned pilot whales are readily distinguishable by differences in tooth count, flipper length, and skull morphology, it is almost impossible to distinguish between the two species at sea. The species prefers deeper waters, ranging from 324 m to 4,400 m, with most sightings between 500 m and 3,000 m (Baird 2016).

Short-finned pilot whale stranding records exist for the Bay of Plenty, East Cape, Hawke's Bay, off Banks Peninsula, and the southeast coast of South Island. While most pilot whales sighted south of ~40° S., would likely be the long-finned variety, short-finned pilot whales could also be encountered during the survey, particularly off the northeast coast of North Island.

Spectacled Porpoise

The spectacled porpoise is circumpolar in cool temperate, sub-Antarctic, and low Antarctic waters (Goodall 2009). It is thought to be oceanic in temperate to sub-Antarctic waters and is often sighted in deep waters far from land (Goodall 2009).

Little is known regarding the distribution and abundance of the species, but it is believed to be rare throughout most of its range (Goodall and Schiavini 1995). Only five sightings were made during 10 years (1978/79–1987/88) of extensive Antarctic surveys for minke whales (Kasamatsu *et al.* 1990). An additional 23 at-sea sightings described in Sekiguchi *et al.* (2006) have expanded the knowledge of the species. The sightings were circumpolar, mostly in offshore waters with sea surface temperatures of 0.9–10.3 °C, with a concentration south of the Auckland Islands (Sekiguchi *et al.* 2006). Sightings have been reported for the west coast of Northland and off the southeast coast of South Island (NZDOC 2017b). Strandings have occurred along the Bay of Plenty, South Taranaki Bight, Banks Peninsula, Otago Peninsula, Catlins Coast, and the Auckland Islands (NZDOC 2017b). The spectacled porpoise is rare; it is not expected to occur in the proposed North Island survey area but could occur off South Island.

New Zealand Fur Seal

New Zealand fur seals are found on rocky shores around the mainland, Chatham Islands and the Subantarctic islands (including Macquarie Island) of New Zealand. They are also found much further afield in South Australia, Western Australia and Tasmania. Off Otago, New Zealand fur seal's prey stay very deep underwater during the day, and then come closer to the surface at night. Here, fur seals feed almost exclusively at night, when prey is closer to the surface, as deep as 163 m during summer. Their summer foraging is concentrated over the continental shelf, or near the slope. They will dive continuously from sundown to sunrise. In autumn and winter, they dive much deeper with many dives greater than 100 m. At least some females dive deeper than 240 m, and from satellite tracking they may forage up to 200 km beyond the continental slope in water deeper than 1000 m (NZDOC 2017a).

On the east coast of North Island, there are at least 15 haul-out sites and three breeding areas between Cape Palliser and Bay of Plenty, including haul out sites along Hawke's Bay, on East Cape, and in the Bay of Plenty (Clement 2010). In addition, there are also at least two haul-out sites along the northeast coast of South Island (Taylor *et al.* 1995). Numerous nearshore and offshore sightings have been made within the proposed survey area east of North Island from seismic vessels off the southeast coast of North Island (Blue Planet Marine 2016; SIO n.d.). New Zealand fur seals would likely be encountered during the proposed surveys off the North and South Islands.

New Zealand Sea Lion

The New Zealand sea lion is New Zealand's only endemic pinniped. It is one of the world's rarest pinnipeds, with a highly restricted breeding range between 50 ° S. and 53 ° S., primarily on the Auckland (50 ° S., 166 ° E.) and Campbell islands (52°33 S., 169°09 E.) (Gales & Fletcher 1999; McNally 2001; Childerhouse *et al.* 2005).

Sea lions that were satellite-tracked in the Auckland Islands during January and February foraged over the entire shelf out to a water depth of 500 m (Chilvers 2009; Meynier *et al.* 2014) and beyond (Geschke and Chilvers 2009), including near the southeastern-most edge of the proposed survey area. New Zealand sea lions are also known to forage on arrow squid near Snares Islands (Lalas and Webster 2013). Numerous nearshore and offshore sightings have been made off South Island from seismic vessels, including off the southeast coast, east of Stewart Island, and east of Snares Island (Blue Planet Marine 2016). It is possible that New Zealand sea lions would be encountered during the proposed survey off South Island, but unlikely that they would be encountered in the proposed survey areas off North Island.

Leopard Seal

Adult leopard seals are normally found along the edge of the Antarctic pack ice but in winter, young animals move throughout the Southern Ocean and occasionally occur in New Zealand, including the Auckland and Campbell Islands, and the mainland (NZDOC 2017a). Auckland and Campbell islands are known to have leopard seals annually and the mainland regularly receives visitors (NZDOC 2017a). Numerous sightings have been made along the North and South Islands, not only in the winter but also during January–March (NZDOC 2017b). Sightings for the North Island include Cook Strait, Cape Palliser, the Bay of Plenty, and Hauruki Gulf; there is also one record for offshore waters of the study area off the southeast coast of North Island. For the South Island, sightings have been reported on all coasts, including Forveaux Strait and Stewart Island off the south coast, and in offshore waters off the southeast coast of Stewart Island during January–March.

Southern Elephant Seal

The southern elephant seal has a near circumpolar distribution in the Southern Hemisphere (Jefferson *et al.* 2015). However, the distribution of southern elephant seals does not typically extend to the proposed survey areas (NABIS 2017). Breeding colonies occur on some New Zealand sub-Antarctic Islands, including Antipodes and Campbell Islands (Suisted and Neale 2004); these are part of the Macquarie Island stock of southern elephant seals (Taylor and Taylor 1989). Pups are occasionally born during September–October on east coast beaches of the mainland, including the southern coast of South Island (between Oamaru and Nugget Point), Kaikoura Peninsula, and on the southeast coast of North Island (Taylor and Taylor 1989; Harcourt 2001).

Even though mainland New Zealand is not part of their regular distribution, juvenile southern elephant seals are sometimes seen over the shelf of South Island (van den Hoff *et al.* 2002; Field *et al.* 2004); there are numerous sightings along the southeastern and southwestern coasts of South Island in the marine mammal sightings and strandings database (NZDOC 2017b). Most sightings occur during the haul-out period in July and August and between November and January during the molt (van den Hoff 2001). Sightings have been made on the northeastern coast of South Island, including Kaikoura Peninsula (Harcourt 2001; van den Hoff 2001; NZDOC 2017b). Individuals have also occurred in the Bay of Plenty and Gisborne (Harcourt 2001); others have been seen in Wellington and other North Island beaches (Daniel 1971), and off Cape Palliser during the austral summer (NZDOC 2017b).

Marine Mammal Hearing—Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency

cetaceans). Subsequently, NMFS (2016) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

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

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

TABLE 3—MARINE FUNCTIONAL MAMMAL HEARING GROUPS AND THEIR GENERALIZED HEARING RANGES

Hearing group	Generalized hearing range *
Low frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, Kogia, river dolphins, cephalorhynchid, Lagenorhynchus cruciger and L. australis).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.,* 2007) and PW pinniped (approximation).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Thirty-eight marine mammal species have the reasonable potential to co-occur with the proposed survey activities (Table 2). Of the cetacean species that may be present, 9 are classified as low-frequency cetaceans (*i.e.,* all mysticete species), 21 are classified as mid-frequency cetaceans (*i.e.,* all delphinid and ziphiid species and the sperm whale), and 4 are classified as high-frequency cetaceans (*i.e.,* Kogia spp.). For the four pinniped species that may be present, 2 are otariids and 2 are classified as phocids.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The ''Estimated Take by Incidental Harassment'' section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis and Determination'' section considers the content of this section, the ''Estimated Take by Incidental Harassment'' section, and the ''Proposed Mitigation'' section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Description of Active Acoustic Sound Sources

This section contains a brief technical background on sound, the characteristics of certain sound types, and on metrics used in this proposal inasmuch as the information is relevant to the specified activity and to a discussion of the potential effects of the specified activity on marine mammals found later in this document.

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in Hz or cycles per second. Wavelength is the distance between two peaks or corresponding points of a sound wave (length of one cycle). Higher frequency sounds have shorter wavelengths than lower frequency sounds, and typically attenuate (decrease) more rapidly, except in certain cases in shallower water. Amplitude is the height of the sound pressure wave or the ''loudness'' of a sound and is typically described using the relative unit of the decibel (dB). A sound pressure level (SPL) in dB is described as the ratio between a measured pressure and a reference pressure (for underwater sound, this is 1 microPascal (μPa)) and is a logarithmic unit that accounts for large variations in amplitude; therefore, a relatively small change in dB corresponds to large changes in sound pressure. The source level (SL) represents the SPL referenced at a distance of 1 m from the source (referenced to 1 μPa) while the received level is the SPL at the listener's position (referenced to 1 μPa).

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Root mean square is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Root mean square accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper,

2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

Sound exposure level (SEL; represented as dB re 1 μPa^2-s) represents the total energy contained within a pulse and considers both intensity and duration of exposure. Peak sound pressure (also referred to as zero-to-peak sound pressure or 0-p) is the maximum instantaneous sound pressure measurable in the water at a specified distance from the source and is represented in the same units as the rms sound pressure. Another common metric is peak-to-peak sound pressure (pk-pk), which is the algebraic difference between the peak positive and peak negative sound pressures. Peak-to-peak pressure is typically approximately 6 dB higher than peak pressure (Southall *et al.,* 2007).

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 a manner similar to ripples on the surface of a pond and may be either directed in a beam or beams or may radiate in all directions (omnidirectional sources), as is the case for pulses produced by the airgun arrays considered here. 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.,* wind and waves, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic (*e.g.,* vessels, dredging, construction) sound. 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 sound 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 sound 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 sound at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times.
- Biological: Marine mammals can contribute significantly to ambient sound levels, as can some fish and snapping shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz.
- Anthropogenic: Sources of ambient sound related to human activity include transportation (surface vessels), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Vessel noise typically dominates the total ambient sound 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. 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 human activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from a given activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals. Details of source types are described in the following text.

Sounds are often considered to fall into one of two general types: Pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts.

Pulsed sound sources (*e.g.,* airguns, explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986, 2005; Harris, 1998; NIOSH, 1998; ISO, 2003) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI, 1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems (such as those used by the U.S. Navy). The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Airgun arrays produce pulsed signals with energy in a frequency range from about 10–2,000 Hz, with most energy radiated at frequencies below 200 Hz. The amplitude of the acoustic wave emitted from the source is equal in all directions (*i.e.,* omnidirectional), but airgun arrays do possess some directionality due to different phase delays between guns in different directions. Airgun arrays are typically tuned to maximize functionality for data acquisition purposes, meaning that sound transmitted in horizontal directions and at higher frequencies is minimized to the extent possible.

As described above, a Kongsberg EM 122 MBES, a Knudsen Chirp 3260 SBP, and a Teledyne RDI 75 kHz Ocean Surveyor ADCP would be operated continuously during the proposed surveys, but not during transit to and from the survey areas. Due to the lower

source level of the Kongsberg EM 122 MBES relative to the *Langseth's* airgun array (242 dB re 1 μPa · m for the MBES versus a minimum of 249.4 dB re 1 μPa · m (rms) for the 36 airgun array and a minimum of 243.6 dB re 1 μPa · m (rms) for the 18 airgun array) (NSF–USGS, 2011; Table 6), sounds from the MBES are expected to be effectively subsumed by the sounds from the airgun array. Thus, any marine mammal potentially exposed to sounds from the MBES would already have been exposed to sounds from the airgun array, which are expected to propagate further in the water. Each ping emitted by the MBES consists of eight (in water >1,000 m deep) or four (<1,000 m) successive fan-shaped transmissions, each ensonifying a sector that extends 1° fore–aft. Given the movement and speed of the vessel, the intermittent and narrow downward-directed nature of the sounds emitted by the MBES would result in no more than one or two brief ping exposures of any individual marine mammal, if any exposure were to occur. Due to the lower source levels of both the Knudsen Chirp 3260 SBP and the Teledyne RDI 75 kHz Ocean Surveyor ADCP relative to the *Langseth's* airgun array (maximum SL of 222 dB re 1 μPa · m for the SBP and maximum SL of 224 dB re 1 μPa · m for the ADCP, versus a minimum of 249.4 dB re 1 μPa · m for the 36 airgun array and a minimum of 243.6 dB re 1 μPa · m for the 18 airgun array) (NSF–USGS, 2011; Table 6 above), sounds from the SBP and ADCP are expected to be effectively subsumed by sounds from the airgun array. Thus, any marine mammal potentially exposed to sounds from the SBP and/or the ADCP would already have been exposed to sounds from the airgun array, which are expected to propagate further in the water. As such, we conclude that the likelihood of marine mammal take resulting from exposure to sound from the MBES, SBP or ADCP is discountable and therefore we do not consider noise from the MBES, SBP or ADCP further in this analysis.

Acoustic Effects

Here, we discuss the effects of active acoustic sources on marine mammals.

Potential Effects of Underwater Sound—Please refer to the information given previously (''Description of Active Acoustic 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; Götz *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 use of airgun arrays.

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 non-auditory physical or physiological effects only briefly as we do not expect that use of the airgun arrays is reasonably likely to result in such effects (see below for further discussion). Potential effects from impulsive sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight injury of the internal organs and the auditory system, or mortality (Yelverton *et al.,* 1973). 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; Tal *et al.,* 2015). The survey activities considered here do not involve the use of devices such as explosives or mid-frequency tactical sonar that are associated with these types of effects.

1. *Threshold Shift*—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 (Finneran, 2015). 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, and there is no PTS data for cetaceans but such relationships 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 airgun 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.

For mid-frequency cetaceans in particular, potential protective mechanisms may help limit onset of TTS or prevent onset of PTS. Such mechanisms include dampening of hearing, auditory adaptation, or behavioral amelioration (*e.g.,* Nachtigall and Supin, 2013; Miller *et al.,* 2012; Finneran *et al.,* 2015; Popov *et al.,* 2016).

TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts.

Finneran *et al.* (2015) measured hearing thresholds in three captive bottlenose dolphins before and after exposure to ten pulses produced by a seismic airgun in order to study TTS induced after exposure to multiple pulses. Exposures began at relatively low levels and gradually increased over a period of several months, with the highest exposures at peak SPLs from 196 to 210 dB and cumulative (unweighted) SELs from 193–195 dB. No substantial TTS was observed. In addition, behavioral reactions were observed that indicated that animals can learn behaviors that effectively mitigate noise exposures (although exposure patterns must be learned, which is less likely in wild animals than for the captive animals considered in this study). The authors note that the failure to induce more significant auditory effects was likely due to the intermittent nature of exposure, the relatively low peak pressure produced by the acoustic source, and the low-frequency energy in airgun pulses as compared with the frequency range of best sensitivity for dolphins and other mid-frequency cetaceans.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale, harbor porpoise, and Yangtze finless porpoise) exposed to a limited number of sound sources (*i.e.,* mostly tones and octave-band noise) in laboratory settings (Finneran, 2015). In general, harbor porpoises have a lower TTS onset than other measured cetacean species (Finneran, 2015). 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.

Critical questions remain regarding the rate of TTS growth and recovery after exposure to intermittent noise and the effects of single and multiple pulses. Data at present are also insufficient to construct generalized models for recovery and determine the time necessary to treat subsequent exposures as independent events. More information is needed on the relationship between auditory evoked potential and behavioral measures of TTS for various stimuli. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007), Finneran and Jenkins (2012), Finneran (2015), and NMFS (2016).

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). 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). However, many delphinids approach acoustic source vessels with no apparent discomfort or obvious behavioral change (*e.g.,* Barkaszi *et al.,* 2012).

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; 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.

Visual tracking, passive acoustic monitoring, and movement recording tags were used to quantify sperm whale behavior prior to, during, and following exposure to airgun arrays at received levels in the range 140–160 dB at distances of 7–13 km, following a phase-in of sound intensity and full array exposures at 1–13 km (Madsen *et al.,* 2006; Miller *et al.,* 2009). Sperm whales did not exhibit horizontal avoidance behavior at the surface. However, foraging behavior may have been affected. The sperm whales exhibited 19 percent less vocal (buzz) rate during full exposure relative to post exposure, and the whale that was approached most closely had an extended resting period and did not resume foraging until the airguns had ceased firing. The remaining whales continued to execute foraging dives throughout exposure; however, swimming movements during foraging dives were 6 percent lower during exposure than control periods (Miller *et al.,* 2009). These data raise concerns that seismic surveys may impact foraging behavior in sperm whales, although more data are required to understand whether the differences were due to exposure or natural variation in sperm whale behavior (Miller *et al.,* 2009).

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, 2005, 2006; Gailey *et al.,* 2007; Gailey *et al.,* 2016).

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.,* 2007). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al.,* 1994).

Cerchio *et al.* (2014) used passive acoustic monitoring to document the presence of singing humpback whales off the coast of northern Angola and to opportunistically test for the effect of seismic survey activity on the number of singing whales. Two recording units were deployed between March and December 2008 in the offshore environment; numbers of singers were counted every hour. Generalized Additive Mixed Models were used to assess the effect of survey day (seasonality), hour (diel variation), moon phase, and received levels of noise (measured from a single pulse during each ten minute sampled period) on singer number. The number of singers significantly decreased with increasing received level of noise, suggesting that humpback whale breeding activity was disrupted to some extent by the survey activity.

Castellote *et al.* (2012) reported acoustic and behavioral changes by fin whales in response to shipping and airgun noise. Acoustic features of fin whale song notes recorded in the Mediterranean Sea and northeast Atlantic Ocean were compared for areas with different shipping noise levels and traffic intensities and during a seismic airgun survey. During the first 72 h of the survey, a steady decrease in song received levels and bearings to singers indicated that whales moved away from the acoustic source and out of the study area. This displacement persisted for a time period well beyond the 10-day duration of seismic airgun activity, providing evidence that fin whales may avoid an area for an extended period in the presence of increased noise. The authors hypothesize that fin whale acoustic communication is modified to compensate for increased background noise and that a sensitization process may play a role in the observed temporary displacement.

Seismic pulses at average received levels of 131 dB re 1 μPa^2-s caused blue whales to increase call production (Di Iorio and Clark, 2010). In contrast, McDonald *et al.* (1995) tracked a blue whale with seafloor seismometers and reported that it stopped vocalizing and changed its travel direction at a range of 10 km from the acoustic source vessel (estimated received level 143 dB pk-pk). Blackwell *et al.* (2013) found that bowhead whale call rates dropped significantly at onset of airgun use at sites with a median distance of 41–45 km from the survey. Blackwell *et al.* (2015) expanded this analysis to show that whales actually increased calling rates as soon as airgun signals were detectable before ultimately decreasing calling rates at higher received levels (*i.e.,* 10-minute SEL_{cum} of ~127 dB). Overall, these results suggest that bowhead whales may adjust their vocal output in an effort to compensate for noise before ceasing vocalization effort

and ultimately deflecting from the acoustic source (Blackwell *et al.,* 2013, 2015). These studies demonstrate that even low levels of noise received far from the source can induce changes in vocalization and/or behavior for mysticetes.

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). Humpback whales showed avoidance behavior in the presence of an active seismic array during observational studies and controlled exposure experiments in western Australia (McCauley *et al.,* 2000). 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.,* 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.

Stone (2015) reported data from at-sea observations during 1,196 seismic surveys from 1994 to 2010. When large arrays of airguns (considered to be 500 in^3 or more) were firing, lateral displacement, more localized avoidance, or other changes in behavior were evident for most odontocetes. However, significant responses to large arrays were found only for the minke whale and fin whale. Behavioral responses observed included changes in swimming or surfacing behavior, with indications that cetaceans remained near the water surface at these times. Cetaceans were recorded as feeding less often when large arrays were active. Behavioral observations of gray whales during a seismic survey monitored whale movements and respirations pre-, during and post-seismic survey (Gailey *et al.,* 2016). Behavioral state and water depth were the best 'natural' predictors of whale movements and respiration and, after considering natural variation, none of the response variables were significantly associated with seismic survey or vessel sounds.

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 sufficiently 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; Erbe *et al.,* 2016). 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.,* 2007; 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.

Other Potential Impacts

Here, we discuss potential effects of the proposed activity on marine mammals other than sound.

Ship Strike—Vessel collisions with marine mammals, or ship strikes, can result in death or serious injury of the animal. Wounds resulting from ship strike may include massive trauma, hemorrhaging, broken bones, or propeller lacerations (Knowlton and Kraus, 2001). An animal at the surface may be struck directly by a vessel, a surfacing animal may hit the bottom of a vessel, or an animal just below the surface may be cut by a vessel's propeller. Superficial strikes may not kill or result in the death of the animal. These interactions are typically associated with large whales (*e.g.,* fin whales), which are occasionally found draped across the bulbous bow of large commercial ships upon arrival in port. Although smaller cetaceans are more maneuverable in relation to large vessels than are large whales, they may also be susceptible to strike. The severity of injuries typically depends on the size and speed of the vessel, with the probability of death or serious injury increasing as vessel speed increases (Knowlton and Kraus, 2001; Laist *et al.,* 2001; Vanderlaan and Taggart, 2007; Conn and Silber, 2013). Impact forces increase with speed, as does the probability of a strike at a given distance (Silber *et al.,* 2010; Gende *et al.,* 2011).

Pace and Silber (2005) also found that the probability of death or serious injury increased rapidly with increasing vessel speed. Specifically, the predicted probability of serious injury or death increased from 45 to 75 percent as vessel speed increased from 10 to 14 kn, and exceeded 90 percent at 17 kn. Higher speeds during collisions result in greater force of impact, but higher speeds also appear to increase the chance of severe injuries or death through increased likelihood of collision by pulling whales toward the vessel (Clyne, 1999; Knowlton *et al.,* 1995). In a separate study, Vanderlaan and Taggart (2007) analyzed the probability of lethal mortality of large whales at a given speed, showing that the greatest rate of change in the probability of a lethal injury to a large whale as a function of vessel speed occurs between 8.6 and 15 kn. The chances of a lethal injury decline from approximately 80 percent at 15 kn to approximately 20 percent at 8.6 kn. At speeds below 11.8 kn, the chances of lethal injury drop below 50 percent, while the probability asymptotically increases toward one hundred percent above 15 kn.

The *Langseth* travels at a speed of ~8.3 km/hour while towing seismic survey gear (LGL 2017). At this speed, both the possibility of striking a marine mammal and the possibility of a strike resulting in serious injury or mortality are discountable. At average transit speed, the probability of serious injury or mortality resulting from a strike is less than 50 percent. However, the likelihood of a strike actually happening is again discountable. Ship strikes, as analyzed in the studies cited above, generally involve commercial shipping, which is much more common in both

space and time than is geophysical survey activity. Jensen and Silber (2004) summarized ship strikes of large whales worldwide from 1975–2003 and found that most collisions occurred in the open ocean and involved large vessels (*e.g.,* commercial shipping). Commercial fishing vessels were responsible for three percent of recorded collisions, while no such incidents were reported for geophysical survey vessels during that time period.

It is possible for ship strikes to occur while traveling at slow speeds. For example, a hydrographic survey vessel traveling at low speed (5.5 kn) while conducting mapping surveys off the central California coast struck and killed a blue whale in 2009. The State of California determined that the whale had suddenly and unexpectedly surfaced beneath the hull, with the result that the propeller severed the whale's vertebrae, and that this was an unavoidable event. This strike represents the only such incident in approximately 540,000 hours of similar coastal mapping activity ($p = 1.9 \times 10^{-6}$; 95% CI = $0–5.5 \times 10^{-6}$; NMFS, 2013b). In addition, a research vessel reported a fatal strike in 2011 of a dolphin in the Atlantic, demonstrating that it is possible for strikes involving smaller cetaceans to occur. In that case, the incident report indicated that an animal apparently was struck by the vessel's propeller as it was intentionally swimming near the vessel. While indicative of the type of unusual events that cannot be ruled out, neither of these instances represents a circumstance that would be considered reasonably foreseeable or that would be considered preventable.

Although the likelihood of the vessel striking a marine mammal is low, we require a robust ship strike avoidance protocol (see ''Proposed Mitigation''), which we believe eliminates any foreseeable risk of ship strike. We anticipate that vessel collisions involving a seismic data acquisition vessel towing gear, while not impossible, represent unlikely, unpredictable events for which there are no preventive measures. Given the required mitigation measures, the relatively slow speed of the vessel towing gear, the presence of bridge crew watching for obstacles at all times (including marine mammals), and the presence of marine mammal observers, we believe that the possibility of ship strike is discountable and, further, that were a strike of a large whale to occur, it would be unlikely to result in serious injury or mortality. No incidental take resulting from ship strike is anticipated, and this potential effect of the specified activity will not be discussed further in the following analysis.

Stranding— When a living or dead marine mammal swims or floats onto shore and becomes ''beached'' or incapable of returning to sea, the event is a ''stranding'' (Geraci *et al.,* 1999; Perrin and Geraci, 2002; Geraci and Lounsbury, 2005; NMFS, 2007). The legal definition for a stranding within the United States under the MMPA is that ''(A) a marine mammal is dead and is (i) on a beach or shore of the United States; or (ii) in waters under the jurisdiction of the United States (including any navigable waters); or (B) a marine mammal is alive and is (i) on a beach or shore of the United States and unable to return to the water; (ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or (iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance'' (16 U.S.C. 1421h(3)).

Marine mammals 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. However, the cause or causes of most strandings are unknown (Geraci *et al.,* 1976; Eaton, 1979; Odell *et al.,* 1980; Best, 1982). Numerous studies suggest that the physiology, behavior, habitat relationships, age, or condition of cetaceans may cause them to strand or might pre-dispose them to strand when exposed to another phenomenon. These suggestions are consistent with the conclusions of numerous other studies that have demonstrated that combinations of dissimilar stressors commonly combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other does not produce the same result (Chroussos, 2000; Creel, 2005; DeVries *et al.,* 2003; Fair and Becker, 2000; Foley *et al.,* 2001; Moberg, 2000; Relyea, 2005a; 2005b, Romero, 2004; Sih *et al.,* 2004).

Use of military tactical sonar has been implicated in a majority of investigated stranding events, although one stranding event was associated with the use of seismic airguns. This event occurred in the Gulf of California, coincident with seismic reflection profiling by the R/V *Maurice Ewing* operated by Columbia University's Lamont-Doherty Earth Observatory and involved two Cuvier's beaked whales (Hildebrand, 2004). The vessel had been firing an array of 20 airguns with a total volume of 8,500 in^3 (Hildebrand, 2004; Taylor *et al.,* 2004). Most known stranding events have involved beaked whales, though a small number have involved deep-diving delphinids or sperm whales (*e.g.,* Mazzariol *et al.,* 2010; Southall *et al.,* 2013). In general, long duration (~1 second) and high-intensity sounds (>235 dB SPL) have been implicated in stranding events (Hildebrand, 2004). With regard to beaked whales, mid-frequency sound is typically implicated (when causation can be determined) (Hildebrand, 2004). Although seismic airguns create predominantly low-frequency energy, the signal does include a mid-frequency component. We have considered the potential for the proposed survey to result in marine mammal stranding and have concluded that, based on the best available information, stranding is not expected to occur.

Entanglement and discharges—We are not aware of any records of marine mammal entanglement in towed arrays such as those considered here. The discharge of trash and debris is prohibited (33 CFR 151.51–77) unless it is passed through a machine that breaks up solids such that they can pass through a 25-mm mesh screen. All other trash and debris must be returned to shore for proper disposal with municipal and solid waste. Some personal items may be accidentally lost overboard. However, U.S. Coast Guard and Environmental Protection Act regulations require operators to become proactive in avoiding accidental loss of solid waste items by developing waste management plans, posting informational placards, manifesting trash sent to shore, and using special precautions such as covering outside trash bins to prevent accidental loss of solid waste. There are no meaningful entanglement risks posed by the described activity, and entanglement risks are not discussed further in this document.

Marine mammals could be affected by accidentally spilled diesel fuel from a vessel associated with proposed survey activities. Quantities of diesel fuel on the sea surface may affect marine mammals through various pathways: Surface contact of the fuel with skin and other mucous membranes, inhalation of concentrated petroleum vapors, or ingestion of the fuel (direct ingestion or by the ingestion of oiled prey) (*e.g.,* Geraci and St. Aubin, 1980, 1985, 1990). However, the likelihood of a fuel spill during any particular geophysical survey is considered to be remote, and the potential for impacts to marine mammals would depend greatly on the

size and location of a spill and meteorological conditions at the time of the spill. Spilled fuel would rapidly spread to a layer of varying thickness and break up into narrow bands or windrows parallel to the wind direction. The rate at which the fuel spreads would be determined by the prevailing conditions such as temperature, water currents, tidal streams, and wind speeds. Lighter, volatile components of the fuel would evaporate to the atmosphere almost completely in a few days. Evaporation rate may increase as the fuel spreads because of the increased surface area of the slick. Rougher seas, high wind speeds, and high temperatures also tend to increase the rate of evaporation and the proportion of fuel lost by this process (Scholz *et al.,* 1999). We do not anticipate potentially meaningful effects to marine mammals as a result of any contaminant spill resulting from the proposed survey activities, and contaminant spills are not discussed further in this document.

Anticipated Effects on Marine Mammal Habitat

Effects to Prey—Marine mammal prey varies by species, season, and location and, for some, is not well documented. Fish react to sounds which 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 pulsed sound on fish, although several are based on studies in support of 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 survey activities at the project area would be temporary avoidance of the area. The duration of fish avoidance of a given area after survey effort stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated.

Information on seismic airgun impacts to zooplankton, which represent an important prey type for mysticetes, is limited. However, McCauley *et al.* (2017) reported that experimental exposure to a pulse from a 150 inch^3 airgun decreased zooplankton abundance when compared with controls, as measured by sonar and net tows, and caused a two- to threefold increase in dead adult and larval zooplankton. Although no adult krill were present, the study found that all larval krill were killed after air gun passage. Impacts were observed out to the maximum 1.2 km range sampled.

In general, impacts to marine mammal prey are expected to be limited due to the relatively small temporal and spatial overlap between the proposed survey and any areas used by marine mammal prey species. The proposed survey would occur over a relatively short time period (90 days) and would occur over a very small area relative to the area available as marine mammal habitat in the Pacific Ocean off New Zealand. We do not have any information to suggest the proposed survey area represents a significant feeding area for any marine mammal, and we believe any impacts to marine mammals due to adverse affects to their prey would be insignificant due to the limited spatial and temporal impact of the proposed survey. However, adverse impacts may occur to a few species of fish and to zooplankton.

Acoustic Habitat—Acoustic habitat is the soundscape—which encompasses all of the sound present in a particular location and time, as a whole—when considered from the perspective of the animals experiencing it. Animals produce sound for, or listen for sounds produced by, conspecifics (communication during feeding, mating, and other social activities), other animals (finding prey or avoiding predators), and the physical environment (finding suitable habitats, navigating). Together, sounds made by animals and the geophysical environment (*e.g.,* produced by earthquakes, lightning, wind, rain, waves) make up the natural contributions to the total acoustics of a place. These acoustic conditions, termed acoustic habitat, are one attribute of an animal's total habitat.

Soundscapes are also defined by, and acoustic habitat influenced by, the total contribution of anthropogenic sound. This may include incidental emissions from sources such as vessel traffic, or may be intentionally introduced to the marine environment for data acquisition purposes (as in the use of airgun arrays). Anthropogenic noise varies widely in its frequency content, duration, and loudness and these characteristics greatly influence the potential habitat-mediated effects to marine mammals (please see also the previous discussion on masking under ''Acoustic Effects''), which may range from local effects for brief periods of time to chronic effects over large areas and for long durations. Depending on the extent of effects to habitat, animals may alter their communications signals (thereby potentially expending additional energy) or miss acoustic cues (either conspecific or adventitious). For more detail on these concepts see, *e.g.,* Barber *et al.,* 2010; Pijanowski *et al.,* 2011; Francis and Barber, 2013; Lillis *et al.,* 2014.

Problems arising from a failure to detect cues are more likely to occur when noise stimuli are chronic and overlap with biologically relevant cues used for communication, orientation, and predator/prey detection (Francis and Barber, 2013). Although the signals emitted by seismic airgun arrays are generally low frequency, they would also likely be of short duration and transient in any given area due to the nature of these surveys. As described previously, exploratory surveys such as these cover a large area but would be transient rather than focused in a given location over time and therefore would not be considered chronic in any given location.

In summary, activities associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat or populations of fish species or on the quality of acoustic habitat. Thus, any impacts to marine mammal habitat are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of whether the number of takes is ''small'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would primarily be by Level B harassment, as use of the seismic airguns have the potential to result in disruption of behavioral patterns for individual marine

mammals. There is also some potential for auditory injury (Level A harassment) to result, primarily for mysticetes and high frequency cetaceans (*i.e.,* kogiidae spp.), due to larger predicted auditory injury zones for those functional hearing groups. Auditory injury is unlikely to occur for mid-frequency species given very small modeled zones of injury for those species. The proposed mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable.

As described previously, no serious injury or mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Described in the most basic way, we estimate take by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and (4) and the number of days of activities. Below, we describe these components in more detail and present the exposure estimate and associated numbers of take proposed for authorization.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources— Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.* 2011). Based on the best available science and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider to fall under Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous sources (*e.g.* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources. L–DEO's proposed activity includes the use of impulsive seismic sources. Therefore, the 160 dB re 1 μPa (rms) criteria is applicable for analysis of level B harassment.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (NMFS, 2016) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). The Technical Guidance identifies the received levels, or thresholds, above which individual marine mammals are predicted to experience changes in their hearing sensitivity for all underwater anthropogenic sound sources, reflects the best available science, and better predicts the potential for auditory injury than does NMFS' historical criteria.

These thresholds were developed by compiling and synthesizing the best available science and soliciting input multiple times from both the public and peer reviewers to inform the final product, and are provided in Table 4 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.* As described above, L–DEO's proposed activity includes the use of intermittent and impulsive seismic sources.

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT IN MARINE MAMMALS

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

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

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

Ensonified Area

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

The proposed survey would entail use of a 36-airgun array with a total discharge of 6,600 in^3 at a tow depth of 9 m and an 18-airgun array with a total discharge of 3,300 in^3 at a tow depth of 7–9 m. Received sound levels were predicted by L–DEO's model (Diebold *et al.,* 2010) as a function of distance from the 36-airgun array and 18-airgun array and for a single 40-in^3 airgun which would be used during power downs; all models used a 9 m tow depth. This

modeling approach uses ray tracing for the direct wave traveling from the array to the receiver and its associated source ghost (reflection at the air-water interface in the vicinity of the array), in a constant-velocity half-space (infinite homogeneous ocean layer, unbounded by a seafloor). In addition, propagation measurements of pulses from the 36-airgun array at a tow depth of 6 m have been reported in deep water (approximately 1600 m), intermediate water depth on the slope (approximately 600–1100 m), and shallow water (approximately 50 m) in the Gulf of Mexico in 2007–2008 (Tolstoy *et al.* 2009; Diebold *et al.* 2010).

For deep and intermediate-water cases, L–DEO determined that the field measurements cannot be used readily to derive mitigation radii, as at those sites the calibration hydrophone was located at a roughly constant depth of 350–500 m, which may not intersect all the SPL isopleths at their widest point from the sea surface down to the maximum relevant water depth for marine mammals of approximately 2,000 m (See Appendix H in NSF–USGS 2011). At short ranges, where the direct arrivals dominate and the effects of seafloor interactions are minimal, the data recorded at the deep and slope sites are suitable for comparison with modeled levels at the depth of the calibration hydrophone. At longer ranges, the comparison with the mitigation model—constructed from the maximum SPL through the entire water column at varying distances from the airgun array—is the most relevant. Please see the IHA application for further discussion of summarized results.

For deep water (>1000 m), L–DEO used the deep-water radii obtained from model results down to a maximum water depth of 2000 m. The radii for intermediate water depths (100–1000 m) were derived from the deep-water ones by applying a correction factor (multiplication) of 1.5, such that observed levels at very near offsets fall below the corrected mitigation curve (See Fig. 16 in Appendix H of NSF–USGS, 2011). The shallow-water radii were obtained by scaling the empirically derived measurements from the Gulf of Mexico calibration survey to account for the differences in tow depth between the calibration survey (6 m) and the proposed surveys (9 m). A simple scaling factor is calculated from the ratios of the isopleths determined by the deep-water L–DEO model, which are essentially a measure of the energy radiated by the source array.

Measurements have not been reported for the single 40-in^3 airgun. L–DEO model results are used to determine the 160-dB (rms) radius for the 40-in^3 airgun at a 9 m tow depth in deep water (See LGL 2017, Figure 6). For intermediate-water depths, a correction factor of 1.5 was applied to the deep-water model results. For shallow water, a scaling of the field measurements obtained for the 36-airgun array was used.

L–DEO's modeling methodology is described in greater detail in the IHA application (LGL 2017) and we refer the reader to that document rather than repeating it here. The estimated distances to the Level B harassment isopleth for the *Langseth's* 36-airgun array, 18-airgun array, and the single 40-in^3 airgun are shown in Table 5.

TABLE 5—PREDICTED RADIAL DISTANCES FROM R/V LANGSETH SEISMIC SOURCE TO ISOPLETHS CORRESPONDING TO LEVEL B HARASSMENT THRESHOLD

Source and volume	Water depth	Predicted distance to threshold (160 dB re 1 μPa) [1]
1 airgun, 40 in^3.	>1000 m	388 m.
	100–1000 m	582 m.
	<100 m	938 m.
18 airguns, 3,300 in^3.	>1000 m	3,562 m.
	100–1000 m	5,343 m.
	<100 m	10,607 m.
36 airguns, 6,600 in^3.	>1000 m	5,629 m.
	100–1000 m	8,444 m.
	<100 m	22,102 m.

[1] Distances for depths >1000 m are based on L–DEO model results. Distance for depths 100–1000 m are based on L–DEO model results with a 1.5 × correction factor between deep and intermediate water depths. Distances for depths <100 m are based on empirically derived measurements in the Gulf of Mexico with scaling applied to account for differences in tow depth.

Predicted distances to Level A harassment isopleths, which vary based on marine mammal hearing groups (Table 3), were calculated based on modeling performed by L–DEO using the NUCLEUS software program and the NMFS User Spreadsheet, described below. The updated acoustic thresholds for impulsive sounds (*e.g.,* airguns) contained in the Technical Guidance were presented as dual metric acoustic thresholds using both SEL_{cum} and peak sound pressure metrics (NMFS 2016). As dual metrics, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the two metrics is exceeded (*i.e.,* metric resulting in the largest isopleth). The SEL_{cum} metric considers both level and duration of exposure, as well as auditory weighting functions by marine mammal hearing group. In recognition of the fact that the requirement to calculate Level A harassment ensonified areas could be more technically challenging to predict due to the duration component and the use of weighting functions in the new SEL_{cum} thresholds, NMFS developed an optional User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to facilitate the estimation of take numbers.

The values for SEL_{cum} and peak SPL for the *Langseth* airgun array were derived from calculating the modified farfield signature (Table 6). The farfield signature is often used as a theoretical representation of the source level. To compute the farfield signature, the source level is estimated at a large distance below the array (*e.g.,* 9 km), and this level is back projected mathematically to a notional distance of 1 m from the array's geometrical center. However, when the source is an array of multiple airguns separated in space, the source level from the theoretical farfield signature is not necessarily the best measurement of the source level that is physically achieved at the source (Tolstoy *et al.* 2009). Near the source (at short ranges, distances <1 km), the pulses of sound pressure from each individual airgun in the source array do not stack constructively, as they do for the theoretical farfield signature. The pulses from the different airguns spread out in time such that the source levels observed or modeled are the result of the summation of pulses from a few airguns, not the full array (Tolstoy *et al.* 2009). At larger distances, away from the source array center, sound pressure of all the airguns in the array stack coherently, but not within one time sample, resulting in smaller source levels (a few dB) than the source level derived from the farfield signature. Because the farfield signature does not take into account the large array effect near the source and is calculated as a point source, the modified farfield signature is a more appropriate measure of the sound source level for distributed sound sources, such as airgun arrays. L–DEO used the acoustic modeling methodology as used for Level B takes with a small grid step of 1 m in both the inline and depth directions. The propagation modeling takes into account all airgun interactions at short distances from the source, including interactions between subarrays which are modeled using the NUCLEUS software to estimate the notional signature and MATLAB software to

calculate the pressure signal at each mesh point of a grid.

TABLE 6—MODELED SOURCE LEVELS BASED ON MODIFIED FARFIELD SIGNATURE FOR THE R/V LANGSETH 6,600 IN^3 AIRGUN ARRAY, 3,300 IN^3 AIRGUN ARRAY, AND SINGLE 40 IN^3 AIRGUN

	Low frequency cetaceans ($L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB)	Mid frequency cetaceans ($L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	High frequency cetaceans ($L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB)	Phocid Pinnipeds (Underwater) ($L_{pk,flat}$: 218 dB; $L_{E,HF,24h}$: 185 dB)	Otariid Pinnipeds (Underwater) ($L_{pk,flat}$: 232 dB; $L_{E,HF,24h}$: 203 dB)
6,600 in^3 airgun array (Peak SPL_{flat})	250.77	252.76	249.44	250.50	252.72
6,600 in^3 airgun array (SEL_{cum})	232.75	232.67	232.83	232.67	231.07
3,300 in^3 airgun array (Peak SPL_{flat})	246.34	250.98	243.64	246.03	251.92
3,300 in^3 airgun array (SEL_{cum})	226.22	226.13	226.75	226.13	226.89
40 in^3 airgun (Peak SPL_{flat})	224.02	225.16	224.00	224.09	226.64
40 in^3 airgun (SEL_{cum})	202.33	202.35	203.12	202.35	202.61

In order to more realistically incorporate the Technical Guidance's weighting functions over the seismic array's full acoustic band, unweighted spectrum data for the *Langseth's* airgun array (modeled in 1 Hz bands) was used to make adjustments (dB) to the unweighted spectrum levels, by frequency, according to the weighting functions for each relevant marine mammal hearing group. These adjusted/weighted spectrum levels were then converted to pressures (micropascals) in order to integrate them over the entire broadband spectrum, resulting in broadband weighted source levels by hearing group that could be directly incorporated within the User Spreadsheet (*i.e.,* to override the Spreadsheet's more simple weighting factor adjustment). Using the User Spreadsheet's ''safe distance'' methodology for mobile sources (described by Sivle *et al.,* 2014) with the hearing group-specific weighted source levels, and inputs assuming spherical spreading propagation and source velocities and shot intervals specific to each of the three proposed surveys (Table 1), potential radial distances to auditory injury zones were then calculated for SEL_{cum} thresholds.

Inputs to the User Spreadsheets in the form of estimated SLs are shown in Table 6. User Spreadsheets used by L–DEO to estimate distances to Level A harassment isopleths (SEL_{cum}) for the 36-airgun array, 18-airgun array, and the single 40 in^3 airgun for the South Island 2–D survey, North Island 2–D survey, and North Island 3–D survey are shown in Tables 3, 4, 7, 10, 11, and 12, of the IHA application (LGL 2017). Outputs from the User Spreadsheets in the form of estimated distances to Level A harassment isopleths for the South Island 2–D survey, North Island 2–D survey, and North Island 3–D survey are shown in Tables 7, 8 and 9, respectively. As described above, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the dual metrics (SEL_{cum} and Peak SPL_{flat}) is exceeded (*i.e.,* metric resulting in the largest isopleth).

TABLE 7—MODELED RADIAL DISTANCES (m) TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT THRESHOLDS DURING PROPOSED NORTH ISLAND 2–D SURVEY

	Low frequency cetaceans ($L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB)	Mid frequency cetaceans ($L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	High frequency cetaceans ($L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB)	Phocid Pinnipeds (Underwater) ($L_{pk,flat}$: 218 dB; $L_{E,HF,24h}$: 185 dB)	Otariid Pinnipeds (Underwater) ($L_{pk,flat}$: 232 dB; $L_{E,HF,24h}$: 203 dB)
6,600 in^3 airgun array (Peak SPL_{flat})	38.8	13.8	229.2	42.2	10.9
6,600 in^3 airgun array (SEL_{cum})	501.3	0	1.2	13.2	0
40 in^3 airgun (Peak SPL_{flat})	1.8	0.6	12.6	2.0	0.5
40 in^3 airgun (SEL_{cum})	0.4	0	0	0	0

TABLE 8—MODELED RADIAL DISTANCES (m) TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT THRESHOLDS DURING PROPOSED NORTH ISLAND 3–D SURVEY

	Low frequency cetaceans ($L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB)	Mid frequency cetaceans ($L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	High frequency cetaceans ($L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB)	Phocid Pinnipeds (Underwater) ($L_{pk,flat}$: 218 dB; $L_{E,HF,24h}$: 185 dB)	Otariid Pinnipeds (Underwater) ($L_{pk,flat}$: 232 dB; $L_{E,HF,24h}$: 203 dB)
3,300 in^3 airgun array (Peak SPL_{flat})	23.3	11.2	119.0	25.2	9.9
3,300 in^3 airgun array (SEL_{cum})	73.1	0	0.3	2.8	0
40 in^3 airgun (Peak SPL_{flat})	1.8	0.6	12.6	2.0	0.5
40 in^3 airgun (SEL_{cum})	0.4	0	0	0	0

TABLE 9—MODELED RADIAL DISTANCES (m) TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT THRESHOLDS DURING PROPOSED SOUTH ISLAND 2–D SURVEY

	Low frequency cetaceans ($L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB)	Mid frequency cetaceans ($L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	High frequency cetaceans ($L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB)	Phocid Pinnipeds (Underwater) ($L_{pk,flat}$: 218 dB; $L_{E,HF,24h}$: 185 dB)	Otariid Pinnipeds (Underwater) ($L_{pk,flat}$: 232 dB; $L_{E,HF,24h}$: 203 dB)
6,600 in³ airgun array (Peak SPL_{flat})	38.8	13.8	229.2	42.2	10.9
6,600 in³ airgun array (SEL_{cum})	376.0	0	0.9	9.9	0
40 in³ airgun (Peak SPL_{flat})	1.8	0.6	12.6	2.0	0.5
40 in³ airgun (SEL_{cum})	0.3	0	0	0	0

Note that because of some of the assumptions included in the methods used, isopleths produced may be overestimates to some degree, which will ultimately result in some degree of overestimate of Level A take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools and will qualitatively address the output where appropriate. For mobile sources, such as the proposed seismic survey, the User Spreadsheet predicts the closest distance at which a stationary animal would not incur PTS if the sound source traveled by the animal in a straight line at a constant speed.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. The best available scientific information was considered in conducting marine mammal exposure estimates (the basis for estimating take).

No systematic aircraft- or ship-based surveys have been conducted for marine mammals in offshore waters of the South Pacific Ocean off New Zealand that can be used to estimate species densities that we are aware of, with the exception of Hector's dolphin surveys that have occurred off the South Island. Densities for Hector's dolphins off the South Island were estimated using averaged estimated summer densities from the most southern stratum of an East Coast South Island survey (Otago) and a West Coast South Island survey (Milford Sound), both in three offshore strata categories (0–4 nm, 4–12 nm, and 12–20 nm; MacKenzie and Clement 2014, 2016). The estimated density for Hector's dolphins for the South Island 2–D survey was based on the proportion of that survey occurring in each offshore stratum.

For cetacean species other than Hector's dolphin, densities were derived from data available for the Southern Ocean (Butterworth *et al.* 1994; Kasamatsu and Joyce 1995) (See Table 17 in the IHA application). Butterworth *et al.* (1994) provided comparable data for sei, fin, blue, and sperm whales extrapolated to latitudes 30–40° S., 40–50° S., and 50–60° S. based on Japanese scouting vessel data from 1965/66–1977/78 and 1978/79–1987/88. Densities were calculated for these species based on abundances and surface areas provided in Butterworth *et al.* (1994) using the mean density for the more recent surveys (1978/79–1987/88) and the 30–40° S. and 40–50° S. strata, because the proposed survey areas are between ~37° S. and 50° S. Densities were corrected for mean trackline detection probability, *g*(0) availability bias, using mean *g*(0) values provided for these species during NMFS Southwest Fisheries Science Center ship-based surveys between 1991–2014 (Barlow 2016). Data for the humpback whale was also presented in Butterworth *et al.* (1994), but, based on the best available information, it was determined that the density values presented for humpback whales in Butterworth *et al.* (1994) were likely lower than would be expected in the proposed survey areas, thus the density for humpback whales was ultimately calculated in the same way as for the baleen whales for which density data was unavailable. Kasamatsu and Joyce (1995) provided data for beaked whales, killer whales, long-finned pilot whales, and Hourglass dolphins, based on surveys conducted as part of the International Whaling Commission/International Decade of Cetacean Research–Southern Hemisphere Minke Whale Assessment, started in 1978/79, and the Japanese sightings survey program started in 1976/77. Densities for these species were calculated based on abundances and surface areas provided in Kasamatsu and Joyce (1995) for Antarctic Areas V EMN and VI WM, which represent the two areas reported in Kasamatsu and Joyce (1995) that are nearest to the proposed South Island survey area. Densities were corrected for availability bias using mean *g*(0) values provided by Kasamatsu and Joyce (1995) for beaked whales, killer whales, and long-fined pilot whales, and provided by Barlow (2016) for the Hourglass dolphin using the mean *g*(0) calculated for unidentified dolphins during NMFS Southwest Fisheries Science Center ship-based surveys between 1991–2014.

For the remaining cetacean species, the relative abundances of individual species expected to occur in the survey areas were estimated within species groups. The relative abundances of these species were estimated based on several factors, including information on marine mammal observations from areas near the proposed survey areas (*e.g.,* monitoring reports from previous IHAs (NMFS, 2015); datasets of opportunistic sightings (Torres *et al.,* 2014); and analyses of observer data from other marine geophysical surveys conducted in New Zealand waters (Blue Planet, 2016)), information on latitudinal ranges and group sizes of marine mammals in New Zealand waters (*e.g.,* Jefferson *et al.,* 2015; NABIS, 2017; Perrin *et al.,* 2009), and other information on marine mammals in and near the proposed survey areas (*e.g.,* data on marine mammal bycatch in New Zealand fisheries (Berkenbush *et al.,* 2013), data on marine mammal strandings (New Zealand Marine Mammal Strandings and Sightings Database); and input from subject matter experts (pers. comm., E. Slooten, Univ. of Otago, to H. Goldstein, NMFS, April 11, 2015)).

For each species group (*i.e.,* mysticetes), densities of species for which data were available were averaged to get a mean density for the group (*e.g.,* densities of fin, sei, and blue whale were averaged to get a mean density for mysticetes). Relative abundances of those species were then averaged to get a mean relative

abundances (*e.g.,* relative abundance of fin, sei, and blue whale were averaged to get a mean relative abundance for mysticetes). For the species for which density data was unavailable, their relative abundance score was multiplied by the mean density of their respective species group (*i.e.,* relative abundance of minke whale was multiplied by mean density for mysticetes). The product was then divided by the mean relative abundance of the species group to come up with a density estimate. The fin, sei, and blue whale densities calculated from Butterworth *et al.* (1994) were proportionally averaged and used to estimate the densities of the remaining mysticetes. The sperm whale density calculated from Butterworth *et al.* (1994) was used to estimate the density of the other *Physeteridae* species, the pygmy sperm whale. The Hourglass dolphin, killer whale, and long-finned pilot whale densities calculated from Kasamatsu and Joyce (1995) were proportionally averaged and used to estimate the densities of the other *Delphinidae* for which density data was not available. For beaked whales, the beaked whale density calculated from Kasamatsu and Joyce (1995) was proportionally allocated according to each beaked whale species' estimated relative abundance value.

We are not aware of any information regarding at-sea densities of pinnipeds off New Zealand. As such, a surrogate species (northern fur seal) was used to estimate offshore pinniped densities for the proposed surveys. The at-sea density of northern fur seals reported in Bonnell *et al.* (1992), based on systematic aerial surveys conducted in 1989–1990 in offshore areas off the west coast of the U.S., was used to estimate the numbers of pinnipeds that might be present off New Zealand. The northern fur seal density reported in Bonnell *et al.* (1992) was used as the New Zealand fur seal density. Densities for the other three pinniped species expected to occur in the proposed survey areas were proportionally allocated relative to the value of the density of the northern fur seal, in accordance to the estimated relative abundance value of each of the other pinniped species.

NMFS acknowledges there is some uncertainty related to the estimated density data and the assumptions used in their calculations. Given the lack of available data on marine mammal density in the proposed survey areas, the approach used is based on the best available data. In recognition of the uncertainties in the density data, we have proposed an additional 25 percent contingency in take estimates to account for the fact that density estimates used to estimate take may be underestimates of actual densities of marine mammals in the survey area.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate. In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in Level A harassment or Level B harassment, radial distances from the airgun array to predicted isopleths corresponding to the Level A harassment and Level B harassment thresholds are calculated, as described above. Those radial distances are then used to calculate the area(s) around the airgun array predicted to be ensonified to sound levels that exceed the Level A harassment and Level B harassment thresholds. The area estimated to be ensonified in a single day of the survey is then calculated (Table 10), based on the areas predicted to be ensonified around the array and the estimated trackline distance traveled per day. This number is then multiplied by the number of survey days (*i.e.,* 35 days for the North Island 2–D survey, 33 days for the North Island 3–D survey, and 22 days for the South Island 2–D survey). The product is then multiplied by 1.5 to account for an additional 25 percent contingency for potential additional seismic operations (associated with turns, airgun testing, and repeat coverage of any areas where initial data quality is sub-standard, as proposed by L–DEO) and an additional 25 percent contingency in acknowledgement of uncertainties in available density estimates, as described above. This results in an estimate of the total areas (km^2) expected to be ensonified to the Level A harassment and Level B harassment thresholds. For purposes of Level B take calculations, areas estimated to be ensonified to Level A harassment thresholds are subtracted from total areas estimated to be ensonified to Level B harassment thresholds in order to avoid double counting the animals taken (*i.e.,* if an animal is taken by Level A harassment, it is not also counted as taken by Level B harassment). The marine mammals predicted to occur within these respective areas, based on estimated densities, are assumed to be incidentally taken.

TABLE 10—AREAS (km^2) ESTIMATED TO BE ENSONIFIED TO LEVEL A AND LEVEL B HARASSMENT THRESHOLDS PER DAY FOR THREE PROPOSED SEISMIC SURVEYS OFF NEW ZEALAND

Survey	Level B harassment threshold	Level A harassment threshold [1]				
	All marine mammals	Low frequency cetaceans	Mid frequency cetaceans	High frequency cetaceans	Otariid Pinnipeds	Phocid Pinnipeds
North Island 2–D Survey	1,931.3	144.5	3.9	65.8	3.1	12.0
North Island 3–D Survey	1,067.3	29.1	4.5	47.5	3.9	10.0
South Island 2–D Survey	1,913.4	111.1	4.1	86.3	3.2	12.4

[1] Level A ensonified areas are estimated based on the greater of the distances calculated to Level A isopleths using dual criteria (SEL_{cum} and $_{peak}SPL$).

Note: Estimated areas shown for single day do not include additional 50 percent contingency.

Factors including water depth, array configuration, and proportion of each survey occurring within territorial seas (versus within the EEZ) were also accounted for in estimates of ensonified areas. This was accomplished by selecting track lines for a single day (for each of the three proposed surveys) that were representative of the entire proposed survey(s) and using those representative track lines to calculate daily ensonified areas. Daily track line distance was selected depending on array configuration (*i.e.,* 160 km per day for the proposed 2–D surveys, 200 km per day for the proposed 3–D survey). Representative daily track lines were chosen to reflect the proportion of water depths (*i.e.,* less than 100 m, 100–1,000 m, and greater than 1,000 m) expected to occur for that entire survey (Table 5)

as distances to isopoloths corresponding to harassment vary depending on water depth (Table 5), and water depths vary considerably within the planned survey areas (Table 1). Representative track lines were also selected to reflect the amount of effort in the New Zealand territorial sea (versus within the New Zealand EEZ), for each of the three surveys, as NMFS does not authorize the incidental take of marine mammals within the New Zealand territorial sea. For example, for the proposed North Island 2–D survey approximately 9 percent of survey effort would occur in the New Zealand territorial sea (Table 1). Thus, representative track lines that were chosen also had approximately 9 percent of survey effort in territorial seas; the resultant ensonified areas within territorial seas were excluded from take calculations.

Estimated takes for all marine mammal species are shown in Tables 11, 12, 13 and 14. As described above, we propose to authorize the incidental takes that are expected to occur as a result of the proposed surveys within the New Zealand EEZ but outside of the New Zealand territorial sea.

TABLE 11—NUMBERS OF POTENTIAL INCIDENTAL TAKE OF MARINE MAMMALS PROPOSED FOR AUTHORIZATION DURING L–DEO'S PROPOSED NORTH ISLAND 2–D SEISMIC SURVEY OFF NEW ZEALAND

Species	Density (#/1,000 km^2)	Proposed Level A takes	Proposed Level B takes	Total proposed Level A and Level B takes	Total proposed Level A and Level B takes as a percentage of population
Southern right whale	0.24	2	23	25	0.18
Pygmy right whale	0.10	1	10	11	N.A.
Humpback whale	0.24	2	23	25	0.05
Bryde's whale	0.14	1	14	15	0.03
Common minke whale	0.14	1	14	15	<0.01
Antarctic minke whale	0.14	1	14	15	<0.01
Sei whale	0.14	1	14	15	0.13
Fin whale	0.25	2	24	26	0.14
Blue whale	0.04	0	4	4	0.11
Sperm whale	2.89	0	293	293	0.82
Cuvier's beaked whale	2.62	0	265	221	0.04
Arnoux's beaked whale	2.62	0	265	221	0.04
Southern bottlenose whale	1.74	0	177	148	0.02
Shepard's beaked whale	1.74	0	177	148	0.02
Hector's beaked whale	1.74	0	177	148	0.02
True's beaked whale	0.87	0	89	74	N.A.
Gray's beaked whale	3.49	1	353	354	0.05
Andrew's beaked whale	1.74	0	177	148	0.02
Strap-toothed whale	2.62	0	265	221	0.04
Blainville's beaked whale	0.87	0	89	74	0.01
Spade-toothed whale	0.87	0	89	74	0.01
Bottlenose dolphin	5.12	1	519	520	N.A.
Short-beaked common dolphin	10.25	2	1038	1040	N.A.
Dusky dolphin	5.12	1	519	520	3.61
Southern right-whale dolphin	3.07	1	312	313	N.A.
Risso's dolphin	2.05	0	208	208	N.A.
False killer whale	3.07	1	312	313	N.A.
Killer whale	1.91	0	194	194	0.20
Long-finned pilot whale	8.28	1	838	839	0.35
Short-finned pilot whale	4.10	1	415	416	N.A.
Pygmy sperm whale	1.74	3	172	175	N.A.
Hourglass dolphin	4.16	12	410	418	0.12
Hector's dolphin	0	0	0	0	0
Spectacled porpoise	0	0	0	0	0
New Zealand fur seal	22.50	3	2279	2283	0.50
New Zealand sea lion	0	0	0	0	0
Southern elephant seal	4.50	2	454	456	0.03
Leopard seal	2.25	1	227	228	0.04

TABLE 12—NUMBERS OF POTENTIAL INCIDENTAL TAKE OF MARINE MAMMALS PROPOSED FOR AUTHORIZATION DURING L–DEO'S PROPOSED NORTH ISLAND 3–D SEISMIC SURVEY OFF NEW ZEALAND

Species	Density (#/1,000 km^2)	Proposed Level A takes	Proposed Level B takes	Total proposed Level A and Level B takes	Total proposed Level A and Level B takes as a percentage of population
Southern right whale	0.24	0	13	13	0.09
Pygmy right whale	0.10	0	5	5	N.A.
Humpback whale	0.24	0	13	13	0.03

TABLE 12—NUMBERS OF POTENTIAL INCIDENTAL TAKE OF MARINE MAMMALS PROPOSED FOR AUTHORIZATION DURING L–DEO'S PROPOSED NORTH ISLAND 3–D SEISMIC SURVEY OFF NEW ZEALAND—Continued

Species	Density (#/1,000 km²)	Proposed Level A takes	Proposed Level B takes	Total proposed Level A and Level B takes	Total proposed Level A and Level B takes as a percentage of population
Bryde's whale	0.14	0	8	8	0.01
Common minke whale	0.14	0	8	8	<0.01
Antarctic minke whale	0.14	0	8	8	<0.01
Sei whale	0.14	0	8	8	0.07
Fin whale	0.25	0	13	13	0.07
Blue whale	0.04	0	3	3	0.05
Sperm whale	2.89	1	153	154	0.43
Cuvier's beaked whale	2.62	0	138	138	0.02
Arnoux's beaked whale	2.62	0	138	138	0.02
Southern bottlenose whale	1.74	0	92	92	0.01
Shepard's beaked whale	1.74	0	92	92	0.01
Hector's beaked whale	1.74	0	92	92	0.01
True's beaked whale	0.87	0	46	46	N.A.
Gray's beaked whale	3.49	1	184	185	0.03
Andrew's beaked whale	1.74	0	92	92	0.01
Strap-toothed whale	2.62	0	138	138	0.02
Blainville's beaked whale	0.87	0	46	46	0.01
Spade-toothed whale	0.87	0	46	46	0.01
Bottlenose dolphin	5.12	1	270	271	N.A.
Short-beaked common dolphin	10.25	2	540	540	N.A.
Dusky dolphin	5.12	1	270	271	1.88
Southern right-whale dolphin	3.07	1	162	163	N.A.
Risso's dolphin	2.05	0	108	108	N.A.
False killer whale	3.07	1	162	163	N.A.
Killer whale	1.91	0	101	101	0.11
Long-finned pilot whale	8.28	2	436	438	0.18
Short-finned pilot whale	4.10	1	216	217	N.A.
Pygmy sperm whale	1.74	3	89	92	N.A.
Hourglass dolphin	4.16	8	212	220	0.12
Hector's dolphin	0	0	0	0	0
Spectacled porpoise	0	0	0	0	0
New Zealand fur seal	22.50	4	1186	1190	0.50
New Zealand sea lion	0	0	0	0	0
Southern elephant seal	4.50	2	236	238	0.03
Leopard seal	2.25	1	118	119	0.04

TABLE 13—NUMBERS OF POTENTIAL INCIDENTAL TAKE OF MARINE MAMMALS PROPOSED FOR AUTHORIZATION DURING L–DEO'S PROPOSED SOUTH ISLAND 2–D SEISMIC SURVEY OFF NEW ZEALAND

Species	Density (#/1,000 km²)	Proposed Level A takes	Proposed Level B takes	Total proposed Level A and Level B takes	Total proposed Level A and Level B takes as a percentage of population
Southern right whale	0.24	1	15	16	0.11
Pygmy right whale	0.10	0	6	6	N.A.
Humpback whale	0.19	1	12	13	0.02
Bryde's whale	0.00	0	0	0	0
Common minke whale	0.14	0	9	9	<0.01
Antarctic minke whale	0.14	0	9	9	<0.01
Sei whale	0.14	0	9	9	0.08
Fin whale	0.25	1	15	16	0.09
Blue whale	0.04	0	3	3	0.08
Sperm whale	2.89	0	183	183	0.51
Cuvier's beaked whale	2.62	0	165	165	0.02
Arnoux's beaked whale	2.62	0	165	165	0.02
Southern bottlenose whale	1.74	0	110	110	0.02
Shepard's beaked whale	1.74	0	110	110	0.02
Hector's beaked whale	1.74	0	110	110	0.02
True's beaked whale	0.87	0	55	55	N.A.
Gray's beaked whale	3.49	0	220	220	0.03
Andrew's beaked whale	1.74	0	110	110	0.02

TABLE 13—NUMBERS OF POTENTIAL INCIDENTAL TAKE OF MARINE MAMMALS PROPOSED FOR AUTHORIZATION DURING L–DEO'S PROPOSED SOUTH ISLAND 2–D SEISMIC SURVEY OFF NEW ZEALAND—Continued

Species	Density (#/1,000 km²)	Proposed Level A takes	Proposed Level B takes	Total proposed Level A and Level B takes	Total proposed Level A and Level B takes as a percentage of population
Strap-toothed whale	2.62	0	165	165	0.02
Blainville's beaked whale	0.87	0	55	55	0.01
Spade-toothed whale	0.87	0	55	55	0.01
Bottlenose dolphin	4.78	1	302	303	N.A.
Short-beaked common dolphin	4.78	1	302	303	N.A.
Dusky dolphin	7.65	1	483	484	3.36
Southern right-whale dolphin	2.87	0	181	181	N.A.
Risso's dolphin	1.91	0	121	121	N.A.
False killer whale	2.87	0	181	181	N.A.
Killer whale	1.91	0	121	121	0.13
Long-finned pilot whale	8.28	1	522	523	0.22
Short-finned pilot whale	1.91	0	121	121	N.A.
Pygmy sperm whale	1.74	4	106	110	N.A.
Hourglass dolphin	4.16	10	253	263	0.15
Hector's dolphin	0.04	0	3	3	0.01
Spectacled porpoise	1.91	5	117	122	N.A.
New Zealand fur seal	22.50	2	1419	1421	0.59
New Zealand sea lion	9.00	1	568	569	4.80
Southern elephant seal	4.50	2	283	285	0.04
Leopard seal	2.25	1	142	143	0.05

TABLE 14—TOTAL NUMBERS OF POTENTIAL INCIDENTAL TAKE OF MARINE MAMMALS PROPOSED FOR AUTHORIZATION DURING L–DEO'S PROPOSED NORTH ISLAND 3–D SURVEY, NORTH ISLAND 2–D SURVEY, AND SOUTH ISLAND 3–D SURVEYS OF THE R/V LANGSETH OFF NEW ZEALAND

Species	Density (#/1,000 km²)	Proposed Level A takes	Proposed Level B takes	Total proposed Level A and Level B takes	Total proposed Level A and Level B takes as a percentage of population
Southern right whale	0.24	3	51	54	0.38
Pygmy right whale	0.10	1	21	22	N.A.
Humpback whale	0.19	3	48	51	0.1
Bryde's whale	0.00	1	22	23	0.04
Common minke whale	0.14	1	31	32	N.A.
Antarctic minke whale	0.14	1	31	32	N.A.
Sei whale	0.14	1	31	32	0.28
Fin whale	0.25	3	52	55	0.3
Blue whale	0.04	0	10	10	0.24
Sperm whale	2.89	1	629	630	1.76
Cuvier's beaked whale	2.62	0	568	568	0.08
Arnoux's beaked whale	2.62	0	568	568	0.08
Southern bottlenose whale	1.74	0	379	379	0.05
Shepard's beaked whale	1.74	0	379	379	0.05
Hector's beaked whale	1.74	0	379	379	0.05
True's beaked whale	0.87	0	190	190	N.A.
Gray's beaked whale	3.49	2	757	759	0.11
Andrew's beaked whale	1.74	0	379	379	0.05
Strap-toothed whale	2.62	0	568	568	0.08
Blainville's beaked whale	0.87	0	190	190	0.03
Spade-toothed whale	0.87	0	190	190	0.03
Bottlenose dolphin	4.78	3	1091	1094	N.A.
Short-beaked common dolphin	4.78	5	1880	1885	N.A.
Dusky dolphin	7.65	3	1272	1275	8.85
Southern right-whale dolphin	2.87	2	655	657	N.A.
Risso's dolphin	1.91	0	437	437	N.A.
False killer whale	2.87	2	655	657	N.A.
Killer whale	1.91	0	416	416	0.44
Long-finned pilot whale	8.28	4	1796	1800	0.75
Short-finned pilot whale	1.91	2	752	754	N.A.
Pygmy sperm whale	1.74	12	367	379	N.A.
Hourglass dolphin	4.16	30	875	905	0.39

TABLE 14—TOTAL NUMBERS OF POTENTIAL INCIDENTAL TAKE OF MARINE MAMMALS PROPOSED FOR AUTHORIZATION DURING L–DEO'S PROPOSED NORTH ISLAND 3–D SURVEY, NORTH ISLAND 2–D SURVEY, AND SOUTH ISLAND 3–D SURVEYS OF THE R/V LANGSETH OFF NEW ZEALAND—Continued

Species	Density (#/1,000 km^2)	Proposed Level A takes	Proposed Level B takes	Total proposed Level A and Level B takes	Total proposed Level A and Level B takes as a percentage of population
Hector's dolphin	0.04	0	3	3	0.01
Spectacled porpoise	1.91	5	117	122	N.A.
New Zealand fur seal	22.50	9	4884	4893	1.59
New Zealand sea lion	9.00	1	568	569	0.38
Southern elephant seal	4.50	6	973	979	N.A.
Leopard seal	2.25	3	487	490	0.1

It should be noted that the proposed take numbers shown in Tables 11, 12, 13 and 14 are expected to be conservative for several reasons. First, in the calculations of estimated take, 50 percent has been added in the form of operational survey days (equivalent to adding 50 percent to the proposed line km to be surveyed) to account for the possibility of additional seismic operations associated with airgun testing and repeat coverage of any areas where initial data quality is sub-standard, and in recognition of the uncertainties in the density estimates used to estimate take as described above. Additionally, marine mammals would be expected to move away from a loud sound source that represents an aversive stimulus, such as an airgun array, potentially reducing the number of Level A takes. However, the extent to which marine mammals would move away from the sound source is difficult to quantify and is therefore not accounted for in the take estimates shown in 11, 12, 13 and 14.

For some marine mammal species, we propose to authorize a different number of incidental takes than the number of incidental takes requested by L–DEO (see Tables 18, 19 and 20 in the IHA application for requested take numbers). For instance, for several species, L–DEO increased the take request from the calculated take number to 1 percent of the estimated population size. We do not believe it is likely that 1 percent of the estimated population size of those species will be taken by L–DEO's proposed survey, therefore we do not propose to authorize the take numbers requested by L–DEO in their IHA application (LGL, 2017). However, in recognition of the uncertainties in the density estimates used to estimate take as described above, we believe it is reasonable to assume that actual takes may exceed numbers of takes calculated based on available density estimates; therefore, we have increased take estimates for all marine mammal species by an additional 25 percent, to account for the fact that density estimates used to estimate take may be underestimates of actual densities of marine mammals in the survey area. Additionally, L–DEO requested authorization for 10 takes of Hector's dolphins during the North Island 2–D survey (LGL, 2017). However, we do not propose to authorize any takes of Hector's dolphins during North Island surveys. We believe the likelihood of the proposed North Island 2–D survey encountering a Hector's dolphin is extremely low. As described above, the North Island subpopulation of Hector's dolphin (aka Maui dolphin) is very unlikely to be encountered during either proposed North Island survey due to the very low estimated abundance of the subpopulation and due to the geographic isolation of the subpopulation (currently limited to the west coast of the North Island). Additionally, while it would be extremely unlikely for the proposed surveys to encounter a Hector's dolphin during North Island surveys, any Hector's dolphin encountered in waters off the North Island would possibly be a member of the Maui dolphin subspecies. As described above, the Maui dolphin is facing a high risk of extinction (Manning and Grantz, 2016) and has a population size estimated at just 55–63 individuals (Hamner *et al.* 2014; Baker *et al.* 2016). Therefore, we seek to avoid the remote possibility of exposure of Maui dolphins to airgun sounds. As such, we do not propose to authorize any takes of Hector's dolphins during L–DEO's proposed North Island surveys. Additionally, we propose a mitigation measure that would require shutdown of the airgun array upon observation of a Hector's dolphin at any distance during both proposed North Island surveys (described below in Proposed Mitigation), which further minimizes the potential for any take of Hector's dolphins during the proposed North Island surveys.

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, ''and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking'' for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

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

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

of effective implementation (probability implemented as planned), and

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

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

To reduce the potential for disturbance from acoustic stimuli associated with the activities, L–DEO has proposed to implement the following mitigation measures for marine mammals:

(1) Vessel-based visual mitigation monitoring;

(2) Vessel-based passive acoustic monitoring;

(3) Establishment of an exclusion zone;

(4) Power down procedures;

(5) Shutdown procedures;

(6) Ramp-up procedures; and

(7) Vessel strike avoidance measures.

In addition to the mitigation measures proposed by L–DEO, NMFS has proposed the following additional measure: Shutdown of the acoustic source is required upon observation of a beaked whale or kogia spp., a large whale with calf, or a Hector's dolphin (during North Island surveys only) at any distance.

Vessel-Based Visual Mitigation Monitoring

Protected Species Observer (PSO) observations would take place during all daytime airgun operations and nighttime start ups (if applicable) of the airguns. Airgun operations would be suspended when marine mammals are observed within, or about to enter, designated Exclusion Zones (as described below). PSOs would also watch for marine mammals near the vessel for at least 30 minutes prior to the planned start of airgun operations. PSOs would monitor the entire extent of the modeled Level B harassment zone (Table 4) (or, as far as they are able to see, if they cannot see to the extent of the estimated Level B harassment zone). Observations would also be made during daytime periods when the *Langseth* is underway without seismic operations, such as during transits, to allow for comparison of sighting rates and behavior with and without airgun operations and between acquisition periods.

During seismic operations, a minimum of four visual PSOs would be based aboard the *Langseth.* PSOs would be appointed by L–DEO, with NMFS' approval. During the majority of seismic operations, two PSOs would monitor for marine mammals around the seismic vessel. Use of two simultaneous observers would increase the effectiveness of detecting marine mammals around the source vessel. However, during meal times, only one PSO may be on duty. PSO(s) would be on duty in shifts of duration no longer than 4 hours. Other crew would also be instructed to assist in detecting marine mammals and in implementing mitigation requirements (if practical). Before the start of the seismic survey, the crew would be given additional instruction in detecting marine mammals and implementing mitigation requirements. The *Langseth* is a suitable platform for marine mammal observations. When stationed on the observation platform, PSOs would have a good view around the entire vessel. During daytime, the PSO(s) would scan the area around the vessel systematically with reticle binoculars (*e.g.,* 7×50 Fujinon), Big-eye binoculars (25×150), and with the naked eye.

The PSOs must have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements. PSO resumes would be provided to NMFS for approval. At least two PSOs must have a minimum of 90 days at-sea experience working as PSOs during a high energy seismic survey, with no more than eighteen months elapsed since the conclusion of the at-sea experience. One ''experienced'' visual PSO would be designated as the lead for the entire protected species observation team. The lead would coordinate duty schedules and roles for the PSO team and serve as primary point of contact for the vessel operator. The lead PSO would devise the duty schedule such that ''experienced'' PSOs are on duty with those PSOs with appropriate training but who have not yet gained relevant experience, to the maximum extent practicable.

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

In summary, a typical daytime cruise would have scheduled two observers (visual) on duty from the observation platform, and an acoustic observer on the passive acoustic monitoring system.

Vessel-Based Passive Acoustic Mitigation Monitoring

Passive acoustic monitoring (PAM) would take place to complement the visual monitoring program. Visual monitoring typically is not effective during periods of poor visibility or at night, and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. Acoustic monitoring can be used in addition to visual observations to improve detection, identification, and localization of cetaceans. The acoustic monitoring would serve to alert visual observers (if on duty) when vocalizing cetaceans are detected. It is only useful when marine mammals vocalize, but it can be effective either by day or by night and does not depend on good visibility. It would be monitored in real time so that visual observers can be alerted when marine mammals are detected acoustically.

The PAM system consists of hardware (*i.e.,* hydrophones) and software. The ''wet end'' of the system consists of a towed hydrophone array that is connected to the vessel by a tow cable. A deck cable would connect the tow cable to the electronics unit on board where the acoustic station, signal conditioning, and processing system would be located. The acoustic signals received by the hydrophones are amplified, digitized, and then processed by the software.

At least one acoustic PSO (in addition to the four visual PSOs) would be on board. The towed hydrophones would

be monitored 24 hours per day (either by the acoustic PSO or by a visual PSO trained in the PAM system if the acoustic PSO is on break) while at the seismic survey area during airgun operations, and during most periods when the *Langseth* is underway while the airguns are not operating. However, PAM may not be possible if damage occurs to the array or back-up systems during operations. One PSO would monitor the acoustic detection system at any one time, in shifts no longer than six hours, by listening to the signals via headphones and/or speakers and watching the real-time spectrographic display for frequency ranges produced by cetaceans.

When a vocalization is detected, while visual observations are in progress, the acoustic PSO would contact the visual PSOs immediately, to alert them to the presence of marine mammals (if they have not already been detected visually), in order to facilitate a power down or shut down, if required. The information regarding the marine mammal acoustic detection would be entered into a database.

Exclusion Zone and Buffer Zone

An exclusion zone (EZ) is a defined area within which occurrence of a marine mammal triggers mitigation action intended to reduce the potential for certain outcomes, *e.g.,* auditory injury, disruption of critical behaviors. The PSOs would establish a minimum EZ with a 500 m radius for the 36 airgun array and the 18 airgun array. The 500 m EZ would be based on radial distance from any element of the airgun array (rather than being based on the center of the array or around the vessel itself). With certain exceptions (described below), if a marine mammal appears within, enters, or appears on a course to enter this zone, the acoustic source would be powered down (see Power Down Procedures below). In addition to the 500 m EZ for the full arrays, a 100 m exclusion zone would be established for the single 40 in^3 airgun. With certain exceptions (described below), if a marine mammal appears within, enters, or appears on a course to enter this zone the acoustic source would be shut down entirely (see Shutdown Procedures below). Additionally, power down of the full arrays would last no more than 30 minutes maximum at any given time; thus the arrays would be shut down entirely if, after 30 minutes of the array being powered down, a marine mammal remains inside the 500 m EZ.

In their IHA application, L–DEO proposed to establish EZs based upon modeled radial distances to auditory injury zones (*e.g.,* power down would occur when a marine mammal entered or appeared likely to enter the zone(s) within which auditory injury is expected to occur based on modeling) (Tables 7, 8, 9). However, we instead propose the 500 m EZ as described above. The 500 m EZ is intended to be precautionary in the sense that it would be expected to contain sound exceeding peak pressure injury criteria for all cetacean hearing groups, while also providing a consistent, reasonably observable zone within which PSOs would typically be able to conduct effective observational effort. Additionally, a 500-m EZ is expected to minimize the likelihood that marine mammals will be exposed to levels likely to result in more severe behavioral responses. Although significantly greater distances may be observed from an elevated platform under good conditions, we believe that 500 m is likely regularly attainable for PSOs using the naked eye during typical conditions.

An appropriate EZ based on cumulative sound exposure level (SEL_{cum}) criteria would be dependent on the animal's applied hearing range and how that overlaps with the frequencies produced by the sound source of interest (*i.e.,* via marine mammal auditory weighting functions) (NMFS, 2016), and may be larger in some cases than the zones calculated on the basis of the peak pressure thresholds (and larger than 500 m) depending on the species in question and the characteristics of the specific airgun array. In particular, the EZ radii would be larger for low-frequency cetaceans, because their most susceptible hearing range overlaps the low frequencies produced by airguns, but the zones would remain very small for mid-frequency cetaceans (*i.e.,* including the ''small delphinoids'' described below), whose range of best hearing largely does not overlap with frequencies produced by airguns.

Use of monitoring and shutdown or power-down measures within defined exclusion zone distances is inherently an essentially instantaneous proposition—a rule or set of rules that requires mitigation action upon detection of an animal. This indicates that definition of an exclusion zone on the basis of cumulative sound exposure level thresholds, which require that an animal accumulate some level of sound energy exposure over some period of time (*e.g.,* 24 hours), has questionable relevance as a standard protocol. A PSO aboard a mobile source will typically have no ability to monitor an animal's position relative to the acoustic source over relevant time periods for purposes of understanding whether auditory injury is likely to occur on the basis of cumulative sound exposure and, therefore, whether action should be taken to avoid such potential.

Cumulative SEL thresholds are more relevant for purposes of modeling the potential for auditory injury than they are for dictating real-time mitigation, though they can be informative (especially in a relative sense). We recognize the importance of the accumulation of sound energy to an understanding of the potential for auditory injury and that it is likely that, at least for low-frequency cetaceans, some potential auditory injury is likely impossible to mitigate and should be considered for authorization.

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

Our use of 500 m as the EZ is a reasonable combination of factors. This zone is expected to contain all potential auditory injury for all marine mammals (high-frequency, mid-frequency and low-frequency cetacean functional hearing groups and otariid and phocid pinnipeds) as assessed against peak pressure thresholds (NMFS, 2016) (Tables 7, 8, 9). It is also expected to contain all potential auditory injury for high-frequency and mid-frequency cetaceans as well as otariid and phocid pinnipeds as assessed against SEL_{cum} thresholds (NMFS, 2016) (Tables 7, 8, 9). It has proven to be practicable through past implementation in seismic surveys conducted for the oil and gas industry in the Gulf of Mexico (as regulated by BOEM pursuant to the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1331–1356)). In summary, a practicable criterion such as the proposed EZs has the advantage of simplicity while still providing in most cases a zone larger than relevant auditory injury zones, given realistic movement of source and receiver.

The PSOs would also establish and monitor a 1,000 m buffer zone. During operation of the airgun arrays, occurrence of marine mammals within the 1,000 m buffer zone (but outside the

500 m EZ) would be communicated to the vessel operator to prepare for potential power down or shutdown of the acoustic source. The buffer zone is discussed further under Ramp Up Procedures below. PSOs would also monitor the entire extent of the estimated Level B harassment zone (Table 4) (or, as far as they are able to see, if they cannot see to the extent of the estimated Level B harassment zone).

Power Down Procedures

A power down involves decreasing the number of airguns in use such that the radius of the mitigation zone is decreased to the extent that marine mammals are no longer in, or about to enter, the 500 m EZ. During a power down, one 40-in^3 airgun would be operated. The continued operation of one 40-in^3 airgun is intended to alert marine mammals to the presence of the seismic vessel in the area, and to allow them to leave the area of the seismic vessel if they choose. In contrast, a shutdown occurs when all airgun activity is suspended (shutdown procedures are discussed below). If a marine mammal is detected outside the 500 m EZ but appears likely to enter the 500 m EZ, the airguns would be powered down before the animal is within the 500 m EZ. Likewise, if a mammal is already within the 500 m EZ when first detected, the airguns would be powered down immediately. During a power down of the airgun array, the 40-in^3 airgun would be operated.

Following a power down, airgun activity would not resume until the marine mammal has cleared the 500 m EZ. The animal would be considered to have cleared the 500 m EZ if the following conditions have been met:

□ It is visually observed to have departed the 500 m EZ, or

□ it has not been seen within the 500 m EZ for 15 min in the case of small odontocetes and pinnipeds, or

□ it has not been seen within the 500 m EZ for 30 min in the case of mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales.

This power down requirement would be in place for all marine mammals, with the exception of small delphinoids under certain circumstances. As defined here, the small delphinoid group is intended to encompass those members of the Family Delphinidae most likely to voluntarily approach the source vessel for purposes of interacting with the vessel and/or airgun array (*e.g.,* bow riding). This exception to the power down requirement would apply solely to specific genera of small dolphins —*Tursiops, Delphinus* and *Lissodelphis* — and would only apply if the animals were traveling, including approaching the vessel. If, for example, an animal or group of animals is stationary for some reason (*e.g.,* feeding) and the source vessel approaches the animals, the power down requirement applies. An animal with sufficient incentive to remain in an area rather than avoid an otherwise aversive stimulus could either incur auditory injury or disruption of important behavior. If there is uncertainty regarding identification (*i.e.,* whether the observed animal(s) belongs to the group described above) or whether the animals are traveling, the power down or shutdown would be implemented. Note that small dolphins in the genera *Lagenorhynchus* and *Cephalorhynchus* are not included in the proposed power down/shutdown exception.

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

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

A power down could occur for no more than 30 minutes maximum at any given time. If, after 30 minutes of the array being powered down, marine mammals had not cleared the 500 m EZ (as described above), a shutdown of the array would be implemented (see Shut Down Procedures, below). Power down is only allowed in response to the presence of marine mammals within the designated EZ. Thus, the single 40 in^3 airgun, which would be operated during power downs, may not be operated continuously throughout the night or during transits from one line to another.

Shut Down Procedures

The single 40-in^3 operating airgun would be shut down if a marine mammal is seen within or approaching the 100 m EZ for the single 40-in^3 airgun. Shutdown would be implemented if (1) an animal enters the 100 m EZ of the single 40-in^3 airgun after a power down has been initiated, or (2) an animal is initially seen within the 100 m EZ of the single 40-in^3 airgun when more than one airgun (typically the full array) is operating. Airgun activity would not resume until the marine mammal has cleared the 500 m EZ. Criteria for judging that the animal has cleared the EZ would be as described above. A shutdown of the array would be implemented if, after 30 minutes of the array being powered down, marine mammals have not cleared the 500 m EZ (as described above).

The shutdown requirement, like the power down requirement, would be waived for dolphins of the following genera: *Tursiops, Delphinus* and *Lissodelphis.* The shutdown waiver only applies if the animals are traveling, including approaching the vessel. If animals are stationary and the source vessel approaches the animals, the shutdown requirement would apply. If there is uncertainty regarding identification (*i.e.,* whether the observed animal(s) belongs to the group described above) or whether the animals are

traveling, the shutdown would be implemented.

In addition to the measures proposed by L–DEO, NMFS also proposes that a shutdown of the acoustic source would also be required, at any distance, upon observation of the following: A large whale (*i.e.,* sperm whale or any baleen whale) with a calf; a beaked whale or kogia spp.; or, a Hector's dolphin (during North Island surveys only). These are the only three potential scenarios that would require shutdown of the array for marine mammals observed beyond the 100 m EZ for the single 40 in^3 airgun. The shutdown requirement for Hector's dolphin during North Island surveys is designed to avoid any potential for exposure of a Maui dolphin to seismic airgun sounds. Maui dolphins are not expected to occur in the proposed survey areas off the North Island based on their current range. However, as described above, there have been occasional sightings and strandings of Hector's dolphins off the east coast of the North Island. While the likelihood of L–DEO's proposed surveys encountering a Maui dolphin is considered extremely low, we nonetheless include this measure to avoid any potential for exposure of a Maui dolphin to airgun sounds. In the event of a shutdown due to observation of a shutdown due to observation of a beaked whale, kogia app., or large whale with calf, ramp-up procedures would not be initiated until the Hector's dolphin has not been seen at any distance for 30 minutes. In the event of a shutdown due to observation of a Hector's dolphin (during North Island surveys only), ramp-up procedures would not be initiated until the Hector's dolphin has not been seen at any distance for 15 minutes.

Ramp-Up Procedures

Ramp-up of an acoustic source is intended to provide a gradual increase in sound levels following a power down or shutdown, enabling animals to move away from the source if the signal is sufficiently aversive prior to its reaching full intensity. The ramp-up procedure involves a step-wise increase in the number of airguns firing and total array volume until all operational airguns are activated and the full volume is achieved. Ramp-up would be required after the array is powered down or shut down due to mitigation. If the airgun array has been shut down for reasons other than mitigation (*e.g.,* mechanical difficulty) for a period of less than 30 minutes, it may be activated again without ramp-up if PSOs have maintained constant visual and acoustic observation and no visual detections of any marine mammal have occurred within the buffer zone and no acoustic detections have occurred. This is the only scenario under which ramp up would not be required.

Ramp-up would begin by activating a single airgun of the smallest volume in the array and would continue in stages by doubling the number of active elements at the commencement of each stage, with each stage of approximately the same duration.

If airguns have been powered down or shut down due to PSO detection of a marine mammal within or approaching the 500 m EZ, ramp-up would not be initiated until all marine mammals have cleared the EZ, during the day or night. Visual and acoustic PSOs are required to monitor during ramp-up. If a marine mammal were detected by visual PSOs within or approaching the 500 m EZ during ramp-up, a power down (or shut down if appropriate) would be implemented as though the full array were operational. Criteria for clearing the EZ would be as described above.

Thirty minutes of pre-clearance observation are required prior to ramp-up for any power down or shutdown of longer than 30 minutes (*i.e.,* if the array were shut down during transit from one line to another). This 30 minute pre-clearance period may occur during any vessel activity (*i.e.,* transit). If a marine mammal is observed within or approaching the 500 m EZ during this pre-clearance period, ramp-up would not be initiated until all marine mammals have cleared the EZ. Criteria for clearing the EZ would be as described above.

Ramp-up would be planned to occur during periods of good visibility when possible. However, ramp-up would be allowed at night and during poor visibility if the 500 m EZ and 1,000 m buffer zone have been monitored by visual PSOs for 30 minutes prior to ramp-up and if acoustic monitoring has occurred for 30 minutes prior to ramp-up with no acoustic detections during that period.

The operator would be required to notify a designated PSO of the planned start of ramp-up as agreed-upon with the lead PSO. A designated PSO must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed. The operator must provide information to PSOs documenting that appropriate procedures were followed. Following deactivation of the array for reasons other than mitigation, the operator would be required to communicate the near-term operational plan to the lead PSO with justification for any planned nighttime ramp-up.

L–DEO proposed that ramp up would not occur following an extended power down (LGL 2017). However, as we do not propose to allow extended power downs during the proposed survey, we also do not include this as a proposed mitigation measure and instead propose that ramp up is required after any power down or shutdown of the array, with the one exception as described above. L–DEO also proposed that ramp up would occur when the airgun array begins operating after 8 minutes without airgun operations (LGL 2017). However, we instead propose the criteria for ramp up as described above.

Vessel Strike Avoidance

Vessel strike avoidance measures are intended to minimize the potential for collisions with marine mammals. We note that these requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply.

The proposed measures include the following: Vessel operator and crew would maintain a vigilant watch for all marine mammals and slow down or stop the vessel or alter course to avoid striking any marine mammal. A visual observer aboard the vessel would monitor a vessel strike avoidance zone around the vessel according to the parameters stated below. Visual observers monitoring the vessel strike avoidance zone would be either third-party observers or crew members, but crew members responsible for these duties would be provided sufficient training to distinguish marine mammals from other phenomena. Vessel strike avoidance measures would be followed during surveys and while in transit.

The vessel would maintain a minimum separation distance of 100 m from large whales (*i.e.,* baleen whales and sperm whales). If a large whale is within 100 m of the vessel the vessel would reduce speed and shift the engine to neutral, and would not engage the engines until the whale has moved outside of the vessel's path and the minimum separation distance has been established. If the vessel is stationary, the vessel would not engage engines until the whale(s) has moved out of the vessel's path and beyond 100 m. The vessel would maintain a minimum separation distance of 50 m from all other marine mammals (with the exception of delphinids of the genera *Tursiops, Delphinus* and *Lissodelphis* that approach the vessel, as described

above). If an animal is encountered during transit, the vessel would attempt to remain parallel to the animal's course, avoiding excessive speed or abrupt changes in course. Vessel speeds would be reduced to 10 knots or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near the vessel.

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

Proposed Monitoring and Reporting

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

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

☐ Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density).

☐ Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).

☐ Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.

☐ How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.

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

☐ Mitigation and monitoring effectiveness.

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

L–DEO's monitoring and reporting plan includes the following measures:

Vessel-Based Visual Monitoring

As described above, PSO observations would take place during daytime airgun operations and nighttime start ups (if applicable) of the airguns. During seismic operations, at least four visual PSOs would be based aboard the *Langseth.* PSOs would be appointed by L–DEO with NMFS approval. During the majority of seismic operations, two PSOs would monitor for marine mammals around the seismic vessel. Use of two simultaneous observers would increase the effectiveness of detecting animals around the source vessel. However, during meal times, only one PSO may be on duty. PSOs would be on duty in shifts of duration no longer than 4 hours. Other crew would also be instructed to assist in detecting marine mammals and in implementing mitigation requirements (if practical). During daytime, PSOs would scan the area around the vessel systematically with reticle binoculars (*e.g.,* 7×50 Fujinon), Big-eye binoculars (25×150), and with the naked eye.

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

When a sighting is made, the following information about the sighting would be recorded:

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

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

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

Results from the vessel-based observations will provide:

1. The basis for real-time mitigation (airgun power down or shut down).

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

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

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

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

Vessel-Based Passive Acoustic Monitoring

PAM would take place to complement the visual monitoring program as described above. Please see the Mitigation section above for a description of the PAM system and the acoustic PSO's duties. The acoustic PSO would record data collected via the PAM system, including the following: An acoustic encounter identification number, whether it was linked with a visual sighting, date, time when first and last heard and whenever any additional information was recorded, position and water depth when first detected, bearing if determinable, species or species group (*e.g.,* unidentified dolphin, sperm whale), types and nature of sounds heard (*e.g.,*

clicks, continuous, sporadic, whistles, creaks, burst pulses, strength of signal, etc.), and any other notable information. Acoustic detections would also be recorded for further analysis.

Reporting

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

Negligible Impact Analysis and Determination

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

To avoid repetition, our analysis applies to all the species listed in Table 2, given that NMFS expects the anticipated effects of the proposed seismic survey to be similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, NMFS has identified species-specific factors to inform the analysis. As described above, we propose to authorize only the takes estimated to occur outside of New Zealand territorial sea (Tables 11, 12, 13 and 14); however, for the purposes of our negligible impact analysis and determination, we consider the total number of takes that are expected to occur as a result of the proposed survey, including those within territorial sea. Thus, our negligible impact analysis and determination accounts for the takes that are anticipated to occur as a result of the proposed surveys during the portions of those surveys that would occur within the territorial sea (approximately 9 percent of the North Island 2–D survey, 1 percent of the North Island 3–D survey, and 6 percent of the South Island 2–D survey), though we do not propose to authorize the incidental take of marine mammals during those portions of the proposed surveys.

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

We propose to authorize a limited number of instances of Level A harassment of 21 marine mammal species (Tables 11, 12, 13 and 14). However, we believe that any PTS incurred in marine mammals as a result of the proposed activity would be in the form of only a small degree of PTS, not total deafness, and would be unlikely to affect the fitness of any individuals, because of the constant movement of both the *Langseth* and of the marine mammals in the project area, as well as the fact that the vessel is not expected to remain in any one area in which individual marine mammals would be expected to concentrate for an extended period of time (*i.e.,* since the duration of exposure to loud sounds will be relatively short). Also, as described above, we expect that marine mammals would be likely to move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice of the *Langseth's* approach due to the vessel's relatively low speed when conducting seismic surveys. We expect that the majority of takes would be in the form of short-term Level B behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity were occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007).

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

The activity is expected to impact a small percentage of all marine mammal stocks that would be affected by L–DEO's proposed survey (less than 9 percent for dusky dolphin and less than 2 percent for all other marine mammal species). Additionally, the acoustic ''footprint'' of the proposed survey would be small relative to the ranges of the marine mammals that would potentially be affected. Sound levels would increase in the marine environment in a relatively small area surrounding the vessel compared to the range of the marine mammals within the proposed survey area.

The proposed mitigation measures are expected to reduce the number and/or

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

The ESA-listed marine mammal species under our jurisdiction that are likely to be taken by the proposed project include the southern right, sei, fin, blue, and sperm whale (listed as endangered) and the South Island Hector's dolphin (listed as threatened). We propose to authorize very small numbers of takes for these species (Tables 11, 12, 13 and 14), relative to their population sizes, therefore we do not expect population-level impacts to any of these species. The other marine mammal species that may be taken by harassment during the proposed survey are not listed as threatened or endangered under the ESA. There is no designated critical habitat for any ESA-listed marine mammals within the project area; and of the non-listed marine mammals for which we propose to authorize take, none are considered ''depleted'' or ''strategic'' by NMFS under the MMPA.

NMFS concludes that exposures to marine mammal species and stocks due to L–DEO's proposed survey would result in only short-term (temporary and short in duration) effects to individuals exposed. Animals may temporarily avoid the immediate area, but are not expected to permanently abandon the area. Major shifts in habitat use, distribution, or foraging success are not expected. NMFS does not anticipate the proposed take estimates to impact annual rates of recruitment or survival.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the marine mammal species or stocks through effects on annual rates of recruitment or survival:

☐ No serious injury or mortality is anticipated or authorized;

☐ The anticipated impacts of the proposed activity on marine mammals would primarily be temporary behavioral changes due to avoidance of the area around the survey vessel;

☐ The number of instances of PTS that may occur are expected to be very small in number (Tables 11, 12, 13 and 14). Instances of PTS that are incurred in marine mammals would be of a low level, due to constant movement of the vessel and of the marine mammals in the area, and the nature of the survey design (not concentrated in areas of high marine mammal concentration);

☐ The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the proposed survey to avoid exposure to sounds from the activity;

☐ The proposed project area does not contain known areas of significance for mating or calving;

☐ The potential adverse effects on fish or invertebrate species that serve as prey species for marine mammals from the proposed survey would be temporary and spatially limited;

☐ The proposed mitigation measures, including visual and acoustic monitoring, power-downs, and shutdowns, are expected to minimize potential impacts to marine mammals.

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

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers; so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities. Tables 11, 12, 13 and 14 provide numbers of take by Level A harassment and Level B harassment proposed for authorization. These are the numbers we use for purposes of the small numbers analysis.

The numbers of marine mammals that we propose for authorization to be taken would be considered small relative to the relevant populations (less than 9 percent for all species) for the species for which abundance estimates are available. No known current worldwide or regional population estimates are available for ten species under NMFS' jurisdiction that could be incidentally taken as a result of the proposed surveys: The pygmy right whale; pygmy sperm whale; True's beaked whale; short-finned pilot whale; false killer whale; bottlenose dolphin; short-beaked common dolphin; southern right whale dolphin; Risso's dolphin; and spectacled porpoise.

NMFS has reviewed the geographic distributions and habitat preferences of these species in determining whether the numbers of takes proposed for authorization herein are likely to represent small numbers. Pygmy right whales have a circumglobal distribution and occur throughout coastal and oceanic waters in the Southern Hemisphere (between 30 to 55° South) (Jefferson *et al.,* 2008). Pygmy sperm whales occur in deep waters on the outer continental shelf and slope in tropical to temperate waters of the Atlantic, Indian, and Pacific Oceans. True's beaked whales occur in the Southern hemisphere from the western Atlantic Ocean to the Indian Ocean to the waters of southern Australia and possibly New Zealand (Jefferson *et al.,* 2008). False killer whales generally occur in deep offshore tropical to temperate waters (between 50° North to 50° South) of the Atlantic, Indian, and Pacific Oceans (Jefferson *et al.,* 2008). Southern right whale dolphins have a circumpolar distribution and generally occur in deep temperate to sub-Antarctic waters in the Southern Hemisphere (between 30 to 65° South) (Jefferson *et al.,* 2008). Short-finned Pilot Whales are found in warm temperate to tropical waters throughout the world, generally in deep offshore areas (Olson and Reilly, 2002). Bottlenose dolphins are distributed worldwide through tropical and temperate inshore, coastal, shelf, and oceanic waters (Leatherwood and Reeves 1990, Wells and Scott 1999, Reynolds *et al.* 2000). Spectacled porpoises are believed to have a range that is circumpolar in the sub-Antarctic zone (with water temperatures of at least 1–10° C) (Goodall 2002). The Risso's dolphin is a widely-distributed species, inhabiting primarily deep waters of the continental slope and outer shelf (especially with steep bottom topography), from the tropics through the temperate regions in both hemispheres (Kruse *et al.* 1999). The short-beaked common dolphin is an oceanic species that is widely distributed in tropical to cool temperate waters of the Atlantic and Pacific

Oceans (Perrin 2002), from nearshore waters to thousands of kilometers offshore.

Based on the broad spatial distributions and habitat preferences of these species relative to the areas where the proposed surveys would occur, NMFS preliminarily concludes that the authorized take of these species likely represent small numbers relative to the affected species' overall population sizes, though we are unable to quantify the proposed take numbers as a percentage of population.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has preliminarily determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the ESA Interagency Cooperation Division, whenever we propose to authorize take for endangered or threatened species.

The NMFS Permits and Conservation Division is proposing to authorize the incidental take of six species of marine mammals which are listed under the ESA (the southern right, sei, fin, blue, and sperm whale and South Island Hector's dolphin). We have requested initiation of Section 7 consultation with the Interagency Cooperation Division for the issuance of this IHA. NMFS will conclude the ESA section 7 consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to L–DEO for conducting a seismic survey in the Pacific Ocean offshore New Zealand in 2017/2018, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This incidental harassment authorization (IHA) is valid for a period of one year from the date of issuance.

2. This IHA is valid only for marine geophysical survey activity, as specified in L–DEO's IHA application and using an array aboard the R/V *Langseth* with characteristics specified in the IHA application, in the Pacific Ocean offshore New Zealand.

3. General Conditions.

(a) A copy of this IHA must be in the possession of L–DEO, the vessel operator and other relevant personnel, the lead protected species observer (PSO), and any other relevant designees of L–DEO operating under the authority of this IHA.

(b) The species authorized for taking are listed in Table 14. The taking, by Level A and Level B harassment only, is limited to the species and numbers listed in Table 14. Any taking exceeding the authorized amounts listed in Table 14 is prohibited and may result in the modification, suspension, or revocation of this IHA.

(c) The taking by serious injury or death of any species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

(d) During use of the airgun(s), if marine mammal species other than those listed in Table 1 are detected by PSOs, the acoustic source must be shut down to avoid unauthorized take.

(e) L–DEO shall ensure that the vessel operator and other relevant vessel personnel are briefed on all responsibilities, communication procedures, marine mammal monitoring protocol, operational procedures, and IHA requirements prior to the start of survey activity, and when relevant new personnel join the survey operations.

4. Mitigation Requirements.

The holder of this Authorization is required to implement the following mitigation measures:

(a) L–DEO must use at least five dedicated, trained, NMFS-approved Protected Species Observers (PSOs), including at least four visual PSOs and one acoustic PSO. The PSOs must have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements. PSO resumes shall be provided to NMFS for approval.

(b) At least two PSOs must have a minimum of 90 days at-sea experience working as PSOs during a high energy seismic survey, with no more than eighteen months elapsed since the conclusion of the at-sea experience. At least one of these must have relevant experience as a visual PSO and at least one must have relevant experience as an acoustic PSO. One ''experienced'' visual PSO shall be designated as the lead for the entire protected species observation team. The lead shall coordinate duty schedules and roles for the PSO team and serve as primary point of contact for the vessel operator. The lead PSO shall devise the duty schedule such that ''experienced'' PSOs are on duty with those PSOs with appropriate training but who have not yet gained relevant experience, to the maximum extent practicable.

(c) Visual Observation.

(i) During survey operations (*e.g.,* any day on which use of the acoustic source is planned to occur; whenever the acoustic source is in the water, whether activated or not), two PSOs must be on duty and conducting visual observations at all times during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset) with the limited exception of meal times during which one PSO may be on duty. PSOs shall monitor the entire extent of the estimated Level B harassment zone (or, as far as they can see, if they cannot see to the extent of the estimated Level B harassment zone).

(ii) Visual monitoring must begin not less than 30 minutes prior to ramp-up, including for nighttime ramp-ups of the airgun array, and must continue until one hour after use of the acoustic source ceases or until 30 minutes past sunset.

(iii) Visual PSOs shall coordinate to ensure 360° visual coverage around the vessel from the most appropriate observation posts and shall conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner.

(iv) Visual PSOs shall communicate all observations to the acoustic PSO, including any determination by the PSO regarding species identification, distance, and bearing and the degree of confidence in the determination.

(v) Visual PSOs may be on watch for a maximum of four consecutive hours

followed by a break of at least one hour between watches and may conduct a maximum of 12 hours observation per 24 hour period.

(vi) During good conditions (*e.g.,* daylight hours; Beaufort sea state 3 or less), visual PSOs shall conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the acoustic source and between acquisition periods, to the maximum extent practicable.

(d) Acoustic Observation—The *R/V Langseth* must use a towed passive acoustic monitoring (PAM) system, which must be monitored beginning at least 30 minutes prior to ramp-up and at all times during use of the acoustic source.

(i) One acoustic PSO (in addition to the four visual PSOs) must be on board to operate and oversee PAM operations. Either the acoustic PSO or a visual PSO with training in the PAM system must monitor the PAM system at all times while airguns are operating, and when possible during periods when the airguns are not operating, in shifts lasting no longer than six hours.

(ii) Acoustic PSOs shall communicate all detections to visual PSOs, when visual PSOs are on duty, including any determination by the PSO regarding species identification, distance, and bearing and the degree of confidence in the determination.

(iii) Survey activity may continue for brief periods of time if the PAM system malfunctions or is damaged. Activity may continue for 30 minutes without PAM while the PAM operator diagnoses the issue. If the diagnosis indicates that the PAM system must be repaired to solve the problem, operations may continue for an additional two hours without acoustic monitoring under the following conditions:

(A) Daylight hours and sea state is less than or equal to Beaufort sea state 4;

(B) No marine mammals (excluding small delphinids) detected solely by PAM in the exclusion zone in the previous two hours;

(C) NMFS is notified via email as soon as practicable with the time and location in which operations began without an active PAM system; and

(D) Operations with an active acoustic source, but without an operating PAM system, do not exceed a cumulative total of four hours in any 24 hour period.

(e) Exclusion Zone and buffer zone—PSOs shall establish and monitor a 500 m exclusion zone (EZ) and 1,000 m buffer zone. The zones shall be based upon radial distance from any element of the airgun array (rather than being based on the center of the array or around the vessel itself). During use of the acoustic source, occurrence of marine mammals outside the EZ but within 1,000 m from any element of the airgun array shall be communicated to the operator to prepare for potential further mitigation measures as described below. During use of the acoustic source, occurrence of marine mammals within the EZ, or on a course to enter the EZ, shall trigger further mitigation measures as described below.

(i) Ramp-up—A ramp-up procedure, involving a step-wise increase in the number of airguns firing and total array volume until all operational airguns are activated and the full volume is achieved, is required at all times as part of the activation of the acoustic source, including following a power down or shutdown of the array, except as described under 4.(e)(v). Ramp-up shall begin by activating a single airgun of the smallest volume in the array and shall continue in stages by doubling the number of active elements at the commencement of each stage, with each stage of approximately the same duration.

(ii) If the airgun array has been powered down or shut down due to a marine mammal detection, ramp-up shall not occur until all marine mammals have cleared the EZ. A marine mammal is considered to have cleared the EZ if:

(A) It has been visually observed to have left the EZ; or

(B) It has not been observed within the EZ, for 15 minutes (in the case of small odontocetes and pinnipeds) or for 30 minutes (in the case of mysticetes and large odontocetes including sperm, pygmy sperm, dwarf sperm, and beaked whales).

(iii) Thirty minutes of pre-clearance observation of the 500 m EZ and 1,000 m buffer zone are required prior to ramp-up for any power down, shutdown, or combination of power down and shutdown of longer than 30 minutes. This pre-clearance period may occur during any vessel activity. If any marine mammal (including delphinids) is observed within or approaching the 500 m EZ during the 30 minute pre-clearance period, ramp-up may not begin until the animal(s) has been observed exiting the buffer zone or until an additional time period has elapsed with no further sightings (*i.e.,* 15 minutes for small odontocetes and pinnipeds, and 30 minutes for mysticetes and large odontocetes including sperm, pygmy sperm, dwarf sperm, and beaked whales).

(iv) During ramp-up, PSOs shall monitor the 500 m EZ and 1,000 m buffer zone. Ramp-up may not be initiated if any marine mammal (including delphinids) is observed within or approaching the 500 m EZ. If a marine mammal is observed within or approaching the 500 m EZ during ramp-up, a power down or shutdown shall be implemented as though the full array were operational. Ramp-up may not begin again until the animal(s) has been observed exiting the 500 m EZ or until an additional time period has elapsed with no further sightings (*i.e.,* 15 minutes for small odontocetes and pinnipeds, and 30 minutes for mysticetes and large odontocetes including sperm, pygmy sperm, dwarf sperm, and beaked whales).

(v) Ramp-up shall only occur at night and at times of poor visibility where operational planning cannot reasonably avoid such circumstances. Ramp-up may occur at night and during poor visibility if the 500 m EZ and 1,000 m buffer zone have been continually monitored by visual PSOs for 30 minutes prior to ramp-up with no marine mammal detections and if acoustic monitoring has occurred for 30 minutes prior to ramp-up with no acoustic detections during that period.

(vi) If the airgun array has been shut down for reasons other than mitigation (*e.g.,* mechanical difficulty) for a period of less than 30 minutes, it may be activated again without ramp-up if PSOs have maintained constant visual and acoustic observation and no visual detections of any marine mammal have occurred within the buffer zone and no acoustic detections have occurred.

(vii) The vessel operator must notify a designated PSO of the planned start of ramp-up as agreed-upon with the lead PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up. A designated PSO must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed.

(f) Power Down Requirements—L–DEO shall power down the airgun array if a PSO detects a marine mammal within, approaching, or entering the 500 m EZ. A power down involves a decrease in the number of operational airguns. During a power down, one 40-in^3 airgun shall be continuously operated.

(i) Any PSO on duty has the authority to call for power down of the airgun array (visual PSOs on duty should be in agreement on the need for power down before requiring such action). When there is certainty regarding the need for mitigation action on the basis of either visual or acoustic detection alone, the relevant PSO(s) must call for such action immediately.

(ii) When both visual and acoustic PSOs are on duty, all detections must be immediately communicated to the remainder of the on-duty PSO team for potential verification of visual observations by the acoustic PSO or of acoustic detections by visual PSOs and initiation of dialogue as necessary.

(iii) The operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the airgun array to ensure that power down commands are conveyed swiftly while allowing PSOs to maintain watch.

(iv) When power down is called for by a PSO, the power down must occur and any dispute resolved only following power down.

(v) The power down requirement is waived for dolphins of the following genera: *Tursiops, Delphinus* and *Lissodelphis.* This power down waiver only applies if animals are traveling, including approaching the vessel. If animals are stationary and the vessel approaches the animals, the power down requirement applies. If there is uncertainty regarding identification (*i.e.,* whether the observed animal(s) belongs to the group described above) or whether the animals are traveling, power down must be implemented.

(vi) Upon implementation of a power down, the source may be reactivated under the conditions described at 4(e). Where there is no relevant zone (*e.g.,* power down due to observation of a calf), a 30-minute clearance period must be observed following the last observation of the animal(s).

(vii) When only the acoustic PSO is on duty and a detection is made, if there is uncertainty regarding species identification or distance to the vocalizing animal(s), the airgun array must be powered down as a precaution.

(viii) Power down shall occur for no more than a maximum of 30 minutes at any given time. If, after 30 minutes of the array being powered down, marine mammals have not cleared the 500 m Exclusion Zone as described under 4(e)(iv), the array shall be shut down. Operation of the single 40-in^3 airgun (*i.e.,* a power-down state) shall not occur for any purpose other than in response to a marine mammal in the exclusion zone (pursuant to relevant requirements herein).

(g) Shutdown requirements—An exclusion zone of 100 m for the single 40-in^3 airgun shall be established and monitored by PSOs. If a marine mammal is observed within, entering, or approaching the 100 m exclusion zone for the single 40-in^3 airgun, whether during implementation of a power down or during operation of the full airgun array, all airguns including the 40-in^3 airgun shall be shut down.

(h) If, after 30 minutes of the array being powered down, marine mammals have not cleared the 500 m Exclusion Zone as described under 4(e)(iv), the full array shall be shut down.

(i) Upon implementation of a shutdown, the source may be reactivated under the conditions described at 4(e).

(ii) Measures described for power downs under 4(f)(i-v) shall also apply in the case of a shutdown.

(iii) Shutdown of the acoustic source is required upon observation of a large whale (*i.e.,* sperm whale or any baleen whale) with calf at any distance, with ''calf'' defined as an animal less than two-thirds the body size of an adult observed to be in close association with an adult. Ramp up shall not begin until the whale with calf has not been observed for at least 30 minutes, at any distance.

(iv) Shutdown of the acoustic source is required upon observation of a beaked whale or kogia spp., at any distance. Ramp up shall not begin until the beaked whale or kogia has not been observed for at least 30 minutes, at any distance.

(v) Shutdown of the acoustic source is required upon observation of a Hector's dolphin, at any distance, during the North Island 2–D survey and North Island 3–D survey. Ramp up shall not begin until the Hector's dolphin has not been observed for at least 15 minutes, at any distance.

(i) Vessel Strike Avoidance—Vessel operator and crew must maintain a vigilant watch for all marine mammals and slow down or stop the vessel or alter course to avoid striking any marine mammal. These requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel according to the parameters stated below. Visual observers monitoring the vessel strike avoidance zone can be either third-party observers or crew members, but crew members responsible for these duties must be provided sufficient training to distinguish marine mammals from other phenomena. Vessel strike avoidance measures shall be followed during surveys and while in transit.

(i) The vessel must maintain a minimum separation distance of 100 m from large whales (*i.e.,* baleen whales and sperm whales). The following avoidance measures must be taken if a large whale is within 100 m of the vessel:

(A) The vessel must reduce speed and shift the engine to neutral, and must not engage the engines until the whale has moved outside of the vessel's path and the minimum separation distance has been established.

(B) If the vessel is stationary, the vessel must not engage engines until the whale(s) has moved out of the vessel's path and beyond 100 m.

(ii) The vessel must maintain a minimum separation distance of 50 m from all other marine mammals, with an exception made for animals described in 4(f)(v) that approach the vessel. If an animal is encountered during transit, the vessel shall attempt to remain parallel to the animal's course, avoiding excessive speed or abrupt changes in course.

(iii) Vessel speeds must be reduced to 10 knots or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near the vessel.

(j) Miscellaneous Protocols.

(i) The airgun array must be deactivated when not acquiring data or preparing to acquire data, except as necessary for testing. Unnecessary use of the acoustic source shall be avoided. Notified operational capacity (not including redundant backup airguns) must not be exceeded during the survey, except where unavoidable for source testing and calibration purposes. All occasions where activated source volume exceeds notified operational capacity must be noticed to the PSO(s) on duty and fully documented. The lead PSO must be granted access to relevant instrumentation documenting acoustic source power and/or operational volume.

(ii) Testing of the acoustic source involving all elements requires normal mitigation protocols (*e.g.,* ramp-up). Testing limited to individual source elements or strings does not require ramp-up but does require pre-clearance.

5. Monitoring Requirements.

The holder of this Authorization is required to conduct marine mammal monitoring during survey activity. Monitoring shall be conducted in accordance with the following requirements:

(a) The operator must provide bigeye binoculars (*e.g.,* 25 x 150; 2.7 view angle; individual ocular focus; height control) of appropriate quality (*i.e.,* Fujinon or equivalent) solely for PSO use. These shall be pedestal-mounted on the deck at the most appropriate vantage point that provides for optimal sea surface observation, PSO safety, and safe operation of the vessel. The

operator must also provide a night-vision device suited for the marine environment for use during nighttime ramp-up pre-clearance, at the discretion of the PSOs. At minimum, the device should feature automatic brightness and gain control, bright light protection, infrared illumination, and optics suited for low-light situations.

(b) PSOs must also be equipped with reticle binoculars (*e.g.,* 7 x 50) of appropriate quality (*i.e.,* Fujinon or equivalent), GPS, digital single-lens reflex camera of appropriate quality (*i.e.,* Canon or equivalent), compass, and any other tools necessary to adequately perform necessary tasks, including accurate determination of distance and bearing to observed marine mammals.

(c) PSO Qualifications.

(i) PSOs must have successfully completed relevant training, including completion of all required coursework and passing a written and/or oral examination developed for the training program.

(ii) PSOs must have successfully attained a bachelor's degree from an accredited college or university with a major in one of the natural sciences and a minimum of 30 semester hours or equivalent in the biological sciences and at least one undergraduate course in math or statistics. The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver must include written justification. Alternate experience that may be considered includes, but is not limited to (1) secondary education and/or experience comparable to PSO duties; (2) previous work experience conducting academic, commercial, or government-sponsored marine mammal surveys; or (3) previous work experience as a PSO. The PSO should demonstrate good standing and consistently good performance of PSO duties.

(d) Data Collection—PSOs must use standardized data forms, whether hard copy or electronic. PSOs shall record detailed information about any implementation of mitigation requirements, including the distance of animals to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the acoustic source to resume survey. If required mitigation was not implemented, PSOs should submit a description of the circumstances. NMFS requires that, at a minimum, the following information be reported:

(i) PSO names and affiliations.

(ii) Dates of departures and returns to port with port name.

(iii) Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort.

(iv) Vessel location (latitude/longitude) when survey effort begins and ends; vessel location at beginning and end of visual PSO duty shifts.

(v) Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change.

(vi) Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including wind speed and direction, Beaufort sea state, Beaufort wind force, swell height, weather conditions, cloud cover, sun glare, and overall visibility to the horizon.

(vii) Factors that may be contributing to impaired observations during each PSO shift change or as needed as environmental conditions change (*e.g.,* vessel traffic, equipment malfunctions).

(viii) Survey activity information, such as acoustic source power output while in operation, number and volume of airguns operating in the array, tow depth of the array, and any other notes of significance (*i.e.,* pre-ramp-up survey, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, etc.).

(ix) If a marine mammal is sighted, the following information should be recorded:

(A) Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform).

(B) PSO who sighted the animal.

(C) Time of sighting.

(D) Vessel location at time of sighting.

(E) Water depth.

(F) Direction of vessel's travel (compass direction).

(G) Direction of animal's travel relative to the vessel.

(H) Pace of the animal.

(I) Estimated distance to the animal and its heading relative to vessel at initial sighting.

(J) Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified); also note the composition of the group if there is a mix of species.

(K) Estimated number of animals (high/low/best).

(L) Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.).

(M) Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics).

(N) Detailed behavior observations (*e.g.,* number of blows, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior).

(O) Animal's closest point of approach (CPA) and/or closest distance from the center point of the acoustic source;.

(P) Platform activity at time of sighting (*e.g.,* deploying, recovering, testing, shooting, data acquisition, other).

(Q) Description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown, ramp-up, speed or course alteration, etc.); time and location of the action should also be recorded.

(x) If a marine mammal is detected while using the PAM system, the following information should be recorded:

(A) An acoustic encounter identification number, and whether the detection was linked with a visual sighting.

(B) Time when first and last heard.

(C) Types and nature of sounds heard (*e.g.,* clicks, whistles, creaks, burst pulses, continuous, sporadic, strength of signal, etc.).

(D) Any additional information recorded such as water depth of the hydrophone array, bearing of the animal to the vessel (if determinable), species or taxonomic group (if determinable), and any other notable information.

6. Reporting.

(a) L–DEO shall submit a draft comprehensive report on all activities and monitoring results within 90 days of the completion of the survey or expiration of the IHA, whichever comes sooner. The report must describe all activities conducted and sightings of marine mammals near the activities, must provide full documentation of methods, results, and interpretation pertaining to all monitoring, and must summarize the dates and locations of survey operations and all marine mammal sightings (dates, times, locations, activities, associated survey activities). Geospatial data regarding locations where the acoustic source was used must be provided. In addition to the report, all raw observational data shall be made available to NMFS. The report must summarize the data collected as required under condition 5(d) of this IHA. The report must also provide an estimate of the number (by species) of marine mammals with known exposures to seismic survey activity at received levels greater than or equal to thresholds for Level A and Level B harassment (based on visual

observation) including an estimate of those on the trackline but not detected. The draft report must be accompanied by a certification from the lead PSO as to the accuracy of the report, and the lead PSO may submit directly to NMFS a statement concerning implementation and effectiveness of the required mitigation and monitoring. A final report must be submitted within 30 days following resolution of any comments from NMFS on the draft report.

(b) Reporting injured or dead marine mammals:

(i) In the event that the specified activity clearly causes the take of a marine mammal in a manner not permitted by this IHA, such as serious injury or mortality, L–DEO shall immediately cease the specified activities and immediately report the incident to the NMFS Office of Protected Resources (301–427–8401) and the New Zealand Department of Conservation (0800–362–468). The report must include the following information:

(A) Time, date, and location (latitude/longitude) of the incident;

(B) Vessel's speed during and leading up to the incident;

(C) Description of the incident;

(D) Status of all sound source use in the 24 hours preceding the incident;

(E) Water depth;

(F) Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

(G) Description of all marine mammal observations in the 24 hours preceding the incident;

(H) Species identification or description of the animal(s) involved;

(I) Fate of the animal(s); and

(J) Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with L–DEO to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. L–DEO may not resume their activities until notified by NMFS.

(ii) In the event that L–DEO discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), L–DEO shall immediately report the incident to the NMFS Office of Protected Resources (301–427–8401) and the New Zealand Department of Conservation (0800–362–468). The report must include the same information identified in condition 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with L–DEO to determine whether additional mitigation measures or modifications to the activities are appropriate.

(iii) In the event that L–DEO discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the specified activities (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), L–DEO shall report the incident to the NMFS Office of Protected Resources (301–427–8401) and the New Zealand Department of Conservation (0800–362–468) within 24 hours of the discovery. L–DEO shall provide photographs or video footage or other documentation of the sighting to NMFS.

7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

Dated: September 22, 2017.

Catherine Marzin,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

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Part III

The President

Proclamation 9644—Gold Star Mother's and Family's Day, 2017

Proclamation 9645—Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats

Federal Register
Vol. 82, No. 186
Wednesday, September 27, 2017

Presidential Documents

Title 3—

The President

Proclamation 9644 of September 22, 2017

Gold Star Mother's and Family's Day, 2017

By the President of the United States of America

A Proclamation

As we solemnly observe Gold Star Mother's and Family's Day, we honor and extend our deepest gratitude to the families of military service members who gave their last full measure of devotion to our country. Gold Star families have paid the ultimate price for our Nation's freedom with the life of their loved ones. Our grateful Nation grieves with them in their loss, but also shares their pride in the selfless service of their sons and daughters.

Our country is built on the sacrifices of men and women who have willingly raised their hand to defend our Nation and its security. As members of our Armed Forces take an oath to protect our freedoms and liberty, they understand the gravity of their commitment to defend our way of life. And when that commitment results in the ultimate sacrifice, we come together as a Nation to walk beside the devoted families left behind and help them shoulder the vast absence they forever bear. Their loved ones did not die in vain. They gave of themselves to protect and defend the freedoms we all enjoy. Despite their grief, these families bravely move forward with dignity and grace.

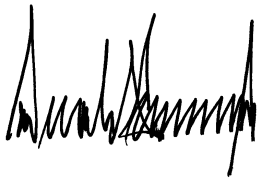
Despite having endured unfathomable loss, many Gold Star families have turned their sorrow into action and community outreach to help others navigate this difficult journey. Their compassion, courage, determination, and strength inspire us all.

When the last rifle volley is fired, the final note of Taps echoes and fades away, and the carefully-folded National Colors are presented, it is our sacred duty to stand with these patriotic families to ensure they receive the care, compassion, and respect they have earned. On this day of remembrance, we pay tribute to those brave men and women in uniform who died protecting our great Nation, and we stand with the families who nurtured and loved them. Gold Star families have our sympathy, but more importantly, they have our respect and our gratitude.

The Congress, by Senate Joint Resolution 115 of June 23, 1936 (49 Stat. 1895 as amended), has designated the last Sunday in September as ''Gold Star Mother's Day.''

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 24, 2017, as Gold Star Mother's and Family's Day. I call upon all Government officials to display the flag of the United States over Government buildings on this special day. I also encourage the American people to display the flag and hold appropriate ceremonies as a public expression of our Nation's gratitude and respect for our Gold Star Mothers and Families.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of September, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



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Presidential Documents

Proclamation 9645 of September 24, 2017

Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats

By the President of the United States of America

A Proclamation

In Executive Order 13780 of March 6, 2017 (Protecting the Nation from Foreign Terrorist Entry into the United States), on the recommendations of the Secretary of Homeland Security and the Attorney General, I ordered a worldwide review of whether, and if so what, additional information would be needed from each foreign country to assess adequately whether their nationals seeking to enter the United States pose a security or safety threat. This was the first such review of its kind in United States history. As part of the review, the Secretary of Homeland Security established global requirements for information sharing in support of immigration screening and vetting. The Secretary of Homeland Security developed a comprehensive set of criteria and applied it to the information-sharing practices, policies, and capabilities of foreign governments. The Secretary of State thereafter engaged with the countries reviewed in an effort to address deficiencies and achieve improvements. In many instances, those efforts produced positive results. By obtaining additional information and formal commitments from foreign governments, the United States Government has improved its capacity and ability to assess whether foreign nationals attempting to enter the United States pose a security or safety threat. Our Nation is safer as a result of this work.

Despite those efforts, the Secretary of Homeland Security, in consultation with the Secretary of State and the Attorney General, has determined that a small number of countries—out of nearly 200 evaluated—remain deficient at this time with respect to their identity-management and information-sharing capabilities, protocols, and practices. In some cases, these countries also have a significant terrorist presence within their territory.

As President, I must act to protect the security and interests of the United States and its people. I am committed to our ongoing efforts to engage those countries willing to cooperate, improve information-sharing and identity-management protocols and procedures, and address both terrorism-related and public-safety risks. Some of the countries with remaining inadequacies face significant challenges. Others have made strides to improve their protocols and procedures, and I commend them for these efforts. But until they satisfactorily address the identified inadequacies, I have determined, on the basis of recommendations from the Secretary of Homeland Security and other members of my Cabinet, to impose certain conditional restrictions and limitations, as set forth more fully below, on entry into the United States of nationals of the countries identified in section 2 of this proclamation.

NOW, THEREFORE, I, DONALD J. TRUMP, by the authority vested in me by the Constitution and the laws of the United States of America, including sections 212(f) and 215(a) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(f) and 1185(a), and section 301 of title 3, United States Code, hereby find that, absent the measures set forth in this proclamation, the immigrant and nonimmigrant entry into the United States of persons described in section 2 of this proclamation would be detrimental to the

interests of the United States, and that their entry should be subject to certain restrictions, limitations, and exceptions. I therefore hereby proclaim the following:

Section 1. *Policy and Purpose.* (a) It is the policy of the United States to protect its citizens from terrorist attacks and other public-safety threats. Screening and vetting protocols and procedures associated with visa adjudications and other immigration processes play a critical role in implementing that policy. They enhance our ability to detect foreign nationals who may commit, aid, or support acts of terrorism, or otherwise pose a safety threat, and they aid our efforts to prevent such individuals from entering the United States.

(b) Information-sharing and identity-management protocols and practices of foreign governments are important for the effectiveness of the screening and vetting protocols and procedures of the United States. Governments manage the identity and travel documents of their nationals and residents. They also control the circumstances under which they provide information about their nationals to other governments, including information about known or suspected terrorists and criminal-history information. It is, therefore, the policy of the United States to take all necessary and appropriate steps to encourage foreign governments to improve their information-sharing and identity-management protocols and practices and to regularly share identity and threat information with our immigration screening and vetting systems.

(c) Section 2(a) of Executive Order 13780 directed a ''worldwide review to identify whether, and if so what, additional information will be needed from each foreign country to adjudicate an application by a national of that country for a visa, admission, or other benefit under the INA (adjudications) in order to determine that the individual is not a security or public-safety threat.'' That review culminated in a report submitted to the President by the Secretary of Homeland Security on July 9, 2017. In that review, the Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, developed a baseline for the kinds of information required from foreign governments to support the United States Government's ability to confirm the identity of individuals seeking entry into the United States as immigrants and nonimmigrants, as well as individuals applying for any other benefit under the immigration laws, and to assess whether they are a security or public-safety threat. That baseline incorporates three categories of criteria:

(i) *Identity-management information.* The United States expects foreign governments to provide the information needed to determine whether individuals seeking benefits under the immigration laws are who they claim to be. The identity-management information category focuses on the integrity of documents required for travel to the United States. The criteria assessed in this category include whether the country issues electronic passports embedded with data to enable confirmation of identity, reports lost and stolen passports to appropriate entities, and makes available upon request identity-related information not included in its passports.

(ii) *National security and public-safety information.* The United States expects foreign governments to provide information about whether persons who seek entry to this country pose national security or public-safety risks. The criteria assessed in this category include whether the country makes available, directly or indirectly, known or suspected terrorist and criminal-history information upon request, whether the country provides passport and national-identity document exemplars, and whether the country impedes the United States Government's receipt of information about passengers and crew traveling to the United States.

(iii) *National security and public-safety risk assessment.* The national security and public-safety risk assessment category focuses on national security risk indicators. The criteria assessed in this category include whether the country is a known or potential terrorist safe haven, whether it is

a participant in the Visa Waiver Program established under section 217 of the INA, 8 U.S.C. 1187, that meets all of its requirements, and whether it regularly fails to receive its nationals subject to final orders of removal from the United States.

(d) The Department of Homeland Security, in coordination with the Department of State, collected data on the performance of all foreign governments and assessed each country against the baseline described in subsection (c) of this section. The assessment focused, in particular, on identity management, security and public-safety threats, and national security risks. Through this assessment, the agencies measured each country's performance with respect to issuing reliable travel documents and implementing adequate identity-management and information-sharing protocols and procedures, and evaluated terrorism-related and public-safety risks associated with foreign nationals seeking entry into the United States from each country.

(e) The Department of Homeland Security evaluated each country against the baseline described in subsection (c) of this section. The Secretary of Homeland Security identified 16 countries as being ''inadequate'' based on an analysis of their identity-management protocols, information-sharing practices, and risk factors. Thirty-one additional countries were classified ''at risk'' of becoming ''inadequate'' based on those criteria.

(f) As required by section 2(d) of Executive Order 13780, the Department of State conducted a 50-day engagement period to encourage all foreign governments, not just the 47 identified as either ''inadequate'' or ''at risk,'' to improve their performance with respect to the baseline described in subsection (c) of this section. Those engagements yielded significant improvements in many countries. Twenty-nine countries, for example, provided travel document exemplars for use by Department of Homeland Security officials to combat fraud. Eleven countries agreed to share information on known or suspected terrorists.

(g) The Secretary of Homeland Security assesses that the following countries continue to have ''inadequate'' identity-management protocols, information-sharing practices, and risk factors, with respect to the baseline described in subsection (c) of this section, such that entry restrictions and limitations are recommended: Chad, Iran, Libya, North Korea, Syria, Venezuela, and Yemen. The Secretary of Homeland Security also assesses that Iraq did not meet the baseline, but that entry restrictions and limitations under a Presidential proclamation are not warranted. The Secretary of Homeland Security recommends, however, that nationals of Iraq who seek to enter the United States be subject to additional scrutiny to determine if they pose risks to the national security or public safety of the United States. In reaching these conclusions, the Secretary of Homeland Security considered the close cooperative relationship between the United States and the democratically elected government of Iraq, the strong United States diplomatic presence in Iraq, the significant presence of United States forces in Iraq, and Iraq's commitment to combating the Islamic State of Iraq and Syria (ISIS).

(h) Section 2(e) of Executive Order 13780 directed the Secretary of Homeland Security to ''submit to the President a list of countries recommended for inclusion in a Presidential proclamation that would prohibit the entry of appropriate categories of foreign nationals of countries that have not provided the information requested until they do so or until the Secretary of Homeland Security certifies that the country has an adequate plan to do so, or has adequately shared information through other means.'' On September 15, 2017, the Secretary of Homeland Security submitted a report to me recommending entry restrictions and limitations on certain nationals of 7 countries determined to be ''inadequate'' in providing such information and in light of other factors discussed in the report. According to the report, the recommended restrictions would help address the threats that the countries' identity-management protocols, information-sharing inadequacies, and other risk factors pose to the security and welfare of the United

States. The restrictions also encourage the countries to work with the United States to address those inadequacies and risks so that the restrictions and limitations imposed by this proclamation may be relaxed or removed as soon as possible.

(i) In evaluating the recommendations of the Secretary of Homeland Security and in determining what restrictions to impose for each country, I consulted with appropriate Assistants to the President and members of the Cabinet, including the Secretaries of State, Defense, and Homeland Security, and the Attorney General. I considered several factors, including each country's capacity, ability, and willingness to cooperate with our identity-management and information-sharing policies and each country's risk factors, such as whether it has a significant terrorist presence within its territory. I also considered foreign policy, national security, and counterterrorism goals. I reviewed these factors and assessed these goals, with a particular focus on crafting those country-specific restrictions that would be most likely to encourage cooperation given each country's distinct circumstances, and that would, at the same time, protect the United States until such time as improvements occur. The restrictions and limitations imposed by this proclamation are, in my judgment, necessary to prevent the entry of those foreign nationals about whom the United States Government lacks sufficient information to assess the risks they pose to the United States. These restrictions and limitations are also needed to elicit improved identity-management and information-sharing protocols and practices from foreign governments; and to advance foreign policy, national security, and counterterrorism objectives.

(ii) After reviewing the Secretary of Homeland Security's report of September 15, 2017, and accounting for the foreign policy, national security, and counterterrorism objectives of the United States, I have determined to restrict and limit the entry of nationals of 7 countries found to be ''inadequate'' with respect to the baseline described in subsection (c) of this section: Chad, Iran, Libya, North Korea, Syria, Venezuela, and Yemen. These restrictions distinguish between the entry of immigrants and nonimmigrants. Persons admitted on immigrant visas become lawful permanent residents of the United States. Such persons may present national security or public-safety concerns that may be distinct from those admitted as nonimmigrants. The United States affords lawful permanent residents more enduring rights than it does to nonimmigrants. Lawful permanent residents are more difficult to remove than nonimmigrants even after national security concerns arise, which heightens the costs and dangers of errors associated with admitting such individuals. And although immigrants generally receive more extensive vetting than nonimmigrants, such vetting is less reliable when the country from which someone seeks to emigrate exhibits significant gaps in its identity-management or information-sharing policies, or presents risks to the national security of the United States. For all but one of those 7 countries, therefore, I am restricting the entry of all immigrants.

(iii) I am adopting a more tailored approach with respect to nonimmigrants, in accordance with the recommendations of the Secretary of Homeland Security. For some countries found to be ''inadequate'' with respect to the baseline described in subsection (c) of this section, I am restricting the entry of all nonimmigrants. For countries with certain mitigating factors, such as a willingness to cooperate or play a substantial role in combatting terrorism, I am restricting the entry only of certain categories of nonimmigrants, which will mitigate the security threats presented by their entry into the United States. In those cases in which future cooperation seems reasonably likely, and accounting for foreign policy, national security, and counterterrorism objectives, I have tailored the restrictions to encourage such improvements.

(i) Section 2(e) of Executive Order 13780 also provided that the ''Secretary of State, the Attorney General, or the Secretary of Homeland Security may also submit to the President the names of additional countries for which

any of them recommends other lawful restrictions or limitations deemed necessary for the security or welfare of the United States.'' The Secretary of Homeland Security determined that Somalia generally satisfies the information-sharing requirements of the baseline described in subsection (c) of this section, but its government's inability to effectively and consistently cooperate, combined with the terrorist threat that emanates from its territory, present special circumstances that warrant restrictions and limitations on the entry of its nationals into the United States. Somalia's identity-management deficiencies and the significant terrorist presence within its territory make it a source of particular risks to the national security and public safety of the United States. Based on the considerations mentioned above, and as described further in section 2(h) of this proclamation, I have determined that entry restrictions, limitations, and other measures designed to ensure proper screening and vetting for nationals of Somalia are necessary for the security and welfare of the United States.

(j) Section 2 of this proclamation describes some of the inadequacies that led me to impose restrictions on the specified countries. Describing all of those reasons publicly, however, would cause serious damage to the national security of the United States, and many such descriptions are classified.

Sec. 2. *Suspension of Entry for Nationals of Countries of Identified Concern.* The entry into the United States of nationals of the following countries is hereby suspended and limited, as follows, subject to categorical exceptions and case-by-case waivers, as described in sections 3 and 6 of this proclamation:

(a) *Chad.*

(i) The government of Chad is an important and valuable counterterrorism partner of the United States, and the United States Government looks forward to expanding that cooperation, including in the areas of immigration and border management. Chad has shown a clear willingness to improve in these areas. Nonetheless, Chad does not adequately share public-safety and terrorism-related information and fails to satisfy at least one key risk criterion. Additionally, several terrorist groups are active within Chad or in the surrounding region, including elements of Boko Haram, ISIS-West Africa, and al-Qa'ida in the Islamic Maghreb. At this time, additional information sharing to identify those foreign nationals applying for visas or seeking entry into the United States who represent national security and public-safety threats is necessary given the significant terrorism-related risk from this country.

(ii) The entry into the United States of nationals of Chad, as immigrants, and as nonimmigrants on business (B–1), tourist (B–2), and business/tourist (B–1/B–2) visas, is hereby suspended.

(b) *Iran.*

(i) Iran regularly fails to cooperate with the United States Government in identifying security risks, fails to satisfy at least one key risk criterion, is the source of significant terrorist threats, and fails to receive its nationals subject to final orders of removal from the United States. The Department of State has also designated Iran as a state sponsor of terrorism.

(ii) The entry into the United States of nationals of Iran as immigrants and as nonimmigrants is hereby suspended, except that entry by such nationals under valid student (F and M) and exchange visitor (J) visas is not suspended, although such individuals should be subject to enhanced screening and vetting requirements.

(c) *Libya.*

(i) The government of Libya is an important and valuable counterterrorism partner of the United States, and the United States Government looks forward to expanding on that cooperation, including in the areas of immigration and border management. Libya, nonetheless, faces significant challenges in sharing several types of information, including public-safety

and terrorism-related information necessary for the protection of the national security and public safety of the United States. Libya also has significant inadequacies in its identity-management protocols. Further, Libya fails to satisfy at least one key risk criterion and has been assessed to be not fully cooperative with respect to receiving its nationals subject to final orders of removal from the United States. The substantial terrorist presence within Libya's territory amplifies the risks posed by the entry into the United States of its nationals.

(ii) The entry into the United States of nationals of Libya, as immigrants, and as nonimmigrants on business (B–1), tourist (B–2), and business/tourist (B–1/B–2) visas, is hereby suspended.

(d) *North Korea.*

(i) North Korea does not cooperate with the United States Government in any respect and fails to satisfy all information-sharing requirements.

(ii) The entry into the United States of nationals of North Korea as immigrants and nonimmigrants is hereby suspended.

(e) *Syria.*

(i) Syria regularly fails to cooperate with the United States Government in identifying security risks, is the source of significant terrorist threats, and has been designated by the Department of State as a state sponsor of terrorism. Syria has significant inadequacies in identity-management protocols, fails to share public-safety and terrorism information, and fails to satisfy at least one key risk criterion.

(ii) The entry into the United States of nationals of Syria as immigrants and nonimmigrants is hereby suspended.

(f) *Venezuela.*

(i) Venezuela has adopted many of the baseline standards identified by the Secretary of Homeland Security and in section 1 of this proclamation, but its government is uncooperative in verifying whether its citizens pose national security or public-safety threats. Venezuela's government fails to share public-safety and terrorism-related information adequately, fails to satisfy at least one key risk criterion, and has been assessed to be not fully cooperative with respect to receiving its nationals subject to final orders of removal from the United States. There are, however, alternative sources for obtaining information to verify the citizenship and identity of nationals from Venezuela. As a result, the restrictions imposed by this proclamation focus on government officials of Venezuela who are responsible for the identified inadequacies.

(ii) Notwithstanding section 3(b)(v) of this proclamation, the entry into the United States of officials of government agencies of Venezuela involved in screening and vetting procedures—including the Ministry of the Popular Power for Interior, Justice and Peace; the Administrative Service of Identification, Migration and Immigration; the Scientific, Penal and Criminal Investigation Service Corps; the Bolivarian National Intelligence Service; and the Ministry of the Popular Power for Foreign Relations—and their immediate family members, as nonimmigrants on business (B–1), tourist (B–2), and business/tourist (B–1/B–2) visas, is hereby suspended. Further, nationals of Venezuela who are visa holders should be subject to appropriate additional measures to ensure traveler information remains current.

(g) *Yemen.*

(i) The government of Yemen is an important and valuable counterterrorism partner, and the United States Government looks forward to expanding that cooperation, including in the areas of immigration and border management. Yemen, nonetheless, faces significant identity-management challenges, which are amplified by the notable terrorist presence within its territory. The government of Yemen fails to satisfy critical identity-management requirements, does not share public-safety and terrorism-related information adequately, and fails to satisfy at least one key risk criterion.

(ii) The entry into the United States of nationals of Yemen as immigrants, and as nonimmigrants on business (B–1), tourist (B–2), and business/tourist (B–1/B–2) visas, is hereby suspended.

(h) *Somalia.*

(i) The Secretary of Homeland Security's report of September 15, 2017, determined that Somalia satisfies the information-sharing requirements of the baseline described in section 1(c) of this proclamation. But several other considerations support imposing entry restrictions and limitations on Somalia. Somalia has significant identity-management deficiencies. For example, while Somalia issues an electronic passport, the United States and many other countries do not recognize it. A persistent terrorist threat also emanates from Somalia's territory. The United States Government has identified Somalia as a terrorist safe haven. Somalia stands apart from other countries in the degree to which its government lacks command and control of its territory, which greatly limits the effectiveness of its national capabilities in a variety of respects. Terrorists use under-governed areas in northern, central, and southern Somalia as safe havens from which to plan, facilitate, and conduct their operations. Somalia also remains a destination for individuals attempting to join terrorist groups that threaten the national security of the United States. The State Department's 2016 Country Reports on Terrorism observed that Somalia has not sufficiently degraded the ability of terrorist groups to plan and mount attacks from its territory. Further, despite having made significant progress toward formally federating its member states, and its willingness to fight terrorism, Somalia continues to struggle to provide the governance needed to limit terrorists' freedom of movement, access to resources, and capacity to operate. The government of Somalia's lack of territorial control also compromises Somalia's ability, already limited because of poor record-keeping, to share information about its nationals who pose criminal or terrorist risks. As a result of these and other factors, Somalia presents special concerns that distinguish it from other countries.

(ii) The entry into the United States of nationals of Somalia as immigrants is hereby suspended. Additionally, visa adjudications for nationals of Somalia and decisions regarding their entry as nonimmigrants should be subject to additional scrutiny to determine if applicants are connected to terrorist organizations or otherwise pose a threat to the national security or public safety of the United States.

Sec. 3. *Scope and Implementation of Suspensions and Limitations.* (a) *Scope.* Subject to the exceptions set forth in subsection (b) of this section and any waiver under subsection (c) of this section, the suspensions of and limitations on entry pursuant to section 2 of this proclamation shall apply only to foreign nationals of the designated countries who:

(i) are outside the United States on the applicable effective date under section 7 of this proclamation;

(ii) do not have a valid visa on the applicable effective date under section 7 of this proclamation; and

(iii) do not qualify for a visa or other valid travel document under section 6(d) of this proclamation.

(b) *Exceptions.* The suspension of entry pursuant to section 2 of this proclamation shall not apply to:

(i) any lawful permanent resident of the United States;

(ii) any foreign national who is admitted to or paroled into the United States on or after the applicable effective date under section 7 of this proclamation;

(iii) any foreign national who has a document other than a visa—such as a transportation letter, an appropriate boarding foil, or an advance parole document—valid on the applicable effective date under section 7 of this proclamation or issued on any date thereafter, that permits him or her to travel to the United States and seek entry or admission;

(iv) any dual national of a country designated under section 2 of this proclamation when the individual is traveling on a passport issued by a non-designated country;

(v) any foreign national traveling on a diplomatic or diplomatic-type visa, North Atlantic Treaty Organization visa, C–2 visa for travel to the United Nations, or G–1, G–2, G–3, or G–4 visa; or

(vi) any foreign national who has been granted asylum by the United States; any refugee who has already been admitted to the United States; or any individual who has been granted withholding of removal, advance parole, or protection under the Convention Against Torture.

(c) *Waivers.* Notwithstanding the suspensions of and limitations on entry set forth in section 2 of this proclamation, a consular officer, or the Commissioner, United States Customs and Border Protection (CBP), or the Commissioner's designee, as appropriate, may, in their discretion, grant waivers on a case-by-case basis to permit the entry of foreign nationals for whom entry is otherwise suspended or limited if such foreign nationals demonstrate that waivers would be appropriate and consistent with subsections (i) through (iv) of this subsection. The Secretary of State and the Secretary of Homeland Security shall coordinate to adopt guidance addressing the circumstances in which waivers may be appropriate for foreign nationals seeking entry as immigrants or nonimmigrants.

(i) A waiver may be granted only if a foreign national demonstrates to the consular officer's or CBP official's satisfaction that:

(A) denying entry would cause the foreign national undue hardship;

(B) entry would not pose a threat to the national security or public safety of the United States; and

(C) entry would be in the national interest.

(ii) The guidance issued by the Secretary of State and the Secretary of Homeland Security under this subsection shall address the standards, policies, and procedures for:

(A) determining whether the entry of a foreign national would not pose a threat to the national security or public safety of the United States;

(B) determining whether the entry of a foreign national would be in the national interest;

(C) addressing and managing the risks of making such a determination in light of the inadequacies in information sharing, identity management, and other potential dangers posed by the nationals of individual countries subject to the restrictions and limitations imposed by this proclamation;

(D) assessing whether the United States has access, at the time of the waiver determination, to sufficient information about the foreign national to determine whether entry would satisfy the requirements of subsection (i) of this subsection; and

(E) determining the special circumstances that would justify granting a waiver under subsection (iv)(E) of this subsection.

(iii) Unless otherwise specified by the Secretary of Homeland Security, any waiver issued by a consular officer as part of the visa adjudication process will be effective both for the issuance of a visa and for any subsequent entry on that visa, but will leave unchanged all other requirements for admission or entry.

(iv) Case-by-case waivers may not be granted categorically, but may be appropriate, subject to the limitations, conditions, and requirements set forth under subsection (i) of this subsection and the guidance issued under subsection (ii) of this subsection, in individual circumstances such as the following:

(A) the foreign national has previously been admitted to the United States for a continuous period of work, study, or other long-term activity, is outside the United States on the applicable effective date under section 7 of this proclamation, seeks to reenter the United States to resume that activity, and the denial of reentry would impair that activity;

(B) the foreign national has previously established significant contacts with the United States but is outside the United States on the applicable effective date under section 7 of this proclamation for work, study, or other lawful activity;

(C) the foreign national seeks to enter the United States for significant business or professional obligations and the denial of entry would impair those obligations;

(D) the foreign national seeks to enter the United States to visit or reside with a close family member (*e.g.,* a spouse, child, or parent) who is a United States citizen, lawful permanent resident, or alien lawfully admitted on a valid nonimmigrant visa, and the denial of entry would cause the foreign national undue hardship;

(E) the foreign national is an infant, a young child or adoptee, an individual needing urgent medical care, or someone whose entry is otherwise justified by the special circumstances of the case;

(F) the foreign national has been employed by, or on behalf of, the United States Government (or is an eligible dependent of such an employee), and the foreign national can document that he or she has provided faithful and valuable service to the United States Government;

(G) the foreign national is traveling for purposes related to an international organization designated under the International Organizations Immunities Act (IOIA), 22 U.S.C. 288 *et seq.,* traveling for purposes of conducting meetings or business with the United States Government, or traveling to conduct business on behalf of an international organization not designated under the IOIA;

(H) the foreign national is a Canadian permanent resident who applies for a visa at a location within Canada;

(I) the foreign national is traveling as a United States Government–sponsored exchange visitor; or

(J) the foreign national is traveling to the United States, at the request of a United States Government department or agency, for legitimate law enforcement, foreign policy, or national security purposes.

Sec. 4. *Adjustments to and Removal of Suspensions and Limitations.* (a) The Secretary of Homeland Security shall, in consultation with the Secretary of State, devise a process to assess whether any suspensions and limitations imposed by section 2 of this proclamation should be continued, terminated, modified, or supplemented. The process shall account for whether countries have improved their identity-management and information-sharing protocols and procedures based on the criteria set forth in section 1 of this proclamation and the Secretary of Homeland Security's report of September 15, 2017. Within 180 days of the date of this proclamation, and every 180 days thereafter, the Secretary of Homeland Security, in consultation with the Secretary of State, the Attorney General, the Director of National Intelligence, and other appropriate heads of agencies, shall submit a report with recommendations to the President, through appropriate Assistants to the President, regarding the following:

(i) the interests of the United States, if any, that continue to require the suspension of, or limitations on, the entry on certain classes of nationals of countries identified in section 2 of this proclamation and whether the restrictions and limitations imposed by section 2 of this proclamation should be continued, modified, terminated, or supplemented; and

(ii) the interests of the United States, if any, that require the suspension of, or limitations on, the entry of certain classes of nationals of countries not identified in this proclamation.

(b) The Secretary of State, in consultation with the Secretary of Homeland Security, the Secretary of Defense, the Attorney General, the Director of National Intelligence, and the head of any other executive department or agency (agency) that the Secretary of State deems appropriate, shall engage the countries listed in section 2 of this proclamation, and any other countries that have information-sharing, identity-management, or risk-factor deficiencies as practicable, appropriate, and consistent with the foreign policy, national security, and public-safety objectives of the United States.

(c) Notwithstanding the process described above, and consistent with the process described in section 2(f) of Executive Order 13780, if the Secretary of Homeland Security, in consultation with the Secretary of State, the Attorney General, and the Director of National Intelligence, determines, at any time, that a country meets the standards of the baseline described in section 1(c) of this proclamation, that a country has an adequate plan to provide such information, or that one or more of the restrictions or limitations imposed on the entry of a country's nationals are no longer necessary for the security or welfare of the United States, the Secretary of Homeland Security may recommend to the President the removal or modification of any or all such restrictions and limitations. The Secretary of Homeland Security, the Secretary of State, or the Attorney General may also, as provided for in Executive Order 13780, submit to the President the names of additional countries for which any of them recommends any lawful restrictions or limitations deemed necessary for the security or welfare of the United States.

Sec. 5. *Reports on Screening and Vetting Procedures.* (a) The Secretary of Homeland Security, in coordination with the Secretary of State, the Attorney General, the Director of National Intelligence, and other appropriate heads of agencies shall submit periodic reports to the President, through appropriate Assistants to the President, that:

(i) describe the steps the United States Government has taken to improve vetting for nationals of all foreign countries, including through improved collection of biometric and biographic data;

(ii) describe the scope and magnitude of fraud, errors, false information, and unverifiable claims, as determined by the Secretary of Homeland Security on the basis of a validation study, made in applications for immigration benefits under the immigration laws; and

(iii) evaluate the procedures related to screening and vetting established by the Department of State's Bureau of Consular Affairs in order to enhance the safety and security of the United States and to ensure sufficient review of applications for immigration benefits.

(b) The initial report required under subsection (a) of this section shall be submitted within 180 days of the date of this proclamation; the second report shall be submitted within 270 days of the first report; and reports shall be submitted annually thereafter.

(c) The agency heads identified in subsection (a) of this section shall coordinate any policy developments associated with the reports described in subsection (a) of this section through the appropriate Assistants to the President.

Sec. 6. *Enforcement.* (a) The Secretary of State and the Secretary of Homeland Security shall consult with appropriate domestic and international partners, including countries and organizations, to ensure efficient, effective, and appropriate implementation of this proclamation.

(b) In implementing this proclamation, the Secretary of State and the Secretary of Homeland Security shall comply with all applicable laws and regulations, including those that provide an opportunity for individuals to enter the United States on the basis of a credible claim of fear of persecution or torture.

(c) No immigrant or nonimmigrant visa issued before the applicable effective date under section 7 of this proclamation shall be revoked pursuant to this proclamation.

(d) Any individual whose visa was marked revoked or marked canceled as a result of Executive Order 13769 of January 27, 2017 (Protecting the Nation from Foreign Terrorist Entry into the United States), shall be entitled to a travel document confirming that the individual is permitted to travel to the United States and seek entry under the terms and conditions of the visa marked revoked or marked canceled. Any prior cancellation or revocation of a visa that was solely pursuant to Executive Order 13769 shall not be the basis of inadmissibility for any future determination about entry or admissibility.

(e) This proclamation shall not apply to an individual who has been granted asylum by the United States, to a refugee who has already been admitted to the United States, or to an individual granted withholding of removal or protection under the Convention Against Torture. Nothing in this proclamation shall be construed to limit the ability of an individual to seek asylum, refugee status, withholding of removal, or protection under the Convention Against Torture, consistent with the laws of the United States.

Sec. 7. *Effective Dates.* Executive Order 13780 ordered a temporary pause on the entry of foreign nationals from certain foreign countries. In two cases, however, Federal courts have enjoined those restrictions. The Supreme Court has stayed those injunctions as to foreign nationals who lack a credible claim of a bona fide relationship with a person or entity in the United States, pending its review of the decisions of the lower courts.

(a) The restrictions and limitations established in section 2 of this proclamation are effective at 3:30 p.m. eastern daylight time on September 24, 2017, for foreign nationals who:

(i) were subject to entry restrictions under section 2 of Executive Order 13780, or would have been subject to the restrictions but for section 3 of that Executive Order, and

(ii) lack a credible claim of a bona fide relationship with a person or entity in the United States.

(b) The restrictions and limitations established in section 2 of this proclamation are effective at 12:01 a.m. eastern daylight time on October 18, 2017, for all other persons subject to this proclamation, including nationals of:

(i) Iran, Libya, Syria, Yemen, and Somalia who have a credible claim of a bona fide relationship with a person or entity in the United States; and

(ii) Chad, North Korea, and Venezuela.

Sec. 8. *Severability.* It is the policy of the United States to enforce this proclamation to the maximum extent possible to advance the national security, foreign policy, and counterterrorism interests of the United States. Accordingly:

(a) if any provision of this proclamation, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this proclamation and the application of its other provisions to any other persons or circumstances shall not be affected thereby; and

(b) if any provision of this proclamation, or the application of any provision to any person or circumstance, is held to be invalid because of the lack of certain procedural requirements, the relevant executive branch officials shall implement those procedural requirements to conform with existing law and with any applicable court orders.

Sec. 9. *General Provisions.* (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

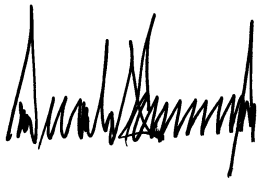
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This proclamation shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of September, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



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FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

41501–41824 1
41825–42020 5
42021–42232 6
42233–42440 7
42441–42578 8
42579–42726 11
42727–42926 12
42927–43154 13
43155–43296 14
43297–43456 15
43457–43666 18
43667–43826 19
43827–44052 20
44053–44298 21
44299–44492 22
44493–44710 25
44711–44878 26
44879–45172 27

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

455 44044
456 44036
Ch. VI 44036
602 44879
603 ..... 44044, 44879

3 CFR

Proclamations:
9632 42019
9633 42231
9634 42439
9635 43293
9636 43295
9637 43661
9638 43663
9639 44289
9640 44291
9641 44293
9642 44295
9643 44297
9644 45159
9645 45161

Executive Orders:
13810 44705

Administrative Orders:
Notices:
Notice of September 11, 2017 43153
Notice of September 18, 2017 43825
Order of September 13, 2017 43665
Presidential Determinations:
No. 2017–11 of September 8, 2017 42927

5 CFR

Proposed Rules:
1600 42613
1601 42613
1603 42613
1605 42613
1650 42613
1690 42613

6 CFR

Ch. I 44493

Proposed Rules:
5 44124

7 CFR

301 41825
319 ..... 42727, 43155
922 43297
930 41827
986 43667
1205 41829
1780 43670

Proposed Rules:
927 43504
959 43713
1210 44966

8 CFR

212 41867

Proposed Rules:
Ch. I 42751

9 CFR

94 42729
300 41501
441 41501
530 41501
531 41501
532 41501
533 41501
534 41501
537 41501
539 41501
540 41501
541 41501
544 41501
548 41501
550 41501
552 41501
555 41501
557 41501
559 41501
560 41501
561 41501

10 CFR

72 ..... 41873, 44053, 44299, 44879
1016 41503

Proposed Rules:
72 44971
429 44347
431 44347
590 41570

12 CFR

217 42882
249 42882
252 42882
1003 43088
1102 44493

Proposed Rules:
12 42619
25 43910
151 42619
195 43910
228 43910
344 42619
345 43910

13 CFR

121 44886

14 CFR

33 43827
39 ..... 41508, 41874, 41878,

42021, 42024, 42029, 42441, 42443, 42579, 42581, 42586, 42589, 42929, 43158, 43160, 43163, 43166, 43168, 43171, 43457, 43671, 43674, 43677, 43829, 43832, 43835, 43837, 44053, 44299, 44301, 44305, 44309, 44502, 44504, 44509, 44711, 44713, 44714, 44717, 44895, 44898, 44900, 44903, 44907
71 .....42445, 44057, 44058, 44060, 44312, 44511, 44720, 44914, 44915
73.....44513, 44721
91.....42592
95.....43840
97 .....42592, 42595, 42932, 42934
Proposed Rules:
21.....42049, 44126
39 .....41577, 42261, 42487, 42489, 42752, 42953, 42955, 42957, 43195, 43715, 44127, 44353, 44355, 44357, 44359, 44361, 44363, 44539, 44744, 44974
71 .....44127, 44365, 44541, 44981

15 CFR

30.....43842
744.....44514
2301.....43844

16 CFR

259.....43682
300.....43690
301.....43690
303.....43690
1028.....43459
1112.....43470
1229.....43470
Proposed Rules:
1420.....42960

17 CFR

229.....44917
249.....44917

18 CFR

40.....44723, 44918
1301.....41511
Proposed Rules:
40.....44746

19 CFR

12.....43692
Proposed Rules:
Ch. I.....42751
201.....44982

21 CFR

73.....43845
112.....42031
510.....43482
520.....43482
522.....43482
524.....43482
558.....43482
Proposed Rules:
Ch. I.....42492, 42494, 42497, 42499, 42501, 42503, 42506
112.....42963
573 .....43197, 44128, 44129, 44367, 44542
1308.....42624, 42754

22 CFR

41.....41883

23 CFR

Proposed Rules:
658.....43198

24 CFR

570.....44518

25 CFR

Proposed Rules:
30.....43199

26 CFR

1 .....41885, 42233, 42938
31.....44925
Proposed Rules:
1 .....43314, 43720, 43920, 44543
5f.....43720, 44543
31.....43920
46.....43720, 44543
301.....43920

28 CFR

16.....43174

29 CFR

102.....43695, 43697
4002.....42733
4022.....43299
4044.....43299

30 CFR

914.....44313
Proposed Rules:
56.....42757, 42765
57.....42757, 42765

31 CFR

210.....42597
Proposed Rules:
100.....43730

33 CFR

100 .....41886, 42938, 43485, 44061, 44063, 44929
117 .....41519, 41520, 41887, 41889, 41891, 42032, 42447, 42735, 42940, 43486, 44073, 44074, 44317, 44731, 44733
165 .....41521, 41893, 42033, 42035, 42941, 42943, 42945, 43301, 43487, 44063, 44075, 44077
Proposed Rules:
100.....42050, 44751
117.....41901
Ch. II.....43314

36 CFR

Proposed Rules:
312.....43314
327.....43314
328.....43314
330.....43314
331.....43314

37 CFR

201.....42735
202.....42735
Proposed Rules:
387.....44368

38 CFR

62.....41523
Proposed Rules:
9.....42052
74.....41579

40 CFR

9.....44079
52 .....41526, 41527, 41895, 42037, 42040, 42233, 42447, 42451, 42454, 42457, 42738, 42746, 42945, 43176, 43180, 43303, 43487, 43489, 43699, 43846, 43848, 43850, 44099, 44101, 44103, 44318, 44320, 44519, 44522, 44525, 44734, 44736, 44932
55.....43491
60.....44106
62 .....43303, 43307, 44527, 44738
70.....43303
81.....41527
180 .....42235, 42947, 44936, 44942
271.....43185
272.....43185
300.....44529
312.....43309, 43310
423.....43494
721.....44079
770.....44533
Proposed Rules:
51.....42508
52 .....42054, 42055, 42627, 42765, 42767, 42772, 43202, 43205, 43208, 43209, 43315, 43506, 43925, 43926, 44131, 44543, 44544, 44753, 44984
62.....43315, 43316
63.....44254
70.....43315
81.....41903
180.....42531
271 .....43214, 43316, 44545
272.....43214
228.....44369
300.....44545, 44548

42 CFR

403.....42748

44 CFR

64.....42240, 42241

46 CFR

2.....44108
8.....44108
67.....43858
401.....43864
403.....43864
404.....43864

47 CFR

1 .....41529, 41530, 43865, 44322
2.....41549, 43865
15.....41549, 43865
22.....41530
24.....41530
27.....41530
30.....41530
54.....42743
64.....44118
73.....42041, 42749
74.....41530, 41549
80.....41530
87.....41549
90 .....41530, 41549, 43865
95.....41530, 43865
97.....43312, 43865
101.....41530
Proposed Rules:
Ch. I.....44755
1.....41580
22.....41580
24.....41580
27 .....41580, 42263, 43321
30.....41580
51.....44754
61.....44754
69.....44754
74.....41580, 41583
80.....41580
90.....41580
95.....41580
101.....41580
400.....44131

48 CFR

Proposed Rules:
1816.....43511
1832.....43511
1852.....43511

49 CFR

571.....44945
Proposed Rules:
367.....44143
Ch. V.....43321

50 CFR

17 .....42043, 42245, 43873, 43885, 43897
223.....43701
224.....43701
300.....41562
622.....41563, 42044
635 .....43500, 43710, 43711
648 .....41564, 42610, 43192
660.....43192
665.....43908
679 .....41567, 41568, 41899, 42046, 42047, 43503, 44537
Proposed Rules:
300.....43926
622 .....43733, 44551, 44756
648.....42266
660.....43323, 44984

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List September 19, 2017

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